



495/METROWEST

PARTNERSHIP

Leaders for Regional Prosperity

June 22, 2010

Mark Voorhees
US Environmental Protection Agency
Region 1 New England
5 Post Office Square, Suite 100
Mail Code OEP06-4
Boston, MA 02109-3912

RE: Draft General Permit for Residually Designated Discharges in Milford, Bellingham, and Franklin, Massachusetts

Dear Mr. Voorhees:

On behalf of the 495/MetroWest Partnership, we would like to offer formal commentary on the Draft General Permit for Residually Designated Discharges in Milford, Bellingham, and Franklin, Massachusetts.

The 495/MetroWest Partnership is a non-profit advocacy organization serving thirty-two communities, over half a million residents and an employment base of \$17.7 billion, by addressing regional needs through public/private collaboration, and by enhancing economic vitality and quality of life while sustaining natural resources. The Partnership is concerned about regional constraints and limitations, and conducts numerous initiatives on workforce housing, brownfields, transportation and water resources.

Constraints on water resources in the 495/MetroWest region have long been a focus of the Partnership's work as is evidenced by our collaboration with the Metropolitan Area Planning Council in creating the *495/MetroWest Water Resources Strategy*. The *Strategy*, funded by the US EPA, included several guides and toolkits such as *The Massachusetts Low Impact Development Toolkit*, *SummerSmart Water Use: A Guide to Peak Season Demand Management for Massachusetts Communities*, and *Once is not Enough: A Guide to Water Reuse in Massachusetts*. Additionally, the *Strategy* commissioned hydrologic modeling by USGS, which examined the effects of water and land use out to year 2030 on streamflow in the Assabet and Charles River watersheds.

The Partnership has been a vocal advocate for the creation of a Water Infrastructure Finance Commission in Massachusetts to identify the current and future investment needs for water infrastructure and the funding gap which prevents the state and local governments from addressing needs. The legislation to create the Commission was successfully included in the state's FY2010 budget and the Commission convened for the first time in May 2010.

The Partnership recognizes the importance of protecting water resources for our communities, businesses, and residents, and addressing water quality is no small part of that effort. However, we have several concerns with the way in which the draft general permit for Residually Designated Discharges is proposing to implement water quality improvements in the Charles River, namely the timing of the draft permit's release prior to a coordinated strategy development and outreach effort, the lack of identified resources to implement the program, and the competitive disadvantage for large property owners in three out of thirty-five municipalities in the Charles River Watershed. While we understand the need to start addressing water quality, the singling out of three of our communities, namely Bellingham, Franklin, and Milford, puts them at an economic disadvantage at a time when fiscal resources are limited. Current owners of Designated Discharge sites may not be in a position to afford compliance with the new regulations and future developments may decide to locate outside these towns, both scenarios resulting in financial hardships for the three targeted communities. These towns are also limited in their technical capacity to manage the implications required by the draft permit. If the EPA should move forward with the Designated Discharge in

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these three communities, the Partnership would, at the very least, request appropriate time and resources to assist the municipalities and the affected property owners in complying with any new regulations regarding stormwater management.

According to the EPA's fact sheet on the draft permit, a similar permit has been finalized in Maine for the Long Creek Watershed. While we appreciate not being the first test for the Residual Designation Authority, we request additional time to implement the permit in the Designated Discharge communities of Bellingham, Franklin, and Milford. According to Maine DEP resources, the City of South Portland received an EPA grant in 2006, to develop a comprehensive watershed management plan for Long Creek, resulting in the creation of the Long Creek Watershed Management District and Plan. Therefore, the stakeholders in Maine had several years to coordinate and develop a strategy before the final designation decision order was issued in October 2009. Furthermore, in light of the fact that the Long Creek Designated Discharge regulated approximately 120 landowners versus over 200 affected landowners in the three Upper Charles communities identified in this draft permit, it would seem only appropriate to allow further time for stakeholders in Bellingham, Franklin, and Milford to facilitate similar coordination, strategy development, and outreach. It should also be noted that Long Creek had the advantage of a regional administrative structure in place to staff and manage their stormwater plan, namely the Cumberland County Soil & Water Conservation District. And while Massachusetts has Conservation Districts in place, none are in a similar position to manage implementation of an RDA program in the upper Charles River, particularly with the experience Cumberland had in working with twelve towns on inter-local stormwater efforts.

