



TOWN OF SHREWSBURY
MASSACHUSETTS 01545-5398

Received
1/20/11

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January 10, 2011

Thelma Murphy
U.S. EPA – Region 1
Suite 100
Mail Code – OEP06-4
5 Post Office Square
Boston, MA 02109-3912

Re: NPDES General Permits for Small MS4

Dear Ms. Murphy:

Introduction

As elected and appointed officials of the Town of Shrewsbury, we are responsible for overseeing the Stormwater Permit for the Town. The draft permit received by the Town has been reviewed by our professional staff and is of great concern to us. While we understand the role of both the EPA and DEP in promulgating new regulations to protect our natural resources, we don't believe that such significant changes can realistically be made as our economy recovers ever so slowly from a major recession. The permit appears to be front loaded in the first year with administrative tasks such as developing written procedures, protocols, assessments and priorities; developing a written Stormwater Management Plan (SWMP) including public involvement and participation with the development of the SWMP; inventory of all problem catchments; additional mapping; developing a written Illicit Discharge Detection and Elimination program; the development and implementation of a targeted education program with measurable goals; and numerous related tasks within the first year of the permit. Currently there is minimal funding and little to no staff time available to perform these tasks which are the foundation for the implementation of the remainder of the permit in years two through five. In our opinion the permit requires too much to be done with too little time and is destined to failure without a dedicated funding source to sustain it, as referenced in Section 1.10.c on Page 11 of the permit. The fatal flaw is that the permit allows no time to establish and implement a Stormwater Utility.

Fiscal Reality: Balancing Regulation and Cost:

First, we note that the cost to implement the permit will be significant. That fact was acknowledged by both the municipalities and environmental groups testifying at the public hearing for the North Coastal Permit. The estimated costs from various communities seemed to range from \$250,000 to \$500,000 per year. We estimate the Interstate Watershed Permit that covers the Town of Shrewsbury would cost the Town of Shrewsbury between \$350,000 to \$500,000 per year. The Town of Burlington estimated that the administration and paperwork alone will cost between \$80,000 to \$100,000 per year.

We are sure that you are well aware of the type of impact this range of costs will have upon a Town budget. Over the past few years increased costs for energy, medical insurance, and other fixed costs coupled with reductions in State aid and lack of new growth in the communities, have led to significant budget and staffing reductions. It is obvious to us that we will need to increase staff to carryout the requirements of this program. Funding the new permit from local taxes will just further impact already stressed Town budgets and further reduce other essential services.

In a recent segment (December 2010) on *60 Minutes*, Steve Croft did a piece on the next greatest threat to the economy. The piece was titled "The Day of Reckoning" and focused on the stressed financial conditions of both State and Local governments. Unlike the Federal Government, both the State and the Local governments have to balance their budgets annually.

In the piece, reporter Steve Kroft interviewed Merideth Whitney, one of the most highly regarded women in finance and someone who forecasted demise of the banking industry well before it occurred. She was quoted as saying that the most alarming thing about the State issue is "the level of complacency." She stated that "the financial meltdown in State and Local governments has tentacles as wide as anything I have seen;" and she further stated that "next to housing, the demise of State and Local finances is the single most important issue in the United States and the largest threat to the economy." It seems inconceivable that in light of these economic times the regulatory agencies can implement regulations that create another unfunded mandate that will require the municipalities to spend millions of dollars with no regard to the impacts to local government, with no defined funding source, and with no economic aid from either the State or Federal government.

The most recent recession, coupled with the triple digit inflation in health care costs has had a devastating impact on the Town's resources. When the current Highway Superintendent assumed his post, he had a staff of 16 employees to maintain the Town's 107.5 miles of roadway and drainage structures. In the current fiscal year, his department is staffed at 9 employees while the length of the roads has increased to 149.1 miles. It is impossible to conceive that the Town could double its efforts of street sweeping, catch basin cleaning, and maintain all drainage structures without a significant increase in funding.

In addition, the Town's Engineering Department has also seen staff reduction while maintaining over site of the Conservation Commission, the Planning Board, water, sewer, roadway, and drainage infrastructure improvements, and the GIS system. There is literally no staff capacity to take on additional responsibilities. In fact, the engineering plan review for new projects was recently sub-contracted because of the lack of in-house resources. It is a constant struggle to retain levels of service, never mind add to them. In the last decade, the Town health insurance costs have risen from \$1,879,962 to \$7,150,000. The increases in the last three years have been moderated by employee groups agreeing to pay a greater percentage of the total cost in order to salvage additional job cuts. More telling, is the increase in the Sewer Department budget resulting primarily from regulatory requirements in the NPDES Permit for the Wastewater Treatment Plant. In FY 2010 the department spent \$2,832,728. In FY 2012 the proposed budget will increase to \$5,810,141.

