

## Assault on the Clean Water Act Threatens Our Rivers

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When Bob Zimmerman, Executive Director of the Charles River Watershed Association (CRWA), arrived in Brisbane, Australia, and saw the tough competition for the International Riverprize, he wasn't so sure that his plane ticket was money well spent. Riverprize is one of the world's most prestigious environmental awards. He needn't have worried. The tremendous achievements of the CRWA and its government partners in cleaning up the Charles River won the day. "The engines of growth in urban Boston are a cleaner Charles River and a cleaner Boston Harbor, and that is no accident. Without the Clean Water Act, nothing would have changed," said Zimmerman.

Yet the federal Clean Water Act itself is now under serious threat. Let's look at what has been achieved and what we can do to ensure that our children and grandchildren will have clean water.

### Why a Federal Law?

Here in Massachusetts, when we turn the tap, cheap clean water comes out. Our rivers, which ran the color of the textile dye-du-jour, or were solid and stinking with rotting paper pulp and other industrial waste and human sewage, are making remarkable recoveries. For these improvements we can largely thank federal water pollution control laws, especially the Clean Water Act.

The law that we know as the Clean Water Act (CWA) was passed as a sweeping series of amendments to the 1948 Federal Water Pollution Control

### *A cauldron of "interesting ingredients"*

*"[T]he Assabet is ideal for easy Class 2 boating except for one slight drawback; the river is one of the least scenic and biggest eyesores around. You will find all kinds of interesting ingredients making up this cauldron: dead fish, arm chairs, old refrigerators.... And, to top all this, the river smells. Other than that, the Assabet is a great place for boating. If you must go there, consider yourself warned. The trip itself is very short, so you can repeat it several times in one day, that is, if your nose and stomach can stand it." New England White Water Guide, AMC, 1981.*

Act but was promptly vetoed by President Nixon. A Congressional override put the CWA into effect in 1972. Further significant amendments were made in 1977. The Nixon administration had established the Environmental Protection Agency (EPA) in 1970 and implementing the CWA was one of the EPA's first jobs.

The goal of the Clean Water Act was to restore the nation's surface waters so they are suitable for human recreation, or "fishable and swimmable," and to protect clean water sources for drinking. The CWA prohibited the discharge of pollutants from point sources (pipes or ditches) without a permit. Because pollution control can be expensive, the Act also included a major funding program with grants for up to 75% of the cost of public wastewater treatment facility construction. The law also allowed the EPA to delegate their regulatory authority to states while retaining oversight.

The impact of the Clean Water Act was rapid and widespread. The grants allowed many municipalities to build their first wastewater treatment plants, and cities and towns began to treat raw sewage before discharging it to local streams, rivers and lakes, and to replace failing septic systems with

centralized treatment. Westborough, Marlborough, Hudson, Maynard, Concord, and Billerica all built treatment plants in the 1960s and 1970s.

The federal Safe Drinking Water Act quickly followed in 1974. It required the EPA to set standards and oversee drinking water quality. The next significant change affecting rivers was the Water Quality Act of 1987. This Act required the EPA to monitor water bodies to assess progress, and added stormwater pollution discharged by industries and municipalities to the permitting system. This addition was based on EPA research finding that stormwater runoff was a significant source of water pollution. On the downside, the 1987 Act also changed the construction grants program into the revolving loan program that exists today, the Clean Water State Revolving Fund (SRF). This shifted the substantial cost of wastewater treatment fully to local communities.

Massachusetts and New Hampshire are two of only five states where the EPA retains permitting authority rather than delegating it to the state. This is mainly due to these states being unwilling or unable to allocate sufficient funds to take on the task. Massachu-

setts enforces its own Clean Water Act, which mirrors the federal law. The Mass. Department of Environmental Protection (DEP) sets and certifies water quality standards, conducts monitoring and assessments, and jointly issues and enforces discharge permits with the EPA. It also regulates drinking water withdrawals.

**Has the Clean Water Act worked?**

There has been much progress in cleaning up our nation's waters since the 1970s. Rivers don't catch on fire anymore, and the unidentified floating objects they contain are more benign than in the past. We can realistically aim to restore a healthy aquatic habitat in rivers where, like the Assabet, you could practically walk on the "water" due to the dense mats of rotting floating aquatic plants and algae. Among other things, healthy habitat brings the joy and economic activity provided by outdoor recreation such as boating, fishing, hunting, birding and hiking.

