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Testimony of Alison Field-Juma
Executive Director, OARS

Before the Joint Committee on
Environment, Natural Resources and Agriculture
on
May 17, 2016

Opposed, Request for Study: H.4254 AN ACT TO ENABLE THE
COMMONWEALTH'S ADMINISTRATION OF THE
MASSACHUSETTS POLLUTANT DISCHARGE ELIMINATION SYSTEM

Thank you Chairwoman Gobi, Chairman Schmid and Committee members for hearing our testimony.

This panel will provide specific examples from our communities that illustrate why we have serious concerns regarding this bill. My name is Alison Field-Juma, Executive Director of OARS, the watershed organization for the Assabet, Sudbury and Concord Rivers, a 400-square mile watershed in MetroWest Boston. OARS has over 600 members. We have had a water quality monitoring program with quality controlled data for 23 years. I have served as a member of DEP's NPDES Delegation Advisory Committee both in 2013 and 2016.

First example: You have probably read the article in Sunday's papers: "Years of budget cuts disarm Mass. environmental fight." It highlights 6 years of stormwater contaminated with bacteria running directly into the Wild & Scenic River section of the Assabet River in Concord just above Minute Man National Park. Let me be clear: DEP's regional staff try their best to do their job with inadequate resources. But when we call to follow upon this violation the answer is: "we just lost all our staff who work on that," "our lab's capacity has been cut," or, most recently, "You're in luck—yesterday we just got 1 out of 6 staff back, we'll try to get to it after we clear our backlog." And who climbed into a canoe on his day off to personally look at the pollution problem? An EPA employee. EPA employees are local too; they don't commute from Washington. It is because of their diligence, commitment and technical knowledge, combined with a science-based approach and the EPA's independence from political pressure, that our rivers are as clean as they are today.

Until these budget cuts became so deep, water pollution control was a joint effort —EPA did some samples, DEP others, EPA drafted the permit, DEP and EPA issued enforcement orders. It worked. It was not broken.

EPA Region 1 is based right here in Boston. They have a long and deep knowledge of our communities and the science of water pollution, with a national network of laboratories, research and scientists to tap when they need them—and all for free.

Second cause for concern: DEP tells us that in Massachusetts the Fact Sheets that accompany all NPDES wastewater permits are currently 25-56 pages long—I believe that, I’ve read them. But in delegates states they are much shorter: Vermont’s are 4-6 pages, in Connecticut Fact Sheets are only 2-3 pages long! What’s missing? They are very general and short on facts. By law the discharge limits for pollutants must be based on dilution of the polluted water by the river, lake or stream into which it is being discharged. For this one must know the pollutants that are already in that water body. One must have monitoring data. The calculations are complex. Otherwise we have no way to know whether that permit will come close to meeting water quality standards. 25-56 pages versus 2-3 pages. The science is missing.

My last example--about the appeal process. EPA-generated permits issued in 2005, implemented by our municipalities, have succeeded in turning the Assabet from a sewer into a valuable resource. One community went right ahead and complied with the permit. but three appealed and as a result, OARS appealed too. In our experience the EPA process was far more independent than DEP’s. The EPA process uses lawyers specializing in environmental and water law on an independent Appeals Board. The fact that appeals have decreased significantly in most delegated states is a cause for concern, not celebration. By limiting standing and making appeals ineffective, the public is denied recourse when permits fail to protect the environment. In DEP’s case, the Commissioner would be the judge and jury. This requires serious attention and revision.

In Conclusion: this is a very complex and important matter for public health, our economy, our quality of life. We should take the advice that the other states gave us: don’t rush. Our legislators and the public deserve a transparent and thorough assessment of the options, costs and benefits of delegation. As a member of the DEP’s Advisory Committee, I can say with confidence that this has not happened yet. We do not believe that this proposed legislation serves the interest of the public or the environment, quite the opposite.

OARS opposes H.4254 and respectfully asks the Committee to send this bill for further study.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'AJ' with a large, sweeping flourish underneath.

Alison Field-Juma
Executive Director