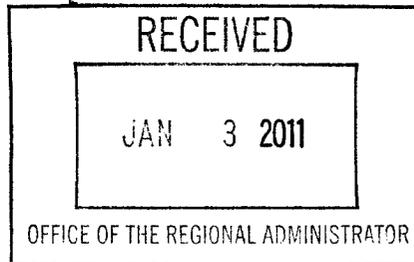




TOWN OF TEWKSBURY

DEPARTMENT OF PUBLIC WORKS
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- ENGINEERING
- HIGHWAY/TREE
- FLEET MAINTENANCE
- WATER & SEWER
- WATER TREATMENT PLANT

December 30, 2010

Ms. Kate Renahan
EPA Region One
Office of the Regional Administrator
5 Post Office Square Suite 100 Mail Code:ORA01-1
Boston, MA 02109-3912

Re: Draft Massachusetts Interstate, Merrimack, and South Coastal Small MS4 General Permit

Dear Ms. Renahan,

The Town of Tewksbury appreciates the opportunity to review and comment on the Draft Massachusetts Interstate, Merrimack, and South Coastal Small MS4 General Permit made available on November 4, 2010. This letter outlines the comments and concerns of this Draft for the Town of Tewksbury. Comments and concerns are as follows:

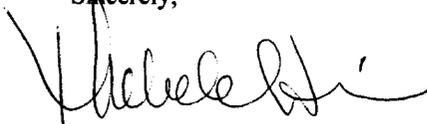
1. Page 11, Section 1.10, Stormwater Management Program, Part c. "The permittee is encouraged to maintain an adequate funding source for implementation of this program." Currently, the only mode most municipalities have to create such a source is to request it from the public and obtain an approved vote at Town Meeting. In this current economy, with reduced budgets, requesting any additional fees for a stormwater utility would most likely result negatively. If DEP promulgated new regulations based on the Clean Water Act requiring municipalities to establish such a fee in order to ensure adequate funding then the municipalities would have justification for positive vote at Town Meeting.
2. Page 12, Section 1.10.2, Contents of the Stormwater Management Program. This section states the Stormwater Management Plan is due 120 days after the approved NOI. One of the items is for a map of separate storm sewer system required by Part 2.4.4.6. However, in section 2.4.4.6, it states the Town has 2 years to submit the required map. This requirement needs explanation as to what is due immediately verse what is due within the 2 year period.
3. Page 13, Section 2.1.1, Requirements to Meet Water Quality Standards, Part c. This paragraph states, "if at any time the permittee becomes aware, or EPA or MassDEP determines, that a discharge causes or contributes to an exceedance of applicable water quality standards, the permittee shall within 60 days of becoming aware of the situation eliminate the conditions causing or contributing to the exceedance of water quality standards. It goes on to state this 60 days is not a grace period and that failure to take action is a violation of the permit. This time frame is unrealistic. Beginning the process to take action with the 60 days is feasible, however, with cutting budgets, eliminated positions; limited resources and staff, there will be situations that make this timeframe impossible to reach. The legal process alone can take more than 60 days. There are situations, such as Sutton Brook, with groundwater contamination that the EPA is involved with that has been ongoing for years and it will take years of remediation, construction and legalities before it is resolved. This section needs to provide for some flexibility.
4. Page 15, Section 2.2.1, Discharge to Impaired Waters with an Approved TMDL, part I. "Permittees...shall highlight in their annual report all control measures implemented ...to control the pollutants identified in the approved TMDL's." There are numerous Town's applicable to this section, specifically located in four tables. In order to help simplify the process, might it be suggested that the EPA offer suggested methods to