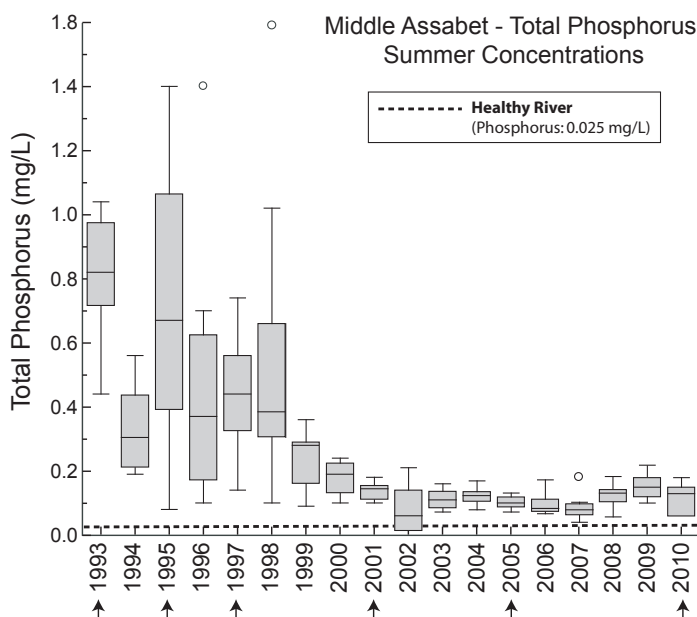
The success of advocates and regulators in restoring the Charles River moved it from an EPA report card grade of D in 1996 to B+ today. "There was something about establishing a goal, timetable, and a measure of accountability that helped turned the tide," said John DeVillars, Regional Administrator of the EPA's New England office (1994-99) (*Boston Globe*, Oct. 11, 2011).

During her tenure as OARS' first Executive Director (1998-2005), Julia Blatt didn't see many changes in the Assabet. It was still disgusting in the summer, unhealthy for people and wildlife, and the butt of teenagers' jokes. She focused on getting better wastewater discharge permits under the Clean Water Act so that now, six years later, we would be able to see real measurable changes in the river. "Change in a river is measured in decades, not years," she notes. "We laid the groundwork for a much healthier

**What has been achieved on the Assabet, in a nutshell**

Everyone knew the Assabet in the 1980s was a mess, but what would be an effective strategy to clean it up? The Clean Water Act requires that a study be done to identify and quantify the causes of pollution and lay out an affordable plan, based on the science, to control the pollution enough to meet water quality standards (Class B, "fishable and swimmable"). OARS pressed for the study, known as a TMDL, to be done. Mass DEP issued the final report in 2004. It showed that phosphorus from wastewater treatment plants was the main source of the Assabet's pollution, followed by phosphorus recycling in the sediments captured behind the five mill dams that impound the river.

The TMDL provided a roadmap for discharge permits issued under the Clean Water Act. A two-step 10-year process was agreed upon: The first 5-year permits were issued in 2005 requiring upgrades to the municipal treatment plants to meet stringent phosphorus limits; the next 5-year permits are now due and are expected to contain more stringent phosphorus limits if needed to enable the river to meet its goal. OARS' data in the graph below show the significant improvement in phosphorus levels in the river since 1993, and what improvement is still needed. Adding more wastewater to the river, successfully opposed by OARS, would make it more difficult to meet this goal.



- 1993 First NPDES permits with Total Phosphorus (TP) limits issued
- 1995 Westborough WWTP begins TP removal (1.0 mg/L summer limits)
- 1997 Marlborough WWTP begins TP removal (1.0 mg/L summer limits)
- 2001 All four WWTPs meet TP summer limits (0.75 mg/L)
- 2005 First permits issued with summer (0.1 mg/L) and winter (1.0 mg/L) TP limits
- 2010 Hudson WWTP meets 2005 permit limits
- 2012 All four WWTPs will meet 2005 permit limits

river, and it wouldn't have been possible without the Clean Water Act."

