

UNITED STATES OF AMERICA
ENVIRONMENTAL PROTECTION AGENCY
BOSTON REGION

In the Matter of:

PUBLIC HEARING:

RE: NPDES DISCHARGE PERMIT FOR
WORCESTER MUNICIPAL STORM SEWER SYSTEM (MS4)
NPDES PERMIT NO. MAS010002

Worcester Public Library
3 Salem Square
Worcester, Massachusetts

Wednesday
July 30, 2008

The above entitled matter came on for hearing,
pursuant to Notice at 10:00 a.m.

BEFORE:

DAVID WEBSTER, Chief, Industrial Permits Branch
DAVID J. GRAY, Permit Writer
U.S. Environmental Protection Agency
New England Region I
One Congress Street, Suite 1100
Boston, MA 02114

PAUL M. HOGAN
Massachusetts Department of Environmental Protection

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P R O C E E D I N G S

(10:09 a.m.)

HEARING OFFICER WEBSTER: Good morning, ladies and gentlemen. My name is David Webster. I am the chief of the industrial permits branch with the New England regional office of the United States Environmental Protection Agency, also known as Region 1 EPA.

Co-chairing this public hearing with me is Paul Hogan from the Massachusetts Department of Environmental Protection, commonly referred to as MassDEP.

Also joining me here this morning is David Gray, EPA's permit writer for the permit which is the subject of this hearing.

This hearing, concerning the issuance of the national pollutant discharge elimination system, or NPDES, or "Nip-tees" permit for the Worcester municipal separate storm sewer system, or MS4, shall come to order.

This permit is for storm water discharges from the city of Worcester's municipal separate storm sewer system, permit number MAS 010002.

This permit will be issued to the City of Worcester in final form upon consideration of comments received during the public comment period.

In Massachusetts, EPA and MassDEP jointly issue permits.

1 Although the permit is a single document signed by
2 both agencies, legally, each agency issues a permit under
3 separate Federal and State authority, namely, the Federal
4 Clean Water Act's national pollutant discharge elimination
5 system, or NPDES, and the Massachusetts Clean Water Act's
6 surface water discharge permit program.

7 The NPDES program issues permits to all facilities
8 that discharge into waters of the United States. The permit
9 writer develops effluent limits and best management
10 practices, as well as monitoring and reporting requirements,
11 based on information from the facility, Federal regulations,
12 State water quality standards, technical guidance published
13 by EPA and the State, and State and Federal policy.

14 More information on the NPDES program is available
15 in the NPDES program summary handout entitled Water
16 Permitting 101. Copies are available at this meeting.

17 Along with this document, there is a list of web
18 addresses where you can find additional information on the
19 NPDES program.

20 Also available today is a brief document with
21 responses to frequently asked questions regarding the topic
22 of storm water and the draft MS4 permit for the City of
23 Worcester.

24 EPA and MassDEP released a draft MS4 permit for
25 the City of Worcester on June 20, 2008 and opened the public

1 comment period from June 26, 2008 to August 4, 2008.

2 The legal notice for this hearing was published in
3 the Worcester Telegram and Gazette on June 26, 2008.

4 Since June 26th, the draft permit fact sheet
5 explaining the draft permit and the supporting documents
6 have been available for interested parties to review and
7 provide comments. Comments can be made in writing to EPA or
8 orally during this hearing.

9 You have probably received or have seen copies of
10 the draft permit and fact sheets, but in case you have not,
11 some copies are available here today as well as on EPA's
12 website.

13 Today's hearing is informal -- is an informal, non
14 adversarial hearing providing interested parties with the
15 opportunity to make oral comments and to submit comments on
16 the proposed permit.

17 There will be no cross examination of either the
18 panel or the commenters. Any questions directed to the
19 commenter from a panel member will be for clarification
20 purposes only.

21 This public hearing is being recorded. A
22 transcription will become part of the official
23 administrative record for this permit.

24 However, in order to ensure the permit's accuracy,
25 we highly recommend that you submit written statements in

1 addition to the comments made this morning.

2 As previously mentioned, the public comment period
3 will close at midnight August 4, 2008. Following the close
4 of the public comment period, EPA will review and consider
5 all comments received during the public comment period, both
6 in writing and at today's public hearing.

7 EPA and MassDEP will prepare a document known as a
8 response to comments that will briefly describe and address
9 the significant issues raised during the comment period and
10 what provisions, if any, in the draft permit have been
11 changed and the reasons for the change.

12 The response to comments will accompany the final
13 permit for the City of Worcester storm water discharges when
14 that final permit is issued.

15 Notice of the availability of both the response to
16 comments and the final permit will be mailed or e-mailed to
17 anyone who commented on the draft permit.

18 Anyone who wishes to contest the final permit must
19 file a petition for review and appeals with the
20 environmental appeals board, also known as the EAB.

21 A couple of important things to remember if you
22 are considering appealing the final permit.

23 First, the petition for review or appeal must be
24 received by the EAB within 30 days of the date of final --
25 of the final permit being issued. More information on

1 exactly how to calculate this period will be included in an
2 attachment in the final permit.

3 Second, only persons who filed comments on the
4 draft permit during the public comment period, or who
5 provided comments during this public hearing may petition
6 the EAB to review the final permit conditions.

7 Third, any person seeking review of the permit
8 decision must raise all reasonable ascertainable issues and
9 submit reasonably available arguments supporting their
10 position during the public comment period, including any
11 public hearing.

12 Issues or arguments that are not raised will not
13 be considered by the EAB on appeal.

14 There is one exception to the above. Any person
15 who failed to comment or failed to participate in the public
16 hearing, may petition the EAB only to the extent of the
17 changes from the draft to the final permit.

18 More information on the appeals process can be
19 found on EPA's website and at the time of the final permit
20 decision.

21 Now, my co-chair, Paul Hogan, of MassDEP and
22 resident of the city of Worcester, has some opening remarks.

23 MR. HOGAN: Thank you, David.

24 Good morning. My name is Paul Hogan and I
25 represent the Massachusetts Department of Environmental

1 Protection.

2 This is a joint public hearing being held under
3 the provisions of State as well as Federal laws and
4 regulations.

5 The Massachusetts Clean Waters Act, General Laws
6 Chapter 21, Sections 26 to 53, and the Code of Massachusetts
7 Regulations, 314 CMR 3.00 prohibits the discharge of
8 pollutants to waters of the Commonwealth, unless authorized
9 by a permit issued by the Massachusetts Department of
10 Environmental Protection.

11 The Commonwealth of Massachusetts and the US
12 Environmental Protection Agency New England entered into an
13 agreement on March 18, 1973 to cooperatively process
14 applications and jointly issue surface water discharge
15 permits.

16 The permits issued under this program are
17 developed to conform to both State and Federal water
18 pollution control laws and regulations.

19 Each agency has the independent right to enforce
20 the terms and conditions of the permit.

21 Thus, the Department of Environmental Protection
22 will also fully consider all written and oral comments
23 received at this hearing, in addition to written comments
24 submitted during the public comment period to each of the
25 agencies.

1 The Environmental Protection Agency New England
2 has requested, in a letter dated June 19, 2008, that the
3 Department of Environmental Protection certify that the
4 draft NPDES permit for the City of Worcester municipal
5 separate storm sewer system, NPDES permit number MAS 010002,
6 which is the subject of this hearing, in accordance with the
7 provisions of section 401A1 of the Federal Clean Water Act
8 and pursuant to 40CFR Sections 124.53 through 124.55.

9 No final decision concerning the section 401
10 certification will be made until all comments received
11 during the public comment period and at this hearing have
12 been reviewed.

13 The permit can be certified in its current form,
14 certified with modifications based upon public comments,
15 certified with specific State certification requirements, or
16 the Department can waive certification.

17 The Massachusetts Department of Environmental
18 Protection welcomes the opportunity for this hearing to
19 gather any additional information that will assist the
20 Department in making decisions concerning the final NPDES
21 discharge permit for the City of Worcester municipal
22 separate storm sewer system, NPDES permit number MAS 010002.

23 Thank you.

24 HEARING OFFICER WEBSTER: Thank you, Paul.

25 To begin, I'm going to start the hearing with

1 allowing representatives from the permit applicant, the City
2 of Worcester, to make short statements if desired.

3 We've tried to organize that followed by elected
4 officials and then Federal, State or local officials, and
5 then members of the audience.

6 When we get to that point, we are attempting to do
7 that in the order in which people signed in on the
8 attendance cards coming in.

9 And you know, I anticipate, at the end of that,
10 giving anybody else an opportunity to speak that hadn't had
11 a chance to.

