

UNITED STATES OF AMERICA
ENVIRONMENTAL PROTECTION AGENCY
BOSTON REGION

In the Matter of:

PUBLIC HEARING:

RE: NPDES DISCHARGE PERMIT FOR
NEW HAMPSHIRE SMALL MUNICIPAL STORM SEWER SYSTEM (MS4)
NPDES PERMIT NOS. NHR041000, NHR042000 and NHR043000

Pease International Tradeport
Portsmouth, New Hampshire

Thursday
March 14, 2013

The above entitled matter came on for hearing,
pursuant to Notice at 2:00 p.m.

BEFORE:

THELMA MURPHY, Chief,
Stormwater and Construction Permits
NEWTON TEDDER, Permit Writer
U.S. Environmental Protection Agency
New England Region I
One Congress Street, Suite 1100
Boston, MA 02114

I N D E X

<u>PANEL:</u>	<u>PAGE</u>
Thelma Murphy	3
<u>SPEAKERS:</u>	<u>PAGE</u>
Carl Quiram	9
Steve Parkinson	10
David Scott	12
Bruce Berry	13
Ricardo Cantu	14
Craig Durrett	18
Tim Moore	21
Karen Anderson	23
Steve Dookran	24
Thomas Willis	28
Sarah Marchant	29
Steve Pearlman	30
Sumner Kalman	34
Bill Arcieri	38
Aubrey Strauss	39
Brian Goetz	42
Chris Albert	43
Sean Fitzgerald	44
Leigh Komornick	48

P R O C E E D I N G S

(2:01 p.m.)

MS. MURPHY: Okay. We're going to get started.

Good afternoon, ladies and gentlemen. My name is Thelma Murphy. And I am the Chief of the Stormwater Construction Permits Section with the New England Regional Office of the US Environmental Protection Agency also known as EPA.

Also joining me this morning -- I'm sorry -- this afternoon, is Newton Tedder, EPA's Permit Writer for the permits which are the subject of this hearing.

This hearing, concerning the issuance of the National Pollutant Discharge Elimination System or NPDES, or "Nip-tees", general permits for stormwater discharges from small Municipal Separate Storm Sewer Systems, or MS4's, to certain waters of the state of New Hampshire shall now come to order.

A Municipal Separate Storm Sewer System or MS4 is a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches man-made channels or storm drains that are owned by a City, Town, State, United States, or other public entity that discharges stormwater into waters of the United States.

EPA issued the current General Permit for

1 stormwater discharges from small MS4's on May 1, 2003. That
2 permit expired on May 1, 2008.

3 EPA previously released a Draft Permit for small
4 MS4's on December 23, 2008. The public comment period for
5 that Draft Permit ended on February 20, 2009. EPA revised
6 the 2008 Draft Permit and released a new draft on February
7 12, 2013, the 2013 Draft Permit. The 2013 small MS4 Draft
8 General Permit continues to apply in small MS4's located in
9 urbanized areas.

10 The release of the 2010 census revised the
11 universe of municipalities located in an urbanized area.
12 Newly regulated municipalities are subject to the 2013 Draft
13 Permit.

14 Other than newly regulated urbanized areas, EPA,
15 at this time, has not designated any additional small MS4's
16 as requiring coverage under this permit.

17 EPA, the Region 1 EPA has proposed re-issuance of
18 three NPDES General Permits for stormwater discharges to
19 waters of the United States from Municipal Separate Storm
20 Sewer Systems or MS4's in New Hampshire. The permit numbers
21 for these three general permits are NHR041000, for the State
22 of New Hampshire traditional MS4's, meaning MS4's owned by
23 Cities or Towns; NHR042000, for State of New Hampshire
24 non-traditional MS4's, meaning MS4's owned by other public
25 facilities other than transportation facilities; and

1 NHR043000, for State of New Hampshire public transportation
2 facilities.

3 Thus, the permit which is the subject of this
4 hearing is actually three separate General Permits. Each
5 permit is applicable to a particular entity within a
6 geographic area, the State of New Hampshire.

7 Since most other permit terms and conditions are
8 identical across all three permits, for simplicity sake, I
9 will be referring to these three General Permits as Draft
10 New Hampshire Small MS4 General Permit or the Draft Permit.

11 The permit will be issued in final form upon
12 consideration of comments received during the public comment
13 period.

14 The NPDES program issues permits to facilities
15 that discharge pollutants into waters of the United States.
16 The Permit Writer develops effluent limits, best management
17 practices, monitoring requirements, reporting requirements
18 and eligibility requirements based on information from the
19 facilities, Federal Regulations, State Water Quality
20 Standards, technical guidance published by EPA and the
21 State, State and Federal policy and other information.

22 The conditions in this Draft Permit were
23 established pursuant to Clean Water Act Section
24 402(p)(3)(iii) to ensure that the pollutant discharges from
25 small MS4's are reduced to the maximum extent practical,

1 protect water quality and satisfy the appropriate water
2 quality requirements of the Clean Water Act.

3 The Draft Permit builds upon the requirements of
4 the previous small MS4 General Permit issued in 2003. This
5 Draft Permit requires small MS4's to continue to implement
6 the stormwater management programs required by the 2003
7 permit including the six minimum control measures. This
8 Draft Permit contains more specific requirements and best
9 management practices for each control measure.

10 Under the provisions of this Draft Permit, owners
11 or operators of small MS4's that discharge stormwater will
12 be required to submit a notice of intent or NOI to EPA
13 Region 1 within 90 days with the Final Permit effective date
14 to be covered by the Final General Permit and will receive a
15 written notification from EPA of permit coverage and
16 authorization to discharge under the Final General Permit.

17 Information on the NPDES program is available in
18 the NPDES summary handout entitled "Water Permitting 101".
19 A copy is available on the table where you signed in. If
20 you are interested in having a copy, please leave your
21 contact information and we will make sure that you receive
22 one.

23 Also available today is a document which
24 summarizes some of the requirements contained in the Draft
25 New Hampshire Small MS4 General Permit.

1 Another document available today contains the flow
2 diagram of the illicit discharge detection and elimination
3 process.

4 EPA released the Draft NPDES New Hampshire Small
5 MS4 General Permit on February 12, 2013 with a notice of
6 availability published in the Federal Register on February
7 12, 2013 as recorded as 78FR9908.

8 The public comment period ends April 15, 2013.
9 The legal notice of this hearing was published in the
10 Federal Register on February 12, 2013.

11 Since February 12th, the Draft New Hampshire --
12 the Draft NPDES New Hampshire Small MS4 General Permit, a
13 fact sheet explaining the Draft Permit and supporting
14 documents have been available for interested parties to
15 review and provide comment. The Draft General Permit and
16 appendices and fact sheets are available at
17 [http://www.epa.gov/region1/NPDES/stormwater/MS4_2013_N](http://www.epa.gov/region1/NPDES/stormwater/MS4_2013_NH.html)
18 [H.html](http://www.epa.gov/region1/NPDES/stormwater/MS4_2013_NH.html).

19 Today's hearing is an informational
20 non-adversarial hearing providing interested parties with an
21 opportunity to make oral comments and/or to submit written
22 comments on the proposed permit. There will be no cross
23 examination of either the panel or the commenters. Any
24 questions directed to a commenter from a panel member will
25 be for clarification purposes only.

