



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

August 13, 2020

Dear Charles River Watershed Stakeholder:

The U.S. Environmental Protection Agency's New England Region (EPA Region 1) is beginning to evaluate whether a new program is needed to control stormwater pollution from certain commercial, industrial, and institutional sources in the Charles River watershed at sites that are not currently covered by any existing federal or state stormwater permit.

Particularly in the Charles River, but also in many rivers, lakes and ponds across New England, stormwater pollution is the largest source of phosphorus pollution in the watershed. Excessive amounts of nutrients – phosphorus for freshwater systems – can lead to significant water quality impairments like the toxic cyanobacteria blooms that occur in the Charles River most summers. These blooms are highly visible, pose threats to human health and wildlife safety, and interfere with recreation in this heavily used river.

As you know, the Commonwealth of Massachusetts, local communities and EPA have invested considerable resources to restore water quality in the Charles River over the past three decades, and these investments have yielded dramatic improvements. Thousands of people who live, work and recreate on and along the river reap the benefits of cleaner water. However, the Charles River will not be fully restored to health until the most important remaining challenge – phosphorus-driven algae blooms – is addressed.

The Clean Water Act (CWA) contains a provision known as “residual designation authority” that allows EPA, under certain conditions, to require permits for stormwater discharges that are not otherwise regulated. For example, if EPA determines that stormwater controls are needed to meet the assumptions and requirements of a TMDL (a pollutant load analysis under the Clean Water Act), or that a discharge or category of discharges contributes to water quality standards violations or is a significant contributor of pollutants, EPA has the discretion to designate those discharges for permitting under the National Pollutant Discharge Elimination System (NPDES) permitting program.

Members of the public may also petition EPA to exercise this residual designation authority. Over the last several years, petitioners in other parts of the country have urged EPA to require stormwater permits for discharges that have been identified as impairing important waterways.

In May 2019, EPA Region 1 received such a petition from the Conservation Law Foundation (CLF) and the Charles River Watershed Association (CRWA), seeking to require permits for commercial, industrial, and institutional facilities within the Charles River watershed. EPA will respond to the petition and wishes to engage stakeholders from throughout the watershed as we shape our response.

EPA's eventual action on this petition could supplement a watershed-wide approach that already includes significant decades-long investments by municipalities to comply with their Municipal Separate Storm Sewer (MS4) permits; the near-elimination of combined sewer overflows (CSOs); and intensive efforts to find and eliminate illicit discharges of sewage into stormwater systems. Charles River watershed cities and towns have made significant efforts to reduce phosphorus in municipal stormwater and are subject to permits that will require them to do much more in coming years. A significant portion of the phosphorus load also comes directly from privately-owned or unregulated sources, and residual designation could provide a mechanism to reduce the load from these sources, complementing the work municipalities are doing on municipal property under their MS4 permits.

Because EPA must respond to the petition and wants to do so effectively, EPA would like to engage with the key stakeholders where residual designation could directly affect them. A residual designation could mean that certain commercial, industrial, and institutional properties in the Charles River watershed – like office parks, industrial parks, shopping centers, private colleges and universities, and hospitals – would be subject to new federal Clean Water Act stormwater permits. EPA seeks to explore the development of a workable and practical permitting approach.

We are in the very early stages of analysis on how best to act. We strongly believe your voice will help us design as efficient and effective an approach as possible, informed by your concerns and ideas. We are reaching out to you now, while our thinking is at its most fluid, so that our decision-making process will be informed by an understanding of the range of concerns, ideas, available data, and realistic options. Your contributions within the next several months will help EPA ensure that its decision on how to respond to the petition is well-informed and implementable.

Over the coming months, EPA plans to gather information about these discharges and explore the need for, and details of, workable options to control stormwater pollution from watershed sources that are not currently subject to permits. We are sharing this letter with a variety of watershed stakeholders, including municipalities; commercial real estate entities; industrial property owners; residential real estate entities; colleges and universities; environmental groups; and legislators who represent watershed constituents. We need and want your experience, input, and advice on how we can best do this for maximum effectiveness and efficiency.

We recognize that the COVID-19 pandemic is demanding your attention and resources in unexpected ways. To initiate our engagement with you, we plan to host several virtual information sessions in late summer/early fall 2020 and will make them as accessible and user-friendly as possible. We will send follow-up information about the dates, times, and agendas for the sessions so we can share our thinking and to begin to answer your questions. We appreciate your attention to this initiative and very much look forward to hearing your perspectives.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis Deziel". The signature is fluid and cursive, with the first name being more prominent.

Dennis Deziel
Regional Administrator