



City of Somersworth

One Government Way • Somersworth, NH 03878 • P: 603-692-9524

February 19, 2009

Ms. Thelma Murphy
Environmental Protection Agency
One Congress Street – Suite 1100
Boston, Mass. 02114

Ref: Small MS4 – December 2008 Comments

Dear Ms. Murphy;

As the City Engineer for Somersworth, New Hampshire we respectfully submit the following comments and questions for the Agencies review prior to release of the final version of the Small MS4 permit.

While it is our desire to work with the Agency to implement processes and procedures to clean our waterways and environment I work within a framework of government that has certain limitations. My biggest limitation is time and money. As you are well aware every government agency is under fiscal restraints to hire additional staffing to address the time function. To address this we ask that you re-evaluate the time frames that are listed in the permit so that we can ramp up a little more slowly to all of the permit requirements. This would also allow us to ramp up the funding required over time. With that in mind our comments are as follows.

1) The permit requires that you walk all stream miles and begin location and test of all discharges within 2 years and 3 months from the effective date under the Illicit Discharge section of the permit requirements (2.3.4.6.d) but under the Outfall Monitoring Program the program needs to start 1 year after the effective date (3.1.1). Which is it?

Our recommendation would be the 2 years and 3 months.

2) The permit requires that we develop operation and maintenance procedures for the Schools which are not under my (City) control. The school department is a separate governmental function run by a school superintendent with a separate budget. The school department is then not under any obligation to follow the recommended procedures. They are also not required to submit a Storm Water Pollution Prevention Plan (SWPPP) under section 2.3.7.2. Why? Is it the expectation of the EPA that the City government will do this work for the School department?

Engineering Department
Chris Jacobs, PE

Our recommendation is that the School properties be dropped from the requirements entirely or the permit re-written to make them directly responsible for their own compliance and permitting under the permit.

3) Under what authority are we expected to require existing parking lot owners to report how much salt they use? (2.2.3) The City does not have any authority to go back to Owners of properties with existing parking lots and require them to report how much sand and salt they use on a seasonal basis. Certainly we could ask nicely but if they elect not to comply with our request will the City be seen as non compliant with the permit?

We could draft rules or ordinances requesting that those properties that discharge stormwater directly or indirectly into the collection system be required to report what they discharge. If the ordinance is turned down by the governing body will the City be seen as non-compliant with the permit?

4) Under what authority are we expected to require existing parking lot contractors to calibrate their salt spreading equipment? (2.2.3) The City does not have any authority to require existing parking lot contractors to calibrate their salt spreading equipment. Again we could ask nicely but if they elect not to comply with our request will the City be seen as non compliant with the permit?

We could draft rules or ordinances requiring that the parking lot contractors to calibrate their salt spreading equipment. If the ordinance is turned down by the governing body will the City be seen as non-compliant with the permit? If approved it would then be up to the police to check the Contractors to see if they have had their equipment calibrated when operating within the City limits. The Public Works staff will not have the time to check them because during storm events they will be busy. Secondly the Public Works staff will not have the authority to prevent someone from operating within the City as they do not have enforcement powers. It would appear that this section of the permit will be too cumbersome to enforce and therefore should be dropped from the permit requirements at this time.

5) In the Outfall Monitoring Program we are required to "monitor for the pollutants identified as the cause of the impairment". The Salmon Falls River runs on the east side of the City of Somersworth and is impaired by mercury. The EPA recognizes that this is an air borne pollutant so why are we being required to test for a contaminant that we know is not a result of local action?

We recommend that the requirement to test for mercury be struck from the permit. The generation of mercury and contamination of water bodies a distance from the source has been a topic of discussion for many years. The last I knew it involved the regulation of interstate commerce which is a federal role.

Therefore it should stay a federal role and the only communities that should be required to test for it are those with known sources within their areas.

6) The permit lacks any mention of a waiver based on just cause for any of the requirements within the permit.

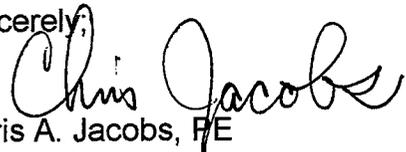
We recommend that the permit include wording that allows for a waiver request to address issues as listed above. For example if a community did one round of sampling and found that certain test parameters were at or below the water entering their community they have a method of requesting a waiver for further testing .

7) Catchbasin Cleaning under section 2.3.7.1.d of the proposed permit. This past year the City spent approximately \$10,000 for an outside contractor to clean catchbasins. This allowed us to clean 175 out of the 1,350 basins we have in the City. This works out to approximately 13% of the basins we own.

We would recommend that the goal should be set at 15% for the first year. Then each following year an additional 2.5% more so that at the end of the 5 year permit period we are up to 25% of our basins. Then in the next 5 years we could increase our annual number by 5% per year so that we arrive at 50% of all the basins in the 10th year. This recommendation would allow us to ramp up the cost and labor required to get all of the basins cleaned. The second reason for allowing us to ramp up to the 50% number is that we do have the equipment to do this on our own. We expect that there may not be enough outside contractors to get the work done between April and November for all of the communities involved.

We would like to take this opportunity to thank you for reading our comments and concerns. While we applaud your efforts to draft a permit that directs us to do more for the environment we would like to see a permit that gives us more leeway to increase our efforts and time to divert resources of money and manpower to accomplish these goals. Should you have any questions or comments about our letter please feel free to contact me at the phone number listed.

Sincerely,



Chris A. Jacobs, PE
City Engineer