1 This public hearing is being recorded. A
2 transcript will become a part of the official administrative
3 record for this permit. However, in order to ensure the
4 accuracy -- to ensure the record's accuracy, we highly
5 recommend that you submit written statements in addition to
6 any comments made this afternoon.

7 As previously mentioned, the public comment period
8 will close on April 15, 2013. Following the close of the
9 public comment period, EPA will review and consider all
10 comments received during the public comment period both in
11 writing and at today's hearing.

12 EPA will prepare a document known as response to
13 comments that will briefly describe and address significant
14 issues raised during the comment period and what provisions,
15 if any, of the Draft Permit have been changed and the reason
16 for the changes.

17 A notice of availability of the Final New
18 Hampshire MS4 Permit and the response to comments will be
19 published in the Federal Register.

20 In addition to -- in addition, notice of -- sorry,
21 notice of the availability of both the response to comments
22 and the Final Permit will be mailed or e-mailed to everyone
23 who commented on the Draft Permit. The actual complete
24 Final New Hampshire Small MS4 General Permit and response to
25 comments will be available on EPA's web site at the web page

1 mentioned previously.

2 Under Section 509B of the Clean Water Act,
3 judicial review for this General Permit can be had by filing
4 a petition for review in the United States Court of Appeals
5 within 120 days after the permit is considered issued for
6 purposes of judicial review.

7 Under Section 509B2 of the Clean Water Act, the
8 requirements in this permit may not be challenged later in
9 civil or criminal proceedings to enforce these requirements.
10 In addition, this permit may not be challenged in other
11 agency proceedings.

12 To begin, I will request comments from those
13 Federal, State and Local elected officials that registered
14 and then all others. I will use the attendance cards to
15 call on people who wish to comment. These cards will also
16 be used to notify persons of subsequent Final Permit
17 decisions.

18 Speakers should come to the podium to speak. I
19 ask that before you begin your statement, please identify
20 yourself and your affiliation for the record.

21 Okay. The first person is Carl Quiram.

22 MR. QUIRAM: I don't have too many comments at
23 this time, except for one which is, looking at the TMDL
24 list. And I assume that that will be reviewed before it
25 comes out, because I see a TMDL listed in there that does

1 not have a TMDL.

2 And I know one of my colleagues from another town
3 raised that a couple of weeks ago at a meeting. So, we
4 will be submitting written comments including that.

5 MS. MURPHY: Thank you.

6 Steve Parkinson?

7 MR. PARKINSON: Steve Parkinson, Public Works
8 Director, City of Portsmouth.

9 Thank you for the opportunity to provide comment
10 with regard to the proposed changes dated February 12, 2013
11 to the Draft NPDES Permit for stormwater discharges from --
12 excuse me -- small Municipal Separate Storm Sewer Systems in
13 New Hampshire.

14 The city of Portsmouth, New Hampshire, with a
15 population of approximately 21,000 people consists of 17
16 square miles and is located on the Piscataqua River.

17 Portsmouth's city storm drain infrastructure
18 consists of approximately 327,000 lineal feet of pipe, 4700
19 catch basins or manhole structures and 450 outfalls. This
20 proposed General Permit would be applicable to the City's
21 separated storm sewer system.

22 The City of Portsmouth agrees with the intent and
23 goal of the Clean Water Act. Clean water is a vital
24 resource and should be protected.

25 However, the proposed regulations are excessively

1 burdensome and some components will not help achieve clean
2 water.

3 Several general comments applicable to the overall
4 permit conditions are provided here today with my statement
5 and subsequent comments, more specific to the requirements,
6 will be provided in writing prior to the submission deadline
7 which is currently April 15, 2013.

8 The permit, as drafted, will create a significant
9 administrative burden for the City that would detract from
10 its ability to provide direct benefits to water quality
11 through such activities as increased street sweeping,
12 increased catch basin cleaning, removal of illicit
13 discharges and/or conducting inspections of construction
14 sites.

15 The City has estimated that approximately 2800
16 staff hours would be required to comply with the
17 administrative components of the Draft Permit such as
18 tracking and annual reporting. The total estimated cost to
19 comply with the permit over a five year permit cycle is
20 estimated currently at \$3.5 million and would constitute an
21 8 to 12 percent increase in the City's current public works
22 budget.

23 Due to the current national economic climate, the
24 Portsmouth City Council is not inclined to increase City
25 budgets. Therefore, other essential programs would need to

1 be reduced or cut to accommodate these expenditures.

2 Given the magnitude, complexity and cost
3 implications of this permit, the City requests an additional
4 month for the comment period to fully vet the permit's
5 potential impacts and be able to present those impacts to
6 the City Council and the public.

7 Thank you for the opportunity to provide comments
8 to this proposed permit for stormwater discharge.

9 MS. MURPHY: Thank you.

10 I'm going to call on the Honorable David Scott.

11 MR. SCOTT: Thank you. I am David Scott. I live
12 in Dover, used to be a legislator and was on the Dover City
13 Council.

14 I believe these regulations are going to create a
15 tremendous financial hardship for the people living in
16 Dover.

17 I've not yet seen what the cost impact is, but
18 this is typical of some of the stuff coming out of
19 Washington.

20 So, I would be very careful to approve anything
21 until we see what the cost is.

22 I was at a meeting, maybe three months ago, when
23 representative Congressman Frank Guinta and Congressman Issa
24 were here talking about another EPA project, which is the
25 nitrogen levels in the Great Bay. And it was obvious that

1 the EPA person that was responsible for the technical stuff
2 did not do his job. He could not answer the questions.

3 The Mayor of Rochester got up and said, if we put
4 these things in, it's going to cost \$1000 in additional
5 sewer costs for the people of Rochester. That's going to
6 knock us out.

7 So, I would say, let's see some cost analysis of
8 what the impact is for a homeowner in Dover and in
9 Rochester.

10 Thank you.

11 MS. MURPHY: Bruce Berry.

12 MR. BERRY: Thank you. I am Bruce Berry, the Town
13 of Amherst Public Works Director.

14 We will be doing some written commentation. I do
15 not have it with me.

16 Our concern is, at least, my first brush of this,
17 similar to what some of my colleagues have expressed, we
18 just went into default budgets that will carry us through
19 June 30, 2014.

20 I have some tremendous concerns regarding the
21 uncertainty of when this is going to be implemented. This
22 is only a small portion of what I am responsible for. And I
23 can very quickly see this is going to end up creating some
24 areas where we are going to have to do line item transfers,
25 eliminating road construction projects in order to fund

1 this.

2 And I hope that we're going to be given a certain
3 amount of time, when this is implemented, to make sure as it
4 so carefully was worded, the communities need to supply
5 ample funding for this. I certainly hope that we're given
6 the opportunity to attempt to address that, again, as we try
7 to figure out what the cost is going to be to implement.

8 Thank you.

9 MS. MURPHY: Ricardo Cantu?

10 MR. CANTU: Good afternoon to everyone. I am
11 Ricardo Cantu, Superintendent of the Manchester Wastewater
12 Treatment Facility and I was the Stormwater Coordinator for
13 the City from 2003 to 2007.

14 In this permit that was issued, the Draft Permit,
15 we have four ponds that have TMDL's, which is the total
16 maximum daily load. In those ponds, there were calculations
17 done through a model.