There are many unanswered questions. How are the State and Federal Governments prepared to deal with the additional cost of ensuring compliance with the proposed permit changes? It is our understanding that the DEP has been forced to make significant budget cuts resulting from the meltdown in the State revenues. With a \$2 billion budget shortfall projected for Fiscal Year 2012, how can the agency take on added additional programs without sufficient revenue sources to fund the cost?

It also appears that the permit seems to exempt State facilities from compliance. We don't know why this is the case but we can logically presume that it is a result of a lack of staffing and financial resources. If this is in fact the case, there is a serious double standard being applied.

What does this all mean? How does the DEP and the EPA balance their regulatory oversight with the fiscal realities of the economy? There is a very strong argument that there is significant disconnect between the timing of the regulation, the expediency of the tasks to be implemented (i.e., proposed permit is front loaded), and the ability for a community to put together a funding source/plan. Everyone wants the best education, the highest level of public safety and protection, and the cleanest environment, but REALITY dictates that it isn't feasible.

Comments on General Permit Requirements

With regards to the actual permit requirements, we would like to comment on the general program requirements for the Town of Shrewsbury. We will also comment further on other specific requirements of the permit after the public meeting and hearing on January 12, 2011, in Leominster, MA.

Street sweeping is required two times per year. The sweeping also extends to the permittee-owned parking lots. The second sweeping is to occur in the Fall as part of the leaf clean-up. Currently the Town sweeps the streets and parking lots once in the Spring and does not sweep the sidewalks. The Town operates two sweepers and two dump trucks per day for five days per week. The program takes eight to ten weeks to complete. Apparently, the intention of the required second sweeping is to assist with leaf clean-up. The Town currently provides curbside collection of bagged leaves for the residents.

The collection program typically ends the first week in December which allows the residents to finish clean-up of the leaves from Oaks and other trees which typically fall late in the season. If the second sweeping were started in mid-November, it would not be completed until mid- to late- January. There are practical reasons that this would not work. First, the sweepers spray water for dust control and to improve the efficiency of collection as part of the sweeping operation. During December and January the water would freeze onboard the sweeper and would also freeze on the street. Also, by this time of year the Highway Department has typically stored the sweepers until the Spring and has started full snow and ice control operations. There is also not enough staff to perform both operations at the same time.

The catch basin cleaning program appears to require inspection of every catch basin to determine if it is more than 50% full. For the Town of Shrewsbury that means inspecting approximately 5,000 catch basins which will require a significant effort. For many catch basins the depth of the sump will not be known until it is cleaned. The reason is that many older catch basins were built before the standard three-foot sump was established. The three-foot sump was then revised to a four-foot sump a few years ago with the new Stormwater standards. Also, the sumps on older basins may have been reduced if the bottom conflicted with an existing water main or service, a sewer main or service, a gas main, or even ledge. To obtain the actual depths of all catch basins' sumps, field measurements will have to be taken after a cleaning and compiled into a database. With current staffing levels, the Town cleans approximately 25% to 30% of the catch basins each year. Thus, it will take three to four years before all the data can be collected and the 50% full requirement can be accurately applied.

The outfall monitoring program is also an area that will require significant staffing, time and expense to accomplish in the manner required. Monitoring interconnection points alone will be very labor intensive and will also require police details for traffic control as many of our transfer points occur at manholes in State roads. In the Town of Shrewsbury there are six roads that are controlled by Massachusetts D.O.T. They are Main Street, Maple Avenue, Route 9, Route 20, Route 70, and I-290. There are many Town-owned roads with drainage systems that connect to the State system and vice versa. It is unclear why these points would need to be tested if samples are being collected from the outfalls. If there is no problem with the outfalls, all of the time and expense testing interconnection points are not needed. The Town has over 350 outfalls not including the transfer points.

Other considerations not included in the Permit:

As an option to funding the Stormwater Permit requirements, almost every speaker at the hearing for the North Coastal Permit talked about funding the program with a Stormwater utility. However, no one discussed the level of effort and funding needed to implement a Stormwater utility, as well as the length of time needed to go through sufficient billing cycles to generate the funds needed to sustain the program.

From our discussions with consultants who have implemented Stormwater utilities in other municipalities, including some referenced in the EPA document entitled, "Funding Stormwater Programs," April 2009, it takes from one-and-a-half to two years to develop a program and another year to collect the funds needed to run the program.

