

September 21, 2009

Honorable John F. Kerry
218 Russell Senate Building, 2nd Floor
Washington, DC 20510

RE: Recent EPA Region 1 Enforcement Actions

Dear Senator Kerry:

The Massachusetts Coalition for Water Resources Stewardship (the Coalition) recently learned that the U.S. Environmental Protection Agency Region 1 (EPA) is taking enforcement action against nine communities for illegal sewer connections (see enclosed EPA press release). Eight of the communities are in Massachusetts – Canton, Concord, Dennis, Eastham, Gardner, Peabody, Winthrop and Fall River. Plaistow, NH is also subject to an action. After hearing about the actions, the Coalition’s Board of Directors scheduled a meeting on September 1 to learn more. Several of the communities that were subject to the EPA actions attended. Their stories were discouraging, because they continue to demonstrate that EPA is making no progress on two key issues – better communications and considering cost and affordability. The Coalition met with members of the Massachusetts Congressional Delegation to discuss these and other issues in April 2008.

At the September meeting, we heard from some of the communities that they first learned of the action against them in the press, rather than directly from EPA. This is indeed discouraging. In 2008, the Coalition's Permitting Task Force met monthly with EPA and MassDEP staff to discuss regulatory reform. One of the major topics of discussion was the need for better communication between EPA and those it regulates. The Coalition was assured by EPA that it would work to improve communication. Their recent actions appear to indicate otherwise.

Most of the communities cited were working with EPA and in the process of complying with requests when they learned of the enforcement action. The fines potentially assessed against the communities, which were outlined in EPA’s press release, range from \$40,000 to \$177,000. We suggest these fines are imprudently timed and target communities that can ill-afford the penalties as they struggle to maintain responsible and appropriate levels of basic services to their constituents. It appears that EPA still is not considering the cost and affordability of its actions.

We do not think this is an appropriate way to conduct the business of government. Our members and EPA serve the same public. We consider ourselves environmental and fiscal stewards. We believe that the best chance for continued progress toward the goals of the Clean Water Act is for EPA to work with communities. We are all in the business of public service. Rather than disclosing allegations of questionable accuracy in the press, EPA staff should have focused on ensuring their information was correct. The communities should have been given reasonable opportunity to come into compliance. Enforcement action should only be undertaken after other options have been exhausted, where the community either refuses to or doesn’t comply with a reasonable schedule. Enforcement against cities and towns cannot be part of an EPA publicity campaign for which they don’t even communicate the violations to the communities and discuss the problems. These are the tactics of the EPA of old, or so we thought. We implore you, as members of our federal delegation, to take whatever actions are necessary for EPA to change its tactics and practices as it deals with Massachusetts communities.



Massachusetts Coalition for Water Resources Stewardship

The Massachusetts Coalition for Water Resources Stewardship (the Coalition) focuses on education, research and advocacy around water resources stewardship. Members include municipalities, public agencies that transport and treat drinking water, wastewater and stormwater, quasi-government agencies and private and nonprofit organizations whose members are committed to the principles of stewardship and sustainability in protecting the environment and public health. We promote using scientifically based, fiscally responsible approaches to realize environmental and community goals. Our founding members understand that the current regulatory framework is not working for the regulators or the regulated. More information on our organization can be found at www.mawaterresourcescoalition.org.

It is time for EPA to walk the talk and commit to working as partners with communities to realize shared goals. Regulatory accountability is essential to building relationships that ensure success. Please do not hesitate to contact me with any questions. I can be reached at 508-799-1430 or at MoylanR@ci.worcester.ma.us.

Sincerely,

MASSACHUSETTS COALITION FOR WATER RESOURCES STEWARDSHIP, INC.

A handwritten signature in black ink, appearing to read "Robert L. Moylan, Jr.", is written over a light blue horizontal line.

Robert L. Moylan, Jr., P.E., President
Commissioner, Department of Public Works and Parks
City of Worcester
20 East Worcester Street
Worcester, MA 01604

Cc: Massachusetts Congressional Delegation
Town of Canton, MA
Town of Concord, MA
Town of Dennis, MA
Town of Eastham, MA
City of Fall River, MA
City of Gardner, MA
City of Peabody, MA
Town of Winthrop, MA
Town of Plaistow, NH

Enclosure