12 I will use the attendance cards to call people who
13 wish to comment. These cards will also be used to notify
14 people of our subsequent final permit decision.

15 So, if you don't have a card, please do, because
16 that's our record for notifying you of the decision.

17 Speakers should come to the podium to speak. I'll
18 ask that you begin your statement, please identify yourself
19 and your affiliation for the record.

20 This is a reasonably sized group, so -- that are
21 looking to comment today. In order to get as many
22 participants as possible allowed to express your views, I
23 ask you to try to limit your comments to 10 minutes. At
24 that time, if I do ask you to stop and you haven't finished,
25 I will ask you to defer the remainder of your comments until

1 each person has an opportunity to comment.

2 Then, if there is time at the end of the hearing,
3 which I anticipate, we will give you a short opportunity to
4 finish your comments.

5 If you have a written statement, you may read it
6 if it can be done within that time frame. If not, I ask you
7 to -- I will ask you to summarize the statement.

8 In either case, I encourage you to submit written
9 comments tonight or before the close of the public comment
10 period at -- on August 4th.

11 The first person I'd ask to come to the podium is
12 Robert Moylan, the commissioner of public works for the City
13 of Worcester.

14 MR. O'BRIEN: City manager Michael O'Brien. City
15 manager for the great City of Worcester.

16 As city manager, obviously, and as a community, we
17 support the principles of storm water management and the
18 goals of achieving improved quality of water in our lakes,
19 and our ponds and in our rivers.

20 Worcester has been a leader in this area clearly
21 throughout time. And we have every intention whatsoever to
22 build on our record of success.

23 We also recognize that storm water management is a
24 very, very complex issue. And I know, you're very aware of
25 that also.

1 We also recognize improving our lakes, ponds and
2 rivers, which have degraded over centuries -- keep that in
3 mind -- this challenge of ours is centuries old -- will take
4 time and a great deal of money.

5 Our City has made a committed effort and invested
6 significant financial resources, hundreds of millions of
7 dollars towards this goal.

8 And we believe, our water resources are, in fact,
9 better today than they were just 20 years ago. We also
10 understand that there is much more that needs to be done.

11 But, addressing these difficult, complex storm
12 water problems are costly.

13 We can't lose sight of the fact that our sewer
14 rate payers, the residents and businesses of Worcester must
15 carry this financial burden and financial burdens needed to
16 implement this environmental improvements.

17 It's the obligation of the City manager and the
18 City administration, as well as counsel that is represented
19 here today, to balance the needs and costs of environmental
20 improvements with the ability of our rate payers to raise
21 these requisite funds to provide the level of improvements
22 that this storm permit requires.

23 We cannot ignore the escalating costs that are
24 involved with our rate payers as they look to address the
25 escalating costs of food, fuel, heat, household goods,

1 necessary for a safe and healthy life, while pursuing a very
2 noble cause of the improving our natural resources.

3 Nor, can we ignore our regulatory requirements
4 such as the upper Blackstone's current and pending discharge
5 permits, sanitary sewer overflow administrative orders, or
6 the water management act, and their associated compliance
7 costs.

8 With any regulatory mandate, municipalities need
9 certainty as to both operational and financial obligations.

10 This draft storm water permit, though -- through
11 its ambiguous and inconsistent language, lacks the degree of
12 certainty that we seek. We remain uncertain as to our
13 obligations under this permit and to the risks imposed upon
14 the City by acceptance of these permit terms.

15 The compliance cost picture is far from clear.
16 Most disconcerting is that, should a third party intervene
17 and challenge both EPA and the City, the vague language
18 could be interpreted by the Courts in a matter that puts the
19 City and our rate payers and our residents and our
20 businesses at great risk, great financial risk.

21 The City of Worcester is fully committed to
22 continuing our program of managing storm water in a cost
23 effective way to achieve real improvements in our valuable,
24 very valuable waterways, lakes and ponds.

25 We have a very knowledgeable staff led by

1 Commissioner Moylan and his team, and a keen understanding
2 of the problems confronting Worcester's water resources.

3 And we have citizens and businesses willing to
4 play their part and do their part in helping to correct
5 these problems.

6 What we seek is a storm water permit that is
7 cognizant of the costs impacts based on sound science that
8 establishes reasonable expectations and time frames, demands
9 only those actions that are beneficial, and is clear about
10 what is required.

11 The draft permit before us, while consistent with
12 the City's perspective on so many fronts, will actually
13 hinder rather than enhance our efforts at advancing our
14 storm water program.

15 We request that EPA and DEP give their utmost
16 consideration to the comments provided by Commissioner
17 Moylan and his team and incorporate his suggestions and
18 their suggestions in the final permit.

19 The City shares a common goal of improved water
20 resources with EPA, and DEP, and the environmental
21 community.

22 A reasonable, fair, flexible and clear storm water
23 permit would allow us to begin the next steps towards
24 meeting that goal.

25 Thank you.

1 HEARING OFFICER WEBSTER: Thank you, Mr. O'Brien.

2 Commissioner Moylan, do you wish to speak also?

3 MR. MOYLAN: Thank you for allowing me to speak
4 with respect to this draft water of storm -- the draft
5 permit for the MS4 of the City of Worcester.

6 My name is Bob Moylan. I am commissioner of
7 public works and parks in the great city of Worcester.

8 First, I would like to say that, I want to speak
9 about the City's environmental record.

10 I think it is, without question, that the City's
11 environmental record has been stellar. We have been
12 recognized by various environmental groups. We have been
13 recognized by DEP. We have been recognized by EPA.

14 So, we want to build on that legacy of great
15 environmental stewardship and progression and advocacy as we
16 look to working with our regulators, EPA and DEP, on
17 developing an acceptable storm water permit.

18 Given that background, and our sentiment
19 concerning the environment, however, there are concerns with
20 this permit.

21 First, we strongly are opposed to spending rate
22 payers money unnecessarily. This permit needs to show clear
23 and definable goals to be reached based on science and based
24 on an understanding that actions taken by the City will lead
25 to measurable environmental benefits.

1 We also reject EPA's estimates that the cost of
2 compliance with this permit will be an additional \$1.3
3 million per year for the rate payers.

4 There is, however, a great deal in this NPDES
5 permit that we agree with.

6 We agree with the BMP approach, which is best
7 management practices approach to solving storm water issues.

8 We agree with a more aggressive effort to control
9 land disturbances and prevent erosion and contamination to
10 our water resources.

11 This will lead to a new ordinance. It will lead
12 to making building in Worcester more costly.

13 But, clearly, there is a benefit, an environmental
14 benefit. And we accept that additional cost.

15 We agree with a more rigorous catch basin cleaning
16 program that will help us clean our City's 15,000 catch
17 basins at such a frequency that none is over 50 percent
18 full.

19 That clearly will have a cost impact. But, we
20 understand the benefit of that requirement.

21 That cost benefit or, that cost of implementing
22 such a program is being calculated now. But, make no
23 mistake, it will be in the hundreds of thousands of dollars.

24 We agree to an accelerated schedule to sweep our
25 city streets in the spring and in the fall. Again, a cost

1 we understand, and a benefit we understand and accept.

2 And we agree to an enhanced public education
3 process. In many ways, it will be the public education
4 process that will be fundamental to altering public
5 behavior, to have a positive effect on storm water quality.

6 And the list goes on.

7 However, there are three major segments of this
8 permit that the City does not agree with EPA and DEP and
9 which separates us from accepting this permit, and for which
10 we intend to take a very hard stand, unless altered in the
11 final permit.

12 Let me speak to those.

13 The first is what they call -- or what is commonly
14 referred to as IDDP, illicit discharge and detection
15 protocol.

16 We agree with the need for such a program. And in
17 fact, Worcester has such a program now.

18 We agree that we need to aggressively seek out and
19 direct -- seek out direct and indirect illicit discharges
20 from storm water effluent.

21 We believe that the City of Worcester has a very
22 effective IDDP program, and the results bare that out, over
23 125 illicit connections removed.

24 However, we strongly object to the highly
25 proscriptive program that EPA is mandating the City follow.

1 We don't believe that EPA's approach of starting at the
2 upper reaches of the sewer system and working its way to the
3 outfall, is at all superior to our approach.

4 In fact, we believe -- we believe our approach of
5 starting at the outfall and working up the trunk of the
6 sewer to be more cost effective, more widely used
7 nationwide, and more manageable for our system.

8 Two publications, interesting to note, each
9 endorsed by EPA, support our approach of working from the
10 outfall up. Those publications, one is the Illicit
11 Discharge Detection and Elimination manual, a handbook for
12 municipalities, authored by the New England interstate water
13 pollution control commission.