18 The model for Dorrs Pond said we should see algal
19 blooms 28 percent of the time, Nutts Pond, 37.6 percent of
20 the time. Pine Island Pond, 37 percent of the time. And
21 Stevens Pond, 10.1 percent of the time.

22 I personally have never witnessed an algal bloom
23 in any of these ponds. And we have two DS staff that help
24 us do these inspections. They've been helping us since
25 2000, for 13 years.

1 And I asked the two DS staffers, I said, have you
2 seen any algal blooms. I had one picture shown to me at
3 Nutts Pond which covered about 150 feet by 10 feet which is
4 about 1500 square feet, which is 2/10ths of one percent of
5 the total area of the pond.

6 So, these models are a little bit suspect, because
7 it is -- and I don't have a lot of faith in what they are
8 saying we need to remove.

9 In 1999, we received an EPA order and we had to
10 put in a SEP program. We started putting in administrative
11 controls for stormwater and CMOM. As part of that program,
12 we went through and we looked at all of the facilities.
13 We've been working with our stormwater CMOM since 2003.

14 Currently, we spend \$1.4 million on the program,
15 \$800,000 on stormwater, \$600,000 on CMOM. They both work on
16 that.

17 When you read through the permit, it looks like we
18 probably assessed about five percent of the issues out
19 there. Big money coming down the road, people just don't
20 understand what they're looking at.

21 DEP put in a margin of safety of 20 percent. As I
22 told you, we haven't seen any algal blooms. Instead of a 20
23 percent margin of safety, it should probably be a 40 to 50
24 percent margin of error, because these models just don't
25 seem to be working well.

1 We have looked at the TMDL for the contributions
2 of flow. Dorrs Pond. Dorrs Pond is up in the vicinity of
3 I-93. It is also the off ramp of 9 North that comes off
4 into that area.

5 We figured, coarsely, this is not looking at true
6 calculations. But, we probably get about 45 percent impact
7 from Hooksett. We've got about 25 impact from New Hampshire
8 DOT coming off the turnpike and about 35 percent is the City
9 of Manchester.

10 Now, are we going to be given the time to do
11 inter-municipal agreements with Hooksett so that they can
12 pay their fair share. Are we going to have
13 inter-jurisdictional agreements with New Hampshire DOT so
14 that they can pay their fair share.

15 When I read through the document, I see where it
16 says they may help you. But, for us, it's always shall,
17 shall, shall.

18 So, I don't see a lot of support there.

19 In 1989, Manchester put in a storm treat center,
20 state-of-the-art today, state-of-the-art back then. Crystal
21 Lake, we removed phosphorus, sediment, nitrogen. It's
22 worked very well.

23 I looked at the TMDL's that came from the report
24 itself, that are inside that. And we looked at cost, just
25 rough costs. Here's what storm treat says it will treat per

1 acre. This is what we have for acre watershed. We looked
2 at that.

3 To put in structural controls in Manchester to
4 treat those areas, we are looking at \$770,000,000. This is
5 -- I've got the calculations. Those will be submitted at
6 the public comment when we write those in. They can check
7 the figures and the facts. I'll stand behind them.

8 So, these are some of the things that we've
9 noticed with the public comment.

10 Also, Concord, New Hampshire, everybody wonders
11 why they are not involved in that. And I wonder why also
12 because they are the only plant that has a phosphorus limit
13 for their wastewater plant. Yet, there is no belief that
14 there is phosphorus coming from the town going into the
15 Merrimack River. I find that kind of hard to believe.

16 They've got 50,000, 49,000 people in Merrimack --
17 I mean, in Concord. You've got 2800 people in Rollinsford.
18 Yet, Rollinsford, 85 percent is in the urban area. Concord,
19 nothing is in the urban area.

20 I find that very hard to believe. I'm not
21 convinced of that.

22 So, those are some of the public comments. And we
23 will be providing written comments before the 15th of April.
24 Thank you.

25 MS. MURPHY: Thank you.

1 Craig Durrett.

2 MR. DURRETT: My name is Craig Durrett. I am the
3 Environmental Coordinator for the Town of Derry.

4 We were involved in submitting a large number of
5 comments on the previous draft version of the MS4 permit.

6 The first thing we did, of course, looking through
7 the response to comments, which is about three quarters of
8 an inch tall, was to review to see for sure how they
9 responded to comments. And then, starting to read the
10 permit, there appears to be some contradictions on taking
11 stuff out relative to what was actually then put back in,
12 but in different places with a new permit.

13 It seems like there was just a shifting around
14 relative to that and a lot of the requirements are still
15 there. In fact, we believe they have become far more
16 stringent and burdensome to the point that our efforts are
17 not -- the costs that are going to be involved, in
18 compliance with this is going to be very exorbitant, having
19 to develop a plan for each TMDL for each catch basin --
20 catchment and watershed.

21 Just a couple of other specific comments we have.
22 One is -- certainly has to do with the -- us having to
23 evaluate the effectiveness of our educational outreach
24 programs. And in terms of them meeting our educational
25 goals, that's going to be really hard to define. We've had

1 that discussion for years under a salt reduction program
2 that we've been in. How do you evaluate. How much outreach
3 is occurring. There's a lot of stormwater meetings.

4 It is going to be virtually impossible for us to
5 really do that. I mean, you can only do so much for
6 surveys. We've commented on this in the past.

7 And the other thing is we have to, according to
8 2322, it's even more stringent now, more requirements.

9 In terms of SSO's, reporting sanitary sewer
10 overflows, we've already reported that for years to the
11 State and EPA and now it's being added to here. It is
12 already covered in other regulations. Why duplicate it.
13 You already have the information. Why do we have to go back
14 five years and keep doing it over and over again.

15 The third was the amount of information we had put
16 in our reports. You can guarantee that each annual report
17 is going to be inches thick relative to submitting. Whether
18 or not EPA can even review those is a huge question. I
19 doubt they will be able to.

20 Because, when you look at each section here, it
21 says we must include in our annual report, must include
22 backup, must include additional data.

23 Chloride applicators certifications. We have
24 already been through this. It is part of a team with DOT,
25 federal highway, DES, EPA, obviously, not the MS4 program.

1 But, we -- we've worked hard going before the State
2 legislator trying to get a salt certification applicators
3 license. And doing outreach on that, and getting people in
4 our own office, DES and T too (phonetic) has done a lot of
5 training trying to get that going. Hundreds of people have
6 gone through that.

7 It has been before the legislature. It has been
8 shot down. We've tried.

9 Now, in this permit, they want us to do it again.

10 One of the things that obviously concerns us is
11 establishing local requirements for use, State certified
12 applicators under a voluntary training certification
13 program, which is the way it currently is. That is
14 literally unenforceable. We cannot be out there mandating,
15 ordering everybody and proving that everybody is complying
16 with this, every person that comes through.

17 We've already shown and argued that watersheds do
18 not follow municipal boundaries, neither do plow truck
19 drivers or landscapers or construction companies that do in
20 the winter time.

21 The other thing was it identifies Hood Pond as
22 having a final TMDL. It does not -- it has been draft since
23 2010. We commented on that.

24 In particular, a concern was that draft TMDL from
25 -- it was based on one sample, grab sample collected in the

1 mid 1990s. And since that time, there has been substantial
2 land use change. We commented on the TMDL pretty
3 extensively. Haven't heard anything about it since.

