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TEN RIVER GROUPS SUE EPA OVER STORMWATER DELAY

Boston, MA, September 25, 2017 – The Massachusetts Rivers Alliance, Taunton River Watershed Alliance (TRWA), and eight other watershed groups from across the state filed suit in Boston’s federal district court asking the court to vacate EPA’s one-year delay in implementing the state’s new stormwater permit. Joining Mass Rivers and TRWA were watershed groups representing the Connecticut; Mystic; Merrimack; Ipswich; North and South; Jones; Sudbury, Assabet, and Concord; and Neponset Rivers.

“Stormwater is the state’s number one pollution problem,” said Mass Rivers Executive Director Julia Blatt, “and this permit is a product of extensive public input as well as eight long years of negotiation among the state DEP, the EPA, and many stakeholders. The EPA pulled the rug out from under the state’s pollution control efforts by announcing this delay two days before the effective date.”

The permit, known as the “MS4,” for small “municipal separate storm sewer systems,” regulates stormwater pollution under the federal Clean Water Act. Issued jointly by the EPA and MassDEP, it covers 260 entities in Massachusetts, including municipalities and federal and state facilities. Stormwater, which runs off land, roads and buildings when it rains, carries fertilizer pollution, harmful bacteria, oil, gas, toxic metals, and salt into nearby waterways.

“The largest water quality problems in the Taunton River watershed algae blooms and summer low flows are caused by excess nutrients (nitrogen and phosphorus) and depleted summer river flows both of which are exacerbated by poorly managed stormwater

runoff,” said Joseph Callahan, President of TRWA. “The EPA delay of the new permit leaves in place the obsolete 2003 EPA stormwater permit which is outdated, and does a poor job protecting the environment from stormwater’s severe impacts because it relies on unclear largely unenforceable highly qualified narrative requirements rather than specific conditions.”

The new MS4 permit has more specific conditions requiring towns to create a stormwater management plan and directs them to map their stormwater collection systems, monitor outfall pipes, and prioritize cleanup of the most pressing problems, such as the discharge of untreated sewage into nearby waterways via stormdrains. The permit also requires public outreach, stormwater recharge, and “good housekeeping” practices such as storm drain cleaning and street sweeping as well as adoption of clear specific local ordinances for control of stormwater from new development and redevelopment. The river advocates are worried that the permit could be delayed much longer than one year.

“There is no excuse for delaying the updated permit,” said Priscilla Chapman, Vice President of TRWA. “Practices such as cleaning storm drains, sweeping streets, and requiring new development to provide stormwater recharge and other controls should be adopted now. These practices pay for themselves. They protect property and infrastructure from flood damage, improve water quality and reduce maintenance costs to cities and towns.

The groups are concerned that EPA’s delay of the MS4 permit is part of a pattern of actions being taken by the Trump administration to weaken environmental protection across the country. “The Mystic River Watershed Association believes that the stay of the MS4 permit was a gross over-reach by an administration that has set out to systematically undermine protections to the environment,” said Patrick Herron, Executive Director of the Mystic River Watershed Association. “This permit was eight years in the making and long overdue. Further delay of the permit does not make any sense. We need this permit in the Mystic – for a healthy environment and safe recreation.”

The river groups are represented by Kevin Cassidy of Earthrise Law Center and Access to Justice Fellow Irene C. Freidel.

Additional quotes from co-plaintiffs:

“The communities in our watershed have been preparing for several years to comply with the new permit,” said Samantha Woods of the Norwell-based North and South Rivers Watershed Association. “People want cleaner rivers and beaches, and we’ve been working with our towns on public outreach materials to help them. This delay has created confusion.”

“The EPA has asked for this delay while permit appeals are being decided,” said Andrew Fisk, Executive Director of the Connecticut River Conservancy, “but then in the same breath also asked the court to delay judicial review of the appeals. It is clear to us that EPA is looking at every maneuver they can find to stop doing the right thing for the public’s water. We think their legal case is fundamentally flawed and look forward to making our case.”

“EPA has identified polluted stormwater runoff as the number one water quality challenge facing the Merrimack River and its watershed in the coming decades,” noted Rusty Russell, Executive Director of the Merrimack River Watershed Council in Lawrence. “Now, it seems, they’re fleeing their own findings, while local communities, many of which have been preparing to implement the new MS4 program, are left wondering whether the river will ever be fully fishable and swimmable.”

Wayne Castonguay, Executive Director, Ipswich River Watershed Association:

“Watershed Associations across the state have been working with their municipal and regional partners for many years to help our cities and towns comply with the new permit and minimize its burden. It was a real partnership and most everyone was on board and ready to go. It’s a shame that this decision needlessly eliminates the opportunity to finally make significant progress on the number one source of water pollution in our state.”

“Watersheds in Massachusetts like the Taunton are experiencing rapid development. The most effective time to implement stormwater controls is during new construction or

redevelopment of existing development, both covered by up-to-date specific requirements in the new permit,” said Stephen Silva, Secretary of the Taunton River Watershed Alliance. “Each month the MS4 permit is delayed, numerous projects are being constructed with outdated and ineffective stormwater controls adversely affecting our environment both now and in the future.”

“The new permit’s requirements to carefully track down illicit discharges and connections that put untreated wastewater directly into our rivers is essential. How can we tell the public it’s safe to enjoy our rivers when this kind of pollution is still happening?” asked Alison Field-Juma, Executive Director of OARS, the organization for the Sudbury, Assabet and Concord Rivers.

“We have been working very closely with communities across the Neponset River watershed to get them ready for the common-sense requirements in this new permit, and most of our communities are more than ready to get started” said Ian Cooke, Executive Director of the Neponset River Watershed Association. “Blocking the permit two days before it takes effect is a flagrant violation of EPA’s own rules, and undermines the efforts of our communities to eliminate water pollution problems so that their residents can safely enjoy their backyard streams and ponds.”

Pine duBois (Jones River Watershed Association): "Like all environmental protections, the MS4 permit is fundamental education for a growing population that uses limited natural resources for our entire economy. The permit is intended to overcome poor practices in the past of dumping waste into the environment that, due to sheer volume, is damaging our well-being now. Having dirty rivers and filthy bays is not in the public interest. We all must pull together and clean up our practices or suffer growing consequences. Some communities, like Kingston, take this mandate seriously, I hope everyone will get over their biases and improve common resources for the common good. This is what EPA is supposed to do, not fall to the lowest common denominator"

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