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**EPA PUBLIC HEARING - STORM WATER, 02/15/05**

**APEX Reporting**

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 [ 3] UNITED STATES OF AMERICA  
 [ 4] ENVIRONMENTAL PROTECTION AGENCY  
 [ 5] BOSTON REGION  
 [ 6] In the Matter of:  
 [ 7] PUBLIC HEARING:  
 [ 8] RE: STORM WATER NOTICE OF INTENTS  
 [ 9] FOR THE FOLLOWING MUNICIPALITIES:  
 [10] Town of Brookline  
 [11] City of Cambridge  
 [12] Town of Dedham  
 [13] Department of Conservation and Recreation,  
 Urban Parks and Recreation  
 [14] Town of Needham  
 [15] City of Newton  
 [16] City of Waltham  
 [17] Town of Watertown  
 [18] Town of Wellesley  
 [19] City of Weston  
 [20] O'Neill Federal Building  
 [21] 10 Causeway Street  
 Boston, Massachusetts  
 [22] Tuesday  
 [23] February 15, 2005  
 [24] The above entitled matter came on for hearing,  
 [25] pursuant to Notice, at 1:00 p.m.

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[ 1] BEFORE:  
 [ 2] On Behalf of the Environmental Protection Agency:  
 [ 3] DAVID M. WEBSTER, Chief, Industrial Permits Branch  
 THELMA MURPHY, Regional Storm Water Coordinator  
 [ 4] Office of Ecosystem Protection  
 EPA-New England, Region 1  
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[1] PROCEEDINGS  
 [2] (1:00 p.m.)  
 [3] MR. WEBSTER: Good afternoon, ladies and [4] gentlemen.  
 This afternoon's hearing concerns the notices of [5] intent which  
 summarize storm water management plans [6] submitted by the  
 municipalities of Brookline, Cambridge, [7] Dedham, Needham,  
 Newton, Waltham, Watertown, Wellesley and [8] Weston, and the  
 Massachusetts Department of Conservation and [9] Recreation, for  
 coverage under the general permit for storm [10] water discharges  
 from small municipal separate storm sewer [11] systems,  
 sometimes called small MS4s. This hearing shall [12] come to  
 order.  
 [13] My name is David Webster; I am the Chief of the  
 [14] Industrial Permits Branch with the New England Region of the  
 [15] United States Environmental Protection Agency. The other  
 [16] member on today's public hearing panel is Thelma Murphy,  
 the [17] Regional Storm Water Coordinator for EPA New England.  
 [18] I will briefly describe the background for the [19] hearing, as  
 well as explain how the hearing will be [20] conducted. I  
 appreciate you making do with the [21] accommodations here. If  
 you have a cell phone, you may want [22] to turn it off or put it on  
 vibration so we can not be [23] interrupted during the meeting.  
 [24] EPA has the authority under Section 402 of the [25] Clean  
 Water Act to issue permits to regulate, among other

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[1] things, certain storm water/waste water discharges from [2] point sources into waters of the [3] United States. [4] On May 1st, 2003, EPA New England issued a general [5] permit for storm water discharges from small municipal [6] separate storm sewer systems in Massachusetts. In order to [7] obtain permission to discharge under this general permit, [8] municipalities were required to submit a notice of intent, [9] or you may refer to as NOI, by July 30th, 2003. The notice [10] of intent summarizes how the municipality will implement the [11] storm water management program required by the general [12] permit. On October 3rd, 2004, EPA made available for public [13] comment the notices of intent received by the agency. This [14] hearing is being conducted by the EPA in order to receive [15] public comment on the notices of intent for nine [16] communities, the nine that I mentioned previously, and the [17] notice of intent for the Massachusetts Department of [18] Conservation and Recreation. [19] We had a number of copies of the notice of intents [20] which were available over by the table, and while I'm [21] thinking of it, Shelly Pulio in red is from EPA and is [22] helping you with the registration or any of your needs along [23] those lines. So, there's copies of those notice of intents. [24] We've also provided a fact sheet explaining the municipal [25] storm water permitting program over on that table.

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[1] Today we are accepting oral statements, but to [2] ensure accuracy, it's important the comments should be [3] submitted in writing. Oral statements should summarize [4] extensive written materials to allow time for all interested [5] parties to be heard. [6] The public hearing is being recorded. Any person [7] who'd like to listen to the tape may make arrangements with [8] EPA during normal business hours. We're also going to try [9] to, in a few weeks, get a copy of the transcript available [10] on EPA's web page. [11] Both oral and written comments received today, as [12] well as those written comments submitted during the public [13] comment period, will be fully considered by EPA. The Agency [14] intends to seek input from the communities on the comments [15] so that EPA is fully informed of any issues raised by the [16] comments. After evaluating the information from the [17] commentators and the communities, EPA will determine whether [18] any changes in the communities' storm water programs are [19] necessary. We will make available any correspondence that [20] results from our evaluation on our storm water web site. [21] That web site is [www.epa.gov/ne/npdes/stormwater](http://www.epa.gov/ne/npdes/stormwater). [22] This an informational, non-adversarial hearing [23] without cross-examination of either the commentators or the [24] panel. We as the panel will confine our questions to points [25] of clarification for the record. All the comments received

