



March 31, 2010

Ms. Thelma Murphy
Office of Ecosystem Protection
U.S. Environmental Protection Agency
5 Post Office Square – Suite 100
Mail Code: OEP06-4
Boston, MA 02109-3912

Re: Draft General Permits for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts North Coastal Watersheds

Dear Ms. Murphy,

The Merrimack River Watershed Counsel, Inc. (MRWC) appreciates the opportunity to comment on the Draft General Permits for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) in Massachusetts North Coastal Watersheds (“Draft Permit”). MRWC is a nonprofit 501(c)(3) charitable conservation organization founded in 1976 with the purpose of protecting the Merrimack River and promoting the sustainable use of its watershed. Today, its mission is to ensure the sustainable ecological integrity and balanced, managed use of the Merrimack River and its watershed through science, advocacy, partnering and recreation.

Although MRWC recognizes that the Draft Permit applies to the North Coastal Watershed of Massachusetts which does not include the Merrimack River Watershed, it is still in accordance with the purpose of our organization to comment on the Draft Permit since the permit sets a precedent and model for the future MS4 storm water discharge general permit to be applied to the remaining watersheds of Massachusetts including the Merrimack River Watershed. Additionally, the North Coastal Watershed includes the drainage basin of the Shawsheen River, a major tributary of the Merrimack River, and MRWC encourages the EPA to consider a holistic approach when identifying and regulating watersheds to allow for consistency in the standards applied to stormwater discharges from small MS4s and to allow for the greatest ecological protection by looking at a watershed in its entirety and to consider the contributing sources to each watershed.

MRWC strongly supports the efforts of the Director of the Office of Ecosystem Protection EPA-Region 1 to develop and reissue a general NPDES permit that takes



greater efforts to ensure that pollution discharges from small MS4s are reduced to the maximum extent practicable and protect water quality by establishing more specific requirements and timelines. Stormwater runoff poses a great threat to our nation's waterways because it is one of the most significant sources of water pollution in the nation. In Massachusetts, stormwater is the single largest factor contributing 60 percent of the pollutants responsible for the degradation of the Commonwealth's water quality. It is imperative that the EPA promulgate and enforce a strong general permit regulating stormwater discharges from small MS4s.

MRWC strongly supports the stronger Illicit Discharge Detection and Elimination Program and the inclusion of Outfall Monitoring in the Draft Permit. Of particular importance to MRWC is section 2.3.1.1 which addresses increased discharges to impaired waters without a TMDL because the Merrimack River is classified as such a body of water. MRWC supports the inclusion that an MS4 intending to increase its stormwater discharge into impaired waters without a TMDL must perform additional or enhance its Best Management Practices or secure offsets that ensure the net result is a decrease in the pollution load. These standards included in the Draft Permit allow for greater protection of impaired waters that do not yet have an assigned TMDL.

While MRWC supports the Draft Permit overall, there are some aspects that can be improved upon. First, there should be greater emphasis and priority placed on reducing and eliminating stormwater discharges that pose the greatest threat to public health and safety. In order to achieve this goal, MS4 operators should be required to map the water sources that may be affected by their stormwater discharges, and assess any water quality data available for those water sources. The map and assessment should be included as part of their permit application. If the MS4 operator finds that its stormwater discharges have the potential to contaminate drinking water, close beaches, close shellfish beds or make people sick through ingestion or direct contact with the waters, the MS4 operator should take swift action to eliminate the discharges from these outfall(s). The public should not have to wait over two years for MS4 operators to complete the catchment ranking and source location process before addressing basic public health risks posed by their stormwater discharges.

Second, in order to promote more meaningful public participation and education, the General Permit should require MS4s to submit their the written Storm Water Management Programs as well as their water quality monitoring and annual progress reports as PDF files and any maps in the standardized "GIS" format so that they may be posted on the EPA Region 1 website.



Third, the Draft Permit should require MS4 operators discharging stormwater to waters polluted with phosphorus, or listed as impaired for nutrients, but without an approved phosphorus TMDL to implement the same fertilizer education program that is required in the Charles River Watershed. Similarly, MS4 operators discharging stormwater to waters polluted with bacteria, or listed as impaired for pathogens, but without an approved bacteria or pathogen TMDL should implement a pet waste education program like the one required in the Charles River Watershed.

Finally, the Draft Permit should include more suggestions to promote opportunities for municipalities to collaborate with one another or work together with community watershed groups and local citizens. An example of this would be to encourage sharing of MassDEP approved monitoring data and sampling protocols conducted by community watershed groups with local MS4 operators.

In conclusion, MRWC would like to thank the U.S. EPA-Region 1 Office of Ecosystem Protection for the considerable time and effort its staff has devoted to the development of a more ecologically protective and effective permitting requirements for stormwater discharges from small MS4s in Massachusetts.

Thank you very much for your time and consideration of these comments.

A handwritten signature in blue ink that reads "Christine Tabak".

Christine Tabak, Executive Director
Merrimack River Watershed Council

A handwritten signature in blue ink that reads "Ashley Laney".

Ashley Laney, Esq., Legal Advisor
Merrimack River Watershed Council