



TOWN OF WINTHROP

OFFICE OF THE TOWN MANAGER

Town Hall, 1 Metcalf Square, Winthrop, MA 02152 Telephone: 617-846-1077 Fax: 617-846-5458

James McKenna
Town Manager

March 26, 2010

Mrs. Thelma Murphy
United States Environmental Protection Agency
Office of Ecosystem Protection
One Congress Street – Suite 1100
Boston, MA 02114

Re: Comments on the Draft 2009 MS4 General Permit
Town of Winthrop, MA

Dear Mrs. Murphy,

The Town of Winthrop appreciates the opportunity to respond on the draft NPDES permit. As a community that is fully vested in clean storm water due to our peninsula's close proximity to long impacted receiving waters and our direct link to them we look forward to progress in this field. In Winthrop we have a strong sense of importance of the intent of the permit and our obligations to be responsible stewards and we have a history of pressing our neighbors to do likewise. This letter is intended to transmit specific comments that we see as problematic with the draft, however we also feel the need to portray a higher level message about our experience during the first permit cycle and what we perceive as the unfocused direction of this permit.

Our storm water system has numerous outfalls, again largely associated with our geography, and many of those are in plain sight, such as along heavily boated, kayaked, rowed and walked seawalls and waterways. Our streets are highly used and our housing density is high. We find our mariners and residents are highly responsible in their pollution awareness and reporting of concerns. The desire and attention to healthy and conscientious living has never been higher or more understood in our Town. This has occurred largely beyond our public awareness campaigns.

Our experience has been that most investigations result in repairs to the water system with little or no pollution impacts to the receiving bodies or the system. The first round of the permit required the Town to make significant purchases (over \$300k in equipment alone) and to increase our activities with catch basin cleaning and street sweeping. There has had a noticeably positive impact. In spite of the gains, our community struggled to keep pace with the modest reporting requirements as the DPW suffered significant resource reductions, a failing that unfortunately resulted in an enforcement action from your agency. We feel obligated to suggest to you that the offers for assistance and collaborative resource sharing during the early phases of the first permit term quickly waned. We are concerned to see and hear much of those same promises again.

Looking forward it is clear the new permit requires a greater commitment and while the goals are noble, and are ones that we are highly supportive of, we see great difficulties in achieving full compliance. We question the ability of retrofitted versions of some of the newer technologies in a fully developed community like ours. We are overwhelmed by the cost of compliance in these extremely difficult financial times. We question the effectiveness of a wide spread approach, where eventually 351 cities and towns across the commonwealth will be tasked with these significant efforts without out any report of unbiased examination of the benefits of the first permit term. We believe this strategy will likely produce modest results.

It is our strong opinion that this permit ignores the benefit / cost analysis normally associated with spending public funds. And, while there are instances where the damages are so egregious, that such measures are necessary, this does not appear to be the case across the entire state. We ask you consider the potential of \$15-20m that our municipalities will collectively be spending each year, much by communities that have decreasing engineering expertise and dwindling resources needed to achieve meaningful results. Think of the potential that a more regional approach even at half of the cost could accomplish. This permit seems overbearing and overreaching. Please use the coming days to reach out to municipal, state and engineering leaders in an effort to re-tune the permit to target manageable and sustainable goals and to develop assistance programs for struggling communities.

Below are specific comments focused on items that must be corrected before Winthrop can assent to the permit.

