

January 3, 2014

**BOARD OF DIRECTORS
AND OFFICERS**

Officers

Philip D. Guerin
President and Chairman
Director, Environmental
Systems, Worcester Department
of Public Works & Parks

Jane E. Madden, P.E., BCEE
Executive Vice President and
Vice Chairman
Senior Vice President, CDM
Smith

Alan H. Cathcart
Treasurer
Superintendent, Water and
Sewer Division, Town of
Concord Department of Public
Works

Directors

Robert A. Cantoreggi
Director, Town of Franklin
Department of Public Works

Cheri R. Cousens, P.E.
Executive Director, Charles
River Pollution Control District

Ronald M. LaFreniere, P.E.
Commissioner, City of
Marlborough Department of
Public Works

Robert L. Moylan, Jr., P.E.
Commissioner, Worcester
Department of Public Works &
Parks

Katherine J. Pedersen
Executive Director, Springfield
Water and Sewer Commission

Karla H. Sangrey
Engineer-Director/Treasurer,
Upper Blackstone Water
Pollution Abatement District

Thomas A. Tilas
Vice President, AECOM

Robert E. Ward
Deputy Director, City of Haverhill
Department of Public Works

Vivian Daub, Director, Planning Staff
Office of Planning, Analysis, and Accountability
Office of the Chief Financial Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460

Dear Ms. Daub,

On behalf of the Massachusetts Coalition for Water Resources Stewardship (MCWRS), we commend the U.S. Environmental Protection Agency (EPA) on its Draft FY 2014-2018 Strategic Plan and express our thanks for the opportunity to offer comments. MCWRS is a nonprofit organization committed to promoting policies and regulations that will manage and conserve water resources effectively. The Coalition was founded on principles of sustainability, environmental responsibility and science-based research. Members are dedicated to promoting these principles using fiscally responsible methods. As such, the Coalition's goals are consistent with the five goals presented in EPA's Strategic Plan. Combined with the four cross-cutting strategies and the overarching EPA core values, EPA has created a valuable roadmap for the Agency moving forward.

However, like EPA, we have been frustrated by the implementation of regulations in recent years, and agree that the agency needs to work differently to achieve the environmental results that we all seek. This is especially important with regard to how EPA works with the organizations whose interests the Coalition represents: municipalities, districts, commissions and authorities that are regulated for their water resources infrastructure. Municipalities are particularly unique in that they envelop the three sectors EPA frequently references in its Strategic Plan: government, the public, and regulated entities. Municipalities are *local governments* that provide services to and represent the interests of *the public* while also being *regulated* via NPDES permits and other federal and state rules. Further, most environmental improvements begin with municipal regulated entities, which aspire to provide clean water and healthy environments for both the health and welfare of their residents, and as a way of sustaining their economies and attracting new economic growth.

Municipalities do not look to evade or ignore environmental compliance or seek some sort of benefit by doing so. Municipalities must, however, temper their

environmental initiatives and balance such programs and costs with equally pressing needs for education, public safety, transportation, job creation, housing, and other quality of life issues. Thus, MCWRS believes the Strategic Plan presents an opportunity for EPA to recognize the uniqueness of municipalities, and establish goals to treat them differently than other regulated entities in order to help them achieve our shared environmental goals, rather than present often insurmountable challenges that thwart progress.

With that in mind, we offer the following specific comments. Since our organization revolves around water resources, our comments focus primarily on that part of your strategy, with the understanding that each resource of land, water and air is interrelated and impacted by the others when viewed holistically.

Goal 1: Addressing Climate Change and Improving Air Quality

We commend EPA's leadership in committing to reduce greenhouse gas (GHG) emissions and protect and improve air quality. However, the discussion of this goal seems to ignore the issue of the water-energy nexus: that is, the water required to produce energy and the energy required to produce clean water.

MCWRS is most concerned with the energy required to produce clean water and EPA's disregard for this fact when establishing NPDES permit limits. With nutrient removal the focus of NPDES permitting in recent years, our members have strived to employ enhanced biological nutrient removal (EBNR) as the most sustainable nutrient removal process. Experience has shown that relatively low limits can be achieved without the need for supplemental carbon (to reduce nitrogen) and metal salts (to reduce phosphorus). More importantly, from a GHG perspective, an add-on treatment process is eliminated, thereby removing the need for intermediate pumping (typically required) to pump the entire treatment plant flow 24 hours per day, 7 days per week a major energy savings. One facility in Massachusetts that had to use intermediate pumping to achieve the required low-level phosphorus limit saw an increase of 60% in power consumption, despite energy efficient upgrades undertaken plant-wide.