- control such pollutants that are known for particular TMDL's that may be helpful and effective to the Towns. This could save research, manpower, consultant fees and more for each town to have an approved guideline to follow in order to effectively resolve and implement these pollutants.
5. Page 15, Section 2.2.2, Discharge to Impaired Waters without an Approved TMDL, states for the permittee to identify and implement the BMPs for the impaired waters. As suggested in comment no. 4, an approved list of BMPs for specific pollutant types provided by the EPA could save time and money for all the municipalities.
 6. Page 16, Section 2.3.1, Increased Discharges. This definition needs more explanation. It is unclear how this would affect a municipality. In most cases only private developments would create one or more acres of new impervious surface. It needs to be defined if the municipalities are responsible to report such increases of impervious surface to EPA. More clarification on this section would be helpful.
 7. Page 24, Section 2.4.4.6, System Mapping. There is a lot of information required for this map. This detailed information will be difficult to view as a hard copy and almost forces the information through GIS with various layers. However, the amount of information required is a lot of work for a municipality that currently does not have a GIS department or even a devoted staff member. It would take more than 2 years to do this work in-house. This requirement forces most municipalities to hire a consultant in order to meet such a deadline. In order to make this more economical for the Towns, this requirement should be extended until the 4th or 5th year. Might it be suggested the permit could require certain information for each year as to ensure that Towns are making a continuous effort to complete the mapping requirements.
 8. Page 29, Section 2.4.4.8, Illicit Discharge Detection and Elimination Program, Part v. This section states, "the permittee shall remove all illicit discharges in each identified problem catchment pursuant to Part 2.4.2.". When one reviews section 2.4.2, it states that all illicit discharges need to be identified and removed within 30 days or no later than 6 months. This translates to the reader as all illicit discharges in town need to be identified and resolved within 30 days to 6 months. This is a huge task. It is not possible for the entire town's outfalls to be tested, identified as a hit, tracked back to the source, follow proper documentation and possible legalities and enforcement action and have the entire town free of illicit discharge. This section needs to be reevaluated. This request will put many if not all communities in non compliance within the first year of the permit. Even with a five year limit, this task is great. If the reader's translation is misunderstood, please add necessary language to the permit to ensure clarity. Municipalities that lack CSOs should not have to be so heavily tasked.
 9. Page 29, Section 2.4.4.8, Illicit Discharge Detection and Elimination Program, Part d. This section describes the systematic procedure for locating and removing illicit connections. It requires dry and wet weather outfall monitoring and testing. It is unclear as to why there would be a need to test outfalls in both conditions. A town could have 800 outfalls with 10% of them wet during dry season, then 80 outfalls will need to be tested and further researched as to the source. This method for identifying illicit discharges makes perfect sense. If a town is required to monitor and test outfalls during wet weather, this would result in 800 samples. In wet weather, these 720 other samples should show run off from the storm. It is unclear as to why municipalities are being forced to perform not only this added timely task but an added extreme cost for testing. The reasons should be explained in the permit to justify such a task. These explanations would help the municipalities explain to their residents why the EPA is requiring such a task and why the funds are needed.
 10. Page 29, Section 2.4.4.8, Illicit Discharge Detection and Elimination Program, Part ii. This section requests for the permittee to have a written systematic procedure for illicit discharge detection. It would be beneficial for the EPA to provide a sample that could be modified and adopted for each community. This would save the Town's valuable resources to be better focused on other requirements of this permit.
 11. Page 31, Section 2.4.4.8, Illicit Discharge Detection and Elimination Program, part g. This section states "the permittee shall complete investigations at a minimum of one-half of the MS4...by end of year three.." This is contradictory with section 2.4.2. and should be clarified.
 12. Page 38, Section 2.4.7.1, Good House Keeping and Pollution Prevention for Permittee Owned Operations, Part ii, second paragraph, it states, "pet waste management...permittee shall document in its annual report...enforcement efforts (including the number of violations pursued and fines levied). It would be helpful if it was stated under what law municipalities have such authority. The third paragraph of this section states within 3 years of the effective date of this permit, the permittee shall implement practices that

discourage the congregation of waterfowl. May recommended practices be suggested to the permittees as to how to discourage the congregation of waterfowl in a humane manner.

13. Page 45, Section 3.1.2, Outfall Monitoring Program, Monitoring Frequency and Location, states there should be at least one wet weather analytical monitoring of each outfall. Please refer to item 9 listed above as to The Town's concerns of this task. The Town does not have a combined sewer system and does not feel this expensive task is warranted nor will it develop any new data that the dry weather tests cannot determine.
14. Page 48, Section 5.1, Program Evaluation, states the permittee shall self-evaluate its compliance with the terms and conditions of this permit. It would be helpful if there was a link attached in this section that one could review a sample. This would create cost and time savings as well as ensure the permittee is satisfying the needs of the authority.

Sincerely,

A handwritten signature in black ink, appearing to read "Michele Stein". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Michele Stein, P.E.
Town Engineer

CC: Town Manager