4 And so, at this point, it is draft, however, the
5 permit identifies it as being final.

6 And at this point, still have only been able to
7 read two thirds of it. But, we will be providing written
8 comments.

9 Thank you.

10 MS. MURPHY: Thank you.

11 Tim Moore?

12 MR. MOORE: I am Tim Moore from the Town of
13 Plaistow, a small Town of about 7500 people. I have been on
14 the Planning Board and Conservation Commissions for quite a
15 number of years and have been working with our MS14 on the
16 2003 permit.

17 We're looking at the requirements for the new
18 permit and being -- seeing a lot of new communities now
19 under being able to -- having to participate, I would hope
20 that the Final Draft would either at least enable or
21 encourage regional cooperation and -- and plan preparation.
22 For some programs like outreach and education, probably
23 geographic proximity would make a logical regional
24 association.

25 Or other water quality measures, watershed plans

1 would seem to make more sense rather than having that effort
2 duplicated town after town after town.

3 I also chair the Rockingham Planning Commission
4 this year. And we feel that -- the Planning Commission
5 feels that it's -- that would be a good task for them to do
6 given the resources to facilitate regional participation.

7 And then lastly, I would hope you would take into
8 account our budget and zoning cycles. Assuming that this
9 final draft was issued in May or June of this year, which is
10 probably not likely, given the magnitude of comments and so
11 forth. That puts us in good stead to get in our 2014
12 budgets monies to do this and gives us a chance to prepare
13 updates on our ordinances.

14 But, the reality is that the money is not
15 available in 2013 until after Town meeting. So now, year
16 one, the most you could probably expect is a submission of a
17 notice of intent, because year one is gone before any money
18 is available to be expended on these projects.

19 Should the approval or Final Draft extend into
20 late fall of this year, we've lost the 2014 budget cycle.
21 So now, money then would not be available to be expended
22 until late spring early summer of 2015.

23 Thank you. Those are my comments. I will submit
24 that written testimony as well.

25 MS. MURPHY: Thank you.

1 Karen Anderson.

2 MS. ANDERSON: Hi. Karen Anderson representing
3 the Town of Greenland.

4 And I have a few just random questions and
5 clarifications that I've come across. And we do support the
6 education requirements and with the one question about
7 quantifying the effective change in behavior.

8 We currently do a lot of -- for example, our pet
9 waste. We have a pet waste program. We have put pet waste
10 containers around. Now to quantify how much is taken out of
11 it on a weekly basis, just seems like time consuming that we
12 don't know if we're going to change a behavior.

13 If we provide the mechanism, provide the
14 education, measuring that and reporting on it just seems
15 very difficult.

16 And I also had a question on whether the education
17 requirements can be combined, such as commercial and
18 industrial. We're a very small town. We have 3500
19 population. We have two industrial properties.

20 Can my commercial message count twice instead of a
21 separate message for an industrial.

22 Another question I had was a clarification on the
23 enclosure of salt storage. Currently, our salt storage is
24 three sided. It is under cover, but it is not enclosed.

25 So, whether that clarification now means that it

1 needs to be closed in on all four sides.

2 And another question was on the street sweeping.
3 We don't utilize sand on our roads for our winter road
4 maintenance. Sweeping the streets each spring is likely not
5 going to accomplish anything. There won't be anything to
6 measure and analyze whether or not and what the debris
7 actually is.

8 So those are the concerns from a very small town.

9 MS. MURPHY: Okay. Thank you.

10 Steve Dookran. I'm sorry if I butchered your
11 name. D-O-O-K-R-A-N.

12 MR. DOOKRAN: Thank you. And you got that name
13 correct.

14 I am Steve Dookran from the City of Nashua. I am
15 the City Engineer.

16 My comments are pretty general in nature. We do
17 intend to submit written comments like we did last time.
18 And so, I just -- wanted to just outline to you what our
19 thoughts are at this point in time.

20 We received your draft about a month ago. And
21 we've got staff reviewing it. And it is pretty thick. It
22 is a lot to go through.

23 Our community is, you know, quite a bit bigger
24 than Portsmouth. And so, we haven't had the time to figure
25 out what the implications are for -- for Nashua.

1 But, I do want to say that, you know, the EPA
2 should realize that there is no doubt that the permit's
3 intent in Nashua's view to achieve good water quality is for
4 the enjoyment of everyone. And we do share that goal.

5 And to illustrate how we do that, you have to look
6 at us. I'm not going to say that we're doing it better than
7 any other community here. I am sure that everybody is doing
8 things quite well.

9 But, if you -- if you come in from a practical
10 level as what we do, you would see that we are, on a daily
11 basis, on an annual basis, trying to achieve that goal of
12 good water quality. We have a CSO program.

13 And we have worked -- we have tailored that CSO
14 program to one that makes most sense, dollar wise and
15 results wise. And so, we have dealt with the EPA on that
16 front. And we're doing the program. It is a lot of money.
17 But, we are getting to the point where we can't afford to do
18 it and where we are achieving good results.

19 We target stormwater problems on a daily basis.
20 And we implement BMP's that we see fit and that bring good
21 results.

22 We work with private development, and I'm sure
23 other communities do that too, to put in controls. Every
24 time they come before us, we -- we make sure that they're on
25 board with -- with what the City wants and then, we have --

1 we've had good success in doing so.

2 In terms of public projects, and the public
3 projects, we -- we have spent the effort and investment to
4 show that the City itself is a good leader. We compile the
5 projects. We demonstrate that we want what is best for the
6 community, what is best for water bodies.

7 So, -- so, we just want the EPA to be aware that,
8 you know, our community, as many others, we have this same
9 goal that you want with this permit. And if you work with
10 us, we can work together and achieve that goal, probably in
11 a different way.

12 So, what we're asking today is, like what
13 Portsmouth did, and I believe, Gary, and some other
14 community did, ask for an extension of this comment period.
15 We want to fully understand what this document is.

16 And I know, we had a draft before and we went
17 through it and everything. But this one has, a lot of new
18 items. And before we get our final comments to you, we do
19 want to understand, exactly what implications are.

20 And so, Portsmouth asked for another month. I'm
21 asking for two months to do so. Not just for understanding
22 it. We also want to make sure we are able to incorporate
23 this into the management of the City and the management of
24 the budget.

25 In so doing, we are also going to ask that, even

1 though you probably haven't set an issue date, an effective
2 date of the -- for the permit, that you extend that so that
3 it considers our budget cycle. People talked about that
4 before.

5 For fiscal year 2014, that begins July 1st. We
6 are already more than halfway through in preparing that
7 budget. The parameters are set. And that budget is pretty
8 well set at this point.

9 Now, most Towns had their Town meetings recently,
10 I believe, this week. So, they are set as well.

11 And the best case to get a budget to this program
12 would be for the following fiscal year cycle.

13 So, if you're looking at an implementation date,
14 the issue date, I think, you have to look at it. And we
15 will -- we will give some more details when we submit our
16 comments in writing.

17 And an added point to that is, this permit, I
18 don't know how many people in the general public are aware
19 of this. I know you advertised it on the web site. We have
20 90,000 people Nashua. I don't think most of them know about
21 what is happening here.

22 So, to put this burden onto the public, without
23 giving them that opportunity, that -- it's not fair to them.
24 And because our budget process is a public process, I think
25 that's when we can make sure the public is educated as to

1 what they're going to be funded -- funding in terms of
2 something that can be substantially burdensome for the City,
3 whether it's, you know, general funds, or whether it is
4 enterprise fund.

