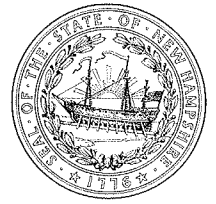


DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

June 8, 2011

Cosmas Iocovozzi, Chairman, Board of Selectmen, and
Jane Hislop, Co-chair, Conservation Commission
Town of Newington
205 Nimble Hill Road
Newington, NH 03801

Dear Chairman Iocovozzi and Co-Chair Hislop:

Thank you for your letter dated May 19, 2011 relative to the "Proposed MoA (Memorandum of Agreement) with the Great Bay Municipal Coalition."

The Department of Environmental Services (DES) is in complete agreement that the situation in Great Bay requires prompt attention and that nitrogen reductions will be needed from all sources, including municipal wastewater treatment facilities. DES further agrees that nitrogen discharge limits ought to be set in such a way as to improve the overall ecological health of the estuary. DES has already taken steps to address the problems of low dissolved oxygen and eelgrass loss by proposing Nutrient Criteria for the estuary. These criteria are the result of comprehensive analyses by DES scientists, which have been peer reviewed. DES stands by those criteria. At the same time, DES is interested in reducing the uncertainties in the data and analyses as they pertain to specific sections of tidal rivers. Accordingly, DES will be a signatory to the Memorandum of Agreement.

Your letter raises other concerns that should be addressed. By signing the MOA, DES is not asking for a change in the timeframe for the issuance of discharge permits in the Estuary. Governor Lynch, with the support of DES, is on record as asking EPA to hold *final* permit release until such time as the joint modeling exercise for the Squamscott River has been completed. In a recent letter to Senators Shaheen and Ayotte, EPA Regional Administrator Curt Spalding wrote that final permit release would not occur prior to December 31, 2011. He further stated in his May 19, 2011 letter that, "... we do intend to consider new information at any time during this permitting process." As such, consideration of the model will not lead to delay. The MOA also states that the Coalition communities commit to achieve nutrient reductions in the Squamscott and Lamprey Rivers. This commitment in no way precludes EPA from setting lower limits in the final permits. Please bear in mind that EPA is the permitting agency that establishes the required reductions in discharges. DES is not recommending any particular nitrogen discharge limit for the wastewater treatment plants serving the Great Bay communities.

DES Web site: www.des.nh.gov

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-2457 • Fax: (603) 271-7894 • TDD Access: Relay NH 1-800-735-2964

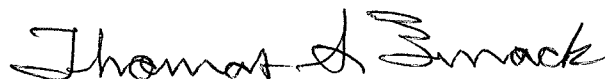
EXHIBIT 40 (AR H. 73)

Rather, DES's role is to set water quality standards and help the communities to meet those standards.

I am encouraged by the Town of Newington's strong conservation ethic and your willingness to do your part to address the water quality problems facing the Great Bay Estuary. We at DES look forward to working with you and the other communities to bring resolution to these issues and protect our estuarine culture and economy.

Again, thank you for your letter. Should you have further comments or concerns, please contact either Ted Diers, Coastal Program Manager, at 271-7940 or ted.diers@des.nh.gov, or me at 271-2958 or thomas.burack@des.nh.gov.

Sincerely,

A handwritten signature in black ink that reads "Thomas S. Burack". The signature is written in a cursive style with a large, stylized "B" at the end.

Thomas S. Burack, Commissioner

cc: NH Congressional delegation
Governor John Lynch
Newington's legislative delegation
Great Bay area communities