Given the effectiveness of the Clean Water Act, why doesn't everyone love it? Having clean water to drink and enjoy is incredibly valuable to us personally and to our economy. However, we are used to it being unrealistically inexpensive and our lack of investment is now catching up with

us. Some communities are feeling sticker shock, and water infrastructure investments must compete with other urgent funding priorities. It was much easier to build wastewater facilities when there were federal grants available. The current state revolving loan programs help, but loans must still be repaid.

There are also equity issues. A town discharging wastewater in the headwaters of a river, like Westborough, doesn't experience the negative results felt downstream in Hudson or Stow. Upstream residents may feel that they don't derive a benefit sufficient to outweigh the increase in sewer rates to pay for additional wastewater treatment. Downstream residents see no reason that they should be the recipients of the pollution generated elsewhere. While in the past rivers conveniently took away our waste for free, this has become a more expensive form of disposal. Unfortunately it is still, generally, the cheapest. State and federal laws help manage this conflict by using science-based standards to address the problem across all communities.

Sadly, these achievements and goals are now under serious threat at all levels.

### National Threats to Clean Water

On the federal level, the Clean Water Act was seriously curtailed by two confusing Supreme Court decisions in 2001 and 2006 that sought to eliminate protection of many wetlands and

#### ***From "The Filthiest Harbor in America" to Engine for Growth***

*A boat tour of Boston harbor today provides a vista of small recreational crafts, people fishing, tourist boats, high-end condos and restaurants, the Aquarium, the Boston Convention Center, and the boom and bustle of construction and recreation. Most of the buildings are new or renewed, the economic activity unthinkable back in the 1980s when the press dubbed Boston Harbor "the filthiest harbor in America." In 1985 a Quincy city solicitor stepped in raw sewage while jogging on a Boston beach...and sued the city under the Clean Water Act. The judge ordered construction of a new treatment plant, followed by a schedule for a massive cleanup. We see the results today. For more information: [www.savetheharbor.org](http://www.savetheharbor.org)*

tributaries. Guidance proposed by President Obama that clarifies and protects these resources has been blocked by the House of Representatives. But legislators haven't stopped there: this year, Death by a Thousand Cuts has been applied through the budget process. The Interior Department budget appropriation approved by the House cut funding for the Clean Water State Revolving Fund by 55% and cut EPA operations by 18% (on top of the 16% cut passed in April).

Congresswoman Niki Tsongas (MA-5th District) argued on the House floor: "...This [appropriations] bill would dismantle the Clean Water Act, which would not only undermine our constituents' access to clean and healthy waterways but also would mean the loss of tens of thousands of jobs." (July 25, 2011) The appropriations bill also contained 38 "riders" that specifically blocked implementation of: river restoration, EPA oversight of state actions, new air and water pollutant standards based on current research, endangered species act, and climate change adaptation programs (including the Department of Homeland Security's work to identify security threats due to climate change). The full list is quite overwhelming. ([www.oars3rivers.org](http://www.oars3rivers.org)⇒ Our Work⇒Speaking Up⇒State and Federal Policy)

Then there is the "Clean Water Cooperative Federalism Act of 2012" (HR 2018), which would undermine "the fundamental water protections the American people rely on and would reverse decades of progress... [It] is a direct assault on two key components of the Clean Water Act: enforcement of water quality standards and protection of aquatic resources from discharges of dredged and fill material." (June 20, 2011, letter from Sierra Club, NRDC and other groups to House committee chairs).

Enough already? What prevents these

#### ***One teenager makes a difference***

*In June 2010, 9th grader Sam Copeland discovered a discharge of untreated wastewater to the Wild & Scenic section of the Assabet River in Concord. Mass DEP and EPA took samples which showed high levels of fecal coliform bacteria, ammonia, and pharmaceuticals. The discharge came from the Concord prison (MCI-Concord). DEP issued an Administrative Order and by October MCI had identified the likely sources and redirected them to the facility's wastewater treatment plant. All of us can paddle a cleaner and safer Assabet River; thanks to the efforts of Sam and state and federal environmental agency staff enforcing the Clean Water Act.*

bills becoming law is a few Senate votes and a Presidential veto—that's it.