5 Okay. So, I appreciate your listening to me.
6 Thank you.

7 MS. MURPHY: Thank you.

8 Thomas Willis.

9 MR. WILLIS: Good afternoon. I don't have any
10 prepared remarks. I am the Public Works Director for the
11 City of Somersworth, New Hampshire.

12 We are one of the most densely developed and
13 populated communities in the state. We have embraced the
14 current permit and -- and during my three years, tenure as
15 Public Works Director, we have met all of our requirements
16 in our stormwater prevention -- our stormwater plans.

17 And briefly, reviewing these proposed requirements
18 in the year 2013 permit, it looks like you are proposing
19 some additional requirements with regard to IDDE. I think
20 these are laudable goals.

21 However, they present a significant challenge to
22 communities, particularly those with an old and aging
23 infrastructure. And we are -- we've been through the last
24 five years of economic challenges. We've seen our -- our
25 staffing levels and our budgets shrink.

1 And with these new requirements, the only way we
2 will be able to meet with them is to reverse that trend.
3 However, we don't -- I don't see the -- without significant
4 tax and fee increases, already on a burdened citizenry, it's
5 going to be a very significant challenge for us to comply
6 with them as I see them written.

7 Thank you.

8 MS. MURPHY: Thank you.

9 I have completed going through all the cards for
10 folks who said they wanted to speak.

11 I'm going to ask now if there is anybody in the
12 audience who would like to speak. Oh, there is more yeses.

13 MR. TEDDER: Those aren't all the cards.

14 MS. MURPHY: I'm sorry. You only gave me one
15 pile.

16 MR. TEDDER: Those are the -- you finished the
17 towns and now we're onto the rest of them.

18 MS. MURPHY: I have more cards. All right.

19 AUDIENCE MEMBER: You thought you were getting out
20 early.

21 MS. MURPHY: Okay. Sarah Marchant.

22 MS. MARCHANT: Good afternoon. Sarah Marchant,
23 Town of Amherst, Community Development.

24 My comment is based on the period of time between
25 finalizing the Draft Permit and implementation.

1 Being in a small community, and again reiterating
2 everybody's budget cycle comments, this permit has been
3 going on in Draft Permit for five years. And my board kind
4 of thinks I'm crying wolf at this point.

5 They don't believe me. It's coming. It's coming.

6 And so, I can't convince them to budget until I
7 have final language. And so, getting final language, and
8 then having, you know, to implement right away, is very,
9 very difficult for us.

10 So, if there is any way to extend that period from
11 the final draft language to the actual implementation date,
12 that would be extremely helpful in us trying to actually get
13 budgeting, because they don't believe me any more frankly.

14 So, thank you.

15 MS. MURPHY: Steve Pearlman.

16 MR. PEARLMAN: My name is Steve Pearlman. And I
17 am from Massachusetts. I work for a watershed association,
18 the Neponset River Watershed Association.

19 I'm here because we are told that our proposed
20 permit is going to be coming up pretty soon. And it's
21 highly likely to be based on what was proposed in New
22 Hampshire and what the public comments are in New Hampshire.

23 It's going to sort of set what we're going to get.
24 So, I had a few comments to make.

25 Overall, I view this proposal as much better than

1 both the 2003 permit and the 2008 proposal. Largely in the
2 fact that, the earlier proposals required Towns to do things
3 that, with no explanation of how they were supposed to do
4 them, or, do things which there is no way they could do.

5 For example, I believe, both the 2003 permit and
6 the 2008 permit said, you have to show in each annual
7 report, that you are not causing or contributing to a
8 violation of a water quality standard.

9 Well, good luck. Not too many Towns are going to
10 be able to do that the first annual report at any rate. And
11 some won't be able to do it in the fifth annual report.

12 So, there is a big section, 2.2.2, that says,
13 well, what are some additional BMP's that you should look
14 at. They don't require you to implement them. But, for
15 example, the Town ordinance could apply to parcels of less
16 than one acre, new development and redevelopment of less
17 than one acre.

18 If there is a TMDL, the Town ordinance could
19 require applicants for a stormwater permit to use BMP's that
20 are effective with that pollutant. You know, right now, it
21 is total suspended solids. If you have a bacteria TMDL, its
22 on ordinance for new development and redevelopment, or to
23 address bacteria.

24 So, there's a long list of those things, which
25 doesn't put you in the bind of -- and it is an iterative

1 approach. It says what you have to do the first year and
2 then, after three years, and then after five years.

3 So, while it is more specific, and may sound like
4 more work, it's actually, in my mind, clearer and easier to
5 do than the previous requirement.

6 Likewise, the -- while I sympathize with this cost
7 issue, and I understand it's real, we very much like the
8 electronic NOI. We think that's going to be easier for
9 people to do. And for watershed associations, frankly, now,
10 I'm sure this doesn't happen in New Hampshire, but in
11 Massachusetts, some Towns didn't do a very good job on their
12 notices of intent and didn't address all of the issues.

13 So, we had no way to compare Towns. And comparing
14 Towns in the watershed is useful. You say, look, everybody
15 else is doing this public education. You're not doing it.
16 That sometimes carries some weight.

17 So, we find that to be useful as well. And we
18 would request EPA to -- when the time is right, to create an
19 electronic report form so that too can be done more easily,
20 checking boxes, etcetera.

21 One comment we did have about this requirement for
22 Towns who are not -- who can't show that they are not
23 contributing or causing a violation is, as it applies to
24 MS4's discharged into waters without TMDL's. I don't quite
25 understand why that is.

1 It seems to me it ought to apply to both. In
2 fact, it might be -- it may be that there ought to be
3 tougher requirements if you have a TMDL. But, at a minimum,
4 the areas with TMDL's should be required to consider that
5 same list of additional BMP's.

6 And lastly, on that issue, most people are used to
7 looking at the six minimum control measures. That's where
8 they go in the regs to see what they're supposed to do. If
9 they are drafting an ordinance that's supposed to -- for new
10 development, they look there.

11 Well, there ought to be cross references from one
12 section to the other, those not in attainment, the
13 requirements that -- what your ordinance has to have or at
14 least what you must consider. And the normal requirement
15 for Town ordinances for post-construction stormwater.

16 So, people ought to look at both. Not too many
17 Towns are going to want to amend their stormwater ordinances
18 every two or three years. So, it's better to be proactive
19 in our view.

20 Now, you don't have to -- stormwater -- the
21 stormwater ordinance doesn't have to require that you do
22 these additional measures. They can say the stormwater
23 authority has the authority, if required, to meet the
24 requirements of the MS4 permit, has the authority to do
25 these extra things.

1 Well, that's -- I guess, that's largely what I
2 wanted to say.

3 Oh, just one other thing. And then, we'll do the
4 rest of our comments in written form.

5 And that is that we think that one of the measures
6 that Towns ought to look at, depending on local
7 circumstances, if they are not able to obtain water quality
8 standard is to show they are not contributing to a
9 violation. They ought to look at stream flow issues.

10 If they're pumping a water stream dry, that's
11 going to be hard for their stormwater discharge, if that's
12 the only water coming into the stream when it rains. It's
13 going to be hard to show that you are in compliance with
14 water quality standards.