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[1] and the supporting material are open to the public and may [2] be inspected during normal business hours at EPA's Boston [3] office. [4] The public comment period closes at midnight [5] February 17th, 2005, unless extended by the Hearing Officer [6] prior to the closing of the hearing today. [7] Let me say a little bit about the order of [8] comments. First we'll allow the municipalities to make a [9] short, concise presentation if they have filled out a card. [10] First I should say that if you didn't on the way in and you [11] wish to make a statement, why don't you get a card from [12] Shelly and fill that out and we'll try to manage the agenda [13] that way. If you're inspired part way through the hearing, [14] you can still do that. I will use the attendance cards to [15] call on people who wish to comment. Speakers should come to [16] the podium and speak. I ask when you come up please say [17] your name slowly, spell your last name for the stenographer, [18] and give your affiliation if you have one and you wish to. [19] I will start by taking comments by representatives [20] of any of the municipalities whose notice of intents are [21] part of the hearing; then I'll call upon, if there are any [22] elected federal officials, state officials, or local [23] officials; then any groups and then individuals of the [24] public. [25] Given the number of people that we have here

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[1] today, I will try to give ample time for comments, but I [2] request that you initially limit your comments to five [3] minutes or ten minutes maximum. If at that time you have [4] not finished, I'll ask you to defer and we'll come back at [5] the end of the program if you still want to give your [6] comments; but also be aware you can submit your comments in [7] writing as well for our consideration. [8] Let me call on first, Robert F. Velechi who is [9] from the City of Watertown, City Solicitor's office. [10] MR. VELECHI: We're not going to comment at this [11] time, sir. [12] MR. WEBSTER: Okay. [13] MR. VELECHI: Did you say Watertown or Waltham? [14] MR. WEBSTER: Waltham. Did I say Watertown? I'm [15] sorry. Waltham. [16] John M. Bradley, Director of Public Works in [17] Waltham. [18] MR. BRADLEY: I have no comments at this time, [19] sir. [20] MR. WEBSTER: Well, let me do a check. Are there [21] any elected officials in the audience that wish to speak? [22] Are there any other state government or federal [23] officials not elected that would like to speak? [24] Then I'll next call Roger Frymire. [25] MR. FRYMIRE: Thank you. My name is

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[1] Roger Frymire, F-r-y-m-i-r-e. I'm going to speak [2] specifically to the DCR, Department of Conservation and [3] Recreation. [4] Approximately four years ago I notified engineers [5] there and sent them digital pictures which showed that the [6] Harvard Bridge, one of the most recently renovated, most up- [7] to-date modern bridges that they own, had severe drainage [8] problems. Eighty percent of the drainage from the bridge at [9] that time was clogged; I showed them evidence that the [10] expansion joints in the bridge were deteriorating and open [11] gaps were forming because of the retained water and water [12] and salt damage; and also that the roadbed itself had [13] started to deteriorate and form a pothole. The response I [14] got was that they patched the pothole.

[15] The drains on DCR bridges are in a total state of [16] disrepair and non-maintenance. The Harvard Bridge, again, [17] is 80 percent clogged. The River Street Bridge, concrete [18] structure, a little older, has concrete chunks falling off [19] of it; there were icicles forming underneath the bridge just [20] a week ago because water is being retained on the bridge. [21] There is a gas main that goes underneath that bridge which [22] is leaking, you can smell gas on the Boston end of the River [23] Street Bridge. And right next to where you can smell gas, [24] you look down and there is a catch basin full up to the [25] surface of the road with sand. This isn't good.

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[1] Apparently instead of the Governor's fix-it-first [2] policy, the DCR is attempting to break everything first so [3] that then they can fix it. The Anderson Bridge at Harvard [4] Square has catch basins, again full to the surface with sand [5] with grass growing out of them. The parkways that the DCR [6] manages are in equally bad if not worse shape. Except for [7] the small portion of Memorial Drive which was just rebuilt [8] under the Historic Parkways Program, almost no road drains [9] along Memorial Drive and large sections of Storrow Drive and [10] Soldiers Field Road function at all. The roads fill up with [11] water. This is a problem. The water is splashed over into [12] the adjoining park land, contaminating the parks with excess [13] sand and with road salt, killing off vegetation. The water [14] that flows overland to the river is causing erosion problems [15] and is washing park land into the river.

[16] Besides the water washing overland, there's the [17] additional problem of boat wakes causing erosion, and along [18] the portion of Storrow Drive that's in front of the Harvard [19] Business School, by my own estimation from going out in a [20] kayak and seeing how far out in the river the riprap which [21] used to be the shoreline exists and where the shoreline is [22] now, I estimate that two acres of DCR park land has been [23] washed into the river in just that short section in front of [24] the Harvard Business School. [25] Snow plowing has been in the news lately, and when

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[1] I was walking along the Boston shore along Storrow Drive [2] near River Street again last week, I saw several sections [3] where snow with large amounts of sand and road contaminants [4] had been plowed into the river or onto steep parts of the [5] riverbank where it will quickly melt and wash into the [6] river. I was unable to see a DCR NOI for this storm water [7] permit until today - I didn't think they'd even submitted [8] one at all - and I believe that they're going to need a lot [9] of additional oversight and probably a separate permit with [10] additional terms, and we hope they can get some money to [11] start doing regular maintenance, simple catch basin [12] cleaning, unclogging the storm drain laterals that go to the [13] river.