14 Another, Illicit Discharge Detection and
15 Elimination, a guidance manual for program development and
16 technical assistance by the Center for Watershed Protection,
17 and Professor Robert Pitt, whom EPA recognizes in their
18 permit.

19 The cost of compliance with EPA's proscriptive
20 application is, by itself, conservatively estimated at \$42
21 million.

22 This is a cost figure that EPA has agreed to --
23 agreed with earlier this year, but refused to include as a
24 cost related to this permit.

25 Make no mistake, EPA's approach will cost the City

1 at least \$42 million over the course of the permit.

2 Why is it that EPA remains adamant about enforcing
3 their proscriptive and less used approach on the City of
4 Worcester?

5 Sampling and monitoring plan is another key issue.
6 An effective storm water program must have a sampling and
7 monitoring plan to measure and validate the program's
8 process and to determine where more work is needed.
9 Worcester seeks an effective sampling and monitoring program
10 to monitor its storm water program.

11 We object to a program that generates reams of
12 useless data for the sake of developing data. If EPA and
13 DEP seeks to generate such data, let them work through their
14 partners who will collect the data, but leave the City of
15 Worcester's sampling and monitoring requirements to those
16 areas which will be beneficial to measure progress on the
17 storm water front and compliance with the permit.

18 We believe the sampling and monitoring
19 requirements of this permits are too costly and unnecessary.

20 We have estimated EPA's sampling and monitoring
21 plan at over \$1.3 million over the course of the permit.

22 Last but not least, and perhaps, the most
23 significant, is water quality standards versus what is
24 referred to in this business as maximum extent practicable,
25 MEP.

1 This is the central issue of the permit. The
2 Clean Water Act is specific concerning the standard that
3 municipal storm water permits -- permit holders, like
4 Worcester, must meet.

5 That standard is an MEP, maximum extent
6 practicable. And that conclusion has been borne out and
7 validated by the Courts.

8 This permit is written with great ambiguity as it
9 relates to the standard that is to be satisfied within --
10 MEP versus the numeric or water quality standards. And in
11 turn, waste load allocations.

12 We object to being held to anything other than the
13 MEP standard.

14 Despite EPA's protestations to the contrary,
15 holding the City to anything other than an MEP standard
16 makes end of pipe treatment, or some upper excessively
17 costly and burdensome solution a distinct possibility.

18 Without EPA unequivocally stating that the
19 standard to be satisfied is MEP, leaves the impression that
20 specific water quality standards, numeric or narrative,
21 maybe the benchmark. It requires the City of Worcester to
22 bear unacceptable risk and, in effect, put its trust and its
23 rate payers money in the hands of EPA and DEP who say end of
24 pipe treatment is not their intent.

25 Frankly, that is just too big a risk to take.

1 If the regulators are going to hold us to an MEP
2 -- an MEP standard, then say so. And say it clearly and
3 unambiguously.

4 If, on the other hand, they are going to hold us
5 to a water quality and numeric standard, state that. Again,
6 avoid the ambiguity.

7 The City wants a new storm water permit. And it
8 wants to undertake programs and projects that advance the
9 environmental storm water goals.

10 The City has been an environmental leader in the
11 fullest definition and wants to continue to build on that
12 legacy.

13 However, we cannot agree to subject the City and
14 our rate payers to a permit that contains language that
15 exceeds statutory authority, could lead to a costly Court
16 judgment, or to programs that are without the definable
17 environmental benchmark and unnecessarily costly.

18 If we can find common ground on the three issues I
19 identified, and also find common ground on the accurate cost
20 estimate for compliance with this permit, so that rate
21 payers will know and understand what is to be financially
22 expected of them over the next five years, we can move
23 forward with the hard but important work of further cleaning
24 Worcester's waters.

25 Thank you.

1 HEARING OFFICER WEBSTER: Thank you very much,
2 Commissioner Moylan.

3 I next call on Gary Rosen, Worcester City Council.

4 MR. ROSEN: Thank you very much. My name is Gary
5 Rosen, I'm an elected City Councillor at-large and I'm also
6 chairman of the City Councils health -- public health and
7 human services subcommittee.

8 And I want you to know, speaking for my colleagues
9 on the Worcester City Council, we appreciate your being here
10 today. We appreciate your discussing this issue with us, a
11 very important issue to all of us.

12 We, as City councilors, certainly, I know I am,
13 I'm a protector of all the ponds, the streams, and the lakes
14 in and around the City of Worcester.

15 I must be. We all are. There isn't a person in
16 this room who is not.

17 However, I also have to be a protector of our tax
18 payers, our rate payers, and our businesses that we always
19 struggle on a daily basis to keep here in the city of
20 Worcester and to attract to the city of Worcester to enhance
21 our economy to make this a better place for everyone to
22 live.

23 We're at the point in the city of Worcester,
24 because I get out there on a daily basis, where our food
25 pantries are booming. They're doing a booming business.

1 And they don't have enough food to provide to our residents
2 who need that food.

3 We look at our retirees, our seniors in the city,
4 who are having trouble with paying health insurance, who
5 also are struggling with food prices, who are paying rent or
6 home insurance, certainly, the utilities.

7 Heating oil is going to be -- across this country,
8 we all know that heating oil is going to be a difficult and
9 painful issue for our seniors and many others across the
10 country.

11 So, we, in Worcester are faced with those
12 financial and economic issues.

13 Am I concerned still with the ponds and the
14 streams and the lakes? I sure am. And I will be as long as
15 I'm in office and far beyond that.

16 However, I have to be practical. I have to look
17 at affordability here. I have to look at that issue.

18 I've heard from our tax payers, our rate payers,
19 our residents in the city of Worcester that please, we've
20 had enough. We yield. We cannot afford any more.

21 We can't afford higher taxes. We can't afford
22 higher rates for water and sewer.

23 We just cannot pay any more.

24 And do you know what? They are right. They're
25 reasonable. They're right.

1 So, whatever we do, no matter how right it is
2 today and in the future, we have to think of the people who
3 are struggling in the city.

4 We in Worcester can't do what the Federal
5 Government seems to do on a daily basis. I could never
6 approve the City of Worcester spending money it doesn't
7 have.

8 I think the Federal Government is too used to
9 doing that. So, it makes mandates to cities and towns just
10 too easy.

11 We don't operate that way. Thank goodness. And
12 we can't.

13 So, we -- as Commissioner Moylan says, we are
14 willing to cooperate. We are willing to do the right thing
15 as our great City always does. That's the choice we always
16 make.

17 However, to ask us to ignore the rate payers and
18 the tax payers and businesses, and the residents of this
19 city, certainly it would be wrong. It would be callous on
20 the Government's part.

21 So, I ask you to work with us, consider all of
22 the objections that Commissioner Moylan has brought forth
23 today.

24 Please consider those. Work with us.

25 We certainly want a plan. We want a cost

1 effective plan. We want a plan that's not ambiguous, that
2 takes care of all the water, the streams, the ponds, keeps
3 it healthy and clean, removes as many pollutants as we can.

4 But, think of me. Think of the citizens I
5 represent. Think of everyone in the audience.

6 Let's do the right thing, but do the right thing
7 for everyone. Not just the waterways, but for people's
8 pocketbooks also.

9 Thank you, very much.

10 HEARING OFFICER WEBSTER: Thank you very much,
11 Mr. Rosen.

12 I will next call Philip Palmer.

13 MR. PALMIERI: I guess, I will take Palmer,
14 because in this crowd, it probably is much better than
15 Palmieri.

16 But, that being said, first of all, I am a City
17 councillor from the City of Worcester. This is the district
18 that -- one of the districts that I represent in the great
19 city of Worcester.

20 And I think everyone is here for, you know, the
21 same reason, clean water. Whether you're on the left or the
22 right, it's all about clean water for the City of Worcester.

23 And I'm hopeful that we can, without question,
24 come together, the EPA and the DEP, and the City, with a
25 resolution and a document that will make sense.

1 But, my -- my concerns are that the City of
2 Worcester's water, I think, from most people's vantage
3 point, is probably some of the cleanest and clearest of any
4 municipality anywhere in New England.

5 And that these unfunded mandates and the storm
6 water document seems to be not in cooperation with what we'd
7 like to see happen.

8 I -- I certainly applaud the effort and energy of
9 Commissioner Moylan, the City manager and his staff and all
10 of those that take a position, not only for rate payers and
11 tax payers, but for everyone in the city.

12 And I know that the EPA and the DEP are not
13 concerned at all about what the costs are. They don't give
14 a damn about what it costs.

15 And -- and for most people that look at clean
16 water, there should not be any cost under any circumstances.
17 So, we should just have clean water at any cost.

