APPENDIX B: Definition of Permit Terms

All terms used in the Designated Discharge ("DD ") permit are defined as follows:

Baseline Performance Standards – the performance standards set forth in Section III of the DD Permit.

Co-permittee – an operator who is authorized to discharge under this permit or an alternative or individual permit and who is responsible for certain activities necessary to assure compliance with the permit.

Contiguous Lots – two or more lots that directly abut each other or are separated only by a privately-owned access way or driveway, or a single public right of way.

Certified Municipal Phosphorus Program ("CMPP") – A program that is established and managed by a municipal government, a group of municipal governments or by a legal entity under state law; and that is approved by EPA to assist in the satisfaction of the terms of the permit, consistent with the assumptions and requirements of the Lower Charles River Phosphorus TMDL.

Critical Areas – Outstanding Resource Waters as designated in 314 CMR 4.00, Special Resource Waters as designated in 314 CMR 4.00, recharge areas for public water supplies as defined in 310 CMR 22.02 (Zone Is, Zone IIs, and Interim Wellhead Protection Areas for ground water sources, and Zone As for surface water sources), bathing beaches as defined in 105 CMR 445.000, and cold-water fisheries and shellfish growing areas.

Department or DEP or MassDep – the Massachusetts Department of Environmental Protection.

Designated Discharge Site or DD Site – the single lot or contiguous lots on which a designated discharge is located.

Designated Discharge – A Designated Discharge is two or more acres of impervious surfaces located: (1) in the Charles River watershed; (2) in whole or in part in the municipalities of Milford, Bellingham or Franklin Massachusetts; and (3) on a single lot or two or more contiguous lots aggregated as follows: when measuring the impervious surfaces to determine if they meet the two acre threshold, the following impervious surfaces shall not be included:

Any impervious surfaces associated solely with any of the following land uses:

a. Sporting and recreational camps;
b. Recreational vehicle parks and campsites;
c. Manufactured housing communities;
d. Detached single-family homes located on individual lots; and
e. Stand-alone multi-family houses with four or fewer units.

f. Any property owned by a local, state or federal government unit where the property discharges wholly into an MS4 system operated by that local, state or federal government unit that has a valid NPDES permit.

For the purpose of defining "designated discharge," a stand-alone multi-family house with four or fewer units does not include any multi-family house that is part of a condominium, cooperative, apartment complex, townhouse, or other residential or mixed-use development with more than four dwelling units, or any multi-family houses that share private access roads, driveways or parking areas with contiguous lots containing additional dwelling units where the total number of units served by the shared access road, driveway or parking area is more than four.

When measuring impervious surfaces to determine if they meet the two acre threshold for a designated discharge, the impervious surfaces on contiguous lots shall be included provided that:

(1) The contiguous lots are owned by the same person; or

(2) The footprint of the same building, structure, low impact development techniques or structural storm water best management practice spans the contiguous lots owned by different persons.

EPA may require that impervious surfaces on contiguous lots that do not meet the requirements above be included for purposes of determining whether they meet the two acre threshold for a designated discharge if it finds that ownership of the contiguous lots asserted to be in separate ownership was arranged to circumvent the requirements of the permit including evidence that on or after the publication date of the draft permit two or more owners of the contiguous lots have acted in concert to acquire or dispose of contiguous lots to avoid the requirements of the permit.

For purposes of this fact sheet and permit, the Charles River watershed includes all areas that discharge directly to the Charles River or its tributaries or indirectly to the Charles River or its tributaries through an MS4 or other private or public conveyance systems, including structural storm water best management practices ("BMPs").

Designated Discharge Permit or DD Permit – the general permit issued by EPA to regulate storm water discharges from Designated Discharge Sites directly to waters of the U.S. or indirectly to waters of the U.S. through an MS4 or other private or public conveyance systems.

Designated discharge Site or DD Site – the single lot or one or more contiguous lots on which a Designated Discharge as defined herein is located.

EPA – The United States Environmental Protection Agency

Green Roof – a permanent rooftop planting system containing lightweight engineered soil medium designed to retain precipitation.

Hydrologic Soil Groups – the soil groups developed by the Natural Resource Conservation Service that indicate the minimum infiltration obtained for a soil after prolonged wetting.

Illicit Discharge – an illicit discharge is any discharge that is not composed entirely of storm water, except a discharge pursuant to another NPDES permit or a discharge resulting from fire fighting activities.