[14] This water I've talked about that runs off the [15] bridges that pools on the roads such as Memorial Drive, in [16] sections in combined sewer areas of Cambridge this water [17] continues across Memorial Drive and right on into Cambridge [18] where it's adding to the load on the sewer system and adding [19] to our combined sewer overflows.

[20] That's enough for now. Thank you very much.

[21] MR. WEBSTER: Thank you, Mr. Frymire.

[22] Next I'm going to Carol Lee Rawn from the [23] Conservation Law Foundation.

[24] MS. RAWN: Actually we're with CRWA, so, if you [25] wouldn't mind if they went first, I'll follow them.

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[1] MR. WEBSTER: Which do you want, Kathy, or Kate, [2] or Bob?

[3] Kate Bowditch, Charles River Watershed [4] Association.

[5] MS. BOWDITCH: Yes. Thank you very much. Good [6] afternoon. It's great to see so many people out to talk [7] about storm water.

[8] Again, for the record, my name is Kate Bowditch; I [9] represent the Charles River Watershed Association and I'm [10] here today representing us. We are, as Carol Lee indicated, [11] working together with the Conservation Law Foundation [12] assessing storm water and other impacts to the Charles [13] River, and I'm going to focus my comments specifically on [14] the Department of Conservation and Recreation, or DCR's NOI [15] for their storm water facilities and storm water management [16] program.

[17] Kathy Baskin, also from Charles River Watershed [18] Association, will be talking specifically about the [19] municipalities' notices of intent. And I think [20] Carol Lee Rawn will talk about some of the - probably [21] both of them from the legal context.

[22] As many of you know, the Department of [23] Conservation and Recreation has a huge number of facilities, [24] parks and roadways in the State of Massachusetts and a lot [25] of those drain into the

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[1] Charles River, and so that's the reason that we've been [2] specifically looking at their storm water management plans [3] and specifically looking at the notice of intent that was [4] filed, the subject of this hearing.

[5] I have to say, having reviewed a lot of notices of [6] intent and looked at a lot of storm water management plans, [7] I haven't seen anything that is as obviously grossly [8] deficient as those things that have been defiled by DCR. [9] They clearly do not have the resources to invest in anything [10] like what needs to be done to manage storm water from their [11] own properties, and I think that's sort of the over-arching [12] comment and concern that we have about this process.

[13] We've all seen, as has been referred to earlier in [14] this proceeding, the fact that DCR does have a lot of [15] problems on their plate, with snow, for example. It's been [16] pretty obvious to all of us that they're not getting the [17] resources that they need to do a tremendous amount of their [18] work, and unfortunately storm water is yet another area [19] where they just have not put in anything like adequate [20] resources.

[21] They have filed a number of notices of intent for [22] different areas of their system. None of those notices of [23] intent on our review meet the requirements of the program. [24] Probably the most disturbing factor for us is that they have [25] not even filed an annual report. They don't have any kind

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[1] of the basic BMPs, best management practices that are [2] standard in place. They don't have operations and [3] maintenance programs in place. They don't seem to have any [4] way to record or report on any of the work that they're [5] doing, if they're doing any. And so it's clear that the [6] reason that this whole program is in place is to make people [7] do that and see where more work needs to be done, and in the [8] case of DCR you could pretty much start anywhere and see [9] that more work needs to be done.

[10] A couple of specific things. As Mr. Frymire has [11] testified to, obvious real capital problems, maintenance [12] problems, things that either have never been evaluated or [13] installed, all kinds of collapsing catch basins, catch [14] basins that are totally full and dysfunctional, storm drain [15] pipes that have collapsed and can no longer carry any water [16] anywhere, crumbling roads, eroding banks, a whole litany of [17] problems that lots and lots of observation have shown. [18] There's nobody probably in the Greater Boston area who's [19] done more specific examination of more sites than [20] Roger Frymire. I've looked at a lot of the parkways as [21] part of my work, and it's just systematically across the [22] whole DCR region, at least in the Charles, a major, major [23] problem.

[24] Charles River Watershed Association and the [25] Conservation Law Foundation are submitting a comment letter

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[1] and I'll just summarize a few of the basic points here.

[2] There are several things that we believe [3] absolutely must be done. First, we would like EPA to render [4] new decisions on the DCR's notices of intent after review of [5] the issues raised in this hearing. We believe that EPA [6] should consider denying coverage under the general permit [7] for at least some of DCR's areas that are covered under [8] their notices of intent. EPA should require DCR to submit [9] adequate notices of intent, which they have not yet done, or [10] to pursue an individual permit for some areas where that is [11] deemed appropriate. EPA should require the Department of [12] Conservation and Recreation to submit notices of intent for [13] those areas for which it has not yet done so. There are [14] many areas of DCR's areas that they have not submitted any [15] notices of intent for, and so under the law if they are [16] discharging from those areas they don't have a permit and [17] they're in violation of the law.