### State and Local Threats to Clean Water

State financial woes have led to years of disproportionate cuts in environmental agencies. All environmental spending in the Commonwealth now represents less than 1% of the overall state budget. The FY 2012 budget brings it down to a shocking 0.57%. According to Nancy Goodman at Environmental League of Massachusetts, "It's never been worse . . . . We are now at risk of making environmental agencies dysfunctional, unable to fulfill their basic role protecting the environment and public health." This is particularly true for the DEP which has suffered a 30% cut in staff since 2002. Among its many duties, DEP is responsible for enforcement of water pollution violations, water quality monitoring, water withdrawal permitting, and overseeing hazardous waste cleanup, all requiring a highly trained professional staff. When Sam Copeland (see Box) found raw wastewater flowing into the Assabet, who took samples and enforcement action? DEP. They have tried for years to do more with less; now they can only do less



with less. Now let's look at the local level.

A proposed Massachusetts ballot initiative for 2012 (Petition 11-10) would cap municipal water and sewer rate increases at 2½% annually. A spokesperson for Citizens for Limited Taxation, the Prop 2½ property tax proponent, thinks this is "fishy," after all, water and sewer rates are fees for service, not taxes. According to Senator James Eldridge (D-Acton): "This ballot initiative would cripple the ability for water districts and towns and cities to provide a clean water supply and to treat water for their residents." *Waltham News Tribune*, Oct. 12, 2011. Senator Eldridge, Senate chair of the Water Infrastructure Finance Commission, adds that this is the opposite of what is needed, which is to come up with ways to meet water infrastructure needs throughout the state. The Commission will be proposing a Blue Communities Act to do this.

The effects of these proposed cuts to our environmental agencies and the laws they enforce would include:

1. Less enforcement and more polluted water
2. Delays in permits being issued
3. Diminished use of science in decision-making
4. A race to the bottom between states as they compete to attract polluting projects and industries
5. Uncertainty for municipal and industry budgeting and planning
6. Minimal adaptation to climate change

Those are six things that we can't afford. The results would be serious impacts on health, economic growth, and the livability of our communities. But there are many things we can do about it.

**What you can do**

Education yourself, stand up, be heard, and vote! Communicating with our

local and state representatives and those in Washington makes a difference. Here are some ideas that can send a strong message and tip the scales in favor of our rivers:

- Sign up for *OARS Action Alerts*—we will help you take and communicate well-informed positions. Go to "Take Action" on our website.

Local:

- Support town meeting budgets and votes on *infrastructure investments* that protect water resources.
- Support your town or water district's requests to *increase water and sewer rates* when needed.
- Ask your city or town to find *wastewater management alternatives* that are more sustainable than discharging wastewater into our rivers.
- *Keep conserving water*—Go to "Take Action at Home" on our website.

State:

- Write letters to local papers and *send the published letters to your legislators*.

National:

- Tell your senators and representatives that you support the EPA and the Clean Water Act. *They need to hear from us*.

National polls show that clean drinking water is one of Americans' top priorities. Clean rivers, streams and harbors are assets that drive much-needed economic development. A tremendous amount of progress has been made in the past 100 years in protecting and restoring our nation's waters. Why would we let that go? The rain that falls from the skies and courses through our rivers like the veins in our bodies is precious beyond words. Let us be sure that its value is recognized in all that we, and our local, state and federal government, do.



**Yes, I'd like to help the Assabet, Sudbury, and Concord Rivers!**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

- Leadership Circle:
  - Benefactor \$2500
  - Steward \$1000
- Guardian \$500
- Protector \$250
- Friend \$100
- Activist \$50
- Member \$30
- Student/senior \$15
- Other \_\_\_\_\_

Make checks payable to OARS and mail to:

OARS  
23 Bradford Street  
Concord, MA 01742

To pay by credit card: Go to [www.oars3rivers.org](http://www.oars3rivers.org), click on "join or renew." Then follow the instructions. OARS will be automatically notified.

- If your employer has a matching gift program, please include the company's form.
- Your membership dues are tax deductible and include a subscription to the *OARS Newsletter*.

**Thank you for your support!**