Impervious Surface – the footprint of a building or structure, a paved parking area, a paved access road or driveway; a paved area used for the storage and/or maintenance of vehicles and/or equipment; a paved area used for the storage of materials, products and/or waste. The term "paved access road or driveway" includes an impervious surface leading to any of the following: a paved parking area; a paved area used for the storage and/or maintenance of vehicles and/or equipment; or a paved area used for the storage of materials, products and/or waste. For purposes of the DD Permit, porous pavement is not considered to be an impervious surface to the extent that it is designed, constructed, operated, and maintained in accordance with the Massachusetts Stormwater Handbook to treat and infiltrate the required water quality volume or the required recharge volume whichever is larger. Similarly, any portion of a building footprint that is covered by a green roof is not considered to be an impervious surface to the extent that the green roof is designed, constructed, operated and maintained in accordance with the Massachusetts Storm water Handbook to retain the required water quality volume.

Infiltration BMPs – the storm water BMPs listed as infiltration BMPs in the Massachusetts Stormwater Handbook. Infiltration BMPs include the following: infiltration trenches, infiltration basins, subsurface structures, dry wells, leaching catch basins, and exfiltrating bioretention areas and rain gardens. If configured to exfiltrate, porous pavement and tree box filters are also infiltration BMPs.

Interim Wellhead Protection Area or IWPA – an Interim Wellhead Protection Area as defined in 310 CMR 22.02. Generally, this is a one-half mile radius from the well or wellfield for sources with an approved pumping rate of 100,000 gallons per day or greater. For smaller sources, the radius in feet is determined by multiplying the approved pumping rate in gallons per minute by 32 and adding 400.

Land Uses with Higher Potential Pollutant Loads – land uses identified in 310 CMR 22.20B(2), 310 CMR 22.20C(2)(a) through (k) and (m), 310 CMR 22.21(2)(a)1 through 8, and 310 CMR 22.21(2)(b)1 through 6; areas within a site that are the location of activities that are subject to an individual National Pollutant Discharge Elimination System (NPDES) permit or the NPDES Multi-Sector General Permit; auto fueling facilities (gas stations); exterior fleet storage areas; exterior vehicle service and equipment cleaning areas; marinas and boatyards; parking lots with high intensity use; confined disposal facilities and disposal sites.

Lot – an area of land with definite boundaries distinctly designated on a recorded or registered map, plot or survey or described by metes and bounds in a duly recorded or registered deed.

Low Impact Development (LID) Techniques – innovative storm water management systems that are modeled after natural hydrologic features. Low Impact Development techniques manage rainfall at the source, generally using uniformly distributed decentralized micro-scale controls. Low Impact Development techniques include small cost-effective landscape features located at the lot level. For purposes of the permit, Low Impact Development techniques are considered structural BMPs.

Municipal Separate Storm Sewer System or MS4 – all separate storm sewers that are owned or operated by the United States, the Commonwealth of Massachusetts, a city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under 33 U.S.C. § 1288 that discharges to waters of the United States.

Massachusetts Stormwater Handbook – the document developed by DEP and referred to by that name by DEP as technical guidance for implementation of its Stormwater Standards.

Massachusetts Stormwater Management Standards – regulatory standards that are part of the Massachusetts Wetlands Protection Act Regulations, 310 CMR 10.05(6)(k) and the Massachusetts Water Quality Certification Regulations, 314 CMR 9.06(6)(a). The six storm water standards address the negative environmental impacts of storm water by requiring the implementation of a wide variety of storm water management strategies, including: environmentally sensitive site design and low impact development techniques to minimize impervious surface and land disturbance; source control and pollution prevention; structural BMPs; construction period erosion and sedimentation control; and the long-term operation and maintenance of storm water management systems.

NPDES – the National Pollutant Discharge Elimination System permit program established pursuant to 33 U.S.C. § 1342.

Operator – a person that controls or has the right to control some or all of the activities at a DD site that are necessary to assure compliance with this permit regardless of whether the person submitted a Notice of Intent. EPA considers the owner of a lot that comprises part or all of a designated discharge site to be an operator.

Outstanding Resource Water – those waters that are designated for protection under 314CMR 4.04(3) and the Massachusetts Anti-degradation policy based on their outstanding socio-economic, recreational, ecological and aesthetic values.

Own – to have a legal or equitable ownership interest alone or with others in real property. For purposes of the DD Permit, a person, other than a local government unit, that owns real property, includes, but is not limited to, an agent, executor, administrator, trustee, lessee or guardian of the estate for the holder of legal title. For purposes of the DD Permit, a person whose only interest in real property is as a secured lender does not own the real property.

Owner – a person that has a legal or equitable ownership interest alone or with others in real property. For purposes of this permit, an owner does not include a person that is not in possession of the real property and whose only interest in the real property is as a secured lender.