18 But, the fact is, who is going to pay.

19 And I would suggest to the people to my left, that
20 they should be participating a little more in the costs of
21 -- of what should happen to the future of the city and other
22 cities around the country. And that the Federal Government
23 should step up and play a more significant role in assisting
24 us, which they have not, as well as the State Government.

25 Though, I know, our great congressman is trying to

1 maneuver a way in which we can facilitate this issue. And
2 we're greatly appreciative of that.

3 But, I look at this document and I make this
4 comparison. And I wholeheartedly agree with the
5 commissioner.

6 But, the document should be as clear as -- and as
7 clean as the City of Worcester's water. But, it seems to be
8 as muddied as many the Federal issues that we have of the
9 day.

10 And I'm sorry to have to make that comparison, but
11 we'd like it to be clearer. We'd like it to be cleaner so
12 that we can move forward.

13 And if it is not, you can rest assured that the
14 Council has strongly encouraged, for many years ago, many
15 years ago, that we take a very proactive approach so that
16 the -- not only the rate payers and the tax payers and all
17 of you will be satisfied, but, if it can't -- if we cannot
18 be satisfied, then we should not agree. We should not agree
19 to go forward until we get the compromises that make good
20 common sense.

21 Now, again, I can't appeal to the sensitivity of
22 the DEP for EPA, because they have a job to do. And their
23 job is to be able to have them -- for the benchmarks that
24 they would like to see met, regardless of cost.

25 We have scientists on our side that suggest today

1 that we have reached those benchmarks and that we are
2 continuing to move forward.

3 And I'm hopeful that the rubber will meet the road
4 here and that we'll have good -- continued good clean water.
5 And I'm certain that there are -- there are bottling
6 companies that continue to wait to utilize Worcester's water
7 as -- as an example of what it should be throughout this
8 country.

9 Thank you very much.

10 HEARING OFFICER WEBSTER: Thank you very much.

11 I understand, the Honorable -- the Honorable
12 Konstantina Lukes is here.

13 Would you like to make a statement at this time or
14 later on?

15 MAYOR LUKES: Certainly.

16 HEARING OFFICER WEBSTER: Thank you.

17 MAYOR LUKES: Thank you. I had not signed up but,
18 given the importance of the subject, let me just say, as
19 Mayor, this conversation about the storm water permit has
20 been going on for many years.

21 It is not our intent, in the City of Worcester, to
22 engage in combat with another governmental agency.

23 It is our intent to protect our citizens. And we
24 all have the same goal.

25 And we recognize the priority of clean water.

1 The issue is, how to provide clean water and how
2 to pay for it.

3 And clearly, my colleagues are concerned about the
4 payment, because we are discussing the difference between
5 millions of dollars to solve a problem and billions of
6 dollars.

7 And it's clear, it's a gateway city, as an old
8 industrial city, which is struggling to make its mark again
9 in the 21st century, that we have a limited budget.

10 Our last census says that the average annual
11 income in the city was \$18,600.

12 Given those kinds of facts and given the turmoil
13 that is now going on financially, not just in Worcester, but
14 in the entire country, we are concerned about costs.

15 And as an attorney, let me just say, that words
16 have meaning. And I understand the difference between
17 intent and legally mandated requirements. And I think
18 that's where we are at loggerheads.

19 Whether the EPA states its intent or intends to
20 mandate certain results.

21 And we're caught with this end of the pipe
22 treatment and what that means and whether it's going to be
23 discretionary, mandatory, etcetera.

24 The problem is clear. We have not reached any
25 meeting of the minds as to what our obligations are.

1 And it's interesting that, even our State
2 agencies, and in fact, the State agency required to develop
3 studies that we have to rely on, the Massachusetts DEP,
4 lacks the staff and funding to adequately do that.

5 And if we have missed that step in the process,
6 how do we, as a City, who is grappling with financial
7 issues, address a real problem.

8 It's a meritorious issue. I don't think anybody
9 in this room disagrees that one of the priorities of
10 Government is to provide for the health and safety of its
11 citizens. And we can't do that without providing for clean
12 water.

13 And we're lucky we have water. And we realize
14 that, given what's happening in the rest of the country.

15 Some parts of the country have no water. Some
16 have too much water. We are in the enviable position of
17 having adequate water supplies that are not damaging our
18 ecosystem.

19 However, are the humans damaging it. And is the
20 process of trying to negotiate a resolution further
21 complicating the process.

22 As a City, we want to cooperate. And we are
23 depending on our expert, Commissioner Moylan, who
24 understands the problem and has given us advice.

25 We need to be at the table. It's doesn't serve

1 the City well to have to governmental entities arguing with
2 each other. The public will lose confidence as a result,
3 if, in fact, we have to end up litigating the issue.

4 So, I urge you all to understand that, we are
5 willing to pursue this at the table. We are looking for a
6 reasonable resolution.

7 And we both, on both sides, understand the
8 significance of the issue.

9 And I don't -- I don't think that anybody on
10 either side is willing to engage in combat, but more is
11 willing to resolve the issue. So, we're asking for that
12 continuous cooperation, collaboration.

13 And this is a partnership. And we're asking for
14 that partnership to resolve the issue over the language.
15 And the language is important.

16 And thank you for listening to us.

17 HEARING OFFICER WEBSTER: Thank you very much.

18 Richard Kennedy.

19 MR. KENNEDY: Thank you for the opportunity to
20 speak.

21 My name is Richard Kennedy. I am the president
22 and CEO of the Worcester Regional Chamber of Commerce.

23 To give you a little feel for the size of the
24 chamber, even though its regional, we have 3300 companies.
25 2000 of those companies are actually based in the city of

1 Worcester.

2 And we're very concerned about economic
3 development in the city.

4 We certainly, on the issue of storm water, support
5 the principles of storm water management, goals of achieving
6 improved quality in our lakes, ponds and rivers.

7 And we understand that all residents and
8 businesses have a role to play in reducing pollution that
9 may enter the storm water system and eventually, lakes,
10 ponds, rivers and streams.

11 Business owners need to maintain their properties
12 by sweeping parking lots and cleaning out their drainage
13 structures to minimize the movement of contaminants.

14 But, we are very concerned with escalating sewer
15 costs.

16 While business owners understand they have to pay
17 their fair share for maintenance and upgrade of the sanitary
18 and storm sewer systems, these costs are getting quite
19 significant and burdensome.

20 Many Worcester businesses are finding it more and
21 more difficult to remain viable with increasing costs for
22 energy, health care, materials and transportation. These
23 businesses already carry a disproportionately high share of
24 the City's tax burden.

25 We are concerned that this storm water permit,

1 though it contains well-intentioned goals, maybe -- may not
2 be reasonable and cost effective.

3 Any financial burden it places on the City will
4 get passed on to sewer tax payers.

5 When coupled with -- with additional costs to
6 support the upper Blackstone's current capital improvements
7 project, and expected additional work resulting from its new
8 permit, the burden may simply be the final straw that breaks
9 the backs of some Worcester companies.

10 Driving companies out of a city like Worcester is
11 contrary to smart growth, which we've been talking about for
12 several years in this community or in the state.

13 Smart growth is an approach that the State and
14 Federal Governments have been advocating that we move
15 economic development to centers which already have -- excuse
16 me -- move into urban areas that already have infrastructure
17 and access to transportation, rather than building on green
18 space.

19 And I could comment that, since I represent some
20 other towns in the area, it's quite easy to find space out
21 in those communities that are more than willing to accept
22 our businesses.

23 Yet, much of the regulatory burden is falling on
24 these same urban areas and resulting in drastic increases in
25 water, sewer, and storm water costs.

1 All of these rules, designed to improve the
2 environment, may end up being counterproductive if they
3 force businesses to relocate to more financially viable, but
4 more environmentally sensitive locations.

5 This City, this region of the state, cannot afford
6 to lose any of its remaining benefactors and large
7 employers.

8 Nor, can it afford to lose many small businesses
9 that are the backbone of the community.

10 EPA and DEP must carefully consider the full cost
11 implications of all their permits and directives.

12 I notice the difference between 1.3 million and 42
13 million. It seems a rather significant discrepancy.

14 We recommend that the agencies conduct a thorough
15 analysis of this storm water permit to determine true costs
16 and associated benefits of the required actions demanded of
17 the City.

18 Those actions that failed to demonstrate a
19 reasonable cost to benefit ratio should be reconsidered.

20 We all want a cleaner environment, but need to
21 reach the goals, through prudent, cost effective, and
22 beneficial steps.

