

UNITED STATES OF AMERICA
ENVIRONMENTAL PROTECTION AGENCY
BOSTON REGION

In the Matter of:

PUBLIC HEARING:

RE: NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMITS FOR STORMWATER DISCHARGES FROM
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4)
MASSACHUSETTS INTERSTATE, MERRIMACK AND
SOUTH COASTAL WATERSHEDS
NPDES PERMIT NOS. MAR041000, MAR0422000 AND MAR04000I,

Library
30 West Street
Leominster, Massachusetts

Wednesday
March 9, 2011

The above entitled matter came on for hearing,
pursuant to Notice at 11:00 a.m.

BEFORE:

DAVID WEBSTER, Chief, Industrial Permits Branch
THELMA MURPHY, Permit Writer
U.S. Environmental Protection Agency
New England Region I
5 Post Office Square
Boston, MA 02109

I N D E X

<u>PANEL:</u>	<u>PAGE</u>
David Webster	3
<u>SPEAKERS:</u>	<u>PAGE</u>
Debbie Dineen	11
John Woodsmall	13
Michele Stein	14
Paul Starratt	17
Carl Balduf	18
Eileen Punnetier	20
Aubrey Strause	22
Sue Beede	25
Heidi Ricci	28
Jack Perreault	30
Richard Granneus	36/55
Katherine Weeks	38
Anne Capra	40
Joanne DiNardo	42
Claire Freda	44
Ian Gunn	45
Robert Lamoureux	48
Tracy Sales	49
Derek Saari	50
Nancy Bryant	51
Brad Stone	52

P R O C E E D I N G S

MR. WEBSTER: Good morning.

My name is David Webster and I'm the Chief of the Industrial Permits Branch with the New England Regional Office of the U.S. Environment Protection Agency, also known as the EPA. Joining with me this morning is Thelma Murphy, EPA's permit writer for the permits which are the subject of this hearing.

This hearing concerning the issuance, the reissuance, of the National Pollutant Discharge Elimination System, or N.P.D.E.S, or "Nip-tees" general permits for storm water discharges from small municipal separate storm sewer systems, or MS4s, to certain waters of the Interstate, Merrimack and South Coastal Watersheds of the Commonwealth of Massachusetts, shall come to order.

First, for clarification a municipal separate storm sewer system, or MS4, is a publicly owned system of drains, gutters, catch basins, pipes, conveyances, treatment units, outfalls and other devices which are used to collect, convey, treat and discharge storm water to a surface water. Along with describing a municipal storm water collection system, the term "MS4" also includes systems similar to separate storm sewer systems in municipalities such as military bases, large hospitals, prison complexes, highways and other thoroughfares.

1 EPA Region I issued the current general permit for
2 storm water discharges from small MS4s on May 1st, 2003.
3 That permit expired on May 1st, 2008 and EPA is now
4 proposing to reissue small MS4 general permits for MS4's in
5 certain geographical areas. The new small MS4 general
6 permits continue to apply to small MS4s located in urbanized
7 areas. At this time EPA has not designated any additional
8 small MS4s as requiring coverage under this permit.

9 Region 1 EPA has proposed reissuance of three
10 NPDES general permits for storm water discharges to certain
11 waters within the Commonwealth of Massachusetts from
12 municipal storm water sewer systems, or MS4s, in the
13 Interstate, Merrimack and South Coastal Watersheds of the
14 Commonwealth of Massachusetts.

15 The permit numbers for these three general permits
16 are: MAR041000, for traditional MS4s, meaning MS4s that are
17 owned by cities and towns.

18 MAR0422000, for non-traditional MS4s, meaning MS4s
19 owned by other public facilities other than transportation
20 facilities.

21 MAR04000I, for systems located in Indian County
22 land within the Commonwealth of Massachusetts.

23 Thus, the permit which is the subject of this
24 hearing is actually three general permits. Each general
25 permit applicable to particular entities within the

1 Massachusetts Interstate, Merrimack or South Coastal, or
2 IMS, Watersheds geographic area. Since most of the permit
3 terms and conditions are identical across all three permits,
4 for simplicity's sake I will be referring to these three
5 general permits as the Massachusetts IMS small MS4 general
6 permit or, simply The Permit.

7 The Permit will be issued in final form upon
8 consideration of comments received during the public comment
9 period. Comments can be made in writing to EPA or orally
10 during this hearing.

11 The N.P.D.E.S program issues permits to all
12 facilities that discharge into waters of the United States.
13 The permit writer develops effluent limitations, best
14 management practices, monitoring requirements, reporting
15 requirements, and eligibility requirements based on
16 information from the facilities, Federal regulations, State
17 water quality standards, technical guidance published by EPA
18 and the State, and State and Federal policy and other
19 information.

20 The conditions in this draft permit were
21 established pursuant to the Clean Water Act Section
22 402(p)(3)(iii) to ensure that pollutant discharges from
23 small MS4s are reduced to a maximum extent practicable or
24 sometimes referred to as MEP, protect water quality, and
25 satisfy the appropriate water quality requirements of the

1 Clean Water Act.

2 The new draft Massachusetts IMS small general
3 permit builds upon the requirements of the previous small
4 MS4 general permit issued in 2003. This new draft permit
5 requires small MS4s to continue to implement a storm water
6 management program required by the previous program
7 including six controls. The new permit contains more
8 specific requirements and best management practices for each
9 control measure. Under the provisions of the draft general
10 permit, owners and operators of small MS4s that discharge
11 storm water will be required to submit a notice of intent,
12 or NOI, to EPA regional 1 to be covered by the general
13 permit and will receive written notification from EPA of
14 permit coverage and authorization to discharge under the
15 general permit.

16 More information on the N.P.D.E.S program is
17 available in the N.P.D.E.S program summary handout entitled
18 Water Permitting 101. We have a few copies here today along
19 with this document and there are lists of web addresses
20 where you can find additional information on the N.P.D.E.S
21 program.

22 Also available today is a multi page table
23 presenting a summary of requirements contained in the draft
24 Massachusetts IMS Small MS4 General Permit. Also available
25 is a multi page table presenting a comparison of the draft

1 Massachusetts IMA Small MS4 General Permit with the 2003
2 general permit requirements. Both of these are also on
3 EPA's website.

4 EPA released the draft N.P.D.E.S. Massachusetts
5 IMS small MS4 General permit on November 4th, 2010 with a
6 notice of availability published in the federal register on
7 November 4th, 2010 as recorded as 75 CFR 67960. The public
8 comment period was originally set for November 4th, 2010 to
9 January 21st, 2011. A notice for the public comment period
10 was published in the Federal Register on November 29th,
11 2010. In that notice EPA also provided notice of a public
12 hearing scheduled for Jan 12th, 2011. EPA subsequently
13 canceled the Jan 12th, 2011 public hearing due to a snow
14 storm and posted notice of this cancellation on the EPA
15 website on Jan 11th, 1011. Notice that the public notice
16 period would be extended and that the public hearing was
17 rescheduled for March 9, 2011 was provided on the EPA
18 webpage and by email to permittees and other parties on Jan
19 20 and 21. In the federal register of February 15th, EPA
20 provided additional notice of this public hearing and the
21 extension of the public comment period to midnight, March
22 11th, 2011.

23 The draft N.P.D.E.S. Massachusetts IMS small MS4
24 general permit the fact sheet explaining the draft general
25 permit and the supporting documents have been available

1 since November 4th, 2010 for interested parties to review
2 and to provide comment. The fact sheet provides a brief
3 summary of the basis for the draft general permit conditions
4 and significant factual legal and policy questions
5 considered in reporting this draft general permit.

6 You have probably received or have seen copies of
7 the draft general permit and fact sheet; they are available
8 on the website at:
9 http://www.epa.gov/region1/npdes/stormwater/mimsc_SMS4.html.

10 You may also request to receive a hard copy of the
11 draft general permit and fact sheet and we have a few copies
12 here today.

13 As previously mentioned comments can be made in
14 writing to EPA or orally during this hearing. Today's
15 hearing is an informal, non-adversarial hearing providing
16 interested parties with an opportunity to make oral comments
17 and/or to submit written comments on the proposed general
18 permit. There will be no cross examination of either the
19 panel or the commenter. Any questions directed to a
20 commenter from a panel member will be for clarification
21 purposes only. This public hearing is being recorded. The
22 transcription will become part of the official
23 administrative record for the general permit however in
24 order to ensure the record's accuracy we highly recommend
25 that you submit written statements in addition to any

1 comments made this morning.