15 So, they ought to at least consider pumping from a
16 different well, for example, in the summer months when the
17 -- when these streams are dry.

18 Thank you.

19 MS. MURPHY: Sumner Kalman.

20 MR. KALMAN: Okay. My name is Sumner Kalman. I'm
21 a lawyer. And I think there are 60 communities in New
22 Hampshire that probably should be talking to their lawyers.

23 I don't think you want to take anything said here
24 as a presumption -- as a presumption. And I'm not a member
25 of an environmental group. I basically am a lawyer who is a

1 little bit concerned representing several small Towns in the
2 Plaistow area, including Plaistow. And I'm going to point
3 out to -- and I think Sean, who is the Town Manager in
4 Plaistow may speak to it as well, when you get through this
5 whole process, and your permit is approved, obviously, the
6 EPA is going to want to make sure that you have satisfied
7 the requirements of the permit.

8 And if, in their opinion, you have not, then you
9 are introduced to the due process system, which includes an
10 administrative order from a group of lawyers in Boston. And
11 you start reading about yourself in the newspaper, \$37,500 a
12 day fines, etcetera, etcetera.

13 So, the first comment I would make is -- and I
14 would be willing to talk to or work with any of your
15 lawyers, if you want to talk about these things, but I
16 think, before you presume that everything included in these
17 regulations is necessarily legal and enforceable, that you
18 get some kind of an understanding from your legal counsel
19 because this is going to run you tens of millions of
20 dollars. We've already heard about that.

21 Just reading the article in the Dover newspaper,
22 from 70 odd thousand to 800 something thousand dollars per
23 year for these 60 communities.

24 Why just 60? Why is Concord excluded? Why are
25 certain other communities excluded? What was the basis for

1 including the 60 and not others? Those are the kind of
2 questions you may want to talk to your lawyer about.

3 Recent case, out of Virginia, called the -- it was
4 the Transportation Department of Virginia. It was decided
5 in January, the EPA had until March to appeal it. I don't
6 know if they have.

7 A challenge was raised concerning whether or not
8 water was sediment, was a pollutant. And the EPA takes the
9 position that it is.

10 And the question is -- this Judge in Virginia
11 looked at it and said, water is water, sand, pollutant,
12 sediment, whatever you want to call it. He decided -- the
13 Judge decided that water and sediment do not equal
14 pollutant.

15 So, when you start looking at the individual
16 definitions of water pollutants and yada yada, don't
17 necessarily take what the EPA represents to you as gospel as
18 gospel.

19 There are Judges who read these cases. There is a
20 Rapanos case that says that navigable waterways are what is
21 -- needs to be affected by what you're doing.

22 Some of your communities may be quite a distance
23 from what is a navigable waterway. Judge Alito says, if he
24 can't see a ship, it's not navigable.

25 And those are all issues that you need to look at

1 and not take for granted, just because you're told that this
2 is a pollutant or this is necessarily jurisdictional.

3 So, long story short, I'm sure these people are
4 thrilled to have me here, I'm sure. But, number one, talk
5 to your lawyer. Number two, take nothing for granted.

6 Number three, don't rely on the EPA to tell you
7 what the law is. Number four, be ready because, if these
8 permits come through and you do not "satisfy" what the
9 permits require you to do, I don't think the lawyers in
10 Boston are chosen for their charm. They are quite tough and
11 demanding. You will read about yourself in the paper.
12 You'll be embarrassed. \$37,500 a day. Your fine is in the
13 millions, yada yada.

14 So, it's very serious. What is happening here is
15 very serious. You are all very -- obviously taking it
16 seriously. But, I'm saying, there are certain items that
17 could be nipped now, if the EPA took a reasonable route.

18 Concluding, I want the water clean, yada, yada,
19 all of that as well. But, the bottom line is, it gets
20 oppressive at some point. And you are setting yourself up
21 for a permitting requirement that probably is unattainable
22 or unreasonable.

23 So, concluding it the way I began, if you've got
24 60 communities, you've got 60 lawyers. You ought to have
25 your lawyers look at all this, read the recent case law.

1 The EPA hasn't been doing very well in court lately.

2 And if you don't do it now, as you heard earlier
3 today, if you don't challenge the rule making within a
4 certain period of time, and take an appeal to the First
5 Circuit, then, you have probably, by not doing that, made it
6 impossible for you to challenge those regulations in the
7 future.

8 So, they have created a very narrow window for
9 you. If you don't take them up on that challenge now and
10 you decide after these \$37,500 fines start accruing against
11 you, that you want to challenge those regulations, it'll
12 probably be too late.

13 So, please talk to your counsel.

14 MS. MURPHY: I have a name, Thea Valvanis. And
15 you have a yes and a no.

16 MR. KALMAN: This is Attorney Valvanis.

17 MS. MURPHY: So you're a no. Okay.

18 Thank you.

19 Okay. Bill Arcieri.

20 MR. ARCIERI: Bill Arcieri. I am a Water Resource
21 Consultant with VHB. And I have just one general comment
22 that is somewhat technical in nature.

23 And this affects the communities that are in the
24 Great Bay Watershed. And that is, the nitrogen load
25 reduction credits that are available in Attachment 1 of

1 Appendix H seem very limited and they're limited to just
2 structural BMP's, as opposed to the phosphorus reduction
3 credits that are in Attachment 2 of Appendix F, which
4 includes various management measures, including catch basin
5 cleaning, street sweeping, litter control, phosphorus
6 control and fertilizers.

7 So, it would seem, and I'm wondering if you're
8 going to provide that same level of nitrogen load reduction
9 credits management measures for nitrogen in Appendix H, I
10 guess, for nitrogen. It seems, on balance, there should be
11 that same level of number of management measures and types
12 of management measures for nitrogen load reduction credits.

13 The second part of that is, the phosphorus control
14 measures allows for alternative methods to be used for
15 determining load credits. And I wonder if, also, if you
16 would allow that same provision to be in for nitrogen load
17 reduction credits as well.

18 And I can submit that in writing as well. Thank
19 you.

20 MS. MURPHY: Thank you.

21 Aubrey Strauss.

22 MS. STRAUSS: First, the attorneys, and now the
23 consultants. I can't believe there's not a rush for the
24 door.

25 My name is Aubrey Strauss. I work in the

1 Portland, Maine office of Tata and Howard. I have been
2 active with the Seacoast Stormwater Coalition for a few
3 years and I am the facilitator for Central Massachusetts
4 Regional Stormwater Coalition which is growing to 30 members
5 next week.

6 I have two comments of sort of an administrative
7 nature and then, three technical comments.

8 The first comment is that, actually, I think Sarah
9 Marchant from Amherst said it better than I was planning to,
10 that, we understand that EPA is being more flexible with the
11 dates of coverage for the permit once it becomes final.

12 I think that is absolutely excellent and really
13 important for these communities. So that, they are able to
14 plan out the funding to implement it properly.

15 I think one of the things that definitely scares a
16 lot of clients is -- our clients is that gap in funding.
17 So, I think that is excellent, and I encourage that.

18 Secondly, along the same lines of flexibility,
19 with respect to illicit discharges removal, the phrase in
20 the permit right now is immediately commence actions, which
21 is a little bit scary, especially when you are dealing with
22 utilities that may be owned by districts that are on an
23 entirely different funding schedule than the permittee
24 itself.