[18] We also urge EPA to consider the possibility of [19] taking enforcement action and requiring DCR to meet a strict [20] schedule to bring the department into compliance if it deems

[21] it necessary after a thorough review.

[22] As I said, we have submitted – we will be [23] submitting – excuse me – written comments to this effect [24] but I don't want to go on too much longer than that. Thank [25] you.

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[1] MR. WEBSTER: Thank you.

[2] Kathy Baskin, Charles River Watershed Association.

[3] MS. BASKIN: Thank you. Kathy Baskin, Charles [4] River Watershed Association. I'm a projects director for [5] the association and a 10-year member of the Clean Charles [6] 2005 initiative which was started by EPA in 1995, along with [7] CRWA and EPA, the DEP and other non-profits are members, as [8] well as the nine communities that we're commenting on today. [9] All of the participants have worked very hard toward [10] achieving a swimmable and fishable Charles River by 2005. [11] The communities have spent millions of dollars to remove [12] millions of gallons of illegal discharges of waste water to [13] their storm drains resulting in a very big improvement, a [14] huge improvement in water quality. EPA has a letter grade [15] system which gives the public an indication of what the [16] water quality looks like in terms of meeting these goals of [17] fishable and swimmable. In 1995 I believe the river got a [18] "D." A few years later the river got a "B." Since then, [19] now we're going back probably at least five years – I'm [20] sorry I don't have the exact dates – this "B" has – we've [21] leveled off in terms of improvements. Occasionally the [22] grade has actually dipped to a "B-," and we feel that there [23] is still work to be done by all participants in the Clean [24] Charles 2005 initiative. Now, maybe we're not going to hit [25] the goal of a swimmable river in three months, but we

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[1] certainly feel that this is an important objective for the [2] river and that we should all be working toward it.

[3] Charles River Watershed Association feels that the [4] NPDES process is the only regulatory hook that we have and [5] the best opportunity to work with the communities to help [6] them with storm water issues. The river declines in water [7] quality during wet-weather events, not only in the combined [8] sewer areas, which are discharges that are not related to [9] the storm drains that we're talking about today, but also in [10] areas that are only served by separate systems which have [11] the storm drain systems we're talking about. So, we feel [12] that while some of the communities have very good notices of [13] intent and others have areas where they could improve, that [14] the communities should be working in a holistic way to help [15] reach the objective of a clean Charles.

[16] We ask that EPA consider issuing a geographically [17] based permit to the communities so that they have uniform [18] goals that they're all working toward, and we ask that the [19] communities work together to share lessons learned. We know [20] that since this work has started in 1995, you have a long [21] track record of trying out programs related to storm water [22] and have an idea of what's successful and what's not, but I [23] don't know that there's been a great opportunity for the [24] communities to share that information, and we think that [25] this is time for the communities to do so.

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[1] One area where I think communities, most [2] communities can improve is helping or defining what their [3] measurable goals are in notices of intent. There are great [4] examples of bylaws that have been passed by some [5] communities. Other communities have pushed out up to five [6] years the adoption of a bylaw. But I think that communities [7] who have issued a bylaw can assist those who have not. [8] That's an example. But there are other places where maybe [9] there's public education where the town that's getting [10] information about a bylaw can reciprocate with information [11] about public education.

[12] We request that EPA review the NOIs with respect [13] to these - with respect of these issues in mind, and we [14] would like to be part of the process with the communities [15] and EPA in terms of moving forward together on these goals [16] of a clean Charles.

[17] Those are my comments. Thank you.

[18] MR. WEBSTER: Great. Thank you very much.

[19] Next hear Robert Zimmerman.

[20] MR. ZIMMERMAN: My name is Robert Zimmerman and [21] I'm with the Charles River Watershed Association. My [22] comments are a little more general than either Kate's or [23] Kathy's, but let me start by saying that storm water is an [24] interesting euphemism. It makes it sound like it's the rain [25] water's fault that it got dirty, which is in fact not the

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[1] case. Water falls out of the sky, it may contain some [2] mercury from power plants, and its pH may be a little lower [3] than it would otherwise be in its cleanest state, but it is [4] otherwise potable water, and yet when it hits the surfaces [5] of the ground in urban and suburban areas it very quickly [6] becomes something less than potable. It's the number one [7] source of pollution to the waters of the United States. [8] In urban areas, storm water causes combined sewer [9] overflows, it causes low base flow because what happens is [10] that water is disconnected due to paved surfaces from the [11] ground, and we never built Boston and Cambridge and [12] Somerville and the like. When the water falls out of the [13] sky, most of it would have penetrated into the ground, works [14] its way through the ground, and ended up in rivers and [15] streams, ponds, wetlands. Instead, what it does is it hits [16] the buildings and the pavement we've constructed, moves very [17] quickly, picks up oil and grease, cadmium, manganese and the [18] like, becomes heavily polluted, dumps into storm drains, and [19] from there dumps into rivers like the Mystic and the Charles [20] and the Neponset, and it heavily pollutes them and causes [21] all kinds of problems. It does not penetrate the ground.

