

NPDES Permit Delegation for Massachusetts- Is it the Right Time or The Right Move ???

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NEWEA Spring Meeting
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PLEASE NOTE:

I AM
REPORTING
FACTS AND
WHAT I HAVE
HEARD!!!

THANKS FOR THE INFO & OPINIONS !!

- MassDEP
- USEPA
- OARS
- Massachusetts Water Works Association
- Connecticut River Conservancy
- Massachusetts Rivers Alliance
- City of Worcester
- Massachusetts Coalition for Water Resources Stewardship
- Massachusetts Municipal Association
- Press releases and other information outlets



NPDES: WHAT IS IT ???

- NATIONAL POLLUTANT DISCHARGE **ELIMINATION** SYSTEM
- A SURFACE WATER DISCHARGE PERMITTING PROGRAM
- A PROGRAM IN MASSACHUSETTS WITH APPROXIMATELY **3,000 PERMIT HOLDERS !!!**
- 121 MAJOR/107 MINOR INDIVIDUAL DISCHARGES
- 250 MUNICIPALITIES UNDER MS4 and MUCH MORE !!
- **AUTHORIZATION, DELEGATION, PRIMACY**

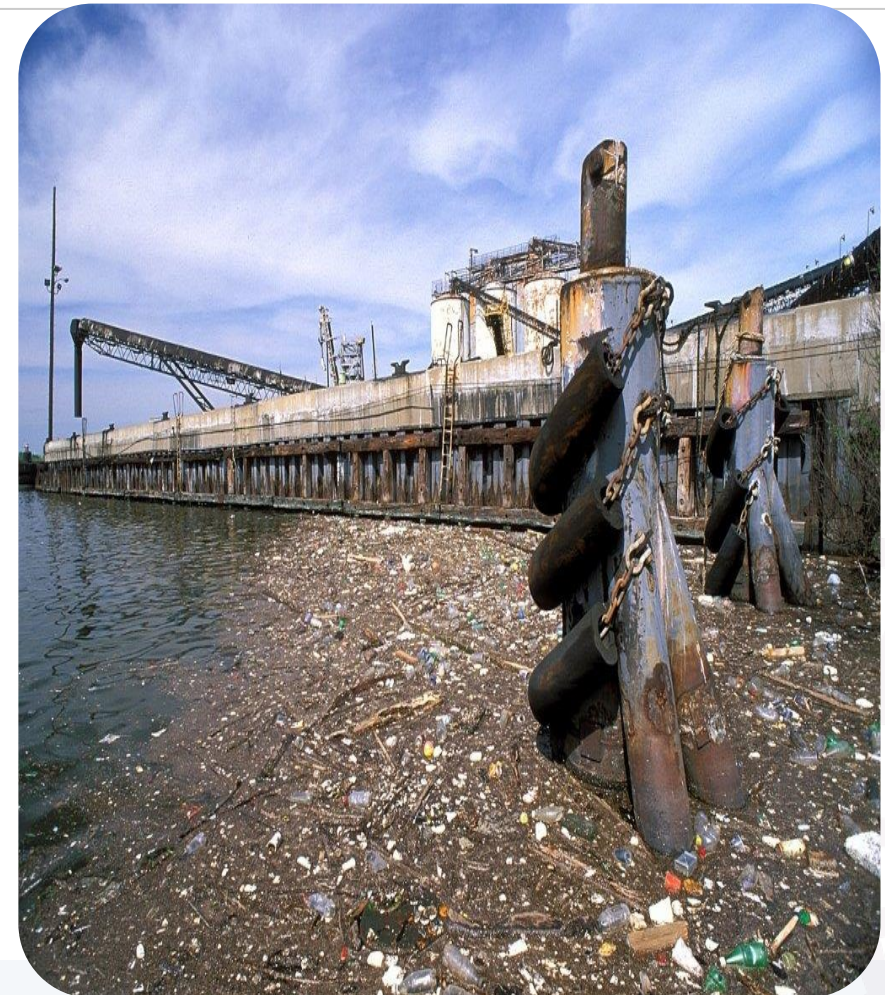
NPDES: HOW WAS IT AUTHORIZED???