2 As I described earlier, the public comment period
3 will close at midnight on March 11, 2011. Following the
4 close of the public comment period EPA will review and
5 consider all comments received during the public comment
6 period both in writing and at today's public hearing. EPA
7 will prepare a document known as a "response to comments"
8 that will briefly describe and address the significant
9 issues raised during the comment period and what provisions,
10 if any, of the draft general permit have been changed and
11 the reasons for the changes. A notice of availability of
12 the final small MS4 general permit for the Massachusetts IMS
13 Watershed, and the response to the comments will be
14 published in the Federal register once the general permit is
15 finalized. In addition, notice of the availability of both
16 the response to comments and the final general permit will
17 be mailed or emailed to everyone who commented on the draft
18 general permit. The actual complete final small MS4 general
19 permit for Massachusetts IMS Watershed and the response to
20 comments will be available on the EPA webpage.

21 Under section 509(b) of the Clean Water Act,
22 judicial review of this general permit can be had by filing
23 a petition for review in the United States Court of Appeals
24 with 120 days after the general permit is considered issued
25 for the purposes of judicial review. Under section

1 509(b) (2) of the Clean Water Act, the requirements in this
2 permit may not be challenged later in Civil or Criminal
3 proceedings to enforce these requirements. In addition,
4 this permit may not be challenged by other agency
5 proceedings.

6 I'm going begin; I'll request comments from
7 Federal, State and local officials and members of the public
8 audience in that order. I will use the attendance cards
9 that people filled in regarding who wishes to comment.
10 These cards will also be used to notify persons of the
11 subsequent final permit decision. Speakers, when called,
12 should come to the podium to speak. There is one mic for
13 the audience and there is also mics for the stenographer up
14 here, so that's why it will be difficult to record comments
15 made other places in the hall. I ask that before you begin
16 your statement to please identify yourself and your
17 affiliation for the record.

18 I think this is an excellent facility and I thank
19 he City of Leominster for that. There are a fairly large
20 number of people who want to comment today so I'm going to
21 ask that in order that as many participants as possible be
22 allowed to express their views, I ask that you to, at least
23 initially, limit your comments to 3 minutes. At any time if
24 you're asked to stop but have not finished, I'll ask you to
25 defer the remainder of the comment until each person has had

1 an initial opportunity to speak. Then, if there is time at
2 the of the morning, we we'll give a short opportunity to
3 finish the comments. If you have a written statement you
4 may read it if it can be done within the 3 minute time
5 frame. If not, I ask you to summarize the statement. In
6 either case I encourage you to submit the written statement,
7 tonight or before the close of the public comment period on
8 March 11.

9 I've got a number of cards that say that people
10 want to make a comment; I'll start with those roughly in
11 order that you came in and signed up and then I have another
12 set of comments where people said, "Maybe." I'll go through
13 those and ask if you want to comment and then I anticipate
14 at the end of that asking, "Does anybody else?" So, I don't
15 want anybody to leave without having an opportunity.

16 Okay.

17 Thank you.

18 MR. WEBSTER: I first call Debbie Dineen from the
19 Town of Sudbury. Thank you.

20 MS. DINEEN: My comments will be very brief.
21 Thank you for the opportunity. My name is Debbie Dineen and
22 I'm the Sudbury Conservation Agent and I'm also our co-storm
23 water coordinator with our town engineer, and I'm here on
24 behalf of the Town of Sudbury including our Board of
25 Selectmen.

1 Sudbury has worked very hard to comply with the
2 requirements of our permit. We're very concerned about our
3 water quality in town. We're a town that is 100% on ground
4 water wells and 100% on septic systems, so it all makes
5 sense until you come down to trying to find the money to do
6 it. Our major concern is with the timing of the
7 requirements in the new permit. A number, or the majority,
8 of the most costly items are front loaded in the first two
9 years of the permit. When you look at the municipal process
10 for appropriating funds, it doesn't really work if this
11 permit becomes effective later this year. Our budgets are
12 in for 2012 already. Our town warrant is done. Our town
13 warrant was not completed, but all departments had to have
14 all of their funding items before the November 4th, 2010
15 deadline, so there is a disconnect between the process for
16 getting the funding as well as the time frames that are
17 needed on the municipal level. I think that is our biggest
18 concern right now, is that there's really no relief in the
19 permit as far as, for example, the 120 day storm water
20 management plan. We're going to be facing staff layoffs
21 come July 1st, quite likely, so we're going to have to do
22 more with less on something that we couldn't anticipate in
23 this year's budget, so I think if you could consider some
24 kind of relief in those time frames.

25 We are looking into investigating storm water

1 utilities. That's not something that on a municipal level
2 is going to happen overnight. That's something that is
3 going to take an awful lot of time and public education. We
4 are all for clean water. We want to comply, it is very
5 important locally that we do our best, but we need the time
6 to put the mechanisms in place for that funding. I'll leave
7 it at that for now and we'll be submitting some additional
8 written comments as well. Thank you.

9 MR. WEBSTER: Thank you very much.

10 John Woodsmall from Southborough.

11 MR. WOODSMALL: Good morning. I'm the Town
12 Engineer from the Department of Southborough, Department of
13 Public Works.

14 Both the DPW and Board of Selectmen have submitted
15 written comments previously to EPA. Just to follow up on my
16 question earlier this morning, I think the draft permit
17 needs to clarify the applicability of the permit to school
18 departments. Both regional, as I previously mentioned, but
19 also local. The draft permit requires the highest elected
20 official in town to sign the permit and the annual reports,
21 however, at least in Southborough, that person would be the
22 Chairman of the Board of Selectmen and the Board of
23 Selectmen has absolutely no authority over the public school
24 system, either local or regional, so to ask an official
25 underneath the pains and penalties of perjury to sign

1 something that they don't have any authority over, a
2 department, to enact is -- creates -- is certainly
3 problematic.

4 Overall, I think the goals of the permit are
5 admirable in terms of clean water, however given the current
6 fiscal situation that cities and municipalities throughout
7 the State it's just -- it's downright near impossible for
8 most public works departments to be able to fully implement
9 the draft permit requirements as currently presented. And
10 without some sort of infusion of State and local monies, I'm
11 sorry, State and Federal monies, the permit right now sets
12 small -- especially smaller towns that don't have sewer
13 agencies or anything like that, it just sets these towns up
14 for failure and I think it is going to be very difficult for
15 towns to meet these permits. Thank you.

16 MR. WEBSTER: Thank you.

17 Michele Stein, Tewksbury.

18 MS. STEIN: My name is Michele Stein and I'm
19 speaking on behalf of the Town of Tewksbury. My position in
20 the town is town engineer. Tewksbury is located in the
21 Middlesex county with four major watersheds, Merrimack,
22 Shawsheen, Ipswich and the Concord river. I have submitted
23 comments, and my in my comments here I basically tried to do
24 what I'm most concerned with, and I have a page section to
25 reference. Page 11, section 1.11 Storm Water Management

1 Plan, part (c). "The permittee is encouraged to maintain an
2 adequate funding source for the implementation of
3 this program."

4 Currently the only way most municipalities have to
5 create such a source is to request it from the public and
6 obtain an approved vote on it at Town Meeting. In this
7 current economy with reduced budgets requesting any
8 additional fees for storm water utility would most likely
9 result negatively. If the EAP promulgated new regulations
10 based on the Clean Water Act requiring municipalities to
11 establish such a thing in order to ensure adequate funding,
12 then the municipalities would have justification for a
13 positive vote for town meeting. I'm referencing that trench
14 permit that we were all required -- we were mandated to do
15 that and that gave us some background to enforce that.

16 Second comment was page 13, section 2.1.1,
17 Requirements to Meet Water Quality Standards, part (c).
18 This paragraph states, "...if at any time the permittee
19 becomes aware, or EPA or Mass DEP determines, that a
20 discharge causes or contributes to an exceedance of
21 applicable water quality standards, the permittee shall
22 within 60 days of becoming aware of the situation eliminate
23 the conditions causing or contributing to the exceedance of
24 water quality standards."