[22] As a consequence, in the summertime rivers like [23] the Mystic and the Charles and the Neponset begin to run out [24] of water as soon as it stops raining in the middle of April, [25] and they stay in drought-like conditions throughout the six

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[1] months of the summer and early fall. As a consequence in [2] urban areas, places like the Back Bay, South Boston and [3] Beacon Hill, which are built on pilings on fill, don't have [4] enough ground water in the ground to keep those pilings from [5] rotting, and individual homeowners are looking at quarter- [6] of-a-million, three-hundred-thousand, even five-hundred- [7] thousand-dollar bills to have their pilings removed and [8] replaced with concrete.

[9] We suggest that with these storm water Phase 2 or [10] MS4 permits that the EPA begin to make a more creative [11] approach. We have to fundamentally understand that the [12] engineering that we've applied in urban/suburban areas over [13] the last hundred and fifty years will not solve our water [14] problems, as a matter of fact, that engineering exacerbates [15] our water problems, yet we possess the technology to change [16] the outcome. We need to make rain water behave as it would [17] have had we never built Boston and Cambridge and [18] Somerville. [18] We need to capture clean rain water off the roofs of [19] buildings and homes and businesses and put it back in the [20] ground where it belongs. That keeps it out of the pipes, [21] preventing combined sewer flows. It raises ground water in [22] the ground so that we don't have to replace all of the [23] foundations in the Back Pay, South Boston, Beacon Hill, and [24] other areas around neighborhoods. We could develop water [25] banks for new developments such that those people building

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[1] in town help subsidize retrofits for existing buildings and [2] the like.

[3] In general, we're not using these permits as well [4] as we could. We need to think about how to redevelop sites [5] such that we treat water as it would have treated itself, [6] and if we don't, we need to recognize that the damage we do [7] now and into the future is going to cost us enormous sums of [8] money.

[9] Thank you.

[10] MR. WEBSTER: Thank you. Next we'll have [11] Carol Lee Rawn from Conservation Law Foundation.

[12] MS. RAWN: My name is Carol Lee Rawn, R-a-w-n, [13] with the Conservation Law Foundation. And first, I'd like [14] to thank EPA for holding this hearing and for agreeing to [15] extend the public comment period, and we'd also like to [16] commend the nine towns and the involved federal and state [17] agencies for their efforts to clean up the Charles, which we [18] all know is an invaluable resource for our communities.

[19] I'd also like to stress the importance of this [20] small MS4 program. We're never going to have a clean [21] Charles if this program isn't properly implemented. There's [22] a lot of potential here, but it's not being taken advantage [23] of.

[24] As Kate mentioned, CLF and CRWA have conducted an [25] analysis of DCR and the nine town storm water plans. Our

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[1] comments on the towns are on that table and those comments [2] and the DCR comments will be on our web site by tomorrow.

[3] Unfortunately, we don't have comments here with us.

[4] We'd like to say in summary that DCR's efforts in [5] this area have been abysmal, and while we identify [6] deficiencies in the towns' NOIs that do require [7] modification, in general the towns exhibited a good faith [8] effort to implement this program.

[9] We'd also like to acknowledge the fact that EPA [10] has put a special effort into the storm water plans of the [11] nine towns of the Lower Basin. Despite these efforts, storm [12] water pollution continues to contribute to violations of [13] water quality standards. This is a collective problem that [14] requires a concerted solution by the individual cities and [15] towns. We'd like to note that certain towns have excelled [16] in specific areas and could serve as models in those areas [17] for other towns. For example, Cambridge's illicit detection [18] and elimination program has been effective and could be used [19] by other communities. Similarly, Wellesley and Brookline [20] have passed bylaws that could serve as models for other [21] municipalities, and Needham has adopted effective BMPs with [22] measurable goals for its public education, public [23] participation, and pollution prevention good housekeeping [24] programs.

[25] There are certain legal requirements in the

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[1] Phase 2 program that some or all of the towns have not [2] complied with. Accordingly, we believe that either the [3] permits should be modified in order to come into compliance, [4] or that a geographically based permit for all towns should [5] be developed.

[6] I'd like to touch upon some of the legal [7] requirements that have been established for this program.

[8] As a threshold matter, any discharges that cause [9] or contribute to water quality violations are not eligible [10] for coverage under the storm water permits. In the present [11] case, every town, as well as DCR, contributes to an impaired [12] water body. Accordingly, it appears that storm water [13] discharges to indeed cause or contribute to water quality [14] standards.

[15] MS4s are required to reduce storm water discharge [16] to the maximum extent practicable. They're also supposed to [17] include a description of BMPs that will be used to ensure [18] that water quality violations will not occur. That [19] discussion must specifically identify control measures and [20] BMPs that will collectively control the discharge of [21] pollutants of concern. Pollutants of concern refer to the [22] pollutant identified as having caused the impairment. [23] Neither the nine towns nor DCR have specifically identified [24] control measures to control pollutants of concern.

[25] As Bob Zimmerman eloquently described, it's

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[1] critical that the Lower Basin communities implement [2] structural and non-structural best-management practices that [3] further sustain water use. In fact, the general permit [4] requires that storm management plans minimize the loss of [5] annual recharge to ground water. However, our review of [6] NOIs and annual reports reveals that many BMPs that could [7] address this issue have not been utilized, and there's [8] little reference to EPA's menu of strategies for new [9] development which include green parking techniques to reduce [10] impervious surfaces, and alternative pavers through clays, [11] asphalt or concrete in parking lots, driveways and walkways [12] as a way of promoting infiltration and reducing storm water [13] runoff.

