

IMPORTANT LEGAL MATTER
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

[Date]
[Land Identification by address and Tax block/lot (if available)]
[Land Owner's Name]
[Address]

Notice of Residual Designation, Draft Storm water Permit and Public Meetings

The United States Environmental Protection Agency (EPA) is sending you this letter to notify you of several actions that it is taking under the federal Clean Water Act that may affect you.

On November 12, 2008, EPA made a preliminary determination that storm water runoff from impervious surfaces equal to or exceeding two acres in size in Milford, Bellingham and Franklin, Massachusetts are contributing to the degradation of water quality in the Charles River. Properties meeting these criteria are referred to in this letter, and in the documents described below, as "designated discharges" or "designated discharge sites." Storm water flowing from designated discharge sites contains pollutants such as bacteria and phosphorus that are degrading the Charles River to a degree that it does not meet minimum standards under Massachusetts law.

As you may know, EPA, the Commonwealth of Massachusetts, and municipalities along the Charles have invested hundreds of millions of dollars over the past two decades to restore water quality in the river. Municipal wastewater treatment plants have been upgraded to meet stringent limits, major capital projects are underway to remove sewer overflows from the river, and cities and towns are taking action to better manage their own storm water systems. Storm water runoff from facilities with large impervious areas is the last remaining unaddressed source of pollution to the Charles, and must be addressed if the benefit of all of our other investments is to be realized.

The preliminary determination that storm water discharges from these sites need to be controlled was made under the legal authority of the federal Clean Water Act. The practical implication of this determination is that the owners of designated discharge sites will be required to obtain permits under federal law, and will be required to undertake actions to control the discharge of storm water from their properties. In the near future, EPA will publish in the Federal Register a notice that is inviting public comment on proposed amendments to that preliminary determination and also on a related draft permit that is the subject of this letter.

The draft permit proposes different approaches that a site owner may take to manage storm water runoff from its property. These approaches include property management techniques, such as controlled fertilizer use, street sweeping and leaf litter collection. On many properties, storm water management may also require the building of storm water management structures, such as chambers to infiltrate storm water back into the ground where it will replenish aquifers—the source of municipal water supplies in all three communities. Or an owner may meet the requirements of the permit by participating in a program run by a municipality. Finally, an owner may undertake any combination of the three approaches, so long as its actions reduce pollution in storm water to meet a certain threshold that is defined in the permit.

You are receiving this letter because EPA’s preliminary analysis indicates that the above identified property may meet the definition of “designated discharge” and that you are the record owner of this property. If you are the owner of a property that meets the definition of a designated discharge, you will be required to apply for a permit and to undertake a number of activities to control the discharge of storm water runoff so that it does not cause or contribute to violations of water quality standards in the Charles River.

The proposed definition of a designated discharge is as follows:

A Designated Discharge is two or more acres of impervious surfaces located: (1) in the Charles River watershed; (2) in whole or in part in the municipalities of Milford, Bellingham, or Franklin, Massachusetts; and (3) on a single lot or two or more contiguous lots aggregated as follows: when measuring the impervious surfaces to determine if they meet the two acre threshold, the following impervious surfaces shall not be included:

Any impervious surfaces associated solely with any of the following land uses:

- a. Sporting and recreational camps;
- b. Recreational vehicle parks and campsites;
- c. Manufactured housing communities;
- d. Detached single-family homes located on individual lots;
- e. Stand-alone multi-family houses with four or fewer units; and
- f. Any property owned by a local, state or federal government unit where the property discharges wholly into an MS4 system operated by that local, state or federal government unit that has a valid NPDES permit.

For the purpose of defining “designated discharge,” a stand-alone multi-family house with four or fewer units does not include any multi-family house that is part of a condominium, cooperative, apartment complex, townhouse, or other residential or mixed-use development with more than four dwelling units, or any multi-family houses that share private access roads, driveways or parking areas with contiguous lots containing additional dwelling units where the total number of units served by the shared access road, driveway or parking area is more than four.

When measuring impervious surfaces to determine if they meet the two acre threshold for a designated discharge, the impervious surfaces on contiguous lots shall be included provided that:

1. The contiguous lots are owned by the same person; or
2. The footprint of the same building, structure, low impact development techniques or structural storm water best management practice spans the contiguous lots owned by different persons.

EPA may require that impervious surfaces on contiguous lots that do not meet the requirements above be included for purposes of determining whether they meet the two acre threshold for a designated discharge if it finds that ownership of the contiguous lots asserted to be in separate ownership was arranged to circumvent the requirements of the permit, including evidence that on or after the publication date of the draft permit two or more owners of the contiguous lots have acted in concert to acquire or dispose of contiguous lots to avoid the requirements of the permit.