25 This time frame is unrealistic. Beginning the

1 process to take action within 60 days is feasible, however
2 the legal process alone can take more than 60 days and this
3 section needs to provide some more flexibility.

4 Comment 3, page 24, 2.4.4.6 - System Mapping.

5 There is a lot of information required for this map. This
6 detailed information will be difficult to view as a hard
7 copy and almost forces the information through GIS's various
8 layers; however the amount of information required is a lot
9 of work for a municipality that currently does not have a
10 GIS department or unit, or even a devoted staff member.

11 This requirement forces municipalities to hire a consultant
12 in order to meet such a deadline. In order to make this
13 more economical for towns, this requirement should be
14 extended until the forth or the fifth year of the permit.
15 Our suggestion is that the permit could require certain
16 information for each year as to ensure that the towns are
17 making continuous efforts completing their map requirements.

18 Next comment, page 29, section 2.4.4.8 Illicit
19 Discharge Detection and Elimination Program - The IDDE, part
20 II. This section requests for the permittee to have a
21 written systematic procedure illicit discharge detection.
22 It would be beneficial for EPA to provide a template that
23 could be modified and adopted for each community. This
24 would save the town valuable resources to better focus on
25 other requirements within the permit.

1 And my last comment is page 48, section 5.1.
2 Program Evaluations. It states, "The permittee shall
3 self-evaluate its compliance with the terms and conditions
4 of the permit."

5 It would be helpful if there was a link attached
6 to this section that one could review as a template. This
7 would create cost savings and time savings, as well as
8 ensure that the permit is satisfying the needs of the
9 authority.

10 Tewksbury appreciates the opportunity to review
11 and comment on the draft permit. Thank you.

12 MR. WEBSTER: Than you very much.

13 I next call Paul Starratt, from Westford. Have I
14 got that right?

15 MR. STARRATT: Thank you. Paul Starratt from the
16 Town of Westford. I'm the town engineer. In Westford I
17 also serve on the steering committee for the SuAsCo
18 Watershed Community Council, although I don't represent them
19 today. I'm here to speak on their behalf asking that the
20 EPA consider turning around some of the fines that they are
21 issuing and will continue to issue. Instead of having that
22 money go to the U.S. Treasury, we'd like to see that money
23 come back to the local jurisdictions in assistance to the
24 small, watershed community councils and other groups that
25 have been great assistance to us. It was one of the

1 benefits of the first NOI was encouraging partnerships with
2 these watershed community councils and our local
3 environmental groups, but they are suffering just as much as
4 the municipalities are right now financially and I think it
5 is a tragedy to take this money and send it the U.S.
6 Treasury instead of keeping it here where we can use that
7 money to benefit our natural resources.

8 MR. WEBSTER: Thank you.

9 Carl Balduf from Westborough.

10 MR. BALDUF: Good afternoon. Carl Balduf, Town
11 Engineer, Westborough, Department of Public Works.

12 Let me first note that I agree with many of the
13 points, in fact if not all of the points, drawn by the prior
14 speakers. Westborough, under my signature and our junior
15 engineer Christina Papadopolus, filed comments with EPA
16 dated January 5th, a detailed letter. Many of the things
17 that have already been pointed out in detail are also cited
18 in our letter with regards to timing.

19 Just a quick summary, to summarize our letter.
20 Once again, unfunded mandates. Town and State struggling to
21 meet budgets. There are no funds coming down with this and
22 as prior speakers have already pointed out there are many
23 different costs that could be experienced by communities
24 here.

25 One of the points that we drew in our letter, we

1 very much took EPA's recommendation to heart and not only
2 did we express our feelings of not liking some of the issues
3 in the permit, we also suggested things that could remedy,
4 that could be done, to make it better.

5 One of the points that we extrapolate is this
6 would be much better done on a regional basis where we're
7 dealing with regional watersheds. Things can be done, for
8 instance, to facilitate disposal of street sweepings, catch
9 basin cleanings, and things like that, so we feel that a
10 regional process would be better and it would eliminate the
11 duplicity of each town in developing public outreach
12 materials. We're all doing the same there here essentially
13 and these materials should really come down with the permit
14 so that we streamline the efforts involved, save costs, etc.

15 So, just a quick note. We urge the EPA to review
16 our letter dated January 5th and take it into consideration
17 as they draft the final permit. It would appear to me that
18 this is not the time to move forward and be bold.
19 Environmental regulation, the last time I looked the Federal
20 Government it was heavily in deficit, State and locals are
21 struggling with largely the same thing. Pension costs,
22 health care costs and if we can't afford to do this then we
23 may need to suspend this. Maybe we should take a five year
24 break until we can come up with some money to fund this?

25 MR. WEBSTER: Thanks very much.

1 Eileen Punnetier.

2 MS. PUNNETIER: Hi, I'm Eileen Punnetier from
3 Comprehensive Environmental in Marlborough.

4 Overall we thoroughly studied this and there are a
5 lot of piecemeal items that are more costly than necessary.
6 Here with some specifics, Item 1.7.4 we suggest dropping the
7 public notice of the NOI as it is unclear how many
8 municipalities could modify the notice if they got comments
9 when it's really part of a plan, or combining the notice of
10 intent and the storm water management plan.

11 Item 1.9.1, the Endangered Species Act and 1.9.2
12 Historic Properties, should be part of the mapping instead
13 of part of the NOI as it creates a duplication of effort and
14 will cost more and take more time.

15 Item 2.3.2, New Discharges. As Selman noted it's
16 very unclear how these are going to be treated. We suggest
17 that this be limited to municipal discharges and that EPA
18 provides specific design standards such as the 1 inch
19 rainfall that provides specific language for MS4's to use to
20 put in subdivision and site plan reviews, in that planning
21 boards and public works departments don't always work
22 together, and it creates a huge time delay in trying to get
23 subdivision and commercial standards to match what
24 municipalities may be needing.

25 Item 2.3.3. We suggest dropping the

1 anti-degradation requirements completely at this point
2 because they're confusing and talking with most regulators,
3 they don't even understand them, let alone, MS4s. The
4 anti-degradation requirements have had very little public
5 notice and should really be separated out completely and
6 publicly noticed separately, because the impacts of those
7 anti-degradation requirements, I don't believe, are
8 understood by most people including a lot of regulators.

9 2.4.6, Post Construction. This requires more
10 ordinances in addition to the first ordinances that were
11 supposed to be done in under five years and there are
12 probably a lot of people that haven't done the first
13 ordinances. We suggest combining all the ordinance
14 requirements throughout this five year permit, and the
15 previous five year permit for those who haven't done them,
16 and providing templates that are more concise and
17 understandable than the current models out there from the
18 last found.

19 Item 3.3, Wet Weather Monitoring. We believe that
20 this should be combined with the dry weather monitoring for
21 prioritization because in reality when you go through a
22 watershed mapping catchment and prioritization, you would be
23 doing it all at once, and that could save a lot because
24 there are certain areas where it is storm water dominated
25 and certain areas where it is ground water dominated, so you

1 wouldn't sample both in the same program. That could
2 actually save a lot of time and field effort.

3 Finally, I think it would be helpful, and I think
4 Fred Civian mentioned this, for DEP to provide guidance on
5 disposal of catch basin cleanings and street sweepings. The
6 SSO's requirements seem repetitive with other requirements
7 under other regulations and that they really don't belong
8 under storm water as it is probably repetitive with another
9 program. So, overall our suggestion is that some
10 reorganization into like parts, for example, operations
11 requirements and mapping requirements, and monitoring
12 requirements, would make the draft easier for people to
13 understand as well as cheaper and less time consuming to
14 implement.

15 Thank you.

16 MR. WEBSTER: Thank you very much.

17 Next I call on Aubrey Strause; is it?

18 MS. STRAUSE: You got it. My name is Aubrey
19 Strause and I work with TATA and Howard in Marlborough,
20 Massachusetts, and the following written statement
21 represents comments for this public hearing from the towns
22 of Leicester and Spencer Massachusetts, but also echoes the
23 concerns of a number of small communities in the Merrimack,
24 Interstate and Southern Coastal watersheds. I'll also note
25 that both Leicester and Spencer have submitted written

1 comments to the EPA.

