



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF THE DIRECTOR
235 Promenade Street, Providence, Rhode Island 02908

April 29, 2024

Attorney General Peter F. Neronha
State of Rhode Island
Office of the Attorney General
150 South Main Street
Providence, RI 02903

Mr. Darrèll Brown, Vice President - Rhode Island
CLF Rhode Island
235 Promenade Street
Suite 560, Mailbox 28
Providence, RI 02908

RE: Response to Petition that Unpermitted Commercial, Industrial, and Residential Dischargers in the Mashapaug Pond Watershed, Rhode Island, be Issued RIPDES Permits

Dear Attorney General Neronha and Mr. Brown:

This letter is being written in response to the Office of the Attorney General's (the "AG's") January 31, 2024 petition (the "Petition") to the Department of Environmental Management ("DEM") that unpermitted commercial, industrial, and residential dischargers of stormwater in the Mashapaug Pond Watershed be issued Rhode Island Pollutant Discharge Elimination System ("RIPDES") permits. The Petition was made pursuant to 40 CFR § 122.26(f)(2) and is in addition to a similar petition that was made to the DEM by the Conservation Law Foundation ("CLF") on November 19, 2018. This letter also responds to CLF's petition.

Upon consideration of the facts surrounding the Petition, DEM is moving forward with the issuance of a RIPDES permit (the "Mashapaug Pond RDA General Permit") that will cover previously unpermitted stormwater discharges to Tongue, Spectacle, and Mashapaug Ponds from commercial, industrial, and institutional properties with an acre or more of impervious cover. This permit will use an adaptive management-based approach to prevent and reduce stormwater pollution, encourage site owners to implement green infrastructure, and reduce the impacts of climate change in the Mashapaug Pond watershed, an Environment Justice Focus Area as defined by DEM's Environmental Justice Policy (Version 1.4 - September 28, 2023). In addition to the permitting process, DEM is also actively exploring a contractual relationship, including funding, with an independent party to facilitate cooperation and provide compliance technical assistance for the regulated properties throughout the watershed.

Generally, the Mashapaug Pond RDA General Permit will include the following components:

1. Stormwater Management Plan ("SWMP") Requirements – Within the first year of the permit, Permittees will be required to develop and implement a site-specific Stormwater Management

Plan (“SWMP”) which describes how the facility will manage operations and includes measures to reduce or eliminate the potential for the discharge of stormwater pollutants to the watershed.

2. Green Infrastructure/Impervious Cover Reduction Evaluation - Permittees will be required to evaluate opportunities to reduce or eliminate impervious surfaces and for the installation of green infrastructure. Where opportunities are identified, the permit will require implementation when significant construction takes place at the covered property or by the final year of the permit (during year 4 of a five (5) year permit).
3. Climate Change Provisions - Within the first year of the permit, permittees will be required to identify areas subject to flooding and implement appropriate pollutant minimization controls for these areas (e.g., moving products stored in these areas prior to significant storm events).
4. Measurable Goals – By the second year of the permit, permittees will be required to sweep parking lots twice/year and remove leaf litter, inspect stormwater management structures, catch basins, and outfalls annually and clean sediment and debris from these structures as required.
5. Reporting – At the end of the first year of the permit, permittees will be required to develop and submit to the DEM comprehensive annual stormwater evaluation reports.

In addition to development of the Mashapaug Pond RDA General Permit, DEM intends to develop a Small Sites Guide for Stormwater Management, which will serve to guide site owners on how to meet the requirements of the permit. DEM will also work to develop a Mashapaug Pond RDA General Permit webpage and permit templates to assist applicants in complying with the general permit requirements.

DEM anticipates developing the draft Mashapaug Pond RDA General Permit by the late summer and will share it with stakeholders to get input/feedback prior to formal public notice in the fall with the goal of issuing a final permit by the end of this calendar year.

DEM looks forward to working with all relevant stakeholders on this important project.

Sincerely,

A handwritten signature in cursive script that reads "Terrence Gray".

Terrence Gray, P.E.
Director