

**TESTIMONY OF
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**BEFORE THE
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES**

JUNE 4, 2012

Thank you Mr. Chairman. My name is Curt Spalding. I am the Administrator of the EPA's New England Region, known also as Region 1. I appreciate the opportunity to describe the agency's approaches to the challenges facing Great Bay.

Efforts to Protect Great Bay

I think we all start from a common understanding – the Great Bay estuaries are a treasure. Congress, as part of the 1987 amendments to the Clean Water Act, established the National Estuary Program to protect and restore estuaries of national significance. In 1995, Great Bay joined the National Estuary Program, one of only 28 estuaries so designated across the country. To all who live in the seacoast region and to others who have spent time exploring these estuaries, Great Bay is a real jewel.

Since the founding in 1995 of the New Hampshire Estuaries Project, the Great Bay estuary has been studied extensively, and estuary partners have written and executed comprehensive management plans for Great Bay. Originally administered through New Hampshire state agencies, the program was renamed as the Piscataqua Region Estuaries Partnership (or PREP as it is often called). The program moved to the University of New Hampshire in 2005 and shortly thereafter expanded its focus area to include the Maine portion of the watershed. The PREP's Environmental Monitoring Program involves a comprehensive data collection, analysis and reporting plan to provide information on over 30

environmental indicators. Through the National Estuary Program, the EPA helps to provide financial and in-kind support to the PREP.

Great Bay's Challenges

In 2009, PREP published its fourth State of the Estuaries Report, showing that the environmental quality of the Piscataqua Region estuaries was declining. Of the twelve primary environmental indicators established by PREP, eleven show negative or cautionary trends. In the previous State of the Estuaries Report released in 2006, only seven of the twelve indicators were classified this way. The most pressing problems for the estuaries relate to an increase in nutrient loads associated with a range of pollution sources. This problem of nutrients in the environment is not unique to Great Bay. Approximately 75 percent of the assessed estuaries in New England are impaired and about 40 percent of these waters are impaired for nutrients. Today, nutrient levels in waters nationwide threaten drinking water supplies, inland waters and estuaries across the country.

With mounting evidence of decline across the Great Bay watershed, in 2009 the New Hampshire Department of Environmental Services designated the Great Bay waters as impaired for failure to meet applicable water quality standards including the aquatic life designated use based on chlorophyll-a, dissolved oxygen, water clarity, eelgrass habitat and total nitrogen.

In addition to the EPA's critical role in supporting the PREP, the EPA has another important role in the watershed – we are the Clean Water Act permitting authority in New Hampshire. New Hampshire is one of only four states (including Massachusetts) in the country that is not authorized to administer the Act's National Pollutant Discharge Elimination System permit program. In such cases, it falls to the EPA to issue permits that, in conjunction with other pollution control actions, ensure compliance with state water quality standards and other requirements of the Clean Water Act.

As part of this responsibility, the EPA must ensure that the permits it writes for discharges to Great Bay do not cause or contribute to violations of water quality standards. Discharges of nutrients to Great Bay come from a variety of sources, but one of the significant sources of nutrients is sewage treatment plants.

In light of its Clean Water Act permitting responsibilities and the State's designation of Great Bay waters as impaired, the EPA began to take a closer look at discharges of nutrients to Great Bay, with the goal of reducing these discharges and improving the health of the Bay. As I will describe further below, the EPA is working with the State of New Hampshire and with local governments to renew permits associated with 14 New Hampshire wastewater treatment facilities that discharge either to the Bay or its tributaries. These sewage treatment plants discharge close to 20 million gallons a day into the Bay or its tributaries. Reducing nutrient levels in these discharges can help restore and protect water quality in Great Bay.

Before discussing our work to reduce nitrogen pollution from these plants, I would like to note that sources other than sewage treatment plans are also major contributors to Great Bay's nutrient pollution problem and the EPA continues to take steps to implement a coordinated approach relying on a range of pollution control actions to address these other sectors as needed to meet water quality standards. For example, the EPA is developing a general permit to address stormwater discharges from the urbanized areas of the larger cities and towns in the watershed, which will help reduce stormwater discharges of nitrogen. We have been working with the state as part of the Great Bay Initiative, the effort facilitated by PREP, focused on a comprehensive approach, including nonpoint source reductions, to address what is a complex problem.

Reducing Nutrients from Sewage Treatment Plants

The EPA's initial focus has been on the small number of facilities that discharge the bulk of the nitrogen load coming from sewage treatment plants. For example, treatment plants in Exeter, Newmarket, Dover and Rochester account for over 80% of the nitrogen released to Great Bay from sewage treatment plants.

Last spring, EPA issued a draft permit for the Exeter wastewater treatment facility and last fall we issued a draft permit for the facility in Newmarket. Even without the new, nitrogen limits proposed for these communities, these treatment plants are long overdue for basic upgrades that will require significant capital investments. The total cost of the upgrade will include much more than nitrogen control, and will avoid more costly retrofits later. The EPA has gone to great lengths to ensure the public has had an opportunity to inform the permitting process. In both Exeter and Newmarket, we had lengthy public comment periods, granted extensions when requested, and held public hearings.

As is true for every permit we issue, the EPA has provided its analysis for the public to examine and critique. We have received a wide range of public comments, both for and against the proposed nutrient limits in the draft permits. The EPA is now reviewing the record and preparing responses to all the comments we received to inform the agency's final decision. We will document our responses to all comments received and provide a detailed record for our ultimate decisions. I anticipate we will make decisions on the Exeter and Newmarket permits sometime this summer. A third permit for Dover, proposed in February of this year, will likely be issued in final form shortly after Exeter and Newmarket.

We are fully aware that it will take public investment to clean up Great Bay. We have indicated from the outset that we will be responsive to communities' concerns about cost. My colleagues and I in Region 1 have issued many permits over the last decade that required municipal investments without imposing an undue burden upon any community. We are equally committed to doing so here. Although the Clean

Water Act prevents us from authorizing discharges that would violate water quality standards, we have consistently recognized issues related to technical feasibility and the economic impacts facing municipalities for treatment plant upgrades, stormwater requirements, and other municipal needs. We are willing to work with communities to minimize the impact to rate payers.

Many estuary stakeholders, such as the Great Bay Municipal Coalition, have proposed that the EPA and others take an adaptive management approach to control nitrogen in the estuary. They have asked the EPA to allow treatment plants to be upgraded under phased schedules, giving municipalities the opportunity to assess and address other sources of pollution contributing to the problem, and monitor the response of the system before going to more expensive controls. We are interested to work with affected communities on an approach to reducing their nutrient pollution in a way that helps restore Great Bay and minimize impact on ratepayers.

Conclusion

For 18 years prior to my current position, I was the Executive Director of Save the Bay in Rhode Island. In that position, I witnessed the struggle to find solutions that would address Narragansett Bay's challenges in an environmentally protective and cost-effective way. I know how hard it was to build a consensus to make the investments in public infrastructure necessary to begin the long path toward restoring Narragansett Bay. There is still time, though probably not much time, to arrest the decline in Great Bay. The longer we wait, the harder and more expensive the path back. I and my colleagues at the EPA stand willing to work with the State of New Hampshire, each community, and stakeholders to find an affordable path to restoring the treasure that is Great Bay.

Thank you for the opportunity to testify today. I am happy to answer any questions you may have.