The Long Creek example demonstrates the need for both adequate time and financial resources as essential to the successful implementation of this new permit. The Maine example also notes their stakeholders' "desire to develop a plan that would provide an economically efficient approach to restoring water quality in Long Creek". The Partnership urges the EPA to recognize the economic ramifications for affected landowners to retrofit their properties to meet the draft permits' requirements. As noted in the EPA/MA DEP commissioned study by Tetra Tech, Inc., *Optimal Stormwater Management Plan Alternatives: A Demonstration Project in Three Upper Charles River Communities*, the cost estimates for various Best Management Practices (BMP) scenarios in the three communities are in the millions of dollars. While economic impact is not the charge of the EPA, it is in the EPA's best interest that this program be successfully implemented, and placing unsustainable financial burdens on landowners and municipalities is not the most effective path to success. Coordinating with the communities and affected landowners, is more likely to lead to an effective solution to stormwater management, possibly through the creation of a stormwater utility, as was the case in the Long Creek Watershed. The Long Creek example also shows the significant cost savings associated with a group permit vs. an individual permit, a point echoed in the EPA's offering of participation in a "Certified Municipal Phosphorous Program" as a means of permit compliance for Designated Discharge sites. However, Bellingham, Franklin and Milford have not been allowed adequate time for coordinating such a program not to mention implementation.

Considering that there are only a handful of stormwater utilities in the Commonwealth and approximately eight hundred nationwide, the concept and, more importantly the implementation, of stormwater utilities is relatively new and untested in Massachusetts. Only adequate time and resources will allow for the exploration of creating a stormwater utility as a potentially successful vehicle to implement the permit for Residually Designated Discharges. As such, the Partnership supports the three communities' application to the EPA for an FY 10 Region 1 Wetland Program Development Grant Proposal Stormwater Utility Feasibility Study and Preliminary Implementation Plan. Without this sort of funding, these three communities do not have adequate financial or technical resources available to evaluate the complex issues surrounding the implementation of a stormwater utility. Considering that this Grant would allow for a 2-year feasibility study, in addition to the time it would take for the affected communities to establish a "Certified Municipal Phosphorous Program" (CMPP), the Partnership respectfully asks for an extended time-frame of at least three to five years before the final permit is issued by the EPA. If a delay is not feasible, we would urge the EPA to consider issuing a phased permit that focuses on source controls, housekeeping measures such as street sweeping, and non-structural BMP's early on, and on structural BMP's later, only after the EPA study is complete and the towns have had time to begin implementing stormwater utilities or another mechanism to serve as a CMPP.

In addition to the time needed for proper planning and coordination among the three communities, the financial resources necessary for the successful implementation of this program are substantial. Long Creek

benefited from \$2 million in American Reinvestment and Recovery Act (ARRA) funding, a one-time funding source. While the above mentioned study grant would be greatly appreciated, the funding amount in no way compares to the ARRA funding for Long Creek. EPA needs to identify additional sources of funding to ensure proper implementation, coordination and education for the RDA in the upper Charles River Watershed. The importance of this coordination cannot be overstated. It behooves the EPA to allow for the proper timing and funding to make this RDA successful if the intent is to implement the program in the entire Charles River Watershed and possibly, statewide.

Beyond the concerns of time and resources, the Partnership was pleased by the proposed amendments to the Preliminary Residual Designation, namely the simplification of:

“the aggregation rules to combine impervious surfaces where they are on contiguous lots owned by the same person; or where the footprint of the same building, structure, low impact development techniques or structural stormwater best management practice spans the contiguous lots owned by different persons.”

Additionally, the Partnership supports the amendment to require the owner of the DD property (as opposed to the operator) to file the Notice of Intent and receive the authorization to discharge. The Partnership also commends the EPA's amendment to exempt local, state and federal property if such property already discharges into an MS4 system to avoid redundancies in regulations and exhaustion of limited resources.

The Partnership applauds and supports the intent of this draft permit - improved water quality, however, we strongly recommend that adequate time as well as financial and technical resources be provided to the three communities identified in the draft general permit for Residually Designated Discharges.

If there are any questions regarding our commentary on the draft permit for Residually Designated Discharges in Bellingham, Franklin, and Milford, please contact Jessica Strunkin at 774-760-0495, or by email at Jessica@495partnership.org. Thank you for your time and consideration.

Sincerely,



Paul F. Matthews
Executive Director



Jessica Strunkin
Deputy Director of Public Policy & Public Affairs

Cc: Senator Scott P. Brown
Senator John F. Kerry
Congressman Richard E. Neal
Congressman James P. McGovern
State Senator Richard T. Moore
State Senator Richard J. Ross
State Senator Karen E. Spilka
Representative Jennifer M. Callahan
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