

NEPONSET RIVER WATERSHED ASSOCIATION

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October 4, 2004

Mr. Arthur S. Johnson
MA Dept. of Environmental Protection
627 Main St.
Worcester, MA 01608

RE: Final Public Comment Draft "A TMDL Alternative Regulatory Pathway Proposal for the Management of Selected Mercury-Impaired Waters"

Dear Art:

The following comments are submitted by the Neponset River Watershed Association (NepRWA) and the Neponset River Land Holding Association. The latter Association shares many Board members with NepRWA and owns Willet Pond in Walpole, Westwood and Norwood. Willet Pond is currently on the 303(d) list due to mercury contamination.

Our organizations are supportive of the approach proposed by DEP in the above-mentioned document. It is our understanding that the mercury in Willet Pond is predominantly, if not wholly, from atmospheric sources, many of them located outside Massachusetts. DEP has presented a reasonable approach for significantly reducing mercury from these sources which we believe will be far more effective than the creation of a mercury TMDL.

On the other hand, we also believe that the approach proposed by DEP will not be successful until the state implements stronger measures to address the problem. Attachment B of the Final Public Comment Draft shows that of the nineteen mercury education and reduction measures that are recommended, Massachusetts has legislative authority to implement only two (thermometer ban and universal waste rule). This compares to 16 in Rhode Island, 15 in Maine, 12 in Connecticut, 10 in New Hampshire and 2 in Vermont. The current Administration has proposed legislation to obtain the legal authority to implement all the other measures, and for this reason we support its proposed TMDL Alternative for mercury. Should Massachusetts fail to obtain legislative authority or, having obtained legislative authority, fail to implement most if not all the measures listed in Attachment B, our organizations will recommend that DEP and EPA reconsider this proposed mercury management plan when the next (post-2004) revision of the Massachusetts Integrated List of Waters is proposed.

Because so much of Massachusetts' mercury problem comes from out of state sources, we are also concerned that EPA not allow every state to institute similar alternative management strategies, regardless of the level of effort it is making to reduce emissions of mercury. We believe that Massachusetts has been seriously addressing mercury issues over the last several years and is legitimately attempting to obtain legislative authority to implement additional

control measures. We would hope that EPA would require a similar level of commitment from other states wishing to avail themselves of a mercury management strategy similar to that being proposed by Massachusetts.

Sincerely yours,

Steven Pearlman
Water Resource Analyst

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