Permittee – any owner of a designated discharge site that is authorized to discharge under this permit.

Person – means an individual, association, partnership, corporation, municipality, State of Federal agency, or an agent or employee thereof.

Phosphorus Control Plan – a plan developed and implemented by or on behalf of an MS4 to satisfy its requirements under an MS4 NPDES permit and the wasteload allocation of the Lower Charles Phosphorus TMDL.

Phosphorus Load Reduction – The reduction in the amount of phosphorus in storm water discharging from a DD site that results from BMP implementation under this permit, where the reduction is expressed in units of pounds of phosphorus.

Phosphorus Relative Reduction – The reduction in the amount of phosphorus in storm water discharging from a DD site that results from BMP implementation under this permit, where the reduction is expressed as a ratio, in hundredths, of the amount of phosphorus load reduced to the amount of phosphorus load discharging from the site prior to the implementation of BMPs. For example where a site discharges 200 pounds of phosphorus prior to the implementation of BMPs and the permittee reduces that discharge by 130 pounds through the implementation of BMPs, the phosphorus relative reduction is 130/200 =65%.

Residential Uses – apartment buildings, townhouses, condominiums, cooperatives, single-family and/or multi-family homes, and rooming and boarding houses. Residential uses do not include the use of properties for the activities listed in the following Standard Industrial Classification Codes: 7011, hotels; 7032, sporting and recreational camps; 7033, recreational vehicle parks and camp sites; 7041, organizational hotels and lodging on a membership basis; 8051-8059, nursing and personal care facilities; 8062-6069, hospitals; and 8361, residential care facilities.

Seasonal High Ground Water – the highest ground water elevation determined in accordance with the Massachusetts Stormwater Handbook.

Special Resource Water – those waters that are designated for protection under 314 CMR 4.04(6) and the Massachusetts Anti-degradation policy based on their exceptional significance.

Storm water – storm water runoff, snowmelt runoff, surface runoff, and drainage.

Storm Water Best Management Practice or Storm Water BMP – a structural or nonstructural technique for managing storm water to prevent or reduce pollutants from entering surface waters or ground waters. A structural storm water best management practice includes a basin, discharge outlet, swale, rain garden, filter or other storm water treatment practice or measure either alone or in combination including without limitation any overflow pipe, conduit, or weir control structure that: (a) is not naturally occurring; (b) is not designed as a wetland replication area; and (c) has been designed, constructed, and installed for the purpose of conveying, collecting, storing, discharging, recharging or treating storm water. For purposes of the permit, low impact development techniques are considered structural BMPs. Nonstructural storm water best management practices include source control and pollution prevention measures.

Storm water Management System – a system for conveying, collecting, storing, discharging, recharging or treating storm water on-site including storm water best management practices and any pipes and outlets intended to transport and discharge storm water to the ground water, a surface water or a municipal separate storm sewer system.

Storm Water Professional – a Massachusetts Registered Professional Engineer or a Massachusetts Registered Landscape Architect experienced in storm water management.

The TMDL – the phosphorus TMDL for the Lower Charles River approved by EPA on October 17, 2007.

Total Maximum Daily Load (TMDL) – the sum of a receiving surface water's individual wasteload allocations and load allocations and natural background, which together with a margin of safety that takes into account any lack of knowledge concerning the relationship between effluent limitations and surface water quality, represents the maximum amount of a pollutant that a surface water body can receive and still meet the Massachusetts Surface Water Quality Standards in all seasons.

Turf – land including residential property golf courses or other land that is planted in closely mowed managed grass except that turf does not include pasture land used to grow grass for sod or any other land use for agricultural production.

Wasteload Allocation – the portion of a receiving water's loading capacity that is allocated to one of the existing or future point sources of pollution. Wasteload allocations constitute a type of water quality-based effluent limitation.

Waters of the United States –

a. All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

b. All interstate waters including interstate “wetlands;”

c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters:

(1) Which are or could be used by interstate or foreign travelers for recreational or other purposes; or

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(3) Which are used or could be used for industrial purposes by industries in interstate commerce;

d. All impoundments of waters otherwise defined as waters of the United States under this definition;

e. Tributaries of waters identified in paragraphs (a)through (d) of this definition;

f. The territorial sea;

g. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this section;

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal areas in wetlands) nor resulted from the impoundment of waters of the United States. [see note 1 below] Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area’s status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

[Note 1; At 45 FR 48620, July 21, 1980, EPA suspended until further notice in§122.2 the last sentence, beginning “This exclusion applies….” in the definition of Waters of the United States.]