Received 3-13-07

TOWN OF FREETOWN
BOARD OF SELECTMEN
Town Hall
3 North Main Street
P.O. Box 438
Assonet, MA 02702-0438
PHONE: 508-644-2201
FAX: 508-644-3342

March 7, 2007

U.S. Environmental Protection Agency
Region I
One Congress Street
Suite 1100 (SEW)
Boston, MA 02114-2023
Attention: Thelma Murphy.

Dear Ms. Murphy:

This report is being sent in reply to your "Request for Information Pursuant to Section 308 of the Clean Water Act," received February 20, 2007:

The Town of Freetown has made notable progress in meeting the guidelines of the stormwater discharge program, as evidenced by the following:

The Town of Freetown has contracted with Cartographic Associates, Inc. of Littleton, NH, to perform G.I.S. mapping of stormwater drains and outfalls. Highway Surveyor Charles J. Macomber will be meeting with officials on Friday, March 9, 2007 to discuss the project. The amount of Twenty-Five Thousand ($25,000.00) has been earmarked within the Highway Department budget for producing these layers of the mapping that will indicate locations of catch basins and culverts. Target date for completion of the mapping is June 1, 2007.

After the mapping is completed, we plan to have an engineering firm analyze the data of the G.I.S. layer to calculate flows, direction velocity, and discharge of the flow.

Furthermore, the Town has contracted with Thomas E. Daley, PE, of Assonet Engineering Associates, to conduct a feasibility study for drainage of the Assonet Bay Shores area of town. Consequently, we have developed a 9-phase plan to alleviate poor drainage and runoff in this area. While engineering has been paid for thus far from Chapter 90 funds, we are now looking at construction of the drainage project itself in the estimated sum of One Hundred Thousand ($100,000.00) Dollars.

As another illustration of our commitment, Freetown has a Stream Team comprised of ten volunteer members who focus on the Assonet River. Their efforts, including monitoring the River from the Fall River/Berkley line, through the dams and streams to

Forge Pond, have resulted in the Assonet River becoming certified as a Wild and Scenic River through the National Parks Program.

On another note, we are pleased to report that at the 2006 Annual Town Meeting, voters passed a General By-Law entitled, "Non-Stormwater Discharges to the Municipal Storm Drainage System of the Town of Freetown." The purpose of the by-law is to prevent non-stormwater discharges to the Town's municipal storm drain system through the regulation of non-stormwater discharges to the storm drain system to the maximum extent practicable as required by federal and state law. A copy of this by-law is attached.

We emphasize that non-stormwater discharges are a major concern because they can impair the water quality of fresh water bodies including streams, rivers, and wetlands; contaminate drinking water supplies, alter or destroy aquatic habitat, and increase the potential for flooding.

In a further effort to build a local awareness of the National Pollutant Discharge Elimination System guidelines, we are gathering fliers and data to be mailed and distributed to Freetown residents.

Recently, the Board of Selectmen voted to solicit Requests for Proposals from qualified engineering firms to assist us in completing the NPDES program and meeting the deadlines in a timely manner. We feel that by securing the services of a professional engineer, we may better handle the rigorous requirements of implementing the program. We are in the process of developing specifications for the engineering to be performed.

In summary, we are aware of the importance of the NPDES project to our community. We are in constant contact with our Highway Surveyor, Planning Board, and Board of Assessors relative to meeting the guidelines of the program. The Town of Freetown is a small town with extremely limited resources in terms of both funds and manpower. (We are a 3-member part-time Board of Selectmen with a staff of one Administrative Assistant.) As there is no internet access to the Selectmen's Office, it is not feasible for us to join the daytime internet seminars held to exchange ideas and information pertinent to this program.

We will continue to do our best to complete any necessary forms in a timely manner. If you have any further questions, or if we can be of any further assistance, please feel free to contact our office at 508-644-2201.

Sincerely,

FREETOWN BOARD OF SELECTMEN

Lawrence N. Ashley, Chairman

Lisa A. Pacheco

Jean C. Fox

Enclosure
lhr
Certified Mail: No. 7005 3110 0004 2440 18~~66~~73

ATTACHMENT

Instructions: Complete and Include With Your Response

DECLARATION

I declare under penalty of perjury that I am LAWRENCE N. ASHLEY
[Name]
FREETOWN BOARD OF SELECTMEN
the CHAIRMAN of the City/Town of FREETOWN, Massachusetts,
[Title]
that I am authorized to respond on behalf of the City/Town and that the foregoing is a complete, true, and correct response.

