

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

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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](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 daylights?  
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 daylights, 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