- Federal Water Pollution Control Act, 33 U.S.C section 1251 et seq., as amended (1972)
- Aka Clean Water Act & Public Law 92-500 (Sections 318, 402, 405)
- Nixon vetoed October 17, 1972, Senate & House overrode veto- became law October 18, 1972
- 40 CFR 122: EPA ADMINISTARTED PERMIT PROGRAMS
- 40 CFR 123: STATE PROGRAM REQUIREMENTS



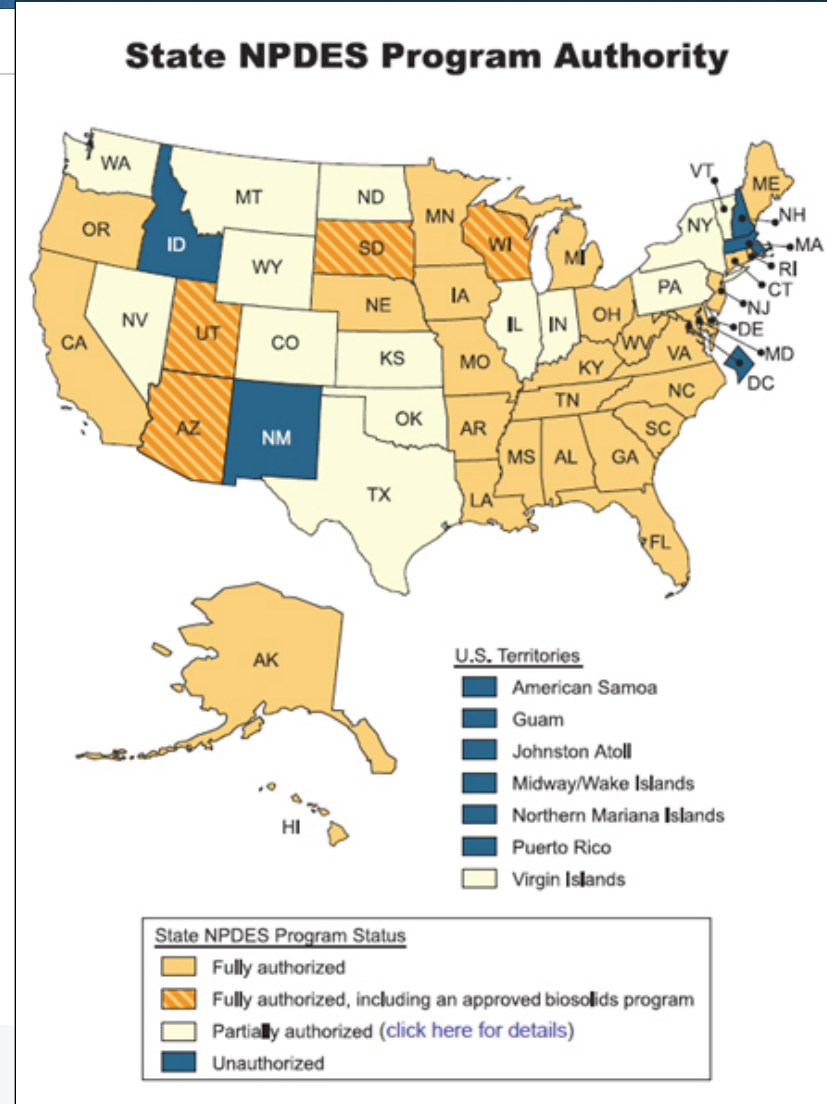
Wastewater Discharge Permit "History"

- Refuse Act **1899**
- 1948 FWPCA
- Nixon EO 1970
- 1972 CWA
- MA Board Health **1886**
- Div. Sanitary Eng. 1945
- DWPC 1966 !!!
 - > DEQE 1974,
 - > DEP 1989



NPDES PROGRAMS NATIONALLY

- Only 4 states not delegated
 - MA, NH, NM, ID
 - Not DC either !!!
- Idaho currently seeking delegation
- New Hampshire filed recent bill
 - to study possibility
- Maine most recent in New England



ELEMENTS OF NPDES PROGRAM

- Process Applications
- Issue discharge permits
- Compliance & Enforcement
- Data Management/Administration
- Legal support: appeals
- EPA Oversight & Audits
- Maintain Funding



NPDES PERMITS: BIG UNIVERSE

- * Municipal WWTP
- * Industrial
- * Stormwater: * MS4, * Construction
- * Multi-Sector Industrial
- * Site Dewatering
- * Small POTWS * Potable Water Treatment
- * Noncontact cooling water * Hydroelectric
- * Remediation
- * Vessels (yes there is one !!)



HISTORICAL "WIDE RIGHT !!

- 1973 "Short-Term Agreement
- 1980's Initial Review
 - Not much memory of this attempt
- 1996-1997 Cadmus Report
 - Positive with needed next steps
- 2013 Report to Legislature
 - Decided not to proceed
- 2016 Governor Baker's Bill "sent for study"



RECENT DELEGATION LEGISLATIVE ACTIONS

- **Governor Baker's Bill No. 2777**
 - March 8, 2017 filed
 - Seeks authority & \$4.7 M
- **Governor Baker's Bill No. 4672**
 - April 29, 2016 filed
 - Reviewed by Committee October 3, 2016
 - "Sent for study": January 3, 2017
- **Governor Baker's FY H.1 Budget**
 - \$1.4 M "seed" for improved monitoring
 - Not in House or Senate- amendment possible
- **Representative Rogers Bill No. 2139**
 - Improve water quality programs- do "gap" analysis



NPDES Decision Process- ALL NEEDED

- Bill submitted by Governor
- Bill reviewed by Committee E,NR&A
- House & Senate vote
- Legislation gives authority to proceed
- Regulations and Statutes
- Develop application (1-3 years)
- Negotiate with USEPA
- Get to Work !!!