Executed on MARCH 7, 2007
[Date]

[Signature]

LAWRENCE N. ASHLEY, CHAIRMAN
[Type Name and Title]
FREETOWN BOARD OF SELECTMEN

Town of Freetown

OFFICE OF THE TOWN CLERK
3 NORTH MAIN STREET
P. O. BOX 438
ASSONET, MA 02702

JACQUELINE A. BROWN
TOWN CLERK

TEL. 508-644-2203
FAX: 508-644-9826
TOWNCLERK@TOWN.FREETOWN. MA.US

January 26, 2007

JAN 29 2007

Board of Selectmen
Town of Freetown
3 North Main St
Assonet, MA 02702

RE: ATTORNEY GENERAL'S DECISION – STM 11/20/2006

Honorable Board of Selectmen:

Attached is a copy of the Attorney General's decision on ***Articles #24, #26*** and ***#27*** that were accepted at the Special Town Meeting held on November 20, 2006.

- General By-law, warrant ***Article #24***, in regards to a free dog license for a resident 70 years and over, was ***approved*** by the Attorney General's Office with the deletion of the words "per household".

- General By-law, warrant ***Article #26*** , in regards to Unregistered Vehicles, was ***approved*** by the Attorney General's Office with recommendations of a word correction, a memo concerning fees imposed by the Board of Selectmen and a note relating to the section on farm vehicles in an agricultural use.

- General By-law, warrant ***Article #27,*** in regards to Non-Stormwater Discharge, was ***approved*** by the Attorney General's Office.

As required by Mass. General Law, a constable will post the decision in the designated areas within the town.

Sincerely,

Jacqueline A. Brown

Jacqueline A. Brown, CMC/CMMC
Town Clerk

cc: Mark Reich, Town Counsel
Carlton E. Abbott Jr., Police Chief

Town of Freetown

A TRUE COPY, ATTEST:
Jacqueline A Brown
Town Clerk/Freetown

TOWN MEETING ACTION
STM 11/20/2006

ARTICLE 27: To see if the Town will vote to amend the Town's General By-Laws by adding the following new section as Article 27, (relative to Non-Stormwater Discharge) or take any action relative thereto.

NON-STORMWATER DISCHARGES TO THE MUNICIPAL STORM DRAINAGE SYSTEM OF THE TOWN OF FRETOWN

SECTION 27-1. OBJECTIVE/INTENT.

The objective of this by-law is to prevent non-stormwater discharges to the Town of Freetown's municipal storm drain system through the regulation of non-stormwater discharges to the storm drain system to the maximum extent practicable as required by federal and state law. Non-stormwater discharges are a major concern because they can impair the water quality of fresh water bodies, including streams, rivers and wetlands; contaminate drinking water supplies; alter or destroy aquatic habitant; and increase flooding.

This by-law seeks to prevent the introduction of pollutants into the municipal storm drain system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process by:

Regulating the contribution of pollutants to the municipal storm drainage system from stormwater discharges by any user;

Prohibiting illicit connections and discharges to the municipal storm drainage system;

Establishing legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this by-law.

Prohibiting discharges into the municipal storm drainage system that may or can create a condition that is harmful to public safety and welfare.

SECTION 27-2. DEFINITIONS.

For the purposes of this by-law the following shall mean:

1. AUTHORIZED ENFORCEMENT AGENCY. The Building Commissioner and the employees and designees of the Town's Building Department are the Authorized Enforcement Agency designated to enforce this by-law.

(Article 27 cont.)

2. BEST MANAGEMENT PRACTICES (BMPS). Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

3. CLEAN WATER ACT. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

4. CONSTRUCTION ACTIVITY. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of five (5) acres or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

5. HAZARDOUS MATERIALS. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

6. ILLICIT CONNECTIONS. Any surface or subsurface drain or conveyance which allows an illegal discharge to enter the municipal storm drain system including, but not limited to, any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains, sinks or toilets, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement
agency.