25 So, I would encourage flexibility too. And it's

1 in there in terms of scheduling and planning out a calendar
2 for the removal of that. That is definitely a step in the
3 right direction. And I think that that is going to get
4 overall more reductions and eliminations of those illicit
5 discharges.

6 So, I think that that is an excellent addition as
7 well.

8 From a technical standpoint, I think again, it is
9 a great step in the right direction that we can use field
10 kits and meters for the screening. That is absolutely vital
11 in saving money.

12 I would actually request to take that a step
13 further. And two things, first of all, have the agency
14 consider approving orthophosphate for use as a surrogate for
15 total phosphorus, which has a lot of functional field
16 restrictions associated with it. Very hard to do in the
17 field.

18 And then, once that decision has been made, to
19 publish a list of approved field kits and meters that will
20 make it easier for these communities to know what they
21 should purchase and taking it yet a step further, to even,
22 perhaps, encourage that some funding be used on a --
23 allocated to some of the stormwater coalitions or other
24 regional groups to do bulk purchasing of those kits and
25 those meters to make it easier for the communities to get

1 what they need now that they know what they need.

2 Tata and Howard will submit formal comments as
3 well. Thank you.

4 MS. MURPHY: Thank you.

5 Brian Goetz. I'm sorry if I pronounced your name
6 incorrectly.

7 MR. GOETZ: It's Goetz.

8 MS. MURPHY: Okay.

9 MR. GOETZ: All right. My name is Brian Goetz. I
10 am with Tighe Bond.

11 And just reading some comments from staff who have
12 reviewed this, I have some comments already made. And just
13 recently, the comment on the monitoring, though improvements
14 have been made to the outfall monitoring, such as limiting
15 the parameters and allowing field test kits to be used,
16 there are still concerns regarding the value of the
17 information obtained and the follow up required to track
18 suspected illicit connections.

19 Compliance with this requirement is going to
20 require a substantial manpower cost training. And the data
21 has to be valid to be useful. So, like it was just said,
22 those conditions and requirements should be looked at and
23 made sure they are clear to those collecting the data so
24 that in future years, it is useful.

25 Regarding the time frame for developing mapping,

1 especially for the smaller communities, we would recommend
2 some type of long term or phased approach to the mapping so
3 that it could be comprehensive, affordable and accurate.

4 And lastly, as also noted by others, that the time
5 frame of being able to budget and phase these projects in
6 for communities taking into account, as was said by others,
7 the mostly July to June time frame, and the budgeting cycle
8 that generally commences in the fall of every year so that
9 the communities can know what they have to do and then have
10 a time period to get the funding to do so.

11 So, thank you. And we will submit in writing at a
12 later date.

13 MS. MURPHY: Thank you.

14 Chris Albert.

15 MR. ALBERT: Chris Albert, consultant representing
16 the Town of Epping.

17 The Town of Epping is one of the 15 waiver
18 communities. At this time, we'd like to comment for an
19 extension of the public comment period until those waiver
20 requests have been determined.

21 The rationale is that, DES actually sent out
22 waivers to the 15 communities which they did submit, feeling
23 that they would get waived.

24 So, most of these Towns haven't even looked at
25 what the impacts are going to be from a financial aspect to

1 go through the 500 page documents. So, we'd like to have
2 more time knowing if we are on board or not. And then,
3 after that, we'd have more time to comment.

4 And the Town of Epping will be submitting a
5 written statement. Thank you.

6 MS. MURPHY: Thank you.

7 Robert Roseen?

8 MR. ROSEEN: No comment at this time. Thank you.

9 MS. MURPHY: Okay.

10 Sean Fitzgerald?

11 MR. FITZGERALD: Hi. Good afternoon.

12 MS. MURPHY: Good afternoon.

13 MR. FITZGERALD: Good afternoon. Happy early St.
14 Patrick's Day. And I want to thank my colleagues from the
15 EPA for their work.

16 I am the Town Manager in Plaistow, New Hampshire.
17 I have been the Town Manager for the last four and a half
18 years.

19 I arrived two weeks before the ice storm. And
20 within three weeks, I received a phone call from the EPA
21 notifying me that we would be facing an administrative order
22 for our failure to comply with the MS4 permit.

23 I received that phone call because I had an
24 emergency generator stuck to the side of Town hall. We
25 spent 10 days without power. And we were struggling.

1 As small municipalities, New Hampshire is unique.
2 We have a lot of challenges.

3 One of the concerns I have with this updated MS4
4 permit is that it fails to recognize how difficult it is for
5 us to fund things off of our real estate tax base.

6 The Town of Plaistow, New Hampshire has the
7 highest unemployment rate in Rockingham County. We struggle
8 with many of the challenges that our sister municipalities
9 in New England deal with. But, we fund them off the real
10 estate tax base.

11 I think this permit fails to recognize how unique
12 New Hampshire's challenges are when it comes to how we
13 manage our responsibilities. The fiduciary responsibilities
14 incumbent upon all of us do not exempt us from protecting
15 our environmental water quality responsibilities. We want
16 to be strong partners with our State and Federal agencies.

17 But, I think there's a better way. I would ask
18 EPA to continue to work with municipal leaders, invite us to
19 more focused discussions and come up with a model that best
20 supports how we share these responsibilities.

21 Plaistow is home of one of the biggest Superfund
22 sites in New England, the BD waste oil site. I spend many
23 of my weekly hours supporting our shared environmental
24 responsibilities to build a brighter, cleaner future for our
25 nations' and our states' and communities' responsibilities.

1 Let's find a more constructive model.

2 When we look at transportation, we work with
3 regional planning associations. We work with billions of
4 dollars worth of responsibilities to help us support these
5 important responsibilities.

6 Why would we not look at a regional model for our
7 watersheds.

8 Our Town report has a copy of our watersheds in
9 it. They are not consistent with municipal boundaries that
10 define our State's Municipal Cities and Towns. Our
11 watersheds should have that regional focus.

12 We have an extraordinary Regional Planning
13 Commission. It would seem reasonable to me, as they deal
14 with all of their responsibilities, that we invite that
15 broader focus and we finance it in broader ways.

16 These are huge priorities. When we look at all of
17 the responsibilities into this permit, I'd look at the list
18 of expectations.

19 We -- in Plaistow, we have the Little River. It
20 is an impaired river. We have to get our maximum daily
21 loads down by 80 percent. I can't even begin to tell you
22 how costly that will be.

23 It cost us close to \$2500 to test for illicit
24 discharges this past year. We identified some contaminants.
25 And that's not insignificant when you look at how many of

1 these tests we have to do. Hundreds. And we have to rule
2 out these contaminants.

3 We were able -- we had to send our tests down to
4 Florida to determine that we had found something other than
5 a human or a bird that was contaminating a watershed.

6 I bet there's a better way for us, in government,
7 to manage some of these costs. I bet there is a better
8 model.

9 I think that, when we look at how the MS4 is
10 thrust upon municipalities, that there is a better way. And
11 I bet, there are responsible public administrators and
12 managers, legislators that could work with the EPA to ensure
13 that a lot of the good work that we hope to achieve in this
14 permit is not done in a way that financially imposes
15 outrageous burdens on Cities and Towns that are already
16 struggling with enormous challenges.

17 As a manager, I pledge to work with the EPA to
18 support this. But, I see that there are very troubling
19 positions -- there are very troubling costs associated with
20 this.