2 The objectives of the draft IMS MS3 permit are
3 admirable but have been delineated in such a way that very
4 few small communities such as Leicester and Spencer, which
5 have small departments, will be able to satisfy. Leicester
6 and Spencer's concerns center around the fact that the draft
7 permit is far too prescriptive in its requirements and has
8 unreasonable deadlines, as other have mentioned, for
9 compliance with individual components and does not
10 differentiate between needs, abilities and successes of the
11 individual MS4s.

12 Individual communities should be encouraged to
13 apply the knowledge gained during their efforts under the
14 2003 permit and to focus the limited storm water budgets on
15 parts of the urbanized areas with the highest need. The
16 draft permit does not have this flexibility. For example
17 the requirement to clean streets twice a year in Leicester
18 or Spencer due to existing department staff levels and
19 budgets, mandatory education and outreach components aimed
20 at impaired waters, decreases the community's abilities to
21 focus on issues that have higher priority. Requirements to
22 provide IDDE training to all staff, wet weather and dry
23 weather sampling of all outfalls within the permit term and
24 development of O&M plans for all municipal facilities are
25 not economically feasible for small towns. The mandated

1 evaluation of sources of nitrogen and phosphorous to
2 impaired waters will reduce the amount of funding available
3 to tackle potential sources that have already been
4 identified. Submittals required under the final MS4 permit
5 need to be aligned to the municipal period so that funding
6 can be allocated in a thoughtful and reasonable way and we
7 request U.S. EPA to consider new and more functional time
8 lines for compliance with individual sections.

9 Finally, from a big picture perspective the draft
10 MS4 permit developed by EPA Region 1 does not mirror the
11 Federal voice on nonpoint source pollution. There is an
12 inefficiency in requiring hundreds of communities to
13 complete common actions such as GIS management of data
14 layers, development of educational materials and update of
15 IDDE programs instead of developing these tools at a Federal
16 level and making them available to all communities.

17 Federal funding programs such as 319 Grants and
18 SRF programs should not only allow, but should encourage,
19 communities for storm water construction and best management
20 practices within MS4 area. These uses are in compliance
21 with the spirit of the Clean Water Act and may provide the
22 only mechanism for some communities to tackle larger issues.

23 U.S. EPA taking the lead on storm water issues
24 would make it more palatable to community leaders and
25 residents and would provide tools that could be used by

1 many, many municipalities allowing them to focus limited
2 budgets on making real improvements to water quality within
3 their community.

4 Leicester and Spencer thank you for your
5 consideration.

6 MR. WEBSTER: Thank you very much.

7 Sue Beede.

8 MS. BEEDE: Thank you.

9 My name is Sue Beede and I am the policy director
10 for the Massachusetts Rivers Alliance whose mission is to
11 protect and restore rivers in Massachusetts. We represent
12 32 conservation groups around the State and we also have
13 individual members.

14 In addition to our testimony today we will also be
15 submitting written comments. Today, on behalf of the
16 alliance I would like to comment on two important provisions
17 of the permit. The requirement to map, inventory and
18 monitor outfalls and the post construction ordinance.

19 So, let me begin, and thank you for allowing me to
20 show some pictures here. I'd like to begin with the mapping
21 and monitoring requirement which the alliance strongly
22 supports. This is the Assabet river which is where I live
23 and last summer I learned firsthand why it's really
24 important to accurately map your system and to know what's
25 coming out of the outfalls.

1 My son and I were on a canoe trip and we noticed
2 the sound of running water off in the bushes and we went to
3 investigate and we saw a milky plume coming from the bank.
4 There were surgical gloves and other debris and we basically
5 followed the plume up the bank. This is actually looking
6 back out toward the river. You can see a lot of debris.
7 There was a steady flow. The water smelled like soap and
8 sewage and it was giving off heat. And here is where it was
9 coming from.

10 It was a bright sunny day. It was not raining
11 anywhere and so we had found an illicit discharge. When we
12 walked further up the bank we found that a lot of the flow
13 was not even coming out of that outfall pipe, it was
14 actually draining down the bank. And so we followed it up
15 to where it was coming from which is MCI Concord, the prison
16 which is located in West Concord.

17 So, in 2008 the prison had submitted in its annual
18 report a comment that they had finished mapping their
19 system. Now, under the existing permit you're not required
20 to check the outfalls personally, or their condition, but
21 this just shows why it is so important because there really
22 are illicit discharges out there. This problem is still not
23 entirely fixed. They had an illegal connection from showers
24 and through sampling the DEP and EPA did, they found
25 elevated levels of bacteria, ammonia, surfactants and

1 pharmaceuticals even though the prison initially said, "Oh,
2 it is coming from our kitchen."

3 So, these are complicated problems to resolve and
4 I want to give hats off to EPA and DEP for really following
5 up on it but these illicit connections and discharges are
6 definitely out there.

7 Okay. On to something totally different, the
8 post construction program. The North Coastal permit, which
9 some of you may have seen that was issued about a year ago,
10 had similar requirements to the current permit however there
11 has been a pretty significant change. The current permit
12 that we're considering today has a different threshold for
13 when the State's storm water standards, not all of them, but
14 some of them, would apply to a new development or a
15 redevelopment project.

16 In the North Coastal permit it would apply to any
17 new development, or new development of one or more acres.
18 Now, the storm water standards, again basically 3-6, would
19 only apply to developments and redevelopments that upon
20 completion created two acres, or more, of impervious cover.
21 Now, we strongly support the use of impervious cover as a
22 metric because as, I believe, Thelma Murphy said earlier and
23 I've seen this myself, there is quite a large body of
24 literature documenting the connection between impervious
25 cover and impaired streams and poor water quality.

1 So, back to what is this? This is Gillette
2 Stadium. How much is two acres? How much is an acre?
3 Okay. A football field is 1.3 acres and this overlain red
4 line, that is an acre. So, I think, and it is the
5 Alliance's position, that yes, it is good to use impervious
6 cover as criteria, however it should be a much lower
7 threshold. I mean certainly no more than an acre. Can you
8 imagine allowing essentially two football fields worth of
9 pavement to be built and to not require any storm water
10 management, or compliance with any storm water management
11 standards? And I would agree with Ms. Punnetier's comment
12 that there really needs to be a template, a model bylaw,
13 that goes back even to the 2003 permit. There are so many
14 different types of regulations and ordinances out there and
15 communities are -- it's a lot of work for them to figure out
16 what makes the most sense, so I have strongly recommended
17 some guidance on this.

18 That's it. Thank you very much.

19 MR. WEBSTER: Thank you.

20 I next call Heidi Ricci from Mass Audubon.

21 MS. RICCI: Thank you. My name is Heidi Ricci.
22 I'm senior policy analyst at Mass Audubon. Our mission is
23 to protect the nature of Massachusetts for benefit of both
24 people and wildlife and we have about 100,000 members
25 Statewide.

1 We will submit written comments, so I will just
2 briefly summarize a few key points. We thank EPA for
3 working on this permit. Certainly, cleaning up storm water
4 is a very important priority. It's a major source of
5 pollution and I just want to note that not cleaning it up
6 does have costs. Certainly, it is very costly to do all
7 this work and we're very sympathetic with the fiscal
8 situations in municipalities across the Commonwealth and
9 support many of the recommendations that have been made
10 about ways to make this more economically feasible for
11 communities to adopt. Storm water utilities gives them some
12 time to do that, develop templates for all the different
13 components, encourage partnering with the watershed groups,
14 the pooling of resources, doing things regionally rather
15 than repeating the same effort municipality by municipality,
16 and prioritizing so that we put the limited resources to the
17 locations where the pollution is the worst.

18 But, I just want to note also that not cleaning up
19 storm water has its costs as well. We all suffer if water
20 bodies, our lakes and streams, are not fishable or
21 swimmable, if fisheries are degraded, and even in some
22 instances there could be threat to water supplies. Further
23 more with climate change what we're already seeing in the
24 hydrologic record as documented by the natural resource
25 conversation service and Cornell University throughout the

1 Northeast, is that the high intensity storms are increasing,
2 we're seeing more of these intense flooding storms, so the
3 more we can do to not only use low impact development to
4 mimic natural hydrology on new development sites, but also
5 we really need to retrofit more of the existing development
6 and infiltrate the storm water and use roof runoff as a
7 resource, not as a waste product. We should be using that
8 to irrigate and that helps us to deal with another problem
9 and that is the rivers drying up in the summer and the
10 droughts and all of that.