1. The draft permit does not detail the steps between a community NOI and the issuance of a permit. It is unclear what public review and comments will require further study, who will make modifications, what, if any response will be allowed/considered, and how it impacts the schedule. This needs to be clarified.
2. Most of the permit year 1 requirements will necessitate engineering expertise that must be procured, many components appear to be overly aggressive, further if there is any significant delay associated authorization, communities may have less than the full year to comply. At a minimum the permit should be changed to allow for one full year from June 30th or the authorization date, whichever is latter.
3. One of the most challenging requirements in the first year permit will be the completion and implementation of Storm Water Management Program (SWMP) for all facilities. This requirement should include drafting of the plan in year 1, training in year 2 and phased implementation thereafter.
4. The requirement to eliminate conditions associated with water quality exceedances (part 2.1.1.c. and part 2.4.4.2) within 60 days is unreasonable. While issues such as water system or sewer system defects will likely be repaired within this time frame, private property issues and more complex problems may require many months. Moreover this does not respect the seasonal nature of much of our construction related activities or our State's procurement requirements.
5. The need for new Individual Permits for a new discharge to impaired water bodies without TMDL or new discharges to outstanding resource waters is illogical for municipalities (part 2.3.2.1 and 2.3.3.f). This implies that 99% of our outfalls will be covered in this MS4 permit, but that if a new project comes along a new individual permit will be required for that 1 or 2 outfalls, creating an administrative burden.
6. Part 2.4.4.7, while beneficial, will be problematic for towns like ours that are surrounded by water or that have many miles of streams. This requirement appears to be asking for us to conduct a shoreline survey annually. This will require a significant labor effort.
7. The training requirement (part 2.4.4.8.h) should be more specific about employee training. It is our opinion that training all municipal employees is unreasonable, with costs unlikely to yield additional benefit. The EPA should define the expected level of training for our standard employee groups.
8. The engineering expertise and analytical analysis required to complete storm water analysis including frequency, volume and peak discharge from existing properties (part 2.4.6.9.c-d) requires the purchase of and training on software and ability to understand the analysis or to hire experts to analyze existing facilities as if they can be modified or changed. This analysis is wasteful in cases where there is no pollution or water quality concern. We suggest that the analysis be more visually based such as the need to maintain certain BMP features or the need to address scour or debris accumulation and further that some ranking system be developed.
9. It will be impossible for our Town at current staffing levels to annually inspect all storm water structures (part 2.4.7.viii) as this implies that each catch basin, manhole and outfall will be investigated. We estimate the labor required to satisfy this requirement to be in excess of 800 man-hours, excluding traffic control efforts (just over 1400 structures with 80% likely being beneath parked cars). This is a significant cost, somewhere between \$15-25,000 per year and it is unclear

there corresponding benefit. If this requirement is intended to include pipes, it should be specific, as that will require a significant additional cost, possible exceeding \$100,000 per year. The Town of Winthrop would like the EPA to consider that the budget to repair all streets, all signs, and traffic controls is less than \$35,000 per year.

10. The permit thankfully includes some provisions to reduce the outfall monitoring (part 3.1.4) however it is limited to wet-weather. We believe these provisions should be extended to dry-weather sampling.
11. The wet weather sampling requires more detail (part 3.3.1). Municipalities that will likely hire consultants to complete this work, need to craft contracts that will specifically correlate payment to weather and to results, such as 2" or more of rain triggers a mobilization and a report with some minimum numbers of outfalls. When the weather changes possibly reducing or eliminating discharges it seems fair to document and report on the effort, although there may be reduced analytical data. The EPA should consider better definition of the phrase "sufficient intensity to produce a discharge" and a reduction from 100% success, where the effort is weather dependant.

The Town of Winthrop obviously has strong opinions on the draft permit. We consider ourselves active and responsible in protecting our surrounding resources. We feel that much of the pollution issues in these receiving bodies results from activities beyond our borders and the industrial and commercial activities in adjacent communities. And, while we recognize that many studies indicate that residential poor practices can be equal pollution concerns, we feel the proportion of risk to cost is not fully understood or in this case justified. Frankly, we are overwhelmed by the effort and cost to comply with this permit. We reiterate the timing seems appropriate for a more regional approach targeting more lasting and important solutions.

We appreciate this opportunity to respond and extend an offer to contact our DPW director, Dave Hickey at (617) 846 1341 if there is anyway we can assist.

Sincerely,



James M McKenna
Town Manger

David J Hickey
Public Works Director

Cc: Winthrop Town Council
Edward J Markey, US congressman
Robert A DeLeo, State Representative
Anthony Petruccelli, State Senator
Chairman Dick Dimes, Winthrop Planning Board
Chairwoman Mary Kelly, Winthrop Conservation Commission