7. ILLEGAL DISCHARGE. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 7 of this by-law.

8. INDUSTRIAL ACTIVITY. Activities subject to NPDES Industrial Permits as defined in 40 CFR 122.26 (b)(14).

9. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE Permit. A permit issued by EPA (or by the Commonwealth of Massachusetts under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

10. NON-STORM WATER DISCHARGE. Any discharge to the municipal storm drain system that is not composed entirely of storm water.

(Article 27 cont.)

11. PERSON. Any individual, partnership, association, firm, company , trust, corporation, agency, authority, department of political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee or agent of such person.

12. POLLUTANT. Any element or property of sewage, agricultural, industrial, or commercial waste, runoff, leachate, heated effluent or other matter whether originating at a point or non-point source that is or may be introduced into any storm drain system, waters of the Commonwealth and/or waters of the United States. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, by-laws, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; rock, sand, salt and soils; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

13. PREMISES. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

14. STORM DRAINAGE SYSTEM. A system used to collect and/or convey stormwater including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures owned or operated by the Town of Freetown.

15. STORM WATER. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

16. WATERCOURSE. A natural or man-made channel through which water flows or a stream of water, including a brook or underground stream.

17. WATERS OF THE COMMONWEALTH. All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters and groundwater.

18. WASTEWATER. Any sanitary waste, sludge, septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing comes in direct contact with or results from the production or use of any raw material, intermediate product, by-product or waste product

SECTION 27-3. APPLICABILITY.

This by-law shall apply to all water entering the Storm Drainage System owned or operated by the Town of Freetown unless explicitly exempted by the Building Commissioner.

(Article 27 cont.)

SECTION 27-4. AUTHORITY.
This by-law is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and G.L. c.83, §1 and §10, as amended by St. 2004, c.149, §§135-140, and the Federal Clean Water Act, 40 CFR 122.34.

SECTION 27-5. RESPONSIBILITY FOR ADMINISTRATION.
The Building Commissioner as the Authorized Enforcement Agency shall administer, implement, and enforce the provisions of this by-law. Any powers granted or duties imposed upon the Building Commissioner may be delegated in writing by the Building Commissioner to persons or entities acting in the beneficial interest of or in the employ of the Town under the Building Commissioner.

SECTION 27-6. SEVERABILITY.
The provisions of this by-law are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this by-law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this by-law.

SECTION 27-7. PROHIBITED ACTIVITIES.
A. Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the municipal Storm Drainage System or watercourses any materials including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any Illegal Discharge to the Storm Drainage System is prohibited except as provided as follows, and further provided that the exempt source is not a significant contributor of a Pollutant to the Storm Drainage System; not withstanding the last previous phrase, all fire fighting activities are exempt:

The following discharges are exempt from discharge prohibitions established by this by-law: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if de-chlorinated), fire fighting activities, and any other water source not containing Pollutants.

Discharges specified in writing by the Building Commissioner, as the Authorized Enforcement Agency, as being necessary to protect public health , safety, welfare or the environment.

Dye testing is an allowable discharge, but requires a written notification to the Building Commissioner prior to the time of the test.

(Article 27 cont.)

The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the Storm Drainage System.

B. Prohibition of Illicit Connections.

1. The construction, use, maintenance or continued existence of illicit Connections to the Storm Drainage System is prohibited.

2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

   A person is considered to be in violation of this by-law if the person connects a line conveying sewage to the Storm Drainage System, or allows such a connection to continue.

C. Time for Compliance

Residential property owners shall have 90 days from the effective date of this by-law to comply with its provisions, provided good cause is shown for the failure to comply with the by-law during that period.

SECTION 27-8. SUSPENSION OF MUNICIPAL STORM DRAINAGE SYSTEM ACCESS.

Suspension due to Illegal Discharges in Emergency Situations.

The Building Commissioner, as the Authorized Enforcement Agency, may, without prior notice, suspend municipal Storm Drainage System discharge access to any person or property when such suspension is necessary to stop an actual or threatened discharge which presents or may present an imminent risk of harm to public health, safety or welfare; to the environment; to the municipal Storm Drainage System or Waters of the Commonwealth or the United States. If the violator fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take such steps as deemed necessary to prevent or minimize damage to the municipal Storm Drainage System or Waters of the Commonwealth or the United States, and/or to minimize risk of harm to public health, safety or welfare or to the environment.