The process would include a feasibility study to look at the current Town Program, future program needs, funding requirements, and development support from community leaders. The estimated cost of the feasibility study is from \$20,000 to \$40,000. Upon completion of the feasibility study, an implementation plan would need to be developed. The implementation plan would include finalizing the program, development of policies for billing and credits, rate structure analysis, rate study/cash flow analysis, database and billing methodology, and a public outreach program. All of this work is needed before the first bill can be sent out, and a revenue stream developed. Assuming that the fees collected will fund the annual expenses, it will take a full year of billing to collect the funds needed to run the program. Thus, the total time needed for developing a Stormwater utility and get it fully funded will be from two to three years. This time table does not consider the time which may be required to get Town Meeting action to approve the program. For some Towns this could easily add another year to the process depending upon the date when the permit is issued. We hope that consideration can be given to this timeline when developing the schedule required for various activities within the permit. Without consideration of the time constraints, many municipalities will be out of compliance with the permit soon after it is issued, and will be subject to possible fines even though they may be making significant efforts to establish the funding mechanism they need to meet the permit requirements. This will put the municipalities and regulators into an adversarial relationship with much time and energy spent on an adjudicatory process instead of trying to achieve the goal of the permit.

Recommendations:

Developing a Stormwater utility is critical to having a successful program with a reliable funding stream. This process should not be rushed and the development of the program will also serve to educate the general public as to the importance of Stormwater Management and the need for an additional fee. We would also ask the EPA and DEP consider developing grant programs to assist communities with the start up costs to meet the requirements of the permit and get the program off the ground. As it currently stands, the communities are the key to the success of the program but have little to no staff or funding to comply. Adding staff is not possible until the Stormwater utility is up and running and providing a revenue stream.

The Town of Shrewsbury would also propose a "cooling off" period between the announcement of the permit and the actual implementation of its complex provisions.

The only potential solution that we see may address some of the issues in the proposed permit is the establishment of the aforementioned storm water utility. This has obvious political and financial implications that are impossible to meet given the time frame for the various provisions in the draft permit.

The establishment of a utility would require funding for both the engineering/reporting components as well as the significant maintenance programs. The Town would need to hire consultants to assist with this effort. Without this funding source, we do not see a means of making any progress in meeting the compliance that both DEP and EPA deem necessary.

We also believe that the public education program is a key to the eventual success of the program. The permit lists several areas of concern to be targeted to four specific audiences. As proposed, each MS4 will be developing their own program and materials varying in quality, content, and level of effort. In essence, every permittee is reinventing the wheel. We would suggest that EPA/DEP develop sample messages to specific audiences that would deliver a consistent, statewide message with one voice and a common theme. It is our opinion that education is too important of a goal to be implemented with a scattered approach that will be far less efficient than a consistent, common message.

Thank you for your consideration of the issues stated above and for the opportunity to provide comments.

Sincerely,

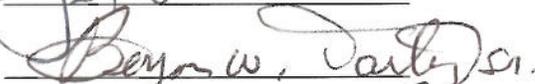
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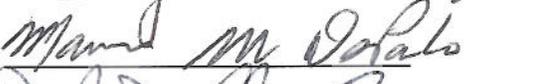
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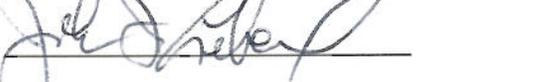
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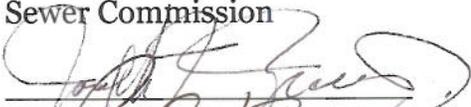
















MRH/JP/awr

- Copy to: Senator John Kerry
Senator Scott Brown
Congressman James McGovern
State Senator Michael Moore
State Representative Matthew Beaton
Fred Civian, DEP
Conservation Commission
Daniel Morgado, Town Manager
Michael Hale, Assistant Town Manager
Robert Tozeski, Superintendent, Water and Sewer
John Knipe, Superintendent, Highway
Jack Perreault, Town Engineer
Brad Stone, Agent, Conservation Commission

Received 3/9/2011
@ hearing

Town of Southwick
Written Testimony for Stormwater Regulations

3/9/11

The Town of Southwick Board of Selectmen and Department of Public Works has serious concerns regarding the DRAFT MS4 Permit Requirements and associated time table for implementation.

As currently proposed, this unfunded mandate will cause undue financial hardship to our outlay and demand for additional personnel which would be necessary for compliance.

We respectfully request that EPA take into account the current economic difficulty facing all cities and towns. As a remedy to our hardship, we ask that EPA identify and put forth an economic assistance plan in the form of a grant program and an extension of the compliance timetable up to 10 years.

Thank you for your consideration.