11 So, with all the techniques that are available
12 now, rain barrels and other techniques, at Mass Audubon one
13 of our properties is using large cisterns to gather storm
14 water off the roof, and use that both for irrigation and for
15 toilet flushing. So, you know, there are ways to deal with
16 this that are very cost effective and we encourage EPA to
17 listen very carefully to all the suggestions on how to make
18 it more so. And to work with the municipalities to make
19 progress and do that as cooperatively as possible while
20 recognizing that there are mandates under the Clean Water
21 Act for good reasons that are beneficial to the public and
22 this work needs to be done.

23 Thank you.

24 MR. WEBSTER: Thank you very much.

25 I next call on Jack Perreault.

1 MR. PERREAULT: Good morning. My name is Jack
2 Perreault and I'm the Town Engineer in Shrewsbury, and thank
3 you for letting us speak.

4 I'll start off by saying that we have already
5 submitted a comment letter, so you do have that. What I'd
6 like to do is just kind of summarize some of the points that
7 are in that letter and just point out how this particular
8 permit would impact the Town of Shrewsbury and what it would
9 be for us to implement it.

10 In general we support clean water, we recognize
11 the importance of storm water management and we believe it
12 the goal. As we see the permit though, it requires too much
13 and too fast. And in my opinion if we were just required to
14 implement the permit with the staffing and the funding
15 levels we have now, it is destined for failure. We will then
16 be in an adversarial role between EPA, the State and
17 ourselves where we'll be discussing and arguing and going
18 over the permit, why we didn't meet it, as opposed to
19 putting our energies into actually accomplishing what is in
20 the permit.

21 So, with that in mind we see the key to the
22 program as being funding, and how do we get the funding?
23 Even within the permit itself it recognizes the need to
24 establish a funding source that is sustainable for the
25 permit. From that, if you go to the website it sends you

1 the brochure about setting up a storm water utility and the
2 storm water utility is what we see as the key to the funding
3 source for us to be able to implement the permit.

4 When you start to think about it, the permit gives
5 you no time to set up the storm water utility. Even within
6 the requirements, if you read through what's required to set
7 up the utility, what's recommended and how to go about it on
8 the EPA literature, there are many steps in there. Talking
9 to consultants, and some of the consultants who have
10 actually set up some of the storm water utilities that are
11 referenced in that brochure, you're looking at a minimum of
12 a year and a half to two years just to set up the storm
13 water utility to go through all the steps you need both on
14 the technical end of things and the political end of things.
15 That only gets you the utility in place. It doesn't give
16 you a dollar one yet, so when you start to bill after you've
17 got the utility in place it is more than a year's cycle
18 before that full amount of money is available in a fund
19 which you then may need to go to Town Meeting to actually
20 allocate out to be able to use. So, practically you're
21 looking at a minimum of three years before the full funding
22 source is available and before you can have that to
23 implement the program. And it is probably more like three
24 to four years. So, I think that's where the actual permit
25 falls down because it doesn't allow for that time.

1 The other thing too, is we are constantly asked
2 now a days, and I know people that go to Town Meeting, if
3 you're spending money they want to know, what is the
4 benefit? What is the cost benefit analysis here? What's
5 the money going to? Is it worth it? I don't see that -- we
6 haven't heard, and if you can give me that information, I'd
7 like to have that to go to Town Meeting to explain what the
8 benefit will be of each one of these things and why we're
9 doing them.

10 We need to also put it into context of everything
11 that is in a city or town right now. From our perspective
12 alone, sewer rates since 2006 have gone up 422%. The
13 largest factor in that is to meet the waste water treatment
14 plant upgrades which were part of our last NPDES permit
15 which we received. In that time water rates have doubled,
16 school fees have been added for bussing and after school
17 activities. We're taxed to the maximum rate allowed by
18 proposition 2 1/2, State aid has been cute, staff reductions
19 have happened, there will be more coming this year. We're
20 talking about laying off four firefighters this year. It is
21 going to be hard for me to stand up in front of Town Meeting
22 and say can you layoff some more so I can fund a storm water
23 program.

24 In that whole context along comes an unfunded
25 mandate of this particular permit. In our particular case

1 we estimate that it is probably 350 to 500 thousand per year
2 to implement the actual permit. Some of the particulars,
3 and we'll get into these probably more in another letter
4 responding to them, but street sweeping, particularly the
5 second street sweeping. In Shrewsbury our program takes 8
6 to 10 weeks to sweep the 150 miles of street that we have.
7 If we start that after the final leaves have fallen off the
8 trees in mid-November that means that we're finishing our
9 street sweeping the end of January. If you take a look at
10 his year what would we have been sweeping in January? It's
11 just not practical.

12 Catch basin cleaning is another thing where when
13 the catch basins are 50% full you need to get out and clean
14 them. Quite honestly, because of the age of some of these
15 storm water systems and what the details were in the
16 requirements previously, we don't know how deep the subpumps
17 are on many of those basins, so we won't know when they're
18 50% full until we actually clean them. So, we'd have to go
19 through and actually clean the whole system first before we
20 actually have that data. Anybody that has been around as
21 long as me knows that years ago a 2 foot sump was good, then
22 it went to three, now it is at four. Certainly, we don't
23 have a list that tells us what every catch basin is in Town
24 of -- I think it is probably 5 thousand catch basins that we
25 have.

1 Outflow monitoring is another area that's probably
2 going to be problematic for us in particular. We have 350
3 outfalls. It also requires that we look at the
4 interconnections and transfer locations. In our town we
5 have six State roads that go through the town. Many -- some
6 of them are, you know, 290 is a Federal Highway. That's not
7 going to be a real issue for us but Route 70, Route 9, Route
8 20, Main Street, Medical Ave, they are all State roads. And
9 I haven't looked into it specifically but I did a quick
10 count, we have 120 streets that intersect those State
11 highways. So, there are 120 opportunities for
12 interconnections if you add it to those 350 that we already
13 have.

14 Also, you've heard a lot today about public
15 education which to me would make a lot more sense coming
16 from EPA or DEP with the one voice, one program, one
17 message, to be put out there instead of us reinventing the
18 wheel with different levels of abilities and different
19 levels of materials that we put out, with different messages
20 to different groups. It just doesn't seem to make a lot of
21 sense.

22 Kind of in summary we see the permit as being
23 pretty onerous but honestly, we don't know what we don't
24 know because we haven't implemented it yet. And I'm sure
25 that there are issues that we're not even thinking about

1 until we work through it all. The funding is going to be
2 hard to get and we need to use it wisely. We suggest that
3 we need to have time to set up the program, to establish a
4 storm water utility and we can't do it all at once.

5 Thank you very much.

6 MR. WEBSTER: Thank you very much.

7 I think I've gone through anybody that indicated
8 up front that they definitely wanted to speak so I'm going
9 to go through names of people who said maybe and you can
10 either come on up or say "no thanks" for what ever reason.

11 Jeffrey Blake.

12 MR. BLAKE: No thanks. I think most of my
13 concerns have been addressed here.

14 MR. WEBSTER: Thank you.

15 Richard Granneus?

16 MR. GRANNEUS: I'm Richard Granneus from the Town
17 of Southwick, DPW Engineer.

18 We did send in a letter from our Board of
19 Selectmen with our aggregate concerns but one thing that
20 they would like, and that I brought up earlier in the
21 meeting, was to seek some real strong clarification of the
22 interaction of the storm water traversing through State
23 lands, Federal lands, public ways, that are accepted public
24 ways, that are unaccepted private ways, and private land.
25 Because we live in a town that is basically lots of rivers

1 and ponds and water has to go into one of those, and it's a
2 very hilly town so it tends to traverse from, like I say, a
3 private land into a public way into maybe back into a
4 private road, or into a public way that has not yet been
5 accepted by the town. Maybe it is in a development that has
6 not yet been accepted or maybe it's in an old development
7 which we have a lot of. Ones that were done in the 20's and
8 30's that have a lot of unaccepted public ways. And it is
9 very difficult to accept those, they have very narrow
10 streets, don't meet other criteria for acceptance so they
11 get into this never-never land and we really would like to
12 see some clarification, so we don't have to create something
13 that -- an iterative process that somebody either accepts or
14 does not accept.