[14] There are six minimum control measures that are [15] supposed to be in each NOI, and in order to implement those, [16] towns are supposed to put forth certain BMPs, best- [17] management practices. To track the progress of those BMPs, [18] towns are supposed to set forth measurable goals. The area [19] of measurable goals is an area in which all the towns, [20] including DCR, have fallen short to varying degrees. [21] Unfortunately, it's impossible to track the progress of many [22] of the towns' BMPs because they otherwise fail to include [23] measurable goals. Further, many towns have failed to [24] include adequate BMPs as well.

[25] We've also reviewed the annual reports of the



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[1] towns, and we note that DCR has not submitted any annual [2] reports. Annual reports are critical to ensuring compliance [3] with the Phase 2 program and measuring towns' progress. [4] Again, the reports exhibit varying degrees of compliance [5] with general permit requirements. However, we do note that [6] Cambridge's annual report, which is comprehensive and shows [7] significant progress, can serve as a model for other towns.

[8] I'd like to briefly address DCR further. Our [9] comment letter details the many deficiencies of DCR's NOIs [10] but I'd like to just highlight a few.

[11] In many cases DCR has failed to submit the [12] requisite NOIs for many of its properties, and such [13] discharges are therefore unpermitted and subject to [14] enforcement action by EPA. The NOIs submitted by DCR for [15] the ten facilities outside the Greater Boston area are [16] largely identical. It's unlikely that management practices [17] that are appropriate for an urban park like the Fall River [18] Heritage State Park are also appropriate for the Walden Pond [19] State Reservation, 400 acres of largely undeveloped park [20] land.

[21] The NOIs submitted by DCR for the areas within the [22] Greater Boston does not identify the number of outfalls for [23] each receiving water body. EPA noted this deficiency in [24] July and there's no indication in the file that DCR ever [25] responded to this letter.

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[1] We note that failure to submit an adequate NOI is [2] grounds for enforcement action, permit termination, [3] revocation, and reissuance or modification or denial of a [4] permit application. According, the NOIs of the towns should [5] be modified to correct current deficiencies or new [6] geographically based permits should be issued for all nine [7] towns. As for DCR, its NOIs are clearly deficient. It [8] should be required to submit NOIs that comply with the law [9] as well as submit the missing NOIs. Given DCR's failure to [10] implement this program to date, we ask EPA to consider [11] taking enforcement action against DCR and place it on a [12] strict schedule requiring it to come into compliance as soon [13] as possible. We also hope that this will serve as a wake-up [14] call to the Romney administration to fully fund DCR.

[15] Thank you.

[16] MR. WEBSTER: Thank you.

[17] Sherri Brokapp from the Urban Ecology Institute. [18] Hope I got that right.

[19] MS. BROKAPP: Hi. I'm Sherri Brokapp with the [20] Urban Ecology Institute at Boston College. I don't have [21] comments for a specific municipality today but rather I'd [22] just like to advocate more generally for an increased focus [23] on the use of trees and open space in storm water management [24] plans for the Greater Boston areas.

[25] As our friends at the Charles River Watershed

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[1] Association point out, the government alone at this point [2] doesn't have the resources it needs to really adequately [3] deal with the level of problems and challenges that are [4] arising related to storm water in the City.

[5] And also, we're talking about storm water, we're [6] talking an effect, the effect of our built environment on [7] the water systems, and in order to deal with that [8] effectively we really need to focus on recognizing and [9] respecting the natural systems that are functioning or [10] trying to function in our urban areas.

[11] Some of you or many of you may be familiar with [12] the long-term ecological study that's being conducted in [13] Baltimore, and I just wanted to point out some of the [14] research that's coming out of there recently. They've been [15] looking quite a bit in Baltimore, which is a somewhat urban [16] area, at the impact of community-based revitalization [17] efforts on storm water and water quality in the city, so, [18] I'm talking about very kind of small-scale community [19] gardens, tree planting projects on vacant lots, this sort of [20] thing. They've been studying the impact of those projects [21] on water quality, improved water quality, and also decreased [22] just trash in catch basins and sewers, et cetera, and also [23] in looking at volume of storm water that's being mitigated [24] as a result of these planting projects, and the research [25] that's coming out of Baltimore right now is showing that

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[1] these small-scale, community-based plantings are having a [2] very significant impact on water quality and also volume of [3] storm water runoff in the urban areas. And also as a bonus, [4] I guess, to this group, in addition to helping deal with the [5] storm water runoff problem, these projects help improve [6] quality of life in certain neighborhoods dramatically. They [7] help reduce unwanted activities on these sites, et cetera.

[8] So, there are quite a bit of - quite a number of community [9] benefits beyond just the direct impacts on storm water.

