



MASSACHUSETTS Rivers Alliance

14 Beacon Street, Suite 607, Boston, MA 02108
(857) 445-0208 • www.massriversalliance.org

May 5, 2016

Senator Anne Gobi
Representative Paul Schmid
Co-Chairs
Joint Committee on Environment, Natural Resources, and Agriculture
State House
Boston, MA 02133

Dear Chairwoman Gobi, Chairman Schmid, and Members of the Committee,

The Massachusetts Rivers Alliance would like to express serious concerns about H.4254, *An Act to Enable the Commonwealth's Administration of the Massachusetts Pollution Discharge Elimination System*, a bill filed by Governor Baker on April 29.

The Massachusetts Rivers Alliance currently has 62 member organizations across the Commonwealth (see below). Our members all share a commitment to clean water and healthy rivers. We urge you to refer H.4254 to a study before authorizing MassDEP onto take on major new responsibilities. We look forward to working together with the Legislature and Administration to strengthen the state's water protection programs.

Background. Currently, U.S. Environmental Protection Agency (EPA) regulates discharges of stormwater, wastewater and industrial pollution under the federal Clean Water Act. The permits granted for these discharges are referred to as NPDES permits (National Pollutant Discharge Elimination System). In 47 other states, this responsibility has been delegated to state regulatory agencies. The Governor's legislation seeks to shift this responsibility from EPA to MassDEP giving the state agency "primacy" to issue the permits with EPA oversight.

Steps to primacy. To take over the NPDES program, MassDEP must demonstrate to the EPA that it has:

- A stable and adequate funding source;
- A program plan, with adequate staffing; and
- Laws and regulations that meet Clean Water Act standards

We oppose H.4254 in its current form for the following reasons:

Funding:

- The amount of funding proposed is inadequate. In a 2013 report, MassDEP estimated the annual cost of the program at \$9 million to \$10million; in 2015, they halved the proposed FTEs required and estimated the cost at \$7.5 million, and they are now proposing to dedicate just \$3.2 million in new funding toward MassDEP staff, with an additional \$1.5 million for contract assistance.

- The only funding mechanism now being proposed, general legislative appropriations, is unreliable. Fee assessments directed to a dedicated fund would be a more reliable, and fairer source of funding. MassDEP has proposed this in the past but recently abandoned this idea.
- It makes no sense to replace an existing federally-funded program with a state-funded program when state budgets are this tight. This is an unnecessary expense to the state and MassDEP has far more pressing fiscal needs.
- **Staffing:** MassDEP has lost 30% of its staff since 2009 due to budget cuts and early retirements. MassDEP has about 650 employees, down from nearly 1,000 in 2000.
- **Fix It First:** As a result of chronic underfunding and understaffing, the agency has many shortfalls in meeting programmatic goals:
 - A backlog in issuing water supply permits and conducting five-year permit reviews;
 - Multi-year delays in monitoring, assessing and reporting on water quality around the state;
 - Discontinued developing pollution control plans; and
 - Inconsistently enforced water protection rules.

The Izaak Walton League of America, a national organization, recently gave our state's water quality program a "D," with failing grades in site-specific information and volunteer engagement (see attachment).

- **Delegation is permanent.** NPDES program approval is a high-stakes gamble for a state that has demonstrated past difficulty funding water protection programs and certifying EPA permits.

Our recommendations:

1. Study H.4254. We respectfully request ask that the Committee refer this authorizing legislation to a study until MassDEP has sufficient and reliable funding in place, and a robust program to improve water quality protection in the Commonwealth. As MassDEP reported in 2013, "EPA has had a largely successful role in protecting the Commonwealth's waterbodies." There is no pressing need for this change. There is too much at stake to rush this through. Decisions made now on how to protect water quality will have ramifications far into the future.

2. Fix it first. A demonstrated increase in state funding, a more reliable funding method, and performance of its existing water program responsibilities should be a precondition for any future decision to seek delegation. MassDEP needs to provide a clearer description of expected efficiencies and environmental benefits from delegation.

