



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**Region 1**

**5 Post Office Square, Suite 100**

**Boston, MA 02109-3912**

August 20, 2015

Kenneth J. Leva, Chairman of the Board of Selectmen  
Town of Dunstable  
Town Hall, 511 Main Street  
Dunstable, MA 01827-1313

Re: USEPA National Pollutant Discharge Elimination System (NPDES) Phase II –  
Small Municipal Separate Storm Sewer System (MS4) Request for Waiver from  
Permit Coverage

Dear Mr. Leva:

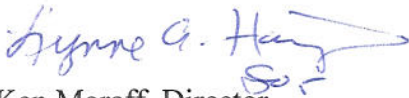
This letter is in response to your letter from July 14, 2015 requesting a waiver from small municipal separate storm sewer system (MS4) permit requirements. Based on the information presented in your request, EPA has determined that your small MS4 is located in a jurisdiction with a population over 1,000 within the urbanized area as defined by the 2010 Census. EPA policy is to include all designated urbanized areas as determined in any Census after the year 2000. Any small MS4 that is “designated into the NPDES program for storm water under an urbanized area calculation for any given Census year will remain regulated regardless of the results of subsequent urbanized area calculations” (Federal Register II.H.2.c.i). In other words, a municipality’s urbanized area covered by the MS4 Phase II permit program never shrinks, but the population covered fluctuates and waiver eligibility is based on the population regulated according to the latest decennial Census. Therefore, while the 2010 Census population within the 2010 urbanized area is only 424, this calculation does not take into consideration the 2000 Census urbanized area. Combining the 2000 Census designated urbanized area with the 2010 Census designated urbanized area and taking the population within that combined area as determined by the 2010 Census, the town of Dunstable has a regulated area population of 1057. A map is enclosed depicting the current regulated urbanized area within Dunstable and the population within that regulated area according to the 2010 Census.

With a regulated area population of over 1,000, the town of Dunstable is eligible for a waiver if the criteria identified at 40 CFR §123.35(d)(2) are met. Dunstable is not eligible for a waiver under 40 CFR §123.35(d)(1). In order to qualify for a waiver from the Phase II stormwater permit program Dunstable must satisfy all requirements found at 40 CFR §123.35(d)(2) including a determination that “current and future discharges from the MS4 do not have the potential to result in exceedances of water quality standards” (40 CFR §123.35(d)(2)(iv)). With the information provided by Dunstable there is insufficient

evidence to determine that all future stormwater discharges from Dunstable's MS4 will not have the potential to result in exceedances of water quality standards, therefore the criteria at 40 CFR §123.35(d)(2) have not been met. At this time, the town of Dunstable is hereby denied a waiver from the Massachusetts Phase II Stormwater MS4 permit requirements and will be required to obtain permit coverage for discharges from their small MS4 in accordance with 40 CFR §122.33(b)(1) upon issuance of the next final Phase II MS4 permit for Massachusetts, or shall submit an individual permit application in accordance with 40 CFR §122.33(b)(2)(i) or §122.33(b)(2)(ii).

If you have any questions concerning the Phase II Stormwater Program please contact Newton Tedder at 617-918-1038 or [tedder.newton@epa.gov](mailto:tedder.newton@epa.gov).