23 Thank you very much.

24 HEARING OFFICER WEBSTER: Thank you.

25 I call on Peter McKone from the Worcester

1 Conservation Commission.

2 MR. MCKONE: My name is Peter McKone. I chair the
3 Worcester Conservation Commission.

4 I'm also director of facilities at Bancroft School
5 here in Worcester. So, I kind of have a good feeling of the
6 storm water process from both the end user and also on a
7 regulatory standpoint.

8 One of the things that -- one of my concerns is
9 that regulation of this can be pretty complicated.

10 And I want to make sure that things are fairly
11 straightforward for everybody and everyone has a very clear
12 understanding of what happens when this whole process ends.

13 DEP just came out January 1st with new storm water
14 regulations. It was a pretty difficult process for us. The
15 regulations started January 1st and we didn't have the
16 regulations until the end of January.

17 So, -- but, reading through those, they're
18 actually pretty good regulations. I think, they address
19 some of the issues that are in this permit.

20 A good example of that would be the low impact
21 design. And I think that that's a good way to go.

22 I'd like to see us look at more low impact and
23 other solutions we could come up with.

24 One of the issues that's addressed in here is
25 phosphates. And rather than treating and going through an

1 expensive process for phosphates, maybe we should be looking
2 at banning phosphates and fertilizers in the city of
3 Worcester. That might be a good way to go.

4 That's it.

5 HEARING OFFICER WEBSTER: Thank you very much.

6 Nicholas, I don't know if it's and or Claire
7 Marchese?

8 My questions have been answered. Thank you.

9 HEARING OFFICER WEBSTER: Okay. Thank you.

10 John Carnegie. Sorry about that.

11 MR. CARNEGIE: John Carnegie, 3 Sorrento Street in
12 Worcester. A resident.

13 While we have had quite elegant conversation from
14 our elected and appointed officials representing the velvet
15 glove. I am one of the steel fist constituents.

16 I will not be combative or adversarial this
17 morning. But, I want to punctuate the fact that there are
18 tens of thousands of residents of the city of Worcester that
19 are retired that are on fixed income, that also have the
20 luxury of time.

21 Some of those being retired attorneys and
22 accountants that can review the alphabet soup of the
23 regulations and the proposed permits; that can identify the
24 financial impacts, risk profiles and analyses; and
25 certainly, are the highest percentage of our voting

1 constituents.

2 I had indicated, the day after Thanksgiving, to
3 Commissioner Moylan, that, if it required a 10 party suit, I
4 would be one of the signatories. And I stand here as a
5 volunteer to do that.

6 A variance of 1.3 million or 42 million or 1.7 or
7 8 billion I believe, was the number he had articulated at
8 that point in time, is substantial.

9 We also have a lot of intellectual capital that is
10 the fleeing the state of Massachusetts, particularly in the
11 28 to 35 demographic.

12 The median age, of the Worcester residents,
13 according to the American community response for the
14 census.gov is 33.3 years.

15 For those who have the ability economically to
16 leave the city, they will do that.

17 I'm also in the middle right now of getting a new
18 company started that our initial estimates, just on testing
19 and assembly, are over 10,000 employees.

20 If you look at just minimum wage, that's
21 representing over \$2 million a day of salary.

22 I'm looking to site back here in the city of
23 Worcester. Such, I have other states and commonwealths that
24 are in competition for those jobs.

25 And I can assure you, that if this is not resolved

1 in an amicable way, that Worcester will be taken off the
2 list of consideration. And I am a resident. I've been a
3 resident since 1974.

4 Talk about phosphates, the gentleman from the
5 Worcester Conservation Commission. We've got plenty of
6 intellectual capital at our schools and universities that
7 I'm sure could produce phosphate free detergents that are
8 certified and only sold within commonwealths that will be
9 affected by these kind of permits that are under
10 consideration.

11 That's other economic or opportunities that are
12 here.

13 David Blume, who is a gentleman very knowledgeable
14 about dealing with *wastewater treatment and can be viewed
15 at permaculture.com, has identified different ways for low
16 impact resolution of these kinds of challenges.

17 I know that the solutions are here. And I'm
18 looking forward to this being done in an amicable way.

19 But, I can absolutely assure you that, if it is
20 not resolved in a way that is beneficial, not just for the
21 Commonwealth, and not just for the municipalities directly
22 affected, that many individuals on fixed incomes will be
23 very happy to be engaged in whatever additional
24 considerations are on the table.

25 So, I thank you for having this hearing this

1 morning.

2 I know that there are many people who are employed
3 who are not able to be here that I'm sure will be happy to
4 weigh in.

5 And I know, the gentleman from the editorial board
6 here, that we will have further elaboration and
7 opportunities to comment prior to the August 4th closing of
8 the primary hearing period.

9 Thank you.

10 HEARING OFFICER WEBSTER: Thank you very much for
11 coming out here this morning.

12 Robert Gates.

13 MR. GATES: Good morning. My name is Robert
14 Gates. I am president's of the Indian Lake Watershed
15 Association which is a neighborhood group of about 3 to 350
16 families.

17 My relationship with the City of Worcester goes
18 back to the early 1960s when my parents owned a home on
19 Indian Lake. And the City required that these homes go from
20 septic system to City sewage.

21 This was the start of a great success.

22 And that was the turnaround of Indian Lake getting
23 better every year.

24 As a young home owner myself, I got involved with
25 the City of Worcester, with the failed pumping station on

1 Holden Street which was designed back in the early '50s for
2 500 houses, where now, we had some 2500 houses. And it was
3 inadequate.

4 On any storm day, it would pump raw sewage into
5 our clean lake.

6 Working with the City of Worcester, we got that
7 remedied.

8 Also, with the other three pumping stations that
9 are on Indian Lake on Proctor Street and Sears Island.

10 That was a great turnaround for the -- the
11 improvement of Indian Lake.

12 Indian Lake is at the bottom of a valley with
13 several hills, steep hills, running down into the lake. So,
14 every time we had water, everything wound up in Indian Lake.

15 Working with the City of Worcester, we got a lot
16 of these roads repaired, paved, catch basins put in. So, it
17 stopped the water from running and gushing right into the
18 Indian Lake to make it better.

19 At the end of each of these hills, you would find
20 sediment build up. Over the years, we've worked to stop
21 that and we've been quite successful at that.

22 We just recently, in the last several years,
23 worked along with the City of Worcester in a 319 grant to
24 stop water -- sewage from -- it's not sewage, but street run
25 off, from running into our lake.

1 This has been so successful that, within a short
2 period of time of finishing that, we have seen a great
3 turnaround of that sediment going into the lake.

4 We've had seven studies done on Indian Lake since
5 back in the 1960s when the lake association evolved.

6 Each one of these studies has said Indian Lake has
7 gotten better each year as we go along. This is a marked
8 improvement.

9 All of these things that we have worked with the
10 City of Worcester, we've had a very much successful tenure
11 with the City of Worcester.

12 Any time that the lake association has come up
13 with some sort of a problem that affected Indian Lake, the
14 City really worked with us to help us solve those problems.

15 And I'm here to tell you today that Indian Lake is
16 in much better condition today than it ever was because of
17 the City of Worcester and the Indian Lake Association.

18 Thank you.

19 HEARING OFFICER WEBSTER: Thank you very much.

20 Donna Williams.

21 MS. WILLIAMS: Thank you very much, excuse me, for
22 the opportunity to comment on the draft storm water
23 management permit for the City of Worcester.

24 My name is Donna Williams and I am conservation
25 advocacy coordinator for Massachusetts Audubon Society. I

1 work at Broad Meadow Brook Conservation Center, a wildlife
2 sanctuary in the city of Worcester.

3 My job is water resource protection in the
4 Blackstone River watershed.

5 Mass Audubon has long been a partner with the City
6 in efforts to protect land and water. And we applaud the
7 City's track record and all that they have accomplished to
8 date.

9 A densely developed industrial city with aging
10 infrastructure certainly presents many challenges.

11 However, -- and the quality of Worcester's
12 waterways reflect those challenges.

13 Most of them are impaired for one or more
14 designated uses. And the impairments are caused by polluted
15 runoff or stone water impacts.

16 This is talking about surface water in our lakes
17 and ponds and rivers. Not drinking water, which Worcester's
18 drinking water certainly is in very good shape.

19 The draft permit that we are considering today
20 makes a more holistic approach to the issue of storm water
21 than the previous permit and pushes the City, its residents
22 and business owners to do more.

23 The previous permit was issued to the Department
24 of Public Works. And they did an excellent job implementing
25 that storm water management program.

1 This draft permit is issued to the City as a whole
2 and not to any one municipal department or board to
3 facilitate inter-departmental coordination of multi
4 disciplinary staff, during -- I guess, I do need my glasses
5 -- during the implementation of the program.