We strongly urge EPA to include the assessment of indirect environmental/GHG impacts associated with achieving extremely low nutrient limits, in addition to evaluating the water quality benefits that result from these mandates. This assessment can be achieved through the "Life Cycle Assessment" tool that evaluates the overall environmental impact of alternatives holistically.

Goal 2: Protecting America's Waters

Again, we commend EPA for its vision to "evaluate options for protecting infrastructure, conserving water, reducing energy use, adoption of "green" infrastructure", which are goals of MCWRS's members. We believe it is critical that the strategy references the EPA's Integrated Planning initiative as a means to achieve these goals. It is the communities and utility managers that best understand the interrelationship between their water, wastewater and stormwater systems, and understand where limited resources must be expended to have the most beneficial environmental impact. Through Integrated Planning, decisions can be made to prioritize system improvements to first address public health issues, then move to protection and restoration of the aquatic ecosystems.

The Coalition believes that the concept of Integrated Planning to meet obligations under the Clean Water Act (CWA) is one that could develop significant momentum and in fact become the norm for many cities and towns, if it can be fully applied to provide regulatory relief. At present, many municipalities remain puzzled about Integrated Planning as it remains very unclear whether such an approach provides any real easing of permit compliance burdens. The Strategic Plan should highlight efforts to encourage Integrated Planning as the primary tool for communities to advance improved water resources and infrastructure management in a way that is more cost effective and mutually beneficial for municipalities and the environment.

In addition, we applaud the objective to protect, restore, maintain and improve water quality by financing wastewater treatment infrastructure. However, given the significant cost to achieve these goals, compounded by competing expenditures in a community, we believe that 2% state revolving fund loans are not enough to reduce a community's burden and we suggest 0% financing and/or targeted grant programs to promote innovative solutions.

The Strategic Plan adequately addresses the External and Emerging Issues associated with water quality, population density and technology market opportunities. However, the implementation of current regulations often stifles innovation by mandating unrealistic schedules that do not allow adequate time for testing and evaluating innovative and alternative solutions, or that funnel money to projects that aren't targeted to a priority need or are less beneficial.

We implore EPA to refrain from making knee-jerk decisions based on limited science and unfounded pressure from NGOs, and allow adequate time for planning and decision making so that money is spent wisely. The EPA needs to work with communities to ask two fundamental questions: "Are we doing the right project?" and "Are we doing the project right?" This is the tenet of the Institute of Sustainable Infrastructure's "Envision" rating system and certification. We are proponents of this framework and would suggest that EPA embrace its use.

Goal 3: Cleaning up Communities and Advancing Sustainable Development

Infrastructure projects can move cities and towns toward becoming more sustainable and livable communities. Simply put, people desire to live in a clean and healthy environment; more people in an area fosters economic growth; and money wisely invested in preserving the environment can maintain an area's desirability and population. Again, we feel that the goals of the EPA and the communities are not too far apart; the discrepancy occurs when evaluating the validity of mandated investments. Money spent unwisely under the guise of preserving the environment can result in negligible improvements to the environment (and often indirect negative environmental impacts), and exorbitant water and sewer rates that force industrial and commercial establishments to move out of the community in search of a more economical location to do business, displacing jobs and deflating the local economy.

The goals of "Livable Communities" also are to reduce waste, conserve resources and reduce chemical use. We remind EPA that to meet the extremely low nutrient limits in the name of water quality improvements, chemical use at a wastewater treatment facility increases substantially (as well as truck traffic through neighborhoods transporting these chemicals and the associated increase in air pollution from exhaust). In addition, sludge (and waste) production increases, and resources are squandered to build, power and operate a facility that has little or no measurable benefit on the receiving water quality.

Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution

As noted previously, achieving low nutrient levels (e.g., <5 mg/L Total Nitrogen and <0.5 mg/L Total Phosphorus) typically requires a supplemental carbon source for nitrogen (often methanol) and iron salts for phosphorus removal (e.g., ferric chloride, aluminum sulfate). The production and transport of these chemicals to wastewater treatment facilities, especially to achieve limits that are unwarranted, appears contrary to EPA's objectives.