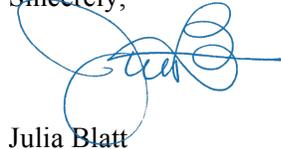
Specifically, before seeking to take on this new program, MassDEP should have additional, stable funding to restore and improve its current programs, including:

- A water quality program that meets EPA's highest standard.
- Timely development and implementation of water quality plans.
- Strengthened partnerships with watershed associations, including the ability to incorporate quality-assured third party data into MassDEP's water quality database.
- Improved compliance with and enforcement of MassDEP permits.
- A robust field-based program of compliance and technical assistance for permittees.

Remediating these problems doesn't require delegation of the NPDES program, but will require a commitment to investing in water quality.

Thank you for your time and consideration. Please feel free to get in touch if you have any questions. I will be away from May 6-23, but in my absence, you may contact Alison Field Juma (OARS) at 978-369-3956.

Sincerely,



Julia Blatt
Executive Director
Massachusetts Rivers Alliance

Massachusetts Rivers Alliance Organizational Members

| | |
|---|---|
| <i>AMC Berkshire Chapter</i> | <i>Massachusetts Watershed Coalition</i> |
| <i>Belmont Citizens Forum</i> | <i>Merrimack River Watershed Council</i> |
| <i>Berkshire Environmental Action Team</i> | <i>Millers River Watershed Council</i> |
| <i>Berkshire Natural Resources Council</i> | <i>Mystic River Watershed Association</i> |
| <i>Blackstone River Coalition</i> | <i>Nashua River Watershed Association</i> |
| <i>Boxborough Conservation Trust</i> | <i>Neponset River Watershed Association</i> |
| <i>Charles River Conservancy</i> | <i>North and South Rivers Watershed Association</i> |
| <i>Charles River Watershed Association</i> | <i>OARS, for the Assabet, Sudbury, & Concord Rivers</i> |
| <i>Charlestown Waterfront Coalition</i> | <i>Parker River Clean Water Association</i> |
| <i>Clean Water Action</i> | <i>Save the Bay – Narragansett Bay Riverkeeper</i> |
| <i>Connecticut River Watershed Council</i> | <i>Sea Run Brook Trout Coalition</i> |
| <i>Conservation Law Foundation</i> | <i>Shawsheen River Watershed Association</i> |
| <i>Eel River Watershed Association</i> | <i>Sudbury Valley Trustees</i> |
| <i>Environmental League of Massachusetts</i> | <i>Sudbury, Assabet and Concord Wild & Scenic River Stewardship Council</i> |
| <i>Essex County Greenbelt Association</i> | <i>Taunton River Watershed Alliance</i> |
| <i>Friends of Alewife Reservation</i> | <i>Taunton River Wild & Scenic Stewardship Council</i> |
| <i>Friends of the Assabet River NWR</i> | <i>Ten Mile River Watershed Council</i> |
| <i>Friends of the Blue Hills</i> | <i>The Nature Conservancy</i> |
| <i>Friends of the Malden River</i> | <i>The Trust for Public Land</i> |
| <i>Greater Northfield Watershed Association</i> | <i>The Trustees of Reservations</i> |
| <i>Green Berkshires</i> | <i>Trout Unlimited, Greater Boston Chapter</i> |
| <i>Green Newton</i> | <i>Trout Unlimited, Pioneer Valley Chapter</i> |
| <i>Groundwork Lawrence</i> | <i>Wastewater Advisory Committee (WAC)</i> |
| <i>Hoosic River Revival</i> | <i>Water Supply Citizens Advisory Committee (WSCAC)</i> |
| <i>Hoosic River Watershed Association</i> | <i>Weir River Watershed Association</i> |
| <i>Hop Brook Protection Association</i> | <i>Westfield River Watershed Association</i> |
| <i>Housatonic Valley Association</i> | <i>Westfield River Wild & Scenic Advisory Committee</i> |
| <i>Ipswich River Watershed Association</i> | |
| <i>Jones River Watershed Association</i> | |
| <i>Kestrel Land Trust</i> | |
| <i>Lowell Parks & Conservation Trust</i> | |
| <i>Mass Audubon</i> | |
| <i>Massachusetts Assoc. of Conservation Comm.</i> | |
| <i>Massachusetts Land Trust Coalition</i> | |
| <i>Mass Org of State Engineers and Scientists (MOSES)</i> | |