6 For example, with the understanding that land use
7 practices directly impact water quality, the draft permit
8 requires that the City establish comprehensive and fully
9 enforceable authority to regulate land disturbance
10 activities that minimize or eliminates the adverse effects
11 of storm water pollutants during and after land development
12 activities.

13 This requires coordination of all municipal
14 departments and boards with jurisdiction over review,
15 permitting, or approval of land disturbance and development
16 projects within the city of Worcester. The City currently
17 does not have this comprehensive authority.

18 Part of this authority includes the requirement
19 that developers and construction site operators, disturbing
20 one or more acres, comply with the equivalent of MassDEP
21 storm water management standards. Even for activities
22 located outside of the wetlands and resource area and that
23 do not require the submission of a notice of intent to the
24 conservation commission.

25 These standards require project proponents to

1 consider environmentally sensitive site design that
2 incorporates low impact development techniques. Thus,
3 ensuring that a proponent's proposed use of LID techniques
4 are allowable by right or exception under the City's
5 regulations.

6 By reducing storm water volume and increasing
7 infiltration to groundwater, these techniques substantially
8 reduce storm water impacts.

9 By expanding the responsibility of implementing
10 the storm water management program to the entire city, the
11 draft permit also requires increased efforts at education
12 and outreach, not only to homeowners, but also to owners and
13 operators of commercial, industrial and institutional
14 facilities regarding their responsibility to control
15 pollutants to storm water discharges from their property to
16 the City's MS4.

17 To assist in this effort, Mass Audubon, in
18 collaboration with the Blackstone River Coalition, is
19 committed to working with the City to distribute its
20 homeowners guide to protecting water quality in the
21 Blackstone River watershed. And implementing its in
22 business for the Blackstone program for small to mid-size
23 companies.

24 We have this information and the guides and
25 information about the in business program in our Blackstone

1 River report. They're on the table in the back, so please
2 take a copy as you leave.

3 Obviously, there are many other components of the
4 permit. And several of them will be costly.

5 Those costs will be shared by all of those who
6 will benefit from enhanced recreation, economic
7 opportunities and restored aquatic habitats.

8 The cost of not striving for cleaner Worcester
9 waterways is much greater.

10 Thank you again for the opportunity.

11 HEARING OFFICER WEBSTER: Thank you very much.

12 Peter Coffin.

13 MR. COFFIN: Thank you. My name is Peter Coffin
14 and I'm wearing two hats tonight -- today.

15 One, I'm the coordinator of the Blackstone
16 Headquarters Coalition. And I'm also speaking for the
17 Blackstone River Coalition as well.

18 The Blackstone Headquarters Coalition started
19 before I came on board, when this first permit came, it
20 must've been in '98. And that process was started in '93.

21 And there was a grassroots effort with a lot of
22 citizens who wanted to work with the City to make that plan
23 the best possible.

24 They did a lot of good work. The City came up
25 with a plan, five years of extraordinary work accomplished.

1 And I want to cite specifically Joe Buckley who has always
2 been great at dealing with all sorts of issues. But then,
3 his boss has always been open. And we were able to work as
4 a partner.

5 We -- who are we? Mass Audubon, the Blackstone
6 Headquarters Coalition, Regional Environmental Council, all
7 the lakes and ponds associations. Indian Lake, Tatnuck
8 Watershed, Lake Quinsigamond Watershed. There is a lot of
9 water resources that Worcester has to be concerned with.

10 And yes, they do have great drinking water.

11 But, historically, they had great drinking water
12 and then dumped it into the river downstream. That was
13 their sewage treatment plan.

14 It's not for a reason you take your water from
15 clean reservoirs upstream and your treatment plan is
16 downstream. And what sort of standards you have to meet to
17 protect the water downstream.

18 And we, as a society, are evolving. And with
19 storm water, it is changing, shifting.

20 We live in interesting times. And you want clear
21 standards. And I want you to have clear standards.

22 And it is very clear what those standards are went
23 a team deal process has been done, which has been done for
24 many of the lakes and ponds.

25 And there are going to be different standards.

1 There are numeric limits. How much phosphate is allowed.

2 Now, the challenge is, how that's going to get
3 implemented.

4 And the City is going to have to take the lead.
5 But, we're going to need more support from Mass.

6 Someone mentioned, where's the staff to do it.
7 DEP.

8 It's going to take a partnership. A community
9 effort to get in it on point source.

10 We look forward to working with the City, with the
11 heritage quarter, try to tap some Federal monies, do some
12 innovative work.

13 There is the opportunities for Worcester being
14 green. That's where the jobs are going to come from.

15 You mentioned all the senior citizens who are --
16 wanted to work. That's what it's going to take for the city
17 to pull together, neighborhood by neighborhood, watershed
18 group by watershed group, to work on land-use issues in
19 their neighborhood to make the impact on not just India
20 Lake.

21 We would like Indian Lake throughout Worcester.

22 It's hard to have Bob Gates organizing the
23 hundreds of efforts. Where is -- where is the Beaver Brook
24 Watershed Association. Where is the Mill Brook Task Force?
25 Where is the Mill Brook?

1 USGS doesn't even say it's a brook. It's an
2 unnamed tributary. What standards does the Mill Brook have
3 to meet?

4 Well, at Indian Lake, it meets swimmable
5 standards. It goes underground, mixes up side-by-side with
6 an industrial culvert, pops out in Salisbury pond.

7 When was the last time that got dredged and then
8 got filled up again? Where is that stuff coming from?

9 Is that clean? Is that polluted? How much is too
10 much?

11 These are all legitimate -- where is the science?
12 But, I think the science is telling us, there is too much
13 phosphorus in the system.

14 And you can try to -- I don't want to go too far
15 with this. But, you can debate the arguments and appeal it
16 and look for more science to give you the hard numbers, or
17 you can work in partnership, do a best efforts possible, and
18 that's the way to avoid getting sued.

19 We are not going to sue the City if they do what
20 they're supposed to do in the permit.

21 And I will work with anyone to prevent anyone from
22 pursuing the City if they do a good faith best effort based
23 on the plan which is yet to be developed.

24 So, I look forward to working with the City on
25 making that plan the best it can possibly be.

1 Water quality standards. That -- on another
2 permit, I am encouraged by EPA's integrated permits. And I
3 have heard Mr. Moylan and others, and I commend him, let's
4 not just look permit by permit.

5 Where is the SSO, the CSO's? And it's the same
6 pipe that it goes through. Let's look cohesively,
7 holistically at the efforts.

8 Well, we, as advocates, have our hands tied
9 because the City is threatening to sue EPA.

10 So, does that mean that we can get EPA to talk
11 with us and talk with the City and work out common sense
12 arrangements?

13 No. Not if we're all concerned about getting
14 taken to court.

15 So, if we can just kind of tone it down on the
16 language and work together. And I'm glad to see EPA and the
17 City -- I will take the City's point that not enough
18 staffing at DEP, not enough staffing at EPA.

19 This was a '98 permit that was good for five
20 years. It's been 10 years.

21 Where was EPA five years ago responding to the
22 timely application of the City of Worcester?

23 Let's make that happen. Let's try to speed it up.

24 And I guess, I'm calling for, let's make the
25 Blackstone as a model that EPA can show that it can be

1 useful, not just in the City of Worcester and its storm
2 water, the Narragansett Bay.

3 You're going to need money to fund some of these.
4 You're not even going to -- well, you need money, sure.

5 And you need the staff and budgetary to continue
6 that effort. And it's also two states.

7 Now, you also -- you talk about maximum daily
8 loads in the Blackstone River. Massachusetts, I think you
9 came out saying you wanted it done by 2013.

10 Let's see if we can make that faster. Working
11 together with the cities and the two states, so that, when
12 this permit is up in 2013, then we can go at the -- with
13 knowledge, with good science, what's the best impact.

14 That's -- let's not put off and look for more
15 science. Let's start that process of working together on
16 how much is too much and find opportunities for who is going
17 to pay.

18 But more importantly, find those opportunities for
19 volunteers to make those no cost efforts that are really
20 going to be required to reduce phosphorus throughout the
21 system.

22 So, we have developed systems in business for the
23 Blackstone, opportunities for a chamber of commerce to show
24 that businesses can get involved.

25 Homeowners, what do you do with your fertilizer?

1 Dog waster?

2 There -- there are just so many opportunities.
3 Much less the low impact development which Mr. McKone
4 mentioned.

5 How we build and what we do on the land that we do
6 build. And I -- and what's really the challenge is,
7 Worcester, as it redevelops, downtown, that is the
8 opportunity to get these low impact development in the
9 ground.