15 And there was one other -- I'll just quickly -- As
16 far as the unfunded mandates, I echo that. It is very, very
17 difficult to go and attack this problem without funds and
18 we're all in the same mode of layoffs of our personnel and
19 where do you get the money to do this? And to implement a
20 storm water utility it doesn't take days, it takes years and
21 to get -- and we're on a town that is managed by a Board of
22 Selectmen and the town's people approve all budgets
23 annually, so we're in the same mode. We're in the budget
24 process for 2012, fiscal 2012 which starts July 1st. That
25 is already cast in concrete, ready to go to the voters for

1 approval. No -- this is being defined now, so we're another
2 year away.

3 Thank you.

4 MR. WEBSTER:

5 Thank you.

6 Katherine Weeks.

7 MS. WEEKS: My name is Katherine Weeks and I'm the
8 Senior Storm Water and Environmental Engineer for the Town
9 of Framingham.

10 The Town of Framingham has already submitted
11 comments on Jan 4th, so I'm not going to repeat those and I
12 certainly echo all of the issues that people have brought up
13 regarding the time and the cost. One thing that I wanted to
14 talk about a little bit more is collaboration. I'm thinking
15 not just the towns and the agency which were very nicely
16 mentioned by other folks, but also inter-agency and
17 intra-agency collaboration. For example, the DEP used to
18 use the EPA lab to analyze a whole lot of water quality
19 samples and I understand that they've had to cut back on
20 that program. I asked if the towns could start helping --
21 using the EPA lab as well and that was rejected, that
22 request was rejected. We have been trying to work with the
23 Army Core of Engineers. The Town of Framingham, like I'm
24 sure many other towns, has got a whole lot of old, what we
25 would like to call drainage channels but other people are

1 calling swales, that would be really great if we just eased
2 up on certain of the requirements for dredging. For
3 example, that would really ease up on our storm water
4 management which really seems archaic in this case. We're
5 gong to dredging channels that have been there for 100 years
6 that are really only there for storm water and we have to go
7 through the Army Core of Engineers for permitting for that.
8 It would be really great if the agencies could start working
9 together on certain things.

10 Finally, I also echo the catch basin, the
11 beneficial use determination. We tried two years ago to put
12 together a beneficial use determination and we went to the
13 DEP and it was very, very difficult and it looked like it
14 was going to cost us a lot of money and time and effort to
15 do that, so we've put that on hold.

16 And finally in terms of intra-agency efforts, the
17 Town of Framingham, the Sudbury river flows through, and all
18 of the Sudbury river is impaired in the Town of Framingham,
19 and a large part of that is due to something that is beyond
20 our control, it's the waste that came from Nyanza. And so
21 we in fact know that there has been a grant of 3.9 million
22 dollars that was put out and we actually put in a request
23 for 2 fairly modest proposals that we haven't seen anything
24 from and it would be really helpful for us in terms of
25 managing our storm water if we could be included in that

1 work.

2 Thank you very much.

3 MR. WEBSTER: Thank you.

4 Anne Capra.

5 MS. CAPRA: Thank you very much. I'm Ann Capra
6 with Pioneer Valley Planning Commission. We're the regional
7 planning commission for Hampshire and Hampden Counties.
8 We're part of the interstate regulated area. I'd like to
9 point out to EPA that appendix C which identifies the
10 regulated communities, I don't believe is accurate. You
11 know that, right? There are towns with 2003 permits that
12 are not included in there.

13 Echoing some of the comments earlier seeking a
14 more regional approach to implementing the requirements of
15 this permit. For example, the educations outreach
16 requirements in particular in our region. We deliver a
17 regional campaign to 11 of our MS4s that's called "Think
18 Blue Massachusetts". We operate on a shoestring budget that
19 is funded by those communities. We raise between 1 thousand
20 and 2 thousand dollars a year from each town. That doesn't
21 allow us much media buy, and it doesn't allow us much
22 printing costs for material. The State of Maine operated a
23 public education outreach program. There were 11 MS4s in
24 '05 and '06 and they spent \$264,000, \$230,000 of that was
25 for media buy and that is the kind of money that's needed to

1 actually create behavior modification that would result in
2 pollutant reduction.

3 Under the Wet Weather Outfall Monitoring
4 Requirement, 3.1.4.5, I just wanted to echo my comment
5 earlier that I think that EPA should strongly encourage the
6 in-stream monitoring approach. It's a more strategic
7 approach and I think communities really need to look at how
8 they can implement these requirements in a more cost
9 effective manner and if you are doing an in-stream
10 monitoring program you can bracket your tributaries and see
11 where you get hits and then, you know, begin source tracking
12 and monitor outfalls as needed. It may not be applicable to
13 all communities but certainly in some, it definitely is.
14 We've successfully done that this past summer with the 604b
15 grant in tributaries to the Connecticut River and have
16 identified and addressed a number of illicit connections,
17 which brings me to the comments about the 319 program being
18 gutted this year. That is extremely unfortunate. It was
19 one of the few funding sources that was available to address
20 storm water sources to impaired waters. We strongly
21 encourage EPA to figure out how you can rework that and fix
22 that problem. I anticipate the 604b program for assessment
23 will also be gutted given the same enabling law, the Clean
24 Water Act, which enables both of those programs although
25 that guidance hasn't been issued yet; we haven't seen that.

1 That RFR doesn't come out for several more months.

2 Under Construction Runoff Control, 2.4.5.3(e),
3 there are references in there to site plan review and then
4 site review. It would be great if EPA could clarify that.
5 The site plan review is in fact not enabled under
6 Massachusetts zoning laws, however a lot of communities do
7 implement "Site Plan Review" but they do it in a number of
8 different ways. What is enabled under zoning law is special
9 permit, so processes -- I don't know if EPA can provide
10 better guidance and a little bit of flexibility into it --
11 what they mean for communities to be doing, you know, what
12 the regulatory backbone that you are seeking. Whether it is
13 site plan review or a special permit process actually
14 suffices. That flexibility there leads me to just
15 flexibility in the overall permit. As we've heard numerous
16 times today that communities really need a more flexible
17 time line in order to establish the funding that is in fact
18 needed to meet these requirements.

19 Those are all our comments. Thank you.

20 MR. WEBSTER: Thank you very much.

21 Priscilla Ryder. Are you still here?

22 (No reply.)

23 Patrick LaPointe. Are you still here?

24 (No reply.)

25 Joanne DiNardo.

1 MS. DINARDO: I wrote an epistle, no, I'm only
2 kidding.

3 Welcome to the City of Leominster. I am the
4 Environment Inspector and the Storm Water Committee Chair
5 here in the City of Leominster.

6 We've worked very, very hard to improve our
7 outfalls and our sewer separations and street sweeping and
8 we worked under the 2003 permit and tried to make things
9 better here in Leominster. As we look at the new permit we
10 have some very, very deep concerns like everybody else has
11 echoed. It is almost like an unfunded mandate and we have
12 over 500 outfalls here in the City of Leominster, so it
13 would cost us probably about \$500,000 to implement something
14 like this. Our budgets have already been submitted so in
15 order to do the 2012 it definitely would not work, so we're
16 worried about the time line that has been stated in here.

17 Basically, the public outreach is another concern
18 to us that perhaps, without making all the communities do
19 their own public outreach, if the DEP could perhaps step in
20 and give us some sort of a uniform message and some uniform
21 templates that we could introduce? Basically, on behalf of
22 the mayor, he speaks, There are budget cuts coming down and
23 he respectfully reminds the EPA that we don't have the
24 funding to fund this. We've already had sewer increases and
25 water increases and I can't imagine that my City Council is

1 going to support any -- put together a storm water utility
2 and increase rates and pass them along. It is going to be
3 difficult for our community.

4 Again, thank you and we will be submitting written
5 comments as well. Thank you.

6 MR. WEBSTER: Thank you. And thank you for
7 hosting the hearing here.

8 Claire Freda.

9 MS. FREDa: Good morning and thank you. My name
10 is Claire Freda and I'm the City Council in the City of
11 Leominster. The second welcome to you today; I thank you
12 for mentioning our beautiful facility. We're very proud of
13 it.