[10] So, I guess I would like just to recommend that [11] the municipalities take a closer look at the vast resource [12] that is their residents, and specifically residents that are [13] interested in improving their environment through small [14] stewardship activities, tree plantings, et cetera. [15] Specifically, I recommend that we look very closely at [16] vacant lots in each of our municipalities. A lot of times - [17] - I don't have to tell you that a vacant lot that's filled [18] with trash and blighted and ignored is not just an eyesore [19] but it can really be a drain socially and physically on a [20] neighborhood, and especially an urban neighborhood, where a [21] small pocket park is really a source of pride and a place [22] for interaction for community members and also has very [23] concrete environmental benefits for that community and at [24] the city scale as well.

[25] I would also like to suggest that we consider the

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[1] overall canopy cover in the municipalities, think about how  
 [2] we can use our municipal resources to improve canopy cover,  
 [3] perhaps to increase the amount of open space that's  
 [4] available in these communities so that, as Mr. Zimmerman  
 [5] says, we catch the water, we catch the rain as it's falling  
 [6] and we deal with it in the easiest and least costly way [7] that's  
 available to us, and that's through just the matching [8] systems  
 that we can create by decreasing the amount of [9] impervious  
 surface that we have.

[10] I can say just from my own personal experience, I [11] run the  
 Community Planting Program for the Greater Boston [12] area. We  
 get a number of applications each season to our [13] program  
 from residents in different municipalities. They [14] identify a  
 vacant lot in a neighborhood and they really want [15] to be able  
 to work on that site and improve it to beautify [16] their  
 neighborhood and improve the quality of the [17] environment,  
 and almost never are they able to actually [18] access the vacant  
 lot that they've identified because it's [19] publicly owned, it's  
 owned by the municipality, and the [20] cities are not cooperative  
 in giving them access to those [21] sites. So, I would just like to  
 recommend that the cities [22] take a look at the available vacant  
 lots, perhaps have some [23] sort of review process where they  
 can identify lots that [24] might be accessible or could possibly be  
 made accessible if [25] they don't have immediate plans for  
 development or

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[1] revitalization and really incorporate this community  
 [2] component in the storm water management plans.  
 [3] Thank you.

[4] MR. WEBSTER: Thank you very much.

[5] Next we hear from Marge Montgomery.

[6] MS. MONTGOMERY: We're just here.

[7] MR. WEBSTER: You're just here. Okay.

[8] Liz Ketcham from the Charles River Watershed [9] Association.  
 Do you want to speak? You actually have a [10] "not sure" here so I  
 don't want to put you on the spot.

[11] MS. KETCHAM: No.

[12] MR. WEBSTER: Okay. Very good.

[13] Susan Abbott?

[14] MS. ABBOTT: Susan Abbot, Needham, Massachusetts.

[15] I represent a town that is built out and dependent on its  
 [16] water to three wells. We are also surrounded on three sides  
 [17] by the Charles River. And the League of Women Voters did a  
 [18] study of their old water positions and discovered they were  
 [19] inadequate, and then when we looked at them and  
 interviewed [20] our water treatment director, the one thing he  
 asked was, [21] well, there are two things, one, make sure  
 whatever water [22] falls in Needham falls and is kept as clean as  
 possible, and [23] I guess that was it. Keep it clean and make it go  
 into [24] Needham's ground basically, because there's an  
 interesting [25] dynamic that when our wells are drawn down, the  
 river pulls

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[1] water from our wells. It's sort of a [2] - it was a hydrologic  
 mystery to us to discover this, [3] but it seems to be true.

[4] In our attempts to be helpful in cleaning the [5] water of  
 Needham, we've tried to - we've passed out [6] brochures to our  
 town people called "Healthy Lawns and [7] Landscapes," asking  
 them - telling them that point source [8] pollution does not really  
 exist in Needham any more. That's [9] where you have a factory  
 pouring gunk into a water body. [10] It's really our lawns; anything  
 that we put on our lawns [11] that have toxic components to them  
 that are supposed to do [12] things like kill grubs and other  
 beasts, they also kill [13] beneficial things as well as going into the  
 water.

[14] We also work with the Board of Health and we pass [15] out  
 the pesticide alert letting them know that it's not a [16] great idea.  
 And just recently we worked with the Health [17] Department and  
 we sent out a lawn care note, letter, to lawn [18] care professionals  
 and landscapers, anyone who worked with [19] the soil in  
 Needham, to try to get organic training because [20] the town has  
 an IPM program that requests that you use [21] organic care until  
 there is something that you can't - you [22] think you can't  
 remediate by using something a little more - [23] - something that's  
 toxic.

[24] I would also say that we look to the EPA, to the [25] Charles  
 River Watershed, and to our own DPW for inventive

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[1] bylaws that could help keep storm water clean. The major  
 [2] thing I would say is that we're hoping that there is some  
 [3] bylaw that would request that all new houses or businesses,  
 [4] mainly houses in our town, capture the rain water and put it  
 [5] into the ground and use that water which is almost potable  
 [6] for their gardens, and I would only encourage people to  
 [7] think that whatever we can duplicate by nature, as [8] Mr.  
 Zimmerman said, would be the best kind of care for [9] our ground  
 as well as planting trees too, because trees [10] create water and  
 hold soil.

[11] Thank you.

[12] MR. WEBSTER: Thank you.

[13] Shelly, were there any other cards that came in?

[14] (Inaudible reply.)

