



January 17, 2017

Matthew Beaton, Secretary
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Re: Extraordinary MassDEP Delay in Total Maximum Daily Loads (TMDLs) Required for Buzzards Bay Estuaries

Dear Secretary Beaton:

I am writing to you directly with great concern regarding the lack of action on the part of the Massachusetts Department of Environmental Protection ("MassDEP") to issue TMDLs to protect coastal water quality in Buzzards Bay's harbors, coves and tidal rivers.

In a letter dated July 24, **2013** (attached), MassDEP stated that the final Westport Rivers TMDL would be complete by the winter of 2013. It is outrageous that now, **more than three and a half years later**, the Westport TMDL continues to be mired in delay, robbing a community of the tool they need to take action to protect and restore their coastal waters.

We are aware of no issue holding up final approval of the Westport Rivers TMDL. Drafts were released for comment, required public hearings were held, meetings with town officials were held, and everyone was notified that the TMDL was imminent. The town of Westport invested significant public funds in support of the development and issuance of a TMDL. There can be no excuse for MassDEP's delay in releasing the final TMDL that the community has been supporting and asking for.

This delay does not affect Westport alone. In a second letter dated, January 10, **2014** (attached), MassDEP confirmed that it had approved as final Massachusetts Estuary Project (MEP) Reports for several Buzzards Bay estuaries including Rands Canal, Quisset Harbor, Wild Harbor, Slocums/Little River, and Nasketucket Bay. However, **three years later** no draft TMDLs have been issued by MassDEP for any of these estuaries.

Of these affected embayments, I ask that you take particular note of the fact that the Westport Rivers and Slocums/Little River embayments have been listed as impaired for nitrogen pursuant to section 303(d) of the federal Clean Water Act since 2002. Now, 15 years later, no TMDL has been established.

www.savebuzzardsbay.org

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21 Luscombe Avenue, Woods Hole, Massachusetts 02543 | Tel: 508-540-6222



I strongly urge you to direct MassDEP to release the Final TMDL for the Westport River immediately and to follow up that action with release of Slocums/Little River, Rands Canal, Quissett Harbor, Wild Harbor, and Nasketucket Bay TMDLs in 2017.

I look forward to hearing from you.

Thank you.

Sincerely,



Mark Rasmussen
President
(508) 999-6363 ext 201
rasmussen@savebuzzardsbay.org

cc:

US EPA
MassDEP

Senator deMacedo
Senator Montigny
Senator Pacheco
Senator Rodrigues

Representative Cabral
Representative Gifford
Representative Fernandez
Representative Koczera
Representative Markey
Representative Schmid, Chair Committee on Environment, Natural Resources, Agriculture
Representative Straus

Town of Westport Board of Selectmen
Town of Westport Board of Health
Town of Westport Conservation Commission
Town of Westport Water Resources Management Committee

Westport Fishermen's Association

Attachments:
June 24, 2013 Letter
January 10, 2014 Letter



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

DEVAL L. PATRICK
Governor

RICHARD K. SULLIVAN JR.
Secretary

KENNETH L. KIVMELL
Commissioner

July 24, 2013

Mr. Mark Rasmussen, President
Buzzards Bay Coalition
114 Front St.,
New Bedford, MA 02740

Mr. Jack Reynolds, President
Westport Fishermen's Association
P.O. Box 83
Westport Point, MA 02791

Dear Mr. Rasmussen and Mr. Reynolds:

I am writing in response to your letter dated June 14, 2013 in which you urge MassDEP to take immediate steps to finalize the draft Westport River Estuaries Report (draft MEP Report) and develop a draft Total Maximum Daily Load (TMDL) for EPA approval. Please be assured that MassDEP, the Coalition, and the Fishermen's Association share the common goal of improving and protecting water quality in the Westport River embayment system for future generations. MassDEP has been working with the University of Massachusetts-Dartmouth, School for Marine Science and Technology (UMD) to complete this process as soon as possible.

As you are aware, both the East and West Branches of the Westport Rivers are listed on the Massachusetts Integrated List of Waters as impaired due to nutrients. It is for this reason that the Westport Rivers were included in the Massachusetts Estuaries Project (MEP). The MEP is a collaborative effort by UMD and MassDEP to collect the detailed information and data needed to develop a water quality model and system nutrient loadings for this embayment system. As you note in your letter, a MEP technical report was developed for this system and was made available for public comment in January 2012 and the Coalition submitted comments on that report in August 2012.