14 I'm also the chair of the water and sewer
15 committee in the City of Leominster and we have assembled a
16 great team in this city. We have the Board of Health, we
17 have the Conservation Committee, we have DPW, and we have a
18 real collaborative effort working on behalf of all these
19 regulations. I'm not going to go into the financial piece
20 but as Joanne just mentioned it is going to be very
21 difficult to come up with 5 to 6 hundred-thousand dollars.
22 I'm also a board of director on the executive board and that
23 municipal association. And from the time of your workshop,
24 I'm not speaking on their behalf, but I will share the
25 observations. Workshops at our annual conference, the

1 legislative committee meetings that we've had, throughout
2 the State, the theme is exactly the same, the clarification,
3 the time line, 120 days, it's very serious. I don't think
4 that there is anybody in any capacity in municipal
5 government, whether it is elected or appointed or employed,
6 that doesn't embrace clean water. I think that is
7 everybody's goal, but I think there has to be that
8 collaboration, and there has to be this feeling that there
9 is some help from the EPA, as well as regulatory, and I
10 think we need to feel comfortable that you want to help us
11 get to this point that we all want to get to. We need to
12 know that there is a partnership. It is not just a
13 regulatory agency up here, and we're way down here. We want
14 to cooperate and we want the collaboration. I think that is
15 very important.

16 Thank you for being here and I do support all of
17 the other comments that have been made.

18 MR. WEBSTER: Thank you.

19 Ian Gunn.

20 MR. GUNN: I'm Ian Gunn and I'm vice chairman of
21 the Littleton Conservation Commission but under
22 Massachusetts open meeting law I have to say my comments
23 have not been reviewed in a properly posted public meeting
24 of either the Conservation Commission or the Board of
25 Selectmen, so my comments could be considered that of

1 somebody who has had the arrows in their back for the last
2 25 years.

3 What I'm looking at in trying to -- you know,
4 we've had the same concerns about the cost of the
5 implementation of this, but what I'm looking at is our
6 municipality already has in place some stream monitoring
7 programs, some zoning regulations, generally relating to
8 public water supplies, but they go part of the way to
9 meeting the objectives that you're spelling out in the draft
10 permit. I want to recommend to EPA that they look at some
11 of these, and I know we're not the only municipality that
12 does this kind of thing, and so in terms of controlling
13 costs, a period of phasing over to what more rigorous
14 monitoring may require would be appropriate from the
15 existing program, because existing programs are funded.

16 I have not met with any other boards or the water
17 department in Littleton so I just made an attempt, I only
18 learned about this four days ago at the MACC Conference, to
19 get some kind of collaboration going. But I have got, and I
20 note the impaired, what EPA considers the impaired water
21 bodies in Littleton, and I know them very well, and I know
22 what it takes to correct the problem.

23 One of the ponds we have an Army Core of Engineers
24 and they did plan for remediation, of course nobody has any
25 money, so it still remains a plan.

1 The second pond, because it was used for a 1925
2 summer camp development that is now turned into a full time,
3 year round residency, what it's really going to take is a
4 municipal sewer system. There is no municipal sewer system
5 at the moment in the Town of Littleton so that is a very big
6 dollar remediation.

7 A couple of other impaired water sources are on
8 the town line and they're impaired, in one case, because the
9 adjacent town, Industrial Park, is dumping into the
10 watershed and we're the recipient of that. But on the other
11 had, the next water body downstream we're dumping into, and
12 Westford is the beneficiary. So, there are some situations
13 where there are multiple municipalities that will have to be
14 involved in doing the corrective action and the monitoring.

15 The specific comment on wet weather monitoring. I
16 know about first flush out of pipes and everything else but
17 I think a little more generic idea would be appropriate and
18 easier to implement, so that a dry weather monitor and a
19 high water table monitor. I know that in our storm drains,
20 what we get when we have a high water table is the domestic
21 sewage systems leaking into it, and so rather than have to
22 capture the first flush which is a pretty -- a situation in
23 wet weather, to put it more generally that a spring, with
24 high ground water, and fall, the dry conditions, monitoring
25 of the outfalls would be much simpler to implement.

1 Yeah, the only other point of things is that our
2 water department has already developed a low impact
3 development handbook with EPA funding. I've come to
4 remember how it all worked out, so we have some of the stuff
5 already done and I'm quite sure we're willing to share it
6 with other municipalities, but these look like a couple of
7 ideas that might reduce the costs to municipalities.

8 Thank you.

9 MR. WEBSTER: Doug McDonald from Northampton. Is
10 he here still?

11 (No reply.)

12 Robert Lamoureux.

13 MR. LAMOUREUX: Bob Lamoureux, Town of Seekonk.
14 I'd like to make a statement on behalf of the Town of
15 Seekonk and several other communities within Bristol,
16 County. While we clearly see a need to improve water
17 quality and agree that some regulations are necessary,
18 funding must be provided to reach the goal set forth in this
19 new permit. We have discussed setting up a storm water
20 utility but we have found little support within our Board of
21 Selectmen and in other administrative boards within the
22 town. We have a very active storm water advisory committee
23 that includes the Board of Health, the building inspector,
24 the town planner and the public works department and the
25 conservation agent. We clearly see a need for funding to be

1 provided in order to accomplish the requirements of this new
2 permit.

3 Thank you.

4 MR. WEBSTER: Thank you very much.

5 Richard Alves.

6 MR. ALVES: No thank you. All previous comments
7 have addressed already what I had to say. Thank you.

8 MR. WEBSTER: Thank you.

9 That is my last card. I guess now if there is
10 anybody that has not had an opportunity to speak and wishes
11 to make a statement, please come up and identify yourself.

12 MS. SALES: My name is Tracy Sales. I'm with the
13 Merrimack River Watershed Council and we have submitted
14 written comments as well. One thing that I just wanted to
15 say, I can't speak for the other watersheds but I can speak
16 for the Merrimack Watershed. The Merrimack is impaired.
17 There are people swimming and boating in that river. It is
18 also a drinking water source for a lot of people who live in
19 Massachusetts and it is really, really critical that this
20 permit is actually implemented. We strongly support both
21 wet and dry weather monitoring. I know for a fact that the
22 Merrimack river, because I'm out there on a regular basis,
23 is impaired primarily during wet weather due to storm water
24 runoff. I just want to reiterate we had put in our written
25 comments that this -- the monitoring in wet weather is very

1 important and we really do support these permits.

2 Thank you.

3 MR. WEBSTER: Thank you very much.

4 Is there anybody else who has not made a comment
5 that wishes to provide one?

6 MR. SAARI: Derek Saari, Town of Westborough
7 Conversation Commission.

8 The Town of Westborough has been very aggressive
9 in their storm water management. From a private side we've
10 been working on projects since 2005 inspecting over 218
11 private sites. I'm happy to say that they've all managed to
12 clean their catch basins, the catch basins and swales, all
13 the schools have been cleaned, but the majority -- and the
14 reason for this project first was education. There is a
15 huge amount of people, over 500 people that I have met
16 individually on those 218 sites that are involved in that
17 type of management. That's the number one goal. Many
18 communities still don't know where their outfalls are and
19 that is just a massive undertaking. I believe that as part
20 of the permit requirement, the we and dry monitoring should
21 be dropped from the requirement and should be added on in
22 the next permit phase. The reason for that is when the
23 communities still don't know where their outfalls are, when
24 they begin to try to investigate where they are, they may
25 find they are buried four feet in sediment. There is no way

1 to even in fact monitor the outfall. It can't be found; it
2 has to be excavated. Then you get into questions of how
3 many permits are required to excavate said headwall and I
4 don't know how many are buried. Just in one area in
5 Westborough that I focused on, in the Main Street corridor,
6 there are four major outfalls and they were all buried in
7 sediment. Then you have to jet the lines and these are all
8 costs. It has taken me three years to work with the
9 department of public works through their operating budget to
10 do about a mile and a half of road in a heavy, urbanized
11 area. So, the practicality of doing the wet and dry testing
12 should not be included. The main focus should still be
13 education, not only of the private sector, but more
14 importantly the public sector. Most of us don't know where
15 all this is and that should be the number one goal right
16 now. What do we have and what type of maintenance do we
17 need to do before we can even monitor those outfalls?