For purposes of the permit, the Charles River watershed includes all areas that discharge directly to the Charles River or its tributaries or indirectly to the Charles River or its tributaries through Municipal Separate Storm Sewer Systems (MS4s) or other private or public conveyance systems, including structural storm water best management practices.

A key criterion in the definition of “designated discharge” is that the property (or contiguous properties, where applicable) have a total of two or more acres of impervious surface as defined below:

Impervious Surface – the footprint of a building or structure, a paved parking area, a paved access road or driveway; a paved area used for the storage and/or maintenance of vehicles and/or equipment; a paved area used for the storage of materials, products and/or waste. The term “paved access road or driveway” includes an impervious surface leading to any of the following: a paved parking area; a paved area used for the storage and/or maintenance of vehicles and/or equipment; or a paved area used for the storage of materials, products and/or waste.

EPA’s preliminary analysis to identify properties meeting the definition of a designated discharge is based on computerized data that may, in some instances, be imprecise. Given the lack of fine detail in the data and in order to assure that all potentially affected property owners are being notified of its actions, EPA has included properties that have 1.80 acres or more of impervious surfaces as being properties that potentially meet the definition of designated discharge. A property that EPA has identified as having 1.80 acres of impervious surface may in some instances have two or more acres of impervious surface; conversely, a property that EPA has identified as potentially having more than two acres may in fact have less. Properties (including contiguous lots, where applicable)

that in fact have less than two acres of impervious surface do not meet the definition of designated discharge and will not need to obtain permit coverage at this time.

Attachment 1 to this letter provides the results of the preliminary analysis identifying the affected properties and the estimated amount of impervious cover for each property. Also identified in Attachment 1 is a preliminary determination of those contiguous properties that meet the definition of designated discharge. If you believe your property does not meet the definition of a designated discharge, please submit the information identified in Attachment 2 to this letter to: Mark Voorhees, Office of Ecosystem Protection, Environmental Protection Agency, 5 Post Office Square – Suite 100, Mail Code: 06-4, Boston, MA 02109-3912.

The immediate purpose of this letter is to notify you of EPA's actions and to identify where you may obtain copies of important, relevant documents, including the preliminary residual designation, the proposed amendments to it and the proposed general permit. This letter also invites you to two meetings in Franklin, Massachusetts at which EPA will explain its actions, answer questions, and listen to your concerns. EPA is inviting all owners of designated discharges to these meetings and encourages you to organize a steering committee that can represent joint interests efficiently. An owner may, but is not required to, be represented by a committee. Also, an owner may, but is not required to, consult legal and technical experts on this matter.

The first of these meetings will be held on May 12, 2010 from 7:00 to 9:00 p.m. at the Tri-County Regional Vocational Technical School in Franklin and will be an informal, informational meeting. At that meeting, EPA will explain the actions it is taking and the legal and scientific bases for the actions. EPA will also listen to the concerns of the attendees and respond to questions. The second meeting will be on June 22, 2010 at the same location. From 6:00 to 7:00 p.m. EPA will briefly summarize the actions that it proposes. Starting at 7:30, EPA will conduct a public hearing at which interested persons may make formal statements that will be entered into the legal record on the permit action. Due to the formal structure of this hearing, EPA will not be able to enter into dialogue or respond to these statements during the hearing, but will prepare a formal written response to all comments after the hearing is concluded.

EPA has posted relevant documents on its regional website located at www.epa.gov/ne/npdes/charlesriver. You may access this address in your web browser or you may search for the EPA Region 1 web page using a web based search engine. Once on the EPA Region 1 web page, www.epa.gov/region1/, click on the "Charles River" link in the Quick Finder section at the top of the page. This link will bring you to the Charles River page where on the top right is a green information box identifying the proposed draft permit. Clicking on this link will bring you to the web page for the draft permit and all related documents. These documents include the Preliminary Residual Designation Record of Decision that explains why EPA concluded that designated discharges require federal permits; proposed amendments to that designation; and the draft general permit. A document on that website identified as the Fact Sheet explains the factual and legal

bases for EPA's actions. Section XII of the Fact Sheet provides reference sources that may be helpful.

If you have technical questions, you may call Mark Voorhees, EPA's environmental engineer for this project, at 617-918-1537. You should direct any legal questions to William Walsh-Rogalski, Esq. at 617-918-1035.

Sincerely,

Stephen S. Perkins, Director
Office of Ecosystem Protection

cc: Massachusetts Department of Environmental Protection
Town Managers of Milford, Bellingham and Franklin
DPW Directors of Milford, Bellingham and Franklin

Enclosures