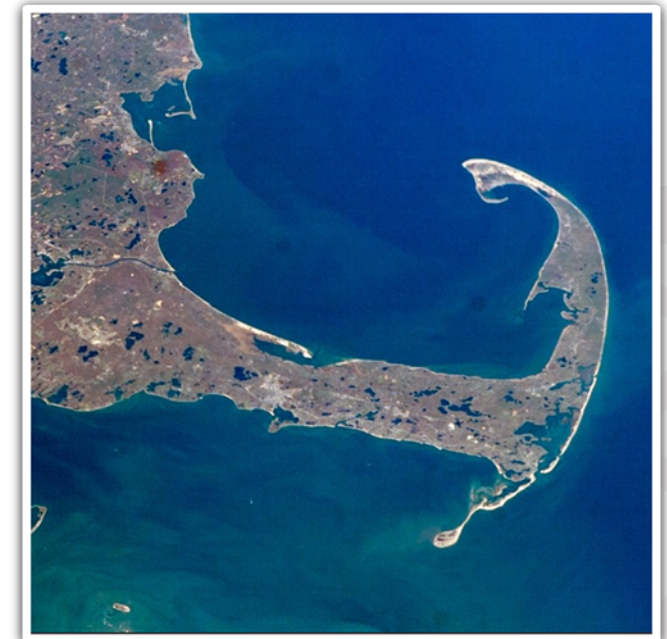
MassDEP's NPDES PROGRAM PROPOSAL

- 27 current staff
- **\$4.7 M per year**
- 40 new staff
- **\$3.2 M per year**
- **\$1.5 M** for contractors
- More water quality staff
- Phase in program



MassDEP's "BENEFITS" OF DELEGATION

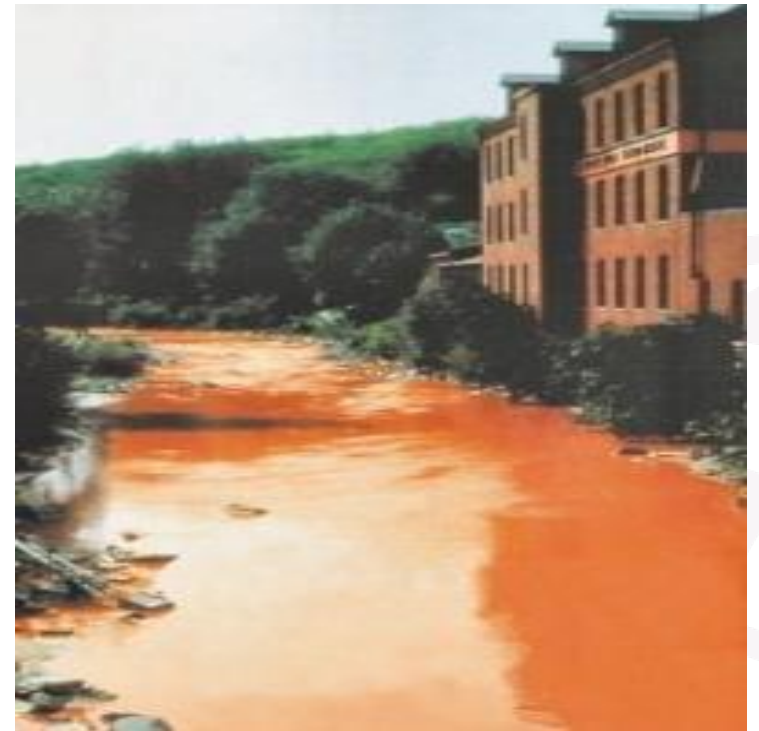
- Successful with other federal programs
- Key part of Integrated Water
 - Management state-wide
- Increase monitoring and science
- Works closer with permittees
- Program staff will increase
- Provide technical assistance
- Make use of contractor support
- Timely permit issuance and enforcement



APPLICATION TO USEPA

Title 40 CFR 123:

- 1. Letter from Governor
- 2. Complete Program Description
- 3. Attorney General's Statement
- 4. MOA w/ Regional Administrator
- 5. Applicable State Statutes & Regulations



OPINIONS: A GOOD ROAD TO TAKE !!