Suspension due to the Detection of Illegal Discharge.

Any person discharging to the Town's Storm Drainage System in violation of this by-law may have their access terminated if such termination would abate or reduce an Illegal discharge. The Building Commissioner, as the Authorized Enforcement Agency, shall notify a violator of the proposed termination of its Storm Drainage System access. The violator may petition the Building Commissioner for reconsideration and a hearing regarding such notice of termination.

(Article 27 cont.)

A person commits an offense if the person reinstates municipal Storm Drainage System access to premises terminated pursuant to this Section, without the prior approval of the Building Commissioner.

SECTION 27-9. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.
Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Building Commissioner prior to the allowing of discharges to the municipal Storm Drainage System.

SECTION 27-10. MONITORING OF DISCHARGES.
A. Applicability.
This Section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

B. Access to Facilities.
1. The Building Commissioner, as the Authorized Enforcement Agency, shall be permitted to enter and inspect facilities subject to regulation under this by-law as often as may be necessary to determine compliance with this by-law. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the Building Commissioner or his/her authorized representatives.

2. Facility operators shall allow the Building Commissioner ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

3. The Building Commissioner shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Building Commissioner to conduct monitoring and/or sampling of the facility's storm water discharge.

4. The Building Commissioner has the right to require the discharger to install monitoring equipment as determined by the Building Commissioner. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Building Commissioner and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(Article 27 cont.)

Unreasonable delays in allowing the Building Commissioner access to a permitted facility is a violation of a storm water discharge permit and of this by-law. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Building Commissioner reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this by-law.

If the Building Commissioner has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this by-law, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this by-law or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Building Commissioner may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 27-11. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.
The Building Commissioner, as the Authorized Enforcement Agency, shall adopt requirements identifying Best Management Practices (BMPs) for any activity, operation or facility which may cause or contribute to pollution or contamination of Storm Water, the Storm Drainage System, or Waters of the Commonwealth or the United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal Storm Drainage System or Watercourses through the use of these structural and non-structural BMPs.

Further, any person responsible for Premises, which is, or may be, the source of an Illicit Discharge, may be required to implement, at said Person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal Storm Drainage System. Compliance with all terms and conditions of
a valid NPDES permit authorizing the discharge of Storm Water associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a Stormwater Pollution Prevention Plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

SECTION 27-12. WATERCOURSE PROTECTION.
Every person owning Premises through which a Watercourse passes, or such person's lessee, shall keep and maintain that part of the Watercourse within the Premises free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the Watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a Watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the Watercourse.

SECTION 27-13. NOTIFICATION OF SPILLS.
Notwithstanding other requirements of local, state or federal law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into Storm Water, the Storm Drainage

(Article 27 cont.)

intending to limit the foregoing, it is the intention of this section that the following by-laws and regulations be included within the scope of this subsection, that the specific penalties, as listed herein, shall apply in such cases and that, in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this section, the municipal personnel listed for each section, if any, shall also be enforcing persons for such section. The Building Commissioner, Town of Freetown Police Department, or any designated Agent of the Building Commissioner shall be considered an enforcing person for the purpose of this section.

A violation of the by-law and regulatory provisions may be dealt with in a non-criminal manner as provided by section (a) above. Each day on which any violations exist shall be deemed to be a separate offense.

The fine schedule is: First offense, $100.00, second offense, $200.00, third and subsequent offenses, $300.00.

E. Appeals.
The decision or order of the Building Commissioner, as the Authorized Enforcement Agency, may be appealed to the Planning Board within 20 days of the date of the decision or order. The Planning Board shall consider the request at a meeting after written notice is given to abutters, paid for by the Person appealing, at least seven (7) calendar days prior to the said meeting.

F. Remedies Not Exclusive.
The remedies listed in this by-law are not exclusive of any other remedies available under applicable federal, state or local law.
Submitted by the Board of Selectmen. Requires Majority Vote.
Motion made and seconded to waive the reading with just a summary.
Motion to waive the reading voted unanimously.
Motion made and seconded to accept the article.
Selectman Larry Ashley explains the article.
Voted unanimously to accept the article.