18 Thank you.

19 MR. WEBSTER: Thank you.

20 MS. BRYANT: Hi, I'm Nancy Bryant with the SuAsCo
21 watershed community council and I just wanted to mention
22 that the council have been doing a lot of educational work
23 and providing those materials to communities across
24 Massachusetts. There have been a lot of comments today
25 about how bringing some of those materials together and

1 distributing them on a more uniform basis would be a good
2 idea. I just want to express our willingness to perhaps be
3 able to work through EPA or DEP or some organization to help
4 fund us to create those materials and to get them out there
5 on a more uniform basis through the municipalities. So, if
6 there is some funding source to be able to enable that for
7 us to be able to provide more to more communities please
8 know that we are available and have had a great deal of
9 experience over the past 8 years putting together
10 educational materials that really do consider social
11 marketing and trying to reach out to the various elements in
12 the public and private sectors to help them understand their
13 impact on storm water and that of course helps everybody in
14 the long run and improves the water quality as well. Just
15 know of our willingness out there to partner and work with
16 entities if the funding can be provided to create more
17 uniform messages across the state.

18 Thank you.

19 MR. WEBSTER: Anybody else that hasn't had a
20 chance to speak that would like to?

21 Go a head.

22 MR. STONE: Brad Stone, Town of Shrewsbury
23 Engineering Department. I'm also the conservation
24 commission agent in town. Mr. Perreault, our town engineer
25 brought up a lot of important points earlier. I have just a

1 couple of different comments to what the town has already
2 mentioned previously and one of those is in section 2.3.1.2
3 where it mentions increased discharges to impaired waters
4 with an approved TMDL. And this gets back to as well to
5 what Mr. Civian mentioned about the need to outreach with
6 the different municipalities and provide some more technical
7 assistance. There doesn't seem to be a lot currently out
8 there for what we're experiencing with our TMDL's, the
9 treatment of phosphorus. There doesn't really seem to be
10 any standardized MBP's or how you measure the phosphorus
11 loading rates and how you can effectively reduce that. Most
12 of our community is within a TMDL watershed and we expect
13 we're going to be involved a lot in figuring this out. What
14 I would like to see is some more clarifications, similar to
15 the storm water management policy, where you have
16 standardized BMP's. They give you, for instances, a certain
17 percentage reduction in suspended solids. I'd like to see
18 that there is some standardization for how we treat these
19 nutrients that are in these TMDL watersheds.

20 The other comment I have is with respect to the
21 monitoring requirements. There is a condition in there that
22 we test the interconnections between the different MS4
23 operators. I'm not sure that I understand the value of
24 doing that. For instances, if we've tested where those
25 outfalls daylight, what is the need to go upstream and test

1 those interconnection points if you've already achieved
2 acceptable values of where that system ultimately daylight?
3 And the biggest concern I have there, especially when doing
4 the wet weather monitoring, is these interconnection points
5 aren't in locations that are easy to sample. They are
6 typically off the road, maybe somewhere near the woods, and
7 hard to get to, to do wet weather sampling. Where these
8 MS4s interconnect it is typically near a major town road and
9 a major town highway and you're looking at -- a common
10 example would be a manhole in the middle of that
11 intersection, so to go out and try to do that in wet weather
12 there is an extreme safety hazard, there is a traffic
13 concern as well as there is a substantial financial cost
14 because you'd also have to have police details; you have to
15 have manpower. What is shown as for monitoring for where
16 those discharges are acceptable, I'm not sure there is a
17 value in doing that? I would suggest that we look closely
18 at maybe illuminating the interconnection sampling, unless
19 you see that there is a problem where it daylight, and then
20 maybe go back and look at those points.

21 Thank you.

22 MR. WEBSTER: Is there any other person that would
23 like to make a comment on the record that has not had an
24 opportunity to do that yet?

25 MR. GRANNEUS: Can I make a follow up comment?

1 MR. WEBSTER: I'll allow that, sure. Please
2 identify yourself and your affiliation.

3 MR. GRANNEUS: Richard Granneus, Town of
4 Southwick, DPW Engineer.

5 Two things came up during the discussions. One
6 that I'm not sure anybody is aware of it in the EPA and that
7 is Massachusetts has A&R's, approval not required. And I
8 think Virginia is the other State. And we've been burned by
9 that a few times where you can take a tract of land,
10 subdivide it and in effect, because it is on a given road
11 already, it meets the frontage requirements and they'll
12 basically develop along a road in one acre lots or whatever,
13 200 ft. of minimum frontage is the requirement, and so you
14 can collectively add up to two, three, four, five, ten,
15 twenty, fifty acres, because it is already on a road.
16 Approval is not required. It makes it very difficult the
17 task of imposing on that aggregate development, because it
18 is not an aggregate development. It's 10, 1 acre lots or
19 10, 2 acre lots or what have you. They are individual
20 owners, they're sold off individually by the original owner,
21 so that is something you may want to think about. How to
22 manage that. It is a problem.

23 And the second one is we happen to have the -- we
24 have a 460 acre lake in Southwick that's the Congamond
25 Lakes. They boarder Connecticut and Massachusetts. Forty

1 percent of the bordering of the waterfront is Connecticut.
2 All the water is Massachusetts. It's a great pond.
3 Connecticut has, we understand, very different regs as far
4 as handling storm water. We have spent the last more than a
5 decade cleaning up the storm water that discharges into the
6 lakes, and Connecticut has effectively done nothing. We've
7 put in a sanitary sewer system in the last just five or six
8 years around the entire Massachusetts part of the waterfront
9 and other parts of town and nothing in Connecticut yet, and
10 it is an impaired waterway. Again, how we manage when we've
11 got a water body that is in Massachusetts water bordering
12 other State lands, I'm sure there are others. I know of a
13 few others in Mass that are right on the boarder of
14 Connecticut and I'm sure there are ones that are on the
15 boarder of New Hampshire and Vermont and so on.

16 If you'd please address those.

17 MR. WEBSTER: Thank you.

18 Anybody else wish to comment?

19 (No reply.)

20 Well, thank you very much for coming and for your
21 interest in the permit. We've heard a lot of thoughtful
22 comments and it has been particularly helpful as well as
23 challenging to us to hear directly from the practitioners,
24 whether you're the people that go up and down the streams
25 seeing the outfalls or working on your catch basins, working

1 on your public education all the way across the map, and I
2 do appreciate a lot of the comments focusing in on
3 particular parts of the permit as well.

4 What I'm going to do is I'm going to temporarily
5 close the hearing. We had written notice of the hearing
6 going until 2:00 p.m. So, my plan is to reopen the hearing
7 a little before 2:00 p.m., or if somebody else comes and
8 wishes to speak to give them the opportunity to speak for
9 the record.

10 At this time I'm going to close the hearing to be
11 reconvened shortly between 1:30 and 2:00 p.m. Thank you
12 very much.

13 (Hearing suspended)

14 MR. WEBSTER: This is David Webster. I'm
15 reopening the public hearing on the Draft Small MS4 Permit
16 for the Interstate, Merrimack and South Coastal Watersheds.
17 It is now 1:59. Is there anybody else that has not made a
18 comment that would like to make a comment?

19 I see no one and therefore this closes the public
20 hearing. Thank you.

21 (Whereupon the public hearing was closed at 2:00
22 p.m.)

CERTIFICATE OF REPORTER AND TRANSCRIBER

This is to certify that the attached proceedings
before: U.S. ENVIRONMENTAL PROTECTION AGENCY
in the Matter of:

RE: NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMITS FOR STORMWATER DISCHARGES FROM
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4)
MASSACHUSETTS INTERSTATE, MERRIMACK AND
SOUTH COASTAL WATERSHEDS
NPDES PERMIT NOS. MAR041000, MAR0422000 AND MAR04000I

Place: Leominster, Massachusetts

Date: March 9, 2011

were held as herein appears, and that this is the true,
accurate and complete transcript prepared from the notes
and/or recordings taken of the above entitled proceeding.

G. Kimbrough 03/09/11

Reporter Date

G. Kimbrough 04/05/10

Transcriber Date