

Affidavit of Thomas B. Arnold

A. Background

1. My name is Thomas B. Arnold. I presently live at 20 Kendall Rd. Sudbury, MA 01776, and have lived there since 1993.
2. From 1964-1995 I was an active member of the bar of the Commonwealth of Massachusetts. During that time I devoted a substantial portion of my law practice to environmental law.
3. In 1984 I was appointed to the Massachusetts Water Resources Commission where I served until 1985 when I was one of the governor's appointments to the Board of Directors of the newly created Massachusetts Water Resources Authority. I served on the MWRA Board until 1987.

B. Interest in the Sudbury River

4. I have been an active recreational canoeist and kayaker on rivers in New England since 1971 and have canoed and kayaked on the Sudbury River for the past 30 years.
5. In 1977 I led a four day canoe trip which started at the headwaters of the Sudbury River in Westborough, followed the Sudbury river downstream to Concord where it formed the Concord river, then proceeded downriver to Lowell where it joined the Merrimac river and proceeded to the Atlantic Ocean at Newburyport.
6. Since moving to Sudbury, I have organized and led numerous canoe trips for the general public. Many of these trips were sponsored by the Sudbury Valley Trustees, a regional non-profit land trust. My trips have often attracted as many as 14 members of the public in canoes or kayaks.
7. In addition to leading trips on the Sudbury River I have supported several non-profit organizations that are committed to protecting the unique natural and cultural resources of the river. Since 2005 I have served on the Board of Directors of the River Stewardship Council for the Sudbury, Assabet and Concord rivers. The Council was created in 1999, pursuant to Federal legislation which added portions of those rivers to the National Wild and Scenic River system.
8. As President Clinton wrote at the time he signed the legislation:

"The addition of these rivers to the National System recognizes their outstanding ecology, history, scenery, recreation values, and place in American literature. Located about 25 miles west of Boston, the rivers are remarkably undeveloped and provide recreational opportunities in a natural setting to several million people living in the greater Boston metropolitan area. Ten of the river miles lie within the boundary of the Great Meadows National Wildlife Refuge, established to protect the outstanding waterfowl habitat associated with extensive riparian wetlands. Historic sites of national importance, including many in the Minute Man National Historical Park, are located near the rivers in the Town of Concord. Among these is Old North Bridge, site of the revolutionary "Shot Heard 'Round the World." The rivers are featured prominently in the works of nineteenth century authors Hawthorne, Emerson, and Thoreau and have been the subject of ornithological studies since early days of field observation techniques." (emphasis added)

President Clinton's April 9, 1999 signing statement (slightly edited)

9. I also serve on the Board of Directors of the Sudbury River Watershed Organization, a non-profit organization dedicated to protecting the natural, cultural and historic resources of the Sudbury River.
10. In addition to canoeing the river, I have spent a substantial amount of time and money photographing the entire Sudbury River from its headwaters to its junction with the Assabet River in Concord. In 2004-5 I created a slide show of the River and have showed it in several public locations as part of an effort to educate the public about the value of this unique natural resource. Eutrophication of the river has substantially diminished and reduced the aesthetic value of the river for me, both as a photographer and as a boater, and for the general public.

C. Impact on Protected Interests

11. It is undisputed that the Sudbury River today is eutrophic due to the presence of excessive nutrients in the water, specifically excess phosphorous. As a result, the surface of the river is covered with dense sheets of green algae for most of the summer. In addition, the excessive nutrients contribute to the growth of nuisance aquatic plants, including water chestnuts and duckweed, which choke the river channel and impede navigation. Attached to this affidavit are several pictures that I have taken which show the extent of the impairment of the recreational potential of the natural river due to these conditions. (Exhibits) In some places the natural channel of the river has been reduced by over 50% by this infestation of aquatic nuisance plants.
12. The algae and aquatic nuisance plants substantially reduce my ability to enjoy the aesthetic value of the River as a natural resource and my ability to utilize the recreational potential of the river described by President Clinton

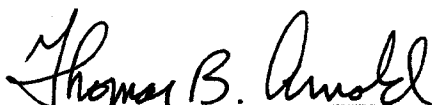
in his signing statement. The proposed sewage treatment plant in Wayland will ADD phosphorous to the Sudbury River which will exacerbate the deplorable conditions shown in my photographs. Therefore, the discharge of pollutants as authorized by this permit will adversely effect and diminish my use and enjoyment of the Sudbury River.

D. Procedural History of This Appeal

13. In March 2006 EPA Region 1 issued a draft NPDES permit and Fact Sheet.
14. On April 11, 2006 I forwarded a letter to EPA Region 1 and to the MADEP stating my objections to the draft permit. EPA Region 1 has confirmed in writing that my comments were received on April 11.
15. On October 16, 2008 the EPA Region 1 mailed a copy of the final NPDES permit in this case to my address in Sudbury, certified mail, return receipt requested. The permit was signed for on October 29.

The facts stated in this affidavit are true and correct to the best of my knowledge and belief, and are based on personal knowledge.

Signed under the pains and penalties of perjury this 25th day of November, 2008.



Thomas B. Arnold





EXHIBIT 2



EXHIBIT 2

