



July 11, 2011

BY ELECTRONIC MAIL (ow-docket@epa.gov)
Water Docket
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: National Pollutant Discharge Elimination System ("NPDES") Construction
Stormwater General Permit Reissuance, Docket ID # EPA-HQ-OW-2010-0782

Dear Sirs and Madams:

Improperly controlled stormwater runoff continues to represent a serious threat to the overall quality and function of waterways throughout the nation and certainly within the New England region. One major contributor to such damaging runoff is from construction sites. Such runoff is notorious for the introduction of particulate matter into streams and rivers, leading to the contamination of these natural resources and associated harm to biological and ecological integrity and loss of vital functions such as fishery management and flood control. Construction site stormwater pollutants are not limited only to particulate matter however, poorly controlled construction site stormwater runoff can introduce a variety of other harms to natural watersheds, including but not limited to the introduction of toxic chemicals and or nutrients which can lead to water body eutrophication and possible plant and animal life loss through resultant anaerobiosis. Indeed, construction stormwater can contaminate drinking water, impair recreation in affected water bodies, harm commercial and recreational fisheries and make floods more frequent and severe.¹ It is clear that the means currently employed to address this nationwide problem remain ineffective, and damage from construction site stormwater remains poorly-controlled and unnecessarily detrimental.

Contrary to a range of other environmental issues, means to resolve this problem are reasonably available, cost-effective and implementable on the local level. Such means, which are strongly supported by the Massachusetts Association of Conservation Commissions (MACC) are addressed in the in the proposed EPA Construction Stormwater General Permit (Permit).

¹ See EPA, Effluent Limitations Guidelines and Standards for the Construction and Development Point Source Category (the "C&D Rule"), Preamble, 74 Fed. Reg. 62,996, 62,998 (Dec. 1, 2009); EPA, Report to Congress on the Phase II Storm Water Regulations, EPA Pub. No. 833-R-99-01 (Oct. 1999); National Research Council, URBAN STORMWATER MANAGEMENT IN THE UNITED STATES, at 22-26, 180-182 (2008), available at www.epa.gov/npdes/pubs/nrc_stormwaterreport.pdf.

MACC represents the 2,400 Conservation Commissioners in the 351 cities and towns of the Commonwealth of Massachusetts, charged with protecting the natural resources of their communities under the Conservation Commission Act (G.L. Ch.40 §8c) and administering and enforcing the Wetlands Protection Act (G.L. Ch.131 §40). In addition, more than half the communities in Massachusetts have wetland bylaws and ordinances, also administered by Commissions.

MACC believes that this issue is highly important to the protection of surface water and wetland resources in the Commonwealth and we urge EPA to further strengthen the permit to require state-of-the-art control measures. As an organization who represents the statewide interests of citizens who donate countless hours to the preservation of the natural environment in Massachusetts, including the critical resources of clean streams, lakes and coastal areas, MACC implores EPA to issue and maintain a General Permit Program that is strongly protective of water quality and by including the following:

1. State-of-the art best management practices for construction activities, including active stormwater treatment to remove sediment and use of natural yet effective means of sediment loss control whenever possible. Such means should address, at a minimum and as EPA has done, protective measures on steep slopes, avoidance of sensitive areas and stream crossings, establishment of a 50-foot buffer zone set back, and installation and proper maintenance and monitoring of truck wheel wash stations.
2. Effective enforcement based on clear and measurable standards of performance (such as, a specific numeric limit for discharge stream turbidity) and an effective monitoring program. The possibilities for infractions for the proposed runoff management program are myriad, effective inspection and ease of enforcement are essential to its proper function and the assurance of the environmental benefits that are achievable.
3. Green Infrastructure and Low-Impact Development techniques are widely available and effective at controlling stormwater runoff from construction sites. The Permit should require the use of these methods – particularly at sites discharging to impaired (degraded) or sensitive waters.
4. The Permit must ensure that state water quality standards are met and that construction site runoff complies with any TMDL limits that may apply.
5. Public participation is an item of particular concern to MACC as our organization, comprising thousands of volunteer municipal officials, serves as the “first line of defense” for the protection of surface water and wetland resources throughout the state. EPA should insist on the opportunity for public comment and discussion for any situation which meets the current criteria for the issuance of a construction stormwater permit at the stage of filing of the Notice of Intent. All stormwater permit related documentation,

including plans and monitoring data should be required to be posted on line and made available to the public.

6. The Permit should ensure that construction site runoff will not degrade waterways that are currently healthy. MACC supports the inclusion of additional, "anti-degradation" requirements for new or currently unpermitted discharges to high quality or Outstanding Resource Waters.

On behalf of thousands of concerned citizens and volunteer stewards of a clean and healthy environment throughout Massachusetts we strongly support the Agency's ongoing efforts for better control and management of stormwater runoff from construction sites. We commend your ongoing efforts and urge your continued diligence in addressing the widespread environmental threat.

Thank you for the opportunity to comment and your attention to this important matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda Orel".

Linda Orel
Executive Director