[15] At this time I'd ask if there's anybody that has [16] not spoken  
 that would like an opportunity to make a comment [17] during the  
 public hearing? Would you introduce yourself, [18] give your  
 affiliation, and spell your last name?

[19] MR. MILLETT: I'm Bill Millett, M-i-l-l-e-t-t, [20] from the Town  
 of Wellesley, and my only comment would be [21] that I heard  
 some input today about possibly modifying the [22] notices of  
 intent or requiring a regional general permit, [23] and I just want to  
 say I would be opposed to that, at least [24] for this permit year, or  
 at least this - I'm sorry - this [25] five-year permit program,  
 because I feel that the EPA got

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[1] off to a late start requiring its notice of intent and [2] publishing its general permit anyway, and then when we did [3] file our notice of intent, we had to start implementing them [4] immediately. In fact, the chart that we had to fill out [5] said permit year one would start off with the first quarter, [6] the second quarter, so, these plans have been implemented [7] for two years and I think any requirement to change the [8] notice of intent now should be deferred until the five-year [9] permit period ends and the next one starts.

[10] MR. WEBSTER: So, to clarify, you – both to a [11] change in the NOI and new geographic permit?

[12] MR. MILLETT: I'd be opposed to that during this [13] five-year permit.

[14] MR. WEBSTER: For a five-year cycle.

[15] MR. MILLETT: Right.

[16] MR. WEBSTER: Thank you.

[17] Is there anybody else, organization or from the [18] public, that would wish to speak during the public comment [19] period, during the public hearing? Yes. Identify yourself [20] and spell your name for the stenographer.

[21] MR. AUSTIN: My name is Craig Austin; I'm from [22] Dedham. I just wanted to speak on its behalf of people who [23] volunteer to do watershed-type activities. I am a volunteer [24] water sampler for the IN3 program of the Charles River [25] Watershed Association, and that – I'm sorry I wasn't here

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[1] earlier so I don't know if any of that was explained, but [2] some of the water sample that I take, it's taken to a lab [3] and gets analyzed for things that are mentioned here such as [4] fecal coliform and some other things that are important on [5] pollution, and I just – I've been doing it for a number of [6] years and through that I've grown a lot in experience and [7] really understanding what happens during rainfall, how some [8] of these measures change with season, with, again, rainfall [9] or dry spells. And I just want to advocate that everything [10] we've done for the rivers, there are – the rivers are more [11] than just things to see; they are part of a vast network of [12] habitats. And there's been efforts in another watershed [13] that I also volunteer for that will look into things like [14] getting fish by dams and getting some of the fish that live [15] in the sea that need to spawn in fresh water areas to come [16] into the rivers, and I believe Charles is also doing that [17] effort, and it's important to have the rivers as clean as [18] possible because fish are no dummies, if the water stinks, [19] they won't come. So, I advocate that anything be done to [20] keep the rivers as clean as possible.

[21] MR. WEBSTER: Thank you for your volunteer work; [22] it's a core to a lot of the programs. I think I saw not [23] only the Charles River Watershed Association but also Mystic [24] River Watershed here, and it really provides the data to [25] make the improvements.

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[1] Could you spell your name, because we don't have a [2] card for you.

[3] MR. AUSTIN: I did fill one out, but – C-r-a-i-g, [4] and then A-u-s-t-i-n.

[5] MR. WEBSTER: Thank you very much for your [6] comments.

[7] Is there another member of the public or group [8] that would like to make a statement for the public hearing? [9] (No response.) In that case, I'd like to thank you all for [10] coming. I'd especially like to thank those people from the [11] Day Middle School and reporters for coming here and showing [12] their interest in the water quality in their watershed in [13] the Charles River. We've heard a lot of thoughtful comments [14] for our considerations and for the considerations of the [15] communities and DCR, and we look forward to working with a [16] number of you as we continue to make progress towards [17] reducing the storm water pollution in this watershed.

[18] Please be sure that any written comments have been [19] submitted to Thelma Murphy by mail – if you need addresses [20] or e-mail – before midnight on the 17th. That's the end of [21] the public comment period.

[22] Thank you very much, and this closes the public [23] hearing. Thank you.

[24] (Whereupon, at 2:00 p.m., the above matter was [25] concluded.)

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[1] CERTIFICATE OF REPORTER AND TRANSCRIBER [2] This is to certify that the attached proceedings [3] before: U.S. ENVIRONMENTAL PROTECTION AGENCY [4] in the Matter of: [5] RE: STORM WATER NOTICE OF INTENTS [6] FOR THE FOLLOWING MUNICIPALITIES:

Town of Brookline [8] City of Cambridge Town of Dedham [9] Department of Conservation and Recreation, Urban Parks and Recreation [10] Town of Needham City of Newton [11] City of Waltham Town of Watertown [12] Town of Wellesley City of Weston

Place: Boston, Massachusetts

Date: February 15, 2005

[18] were held as herein appears, and that this is the true,

Page 0

accurate and complete transcript prepared from the notes  
and/or recordings taken of the above entitled proceeding.  
[21] Kate Soukonnikov 02/15/05 Reporter Date  
Meredith Bruce 03/03/05 [23] Transcriber Date

Look-See Concordance Report

UNIQUE WORDS: 1,312
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CASE SENSITIVE

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DATES ON

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