You should be aware that in addition to your comments, on several occasions MassDEP submitted a significant number of comments to UMD. In addition, comments were also provided by Department of Coastal Zone Management (CZM), Buzzards Bay National Estuarine Program (BBP), and Teal Partners.

Answering many of the technical comments required additional work and/or analysis, which unfortunately resulted in delays in finalizing the technical report. I am however happy to report that recently UMD has addressed the remaining concerns and has now finalized this report.

MassDEP will now begin the development of a draft TMDL for public review for this embayment system. We anticipate that this process will take place over a 4-6/month period with a goal of having a TMDL for public review in the winter. Once public comment has been received on the TMDL, MassDEP will finalize the TMDL and develop a public response-to-comment document, both of which are required for formal EPA approval.

Thank you for your efforts to protect the quality of water in the Westport River Estuary and your support for finalizing both the technical report and TMDL for this system. MassDEP will now begin the TMDL development process for public review. If you have any additional questions or concerns please feel free to contact Mr. Dave Delorenzo at (617-292-5774).

Sincerely,



Gary Moran
Deputy Commissioner

Cc: Senator Michael J. Rodrigues
Representative Paul A. Schmid, III
Town of Westport
Board of Selectmen
Conservation Commission
Water Resources Committee
Town of Dartmouth, Board of Selectmen and Conservation Commission
Stephen Perkins, USEPA Region 1, Office of Ecosystem Protection
Dr. Brian Howes, University of Massachusetts-Dartmouth, SMAST
John Hoey, University of Massachusetts-Dartmouth
Westport River Watershed Alliance
Phil Weinberg, MassDEP, Regional Director-SERO
David Johnston, Deputy Regional Director – SERO, Bureau of Resource Protection



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DEVAL L. PATRICK
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RICHARD K. SULLIVAN JR.
Secretary

KENNETH L. KIMMELL
Commissioner

January 10, 2014

Korrin Petersen
Buzzards Bay Coalition
114 Front St.
New Bedford, MA 02740

Dear Korrin,

I am writing in response to your letter dated December 3, 2013 seeking confirmation from MassDEP of the status of several final reports developed under the Massachusetts Estuaries Project (MEP). Below please find the current status of those reports. All are considered final by MassDEP with the exception of the Wareham updated report. We apologize that our review has taken longer on this report but we noticed that the groundwater delineations in the area of White Island Pond changed significantly between the 2008 and 2013 MEP reports, which could result in a potentially significant difference in nitrogen loading from this subwatershed. MassDEP is in the process of reviewing additional information to further evaluate the new delineations and nitrogen loading estimates, and we plan to provide detailed comments to SMAST within the next week and come to resolution on the issue as quickly as possible.

System	Status	Date Final Received by MassDEP
Rands Canal (includes Fiddler's Cove)	Final	March 6, 2013
Quisett Harbor	Final	March 6, 2013
Wild Harbor	Final	March 6, 2013
Slocums/Little Rivers Update	Final	May 30, 2013
Nasketucket Harbor	Final	July 30, 2013
Wareham River Update	Draft	February 12, 2013

In response to your question regarding the timing of the Apponagansett Bay report I regret to inform you that at this point in time we are not sure when we will receive that report from SMAST. As you may be aware Apponagansett Bay was one of eight draft reports that UMD stated publicly they would complete with their own funding. MassDEP considered the preparation of this draft report as

local match for the MEP project and we still plan to pay for development of both the response-to-comments and final report. MassDEP has made it clear to UMD on several occasions, and as recently as last week, that from MassDEP's standpoint this is and has been a priority report and we have encouraged UMD to complete the report as quickly as possible.

If you have any additional questions please feel free to contact either Brian Dudley (508-946-2814) or Rick Dunn (508-767-2874) of my staff for additional assistance.

Respectfully,

A handwritten signature in black ink, appearing to read "Gary Moran". The signature is stylized and cursive.

Gary Moran
Deputy Commissioner
MassDEP

cc. Beth Card, Assistant Commissioner, BRP
Rebecca Weidman, Director, Watershed Management
Brian Dudley, MassDEP, Cape office
Rick Dunn, MassDEP, Worcester Office.