21 The Town's Solicitor, Attorney Sumner Kalman, has
22 spent a lot of time working with municipal leaders in
23 Plaistow and beyond to try to coordinate an open hand so
24 that we can share these responsibilities.

25 I would hope that the comment period is extended.

1 And I would hope that specific outreach to municipal
2 managers and communities can be coordinated to look at
3 different models that would most appropriately allow us to
4 regionally address watershed challenges.

5 Thank you.

6 MS. MURPHY: Thank you.

7 Leigh Komornick.

8 MS. KOMORNICK: Hi. My name is Leigh Komornick.
9 I am the Town Planner from Plaistow.

10 And it's kind of an appropriate follow up to our
11 Town Manager -- my Town Manager, Sean Fitzgerald's comments
12 because, I am one of three or four people in Town who make
13 up our Stormwater Management Task Force. And another one of
14 them is sitting in the audience right now. And he is a
15 volunteer on our Planning Board and Conservation Commission.
16 He doesn't make a dime, but goes out and tests the water
17 every year in Plaistow and has put his best foot forward to
18 help us with this MS4 permit program.

19 I guess, you know, the whole idea of the
20 additional work load is daunting.

21 And the other -- I know this is a public hearing
22 for comment. But, I'd like to put this in the record, as a
23 question that, if the discharges for the impaired water with
24 an approved TMDL are specified by community that are MS4
25 communities, and they indicate, for example, they are in the

1 Merrimack River Watershed, but, in our town, it is the
2 Kelley Brook and Seaver Brook, not Little River which Little
3 River is, indeed, Kelley Brook and that is what runs into
4 the Merrimack River.

5 But, when you look at Hampstead, which is our
6 neighbor to the north, they are listed in the Appendix F as
7 Sunset Lake Beach. There is no discussion about Little
8 River.

9 And so, I guess, I'm just wondering, why -- how we
10 would ever be able to determine regionally, as Sean has been
11 proposing, how we are supposed to work together if we are
12 not working on the same water bodies, which maybe they link.
13 But, if they are called out, that all they have to look at
14 in Hampstead is Sunset Lake or Wash Pond, but in our town,
15 we have to look at the entire stretch of Kelley Brook,
16 Little River, which feeds into the Merrimack River in
17 Haverhill, Massachusetts, then, you know, what -- it's -- I
18 just -- it gets the sense of chasing our tails. Because, if
19 one of the impairments -- if we determine that, at the
20 boundary, coming into Hampstead Little River, Kelley Brook
21 is impaired, it is impaired before it comes into Plaistow,
22 then we're -- you know, and we have to reduce it by 80
23 percent, how does that ensure -- how are we ensured that
24 we're going to reach that if we are not working with our
25 neighbor to the north. And they are not clearly identified

1 as looking at the Little River Watershed and Merrimack.

2 So, it's very confusing. I think that that was a
3 big question that was raised for me, as I look at it as kind
4 of a technical level planner.

5 And, you know, I -- over the years, the last few
6 years, we have been working very hard to report numerous
7 sites that have issues with wetlands and so forth. And I
8 think there was one gentleman, Ed Lewis who works out of
9 this office, that is responsible for the whole region down
10 there to respond to all of these requests. He does a great
11 job.

12 But, you know, I know there are many more that
13 could be being looked at. And so, and I think, our Town
14 Manager Sean mentioned that he was at a hearing that the EPA
15 person that spoke indicated he was furloughed.

16 So, you know, where are we going with this. How
17 are we going to fund it. How are we going to staff it.

18 And yet, I understand the importance of the whole
19 stormwater pollution runoff and so forth.

20 I guess that's really it. Thank you.

21 MS. MURPHY: All right. Now, I really am out of
22 cards. And if there is anybody who would like to speak, I
23 open the floor now for somebody who said they didn't want to
24 speak, but now have felt that they have something they want
25 to add. Now is your chance.

1 MR. QUIRAM: We can follow up?

2 MS. MURPHY: You have a follow up?

3 MR. QUIRAM: Yeah.

4 MS. MURPHY: Okay.

5 MR. QUIRAM: Again, Carl Quiram, Town of
6 Goffstown.

7 In the '08 draft, one of the comments we made was
8 an oversight in the first round of permits was our school
9 district and public buildings in the school district.

10 And we, quite frankly, never even thought about
11 them because they were a separate entity politically. And
12 so, I guess, to keep on the request for compliance time, the
13 school district in our town is even on a different funding
14 cycle.

15 So, even if I was to tackle it with our board, the
16 Board of Selectmen and the School Board need to work out
17 some kind of arrangement. The School Board has a different
18 fiscal cycle than the Town.

19 So, I just see that being a major administrative
20 headache to work through. And I think the school district
21 is going to need some time to get their hands around if they
22 want to jump on with the Town or do their own thing.

23 So, I just think that's a significant comment as
24 well.

25 MR. SCOTT: I have a question of the EPA. Has the

1 EPA --

2 THE REPORTER: I am sorry, sir. I need you to
3 introduce yourself again.

4 MR. SCOTT: David Scott, Dover.

5 Has the EPA made any estimate of what this is
6 going to cost per individual, per homeowner?

7 MS. MURPHY: I don't know if you were here at the
8 beginning of the hearing, but this is not -- we are not
9 having a question and answer session. So, we are not
10 answering questions at this hearing. We are only accepting
11 comments right now.

12 MR. SCOTT: How would I find that answer? Because
13 you have a time frame in which case, if a Town does not
14 answer in time, they could get fined a large amount of
15 money.

16 But, I think, if the EPA has done some work on
17 this, they would have some idea of what the cost is per
18 homeowner.

19 MS. MURPHY: There are -- in our response to
20 comments document, there is some information on costs. So,
21 if you go on our web site and review the response to
22 comments document, there are some responses about the cost
23 to implement the permit.

24 And that's -- I'm going to cut the questions now
25 and we are only going to be taking comments.

1 So, if you have additional questions, please put
2 them in writing and submit them as comments.

3 Any other comments from people?

4 Okay. I want to thank everybody for coming this
5 afternoon and for your interest in the permit.

6 As a reminder, all of the General Permits and
7 appendices are available on our web site. Remember the
8 comment period ends on the 15th. We will take into account
9 the requests for an extension.

10 And I close this hearing.

11 (Off the record from 3:21 p.m. to 4:40 p.m.)

12 MS. MURPHY: Okay. It is 4:40 p.m.

13 There have been no additional people who have
14 shown to make any comments. So, we are officially closing
15 the hearing today.

16 Thank you.

17 (Whereupon, at 4:41 p.m., the hearing was
18 concluded.)
19

CERTIFICATE OF REPORTER AND TRANSCRIBER

This is to certify that the attached proceedings
before: U.S. ENVIRONMENTAL PROTECTION AGENCY
in the Matter of:

RE: NPDES DISCHARGE PERMIT FOR
NEW HAMPSHIRE SMALL MUNICIPAL STORM SEWER SYSTEM (MS4)
NPDES PERMIT NOS. NHR041000, NHR042000 and NHR043000

Place: Portsmouth, New Hampshire

Date: March 14, 2013

were held as herein appears, and that this is the true,
accurate and complete transcript prepared from the notes
and/or recordings taken of the above entitled proceeding.

M. Rossi

03/14/13

Reporter

Date

M. Rossi

03/28/13

Transcriber

Date