- Integrated Water Permitting needed
- MassDEP knows municipal situation better
- Timely permit issuance
- Operate other federal programs
 - successfully
- Intention of Clean Water Act



CURRENT ROAD NEEDS REPAIR !!

- Permit **backlog** is problem
- Why one of **only 4 states** without
- Should not just be about a permit program but a **total improved water quality program**
- **Communication** with EPA is **terrible**
- **Single agency** for contact and negotiations is much better



OPINIONS: BEWARE OF THE SHARK !!

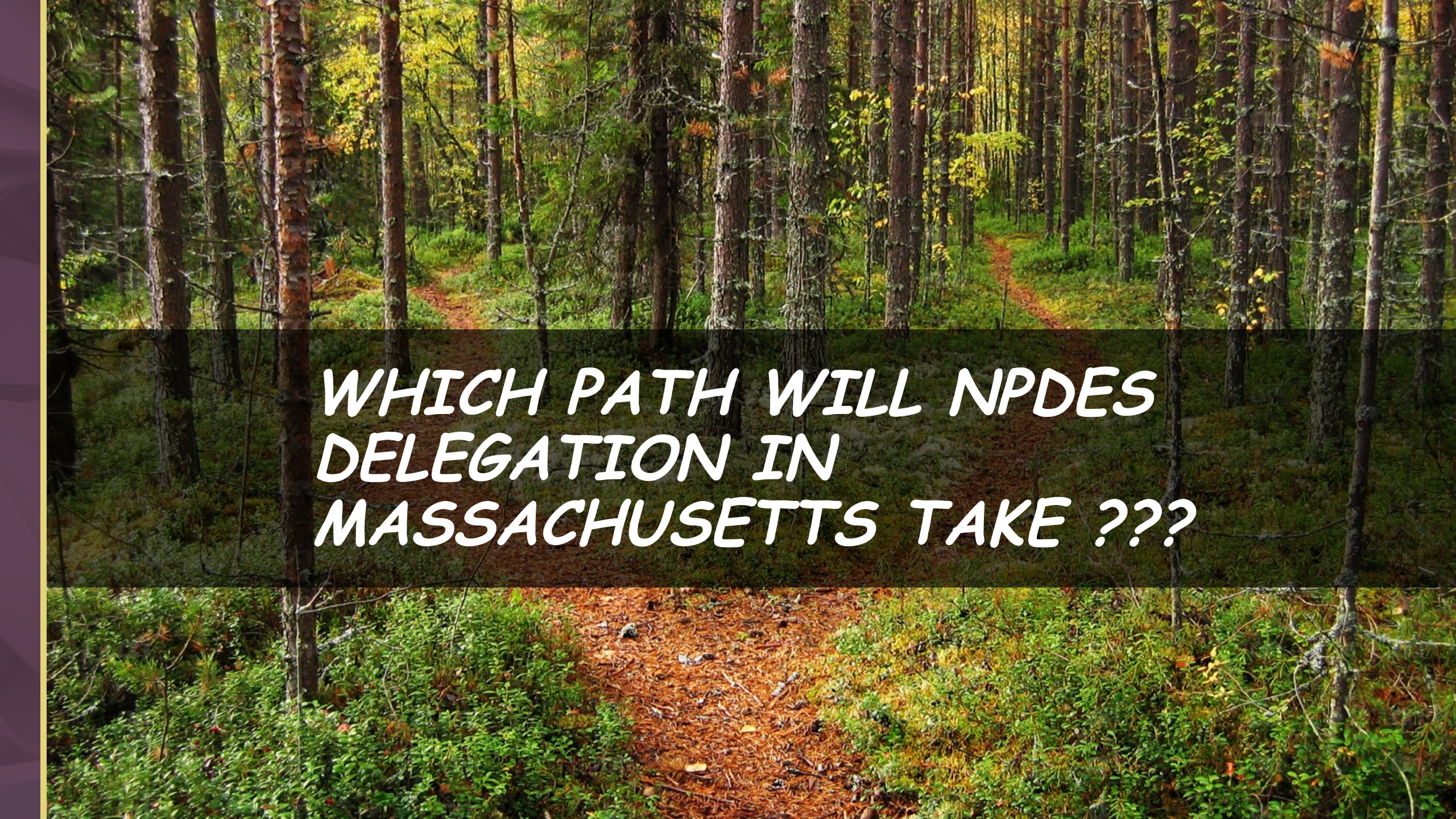
- Need cost/benefit analysis
- Fix current staffing problems
- Budget proposal risky !!!
- No special EPA \$\$\$ for program
- Why have proposed costs changed ??
- Beware "Regulatory Capture"



....and other hurdles !!

- EPA runs fabulous program
