

EPA Action Causes Concern for Many Massachusetts Communities

On December 22, 2010, the US Environmental Protection Agency (EPA) intervened in a suit filed against the Boston Water and Sewer Commission (BWSC) by the Conservation Law Foundation (CLF). EPA's actions should cause every Commonwealth community great concern. EPA supports CLF's allegations that BWSC failed to commit the necessary resources to prevent stormwater pollutants from reaching the Charles, Mystic and Neponset Rivers.

The stormwater issues and EPA and CLF actions are not isolated to Boston. Worcester, Springfield and more than 100 other communities in the Commonwealth are struggling to comply with ever stricter, ever changing costly regulations that are based on questionable science at a time when our schools, public safety agencies and other community needs are competing for dwindling local resources. State and federal financial assistance to comply with these burdensome and unfunded mandates is limited primarily to low interest-bearing loans.

EPA and CLF's claims that Boston has failed to commit appropriate resources to stormwater management are disconcerting. Boston and many other communities fund their stormwater programs through water and sewer rates. The MWRA's rates are among the highest in the nation. Boston's rates have increased more than 13% over the past three years. When compared to the Consumer Price Index (CPI) for the same period (2008-2010), Boston's rates have increased more than three times the rate of inflation. Does this magnitude constitute a failure to commit adequate resources? The water and sewer rates assessed on businesses and residents fund budgets in the tens or hundreds of millions of dollars that pay for operations, engineering, debt and capital improvements for large and old sanitary sewage and stormwater collection systems. How much more can our residents afford to pay, especially if the environmental gains are both expensive and questionable?

Stormwater management is a complex issue. It includes managing point sources such as outfalls discharging into a river or stream and nonpoint sources such as runoff from golf courses, agricultural fields and residential and commercial landscaped areas that may include fertilizers containing nitrogen and phosphorus, pet waste and other pollutants. Stormwater does not recognize municipal boundaries. A holistic approach with all stakeholders is necessary to address the issues adequately.

EPA is updating its small Municipal Separate Storm Sewer Systems (or MS4) permits for its National Pollutant Discharge Elimination System (NPDES) program for stormwater and has issued draft permits affecting more than 200 communities in Massachusetts. This is taking place in the context of alarming cuts in state aid to cities and towns. Since 2008, local aid to Worcester has decreased by 40%. For fiscal year 2012, the City will see a \$2.5 million cut in local aid and a \$15 million budget shortfall affecting basic municipal services. At a time when they can ill afford it, communities will have to spend tens or hundreds of millions of dollars to satisfy onerous permit requirements that have diminishing environmental returns.

The regulatory agencies and the regulated communities share a common mission – to ensure the health and quality of our cities and towns and their natural resources. This nation as a whole has made enormous strides in protecting and restoring our environment since passage of the Clean

Water Act in 1972, and surely more needs to be done. To accomplish the goals, communities must balance environmental programs with their other needs and responsibilities and implement them in a fashion that is both feasible and financially responsible. Continuous improvement in stormwater management practices by implementing reasonable and cost-effective best management practices is the correct path going forward. The Massachusetts Coalition for Water Resources Stewardship and our 34 member communities and companies are working to effect this change in approach. We cannot bankrupt communities in our push for unachievable perfection.

It's time for EPA and others to work with instead of against Massachusetts communities. In place of lawsuits and fines, EPA should focus on assisting communities to identify improvements and realistic and cost-effective best management practices. Sound and sensible solutions that protect the environment, public health and the financial viability of our communities are our sustainable future.

Robert L. Moylan, Jr., P.E.

Robert Moylan is President of the Massachusetts Coalition for Water Resources Stewardship and Commissioner of the Worcester Department of Public Works and Parks.

* For verification and other information purposes, Mr. Moylan can be reached at MoylanR@worcesterma.gov or 508-799-1430.