10 So, the City has a choice. You know, these are --
11 you can work together and try to make it as good as you can.
12 Or, you can push back and say, no, we're not going to go.

13 So, I strongly urge the City to work with EPA in
14 getting this permit out in a timely manner so that we can
15 all get to work on the job that needs to be done.

16 Thank you.

17 HEARING OFFICER WEBSTER: Thank you very much.
18 Cynthia Liebman.

19 MS. LIEBMAN: Good morning. My name is Cynthia
20 Liebman. I'm a staff attorney with the Conservation Law
21 Foundation, also known as CLF.

22 CLF is a nonprofit organization that works to
23 protect the environment and communities throughout New
24 England.

25 We support environmentally responsible management

1 of storm water in a way that protects human health and
2 aquatic life.

3 The background of this permit is that storm water
4 is the number one remaining cause of water quality problems
5 in New England.

6 Polluted storm water runoffs from roadways,
7 parking lots, rooftops and other impervious or hard services
8 carries pollutants like phosphorus and nitrogen, toxic
9 metals, oil and grease, sediment. These pollutants cause
10 the kind of water quality problems that are experienced, as
11 you know, in the lakes and rivers and reservoirs surrounding
12 Worcester. And also, in the Blackstone River all the way
13 downstream to Narragansett Bay.

14 Which, I'd like to point out, does has severe
15 water quality problems at this time. And hundreds of
16 millions of dollars have been spent trying to fix
17 Narragansett Bay from the same types of pollutants that are
18 carried beginning here in this area.

19 Now, CLF is still evaluating the draft permit, but
20 wanted to be here today to hear these comments and consider
21 them.

22 And I'd like to offer some preliminary comments at
23 this time and will submit more detailed written comments.

24 First, I'd like to point out, as has been
25 mentioned previously, that the obligations set out in the

1 Clean Water Act are without regard to cost. And that the
2 regulatory obligations of the phase 1 storm water program,
3 which covers municipalities like Worcester, will require a
4 significant and sustained commitment of resources.

5 Nevertheless, we do recognize that the City is
6 facing financial constraints. And we're interested in being
7 part of the dialogue to discuss ways that water quality
8 benefit can be achieved rapidly and in a cost-effective way.

9 There are a few specific aspects of the permit
10 that I would like to comment on.

11 First is Section 1A which anticipates that there
12 may be new or increased discharges from the City's separate
13 storm sewer system.

14 And it's not clear from the fact sheet in the
15 permit under what circumstances this is anticipated. When
16 -- when would this be done.

17 And it's also not clear that the required analysis
18 will be done by EPA and the permittee to ensure that
19 Massachusetts' anti-degradation provisions and Federal
20 regulatory requirements at Section 40 CFR 122.4I and case
21 law will be met.

22 Essentially, that other sources of pollutants need
23 to have compliance schedules to reduce their discharges
24 before new sources are allowed.

25 Second, we would like to commend the City for its

1 commitment to improving water quality and for the progress
2 that has already been made on sewer separation and its
3 significant efforts that were mentioned this morning to
4 achieve II -- illicit connection benefits during the first
5 permit term.

6 But, this is now the next phase of the storm water
7 program. And at this time, we're recommending more of a
8 focus on specific best management practices to reduce
9 pollution from -- that's reaching waterways in addition to
10 illicit connections.

11 So, there is the next session of the permit that
12 I'd like to comment on is Section 1C that addresses water
13 quality.

14 And at this time, we are concerned that, given the
15 general approach in this permit is to rely on best
16 management practices rather than applying numeric effluent
17 limitations, there is not sufficient specificity as to the
18 types of structural best management practices that will be
19 put in place to reduce pollution.

20 We would like to see some more specificity as to
21 what a timetable will be for specific measures to be
22 implemented on the ground. And we'll be happy to be a part
23 of this discussion.

24 And we believe this would also have the benefit of
25 providing more certainty to the City as to what measures it

1 would be expected to take.

2 Third, regarding water monitoring. We do support
3 the ambitious monitoring program that is proposed by EPA in
4 this draft permit.

5 Again, given the reliance on best management
6 practices rather than numeric effluent limitations,
7 monitoring is the crucial anchor that allows EPA, the City
8 and the public to figure out whether the City storm water
9 management plan will be achieving its goals and resulting in
10 meaningful reductions in pollutants, and where necessary, to
11 alter or adjust the program going forward.

12 The wet weather monitoring is an essential
13 component of a storm water permit for a City of this size.
14 And we do supports its inclusion.

15 Dry weather monitoring and illicit discharge
16 detection and elimination has been an important step in the
17 first round of this permit.

18 But, the next permit will need wet weather
19 monitoring in order to be able to address the larger suite
20 of storm water pollutants that come off roadways and other
21 surfaces.

22 Fourth, we -- CLF also supports low impact
23 development as a way to move forward in achieving pollutant
24 reductions in storm water, while also gaining financial
25 benefits and other benefits in terms of livability and

1 climate change and other quality of life improvements.

2 And we do commend Worcester for the significant
3 investments it's made and it is planning to make in capital
4 improvements in terms of its storm water program.

5 And also, in thinking about capital improvements,
6 I'd like to point out that the City is planning to spend
7 millions and has spent millions on improvements on streets,
8 sidewalks and parks, and also in connection with the city
9 square redevelopment project.

10 We'll be doing a lot of infrastructure
11 development. And these are perfect opportunity to
12 incorporate LID, or low impact development practices, like
13 green roofs, permeable sidewalks, biofiltration swales for
14 constructed wetlands that will reduce the urban heat island
15 effect and potentially recharge water into the ground while
16 still generating financial benefits.

17 Again, we'd be happy to sit down and discuss the
18 permit with the City and EPA and DEP.

19 And our written comments will point to some more
20 examples.

21 Thank you.

22 HEARING OFFICER WEBSTER: Thank you very much.

23 I'd call Daniel Dick.

24 MR. DICK: Thank you.

25 My name is Dan Dick and I was at Tatnuck Brook

1 Watershed. And I'm not going to repeat what other people
2 have said.

3 I complete -- I concur completely with Bob Gates
4 at Indian Lake. The City of Worcester has not been
5 negligent. It has not been indifferent. It's been very
6 responsive to the needs of cleaning up our waterways.

7 Nothing is perfect.

8 The other thing I'd like to say is, most residents
9 don't give a damn. They'll care about the cost. They'll
10 care about the bill.

11 Peter Coffin is a good guy. But I think he's
12 blowing smoke, because it's going to be very difficult to
13 get the residents to be directly involved.

14 The last thing I'd like to say is, do you have the
15 authority to sit down with the City of Worcester and come up
16 with a real cost budget that the residents of Worcester can
17 afford? Can you?

18 HEARING OFFICER WEBSTER: We'll talk to that after
19 the hearing.

20 MR. DICK: It's very important. Because the rest
21 of this is all hot air.

22 Gary Rosen has it right and other people. We are
23 not going -- there is going to be a rate payer rebellion
24 sooner or later, unless you guys can sit down and really
25 work this out.

1 Otherwise, we are not going to accept it. It's
2 going to be a hell of a mess.

3 Thank you.

4 HEARING OFFICER WEBSTER: Thank you very much.

5 John Reed?

6 MR. REED: I'd like to -- John Reed, 4 Congress
7 Street, Worcester, Mass.

8 I'd like to comment on the draft storm water
9 permit. I am currently president of the Tatnuck Brook
10 Watershed Association. I also sit on the board of directors
11 for the Mass Grounds, Lakes and Ponds.

12 One of the things I think we have to congratulate
13 the EPA on and one of the reasons I'm commenting today is
14 that best management practices hasn't always been the norm
15 in this country. In fact, it's a relatively new concept
16 that isn't used by a lot of governmental agencies.

17 I think the fact that the EPA has one of the best
18 websites and the most informative than I've ever been to, is
19 an indication to me that they are -- they are listeners.

20 They listen to people who have ideas, who might
21 have better ideas on how to achieve the same goals and
22 objectives.

23 And I think that's what we need to get to. We
24 need to define what our goals and objectives are and find
25 ways to meet them.

1 Now, if that includes -- and of course, the first
2 is the educational process.

3 And by that, I mean, in Worcester, we have
4 resources that are unlimited in terms of our colleges, our
5 academic facilities, our high schools, our elementary
6 schools. All of the school systems have been involved in
7 improving our watersheds in Worcester.

8 And I've been happy to be part of that process
9 with all of the colleges and with all the schools.

10 You know, in terms of reducing phosphates and
11 nitrates, improving dissolved oxygen, doing these kinds of
12 things, there's many methods of doing it.