Goal 5: Protecting Human Health and the Environment by Enforcing Laws and Assuring Compliance

The draft Strategic Plan states, "The Agency will continue to focus on getting raw sewage out of water and reducing pollution from stormwater runoff, using common sense and affordable approaches to tackle the most important problems first and incorporating green infrastructure for cost-effective reduction of pollution while enhancing communities." We are encouraged by this statement, but in practice have seen a lack of common sense, unaffordable approaches, and EPA tackling the "easiest" targets rather than the most important problems. We also often see the term "raw sewage" used inappropriately as a scare tactic by NGOs and ask that the Agency temper the use of this term. Combined sewer overflows should not be considered raw sewage, as they are typically very dilute in nature and often receive some level of treatment (including disinfection) prior to discharge.

The Strategic Plan also states, "EPA can also do more to design regulations and permits that are easier to implement and that will result in higher compliance and improved environmental outcome." Again, we are encouraged by this statement, but in practice have not seen it implemented. With respect to nutrients, whose impacts are "chronic" versus "acute," limits should be written around seasonal or annual *loads* versus daily, weekly and monthly *concentrations*. In addition, the notion that the established nutrient concentration must be met at 7Q10 flow is a criterion that should be reassessed. We also encourage EPA to reassess the proposed NPDES permits for stormwater and the goals that the Agency is trying to achieve – as written they are far from "sensible and affordable."

Cross-Cutting Fundamental Strategies/Working With Local Partners

This section, which specifically outlines "working toward a sustainable future" and "working to make a visible difference in communities," captures many of the points outlined above, and we are hopeful that the EPA regional offices will follow the lead of EPA headquarters and adhere to the guiding principles established in this plan. We concur that incentive-based programs foster innovation and look forward to partnering with EPA to improve the nation's ailing infrastructure and cultivate sustainable solutions.

We are also pleased that the EPA's plan recognizes that "by focusing only on enforcement actions, the measures can have the inadvertent effect of discouraging innovative approaches that could improve compliance, and undervalue strong work by states to improve compliance." Too often, our members have felt the wrath of the Agency, and believe they are being treated as environmental villains on par with the worst corporate polluters, when in fact they have devoted their lives to do the best they can with limited resources to improve the environment and the communities in which they work.

In this section EPA also alludes to the unique circumstances of municipalities as regulated entities. However, the Strategic Plan needs to go beyond this mere recognition and incorporate elements that strive to change how the Agency interacts with municipalities. MCWRS suggests, as a starting point, that the Strategic Plan include the following aspects that will foster improved relationships between EPA and municipal regulated entities.

- Levying fines against municipal entities should only be employed as a last resort against those that truly fail to do anything positive for the environment. In recent years too many fines have been levied against cities, towns and districts that have stellar environmental programs. Often these fines are for violations resulting from old infrastructure that will take many decades to replace. Fining communities that are doing many "good things" environmentally is counterproductive and sends a message that good deeds do not really matter.
- The procedure by which EPA issues enforcement actions and fines to municipal entities must change. At present, the Agency first issues a press release to announce how poorly the community is performing and then informs the community leaders. This is not an approach that encourages collaboration, partnerships or bonding between EPA and municipalities.

Finally, we understand that EPA is evaluating and seeking comment on a new approach for measuring local improvements in water quality and would welcome the opportunity to participate in piloting the new approach based on the National Hydrography Dataset Plus (NHDPlus). There are a number of watersheds in the Commonwealth that could be assessed with this tool and the MCWRS is willing to assist in this regard.

Again, thank you for the opportunity to comment on the Draft FY 2014-2018 EPA Strategic Plan. It is evident that much work and thought went into its development. While it is encouraging to see the many mentions of words like "partnership," "collaboration" and "cooperation" in such a planning document, MCWRS would truly be pleased to see these ideas in action.

A great place to start implementing these concepts would be with the very unique municipal regulated entities, whose relationship with EPA has been severely damaged in recent years. The EPA Strategic Plan presents an opportunity to start to rebuild this relationship in a way that recognizes the circumstances that differentiate municipalities from other regulated entities. MCWRS would like nothing more than to see that unfold over the next 5-year planning horizon at EPA, and is hopeful that new partnerships will develop founded in collaboration and cooperation to meet our shared commitment to public health and the environment.

Sincerely,



Philip D. Guerin
President and Chairman

CC: MCWRS members
Massachusetts Congressional Delegation