Sincerely,

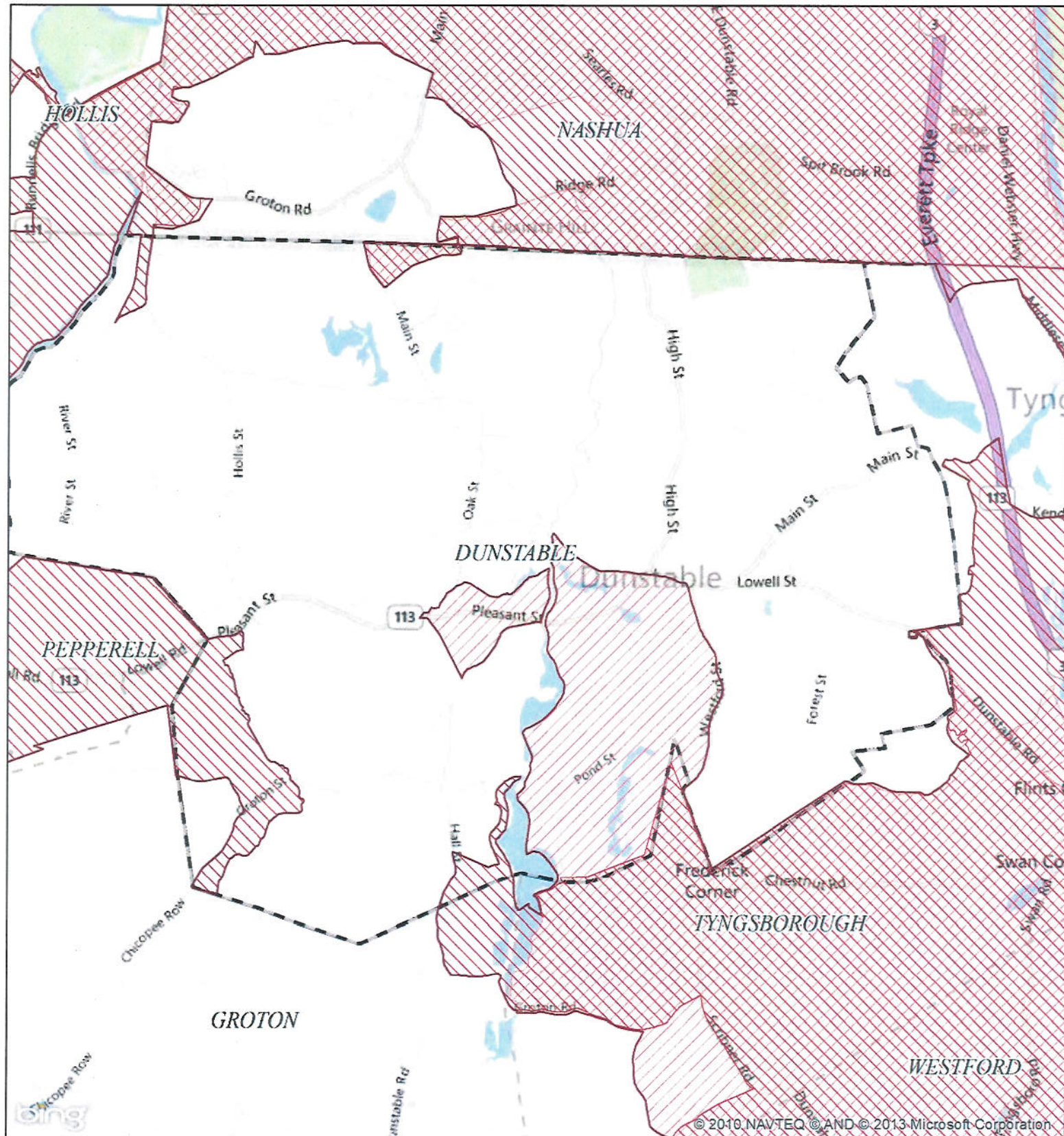
A handwritten signature in blue ink, appearing to read "Ken Moraff", with a stylized flourish at the end.

Ken Moraff, Director  
Office of Ecosystem Protection

Enclosure: NPDES Phase II Stormwater Program Automatically Designated MS4 Areas:  
Dunstable MA

cc: Frederick Civian, MassDEP Bureau of Resource Protection – via email





# NPDES Phase II Stormwater Program Automatically Designated MS4 Areas

## **Dunstable MA**

### Regulated Area:

UA Based on 2000 Census	UA Based on 2010 Census
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Town Population: **3179**  
Regulated Population: **1057**  
(Populations estimated from 2010 Census)



Urbanized Areas, Town Boundaries:  
US Census (2000, 2010)  
Base map © 2013 Microsoft Corporation  
and its data suppliers