13 And I think, if you don't look at all the
14 opportunities we have available to us, we'll be doing a
15 disservice to the agencies that you represent and the
16 citizens who benefit from these kind of discussions.

17 In terms of legislation, for example, phosphorus
18 and nitrates, when I talked to some of our area legislators,
19 John, what do we have to do? Oh, we just have to pass
20 legislature that bans it in the state?

21 There are already alternative methods that exist?
22 No brainer.

23 There are things that can be done that we can do.
24 But, it takes time to improve the water quality.

25 The City of Worcester spent millions of dollars

1 improving a Brownfield over at Coe's Reservoir. The
2 original owners built the waterway there. The system there,
3 to provide power for a factory.

4 It was the birthplace of the Industrial
5 Revolution. We should look at our past and cherish it.

6 They sited industry there so that they could dump
7 into the rivers. Let's be honest about this. Let's not
8 negate it.

9 We have toxic waste that we have been removing for
10 years now. The City spent millions of dollars doing it.

11 I congratulate Mr. Moylan for being a leader in
12 this area in terms of getting local funding, State funding,
13 Federal funding, to help us improve the Tatnuck Brook
14 Watershed Association.

15 I mean, the Coe's Reservoir has gone from when
16 they used to have fish kills that existed every year until
17 we got glycol from the airport out of the watershed.

18 We've got all kinds of different toxic wastes.
19 PCBs out of the soils.

20 We've spent millions of dollars to improve the
21 water quality. We have a great plan. It's called the
22 climate action plan, City of Worcester.

23 I enter that again as evidence to the City's
24 commitment to improving the quality of life for the citizens
25 of Worcester and with methods and ways of doing it.

1 I'd also like to indicate that, there are other
2 ways. And the illicit discharge protocol, the outfall comes
3 in, the monitoring plan.

4 When the Governments didn't fund this, we worked
5 with the State, the Mass Grounds, Lakes and Ponds to develop
6 a water monitoring program that was done completely by
7 volunteers, college students, college professors, Dr. Paul
8 Godfrey from UMass Amherst, one of the leading research
9 people in acid rain.

10 So, I mean, we have an unlimited amount of
11 resources in this area. I think, we need to take maximum
12 advantage of this.

13 I think that setting arbitrary limits, at this
14 time, when the limits are changing continuously, is
15 counterproductive to trying to improve the water quality.

16 I think, end of pipe solutions, as the EPA now
17 suggests, is not a solution that they consider to be what
18 they're striving for is a major advance just from our last
19 meeting that we had at Quinsigamond College. That's a major
20 improvement from the original permit that we started with in
21 this project to the one we have today.

22 It's a sign of progress from both sides, willing
23 to compromise and willing to look at the solutions to the
24 problems in a very methodical and in an excellent manner.

25 I can't say, you know, too much about what I think

1 is going on. I think we just need to get that final block
2 to get over.

3 And I would just encourage both parties to come
4 together, try to find what's a reasonable amount, what's a
5 reasonable timeframe. You're talking about one of the most
6 heavily polluted rivers in the entire country with the
7 Blackstone River.

8 We're going from -- Coe's Reservoir, we went from
9 a polluted site to now that we have fishing derbies every
10 year for the kids.

11 We have swimming available for children. We have
12 recreational resources, hiking trails, walking trails, that
13 didn't even exist last year. They have been improved since
14 last year.

15 So, the improvements that we're doing and we've
16 been paying for are continuously going forward.

17 Don't, you know, strangle the City of Worcester
18 and make us uphold the standards that we can meet through
19 other methods.

20 And let's look into some of those other methods
21 and give us an opportunity to try to meet the new standards
22 over a longer period of time.

23 You know, we didn't pollute this river overnight.
24 We can't clean it up overnight.

25 And those that want to move forward faster, is the

1 goal and objective not to clean the water and have it so
2 that our children and grandchildren can enjoy it?

3 I'd just go back to, we didn't pollute the earth
4 over night. We're not going to clean it up over night.

5 We need to be methodical and cost effective.

6 And I really want to salute the EPA though. Of
7 all the government agencies that I've ever testify before,
8 you're the first that I think incorporates this best
9 management practices into the decisions that you make.

10 And you should be applauded for that. And I
11 think, if other government agencies did the same, and if you
12 do the same at the end of this permit, we're all going to
13 benefit from it.

14 And I thank you for the opportunity to speak
15 today. Thank you very much.

16 HEARING OFFICER WEBSTER: Thank you.

17 Murray Brown.

18 Is Murray Brown here?

19 Okay. Mike Perotti? Perotti?

20 MR. PEROTTI: My name is Mike Perotti. I live at
21 4 Modaed Court.

22 I'm here today as a citizen of the City of
23 Worcester. But, also I just want to -- on the record, that
24 I spent 14 years on the Worcester City Council. And I'm
25 very involved in this particular issue.

1 I think, the City has done a great job over the
2 last six or seven years, Commissioner Moylan, on trying to
3 improve the water quality here within the city of Worcester.

4 Very involved in the Coe's Pond project. They've
5 done whatever they can to try to improve the quality of
6 water here within the City.

7 But, I guess what I'm saying to you is that,
8 there's always a cost to it. And the taxpayers here within
9 the city of Worcester, particularly on their water and their
10 sewer bills, have seen significant increase over the years.

11 So, I'd ask that you work with the City in the
12 spirit of cooperation from a financial point of view.

13 If we continue to get these -- what I call
14 particularly unfunded mandates, and which, we put up with
15 those for years, it's going to continue to be a cost burden
16 on the City.

17 We all want clean water. I drink Worcester's
18 water. I'm proud of it. I don't buy bottled water.

19 So, I guess that you work with the commissioner
20 and -- on this permitting process.

21 I don't think we want to see -- you know, we're
22 going to sue each other. I don't think that makes sense.

23 Let's work together in the spirit of cooperation
24 to see if we can come up with a permit agreement that works
25 both for the City and the EPA.

1 From what I understand, right now, there is a
2 language problem with -- what I've been reading is within
3 the permit, that there is specific language, a certain
4 deadline that a certain amount have to be done.

5 And I believe, the commissioner is taking -- has
6 problems with that.

7 And he has also been saying that, yes, we'll work
8 with you. But, you can't provide a document which states
9 one thing and say that you can do something else.

10 So, I urge you to work with Commissioner Moylan on
11 the permitting process, so we can get this thing done and
12 continue to make Worcester one of the best places to drink
13 water here in the city of Worcester. And we also really
14 enjoy our waterways here in the city.

15 I thank you for your time.

16 HEARING OFFICER WEBSTER: Thank you.

17 I believe, I've come to the end of people that
18 signed in.

19 Is there -- is there anybody that either came late
20 or has not had an opportunity to speak at the hearing that
21 would wish to make a statement?

22 Seeing no one, I'd like to thank you for coming
23 here and your interests in the permit. I'd -- this has been
24 a very rewarding experience. A lot of thoughtful,
25 comprehensive comments given from a lot of different

1 perspectives.

2 I appreciate especially those people that came in
3 from their jobs. I know this was hard to come. But it
4 helps hearing a lot of different perspectives, including
5 those grassroots organizations within the city of Worcester
6 as well as elected officials.

7 We've heard a lot of different perspectives on
8 costs, the improvements, the twin goals of being clear but
9 being flexible and the challenge.

10 It's clear also that a lot of people did a lot of
11 homework in reading the permits and in coming up with
12 specific comments.

13 We look forward to getting written comments too to
14 further identify specifically what we should be reacting to
15 as a result of the comments.

16 Loud and clear, we heard work together with the
17 City. And we are looking forward. This is the next
18 generation of storm water permits in reducing storm water
19 pollution with the City.

20 Please remember the public comment period ends at
21 midnight August 4th. And you can send written comments up
22 to that time, postmarked up to then or by e-mail.

23 With that, I will close the public hearing for
24 this morning.

25 Thank you.

1 (Whereupon, at 11:36 a.m., the hearing was
2 concluded.)

CERTIFICATE OF REPORTER AND TRANSCRIBER

This is to certify that the attached proceedings
before: U.S. ENVIRONMENTAL PROTECTION AGENCY
in the Matter of:

RE: NPDES DISCHARGE PERMIT FOR
WORCESTER MUNICIPAL STORM SEWER SYSTEM (MS4)
NPDES PERMIT NO. MAS010002

Place: Worcester, Massachusetts

Date: July 30, 2008

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.

M. Rossi 07/30/08
Reporter Date

M. Rossi 08/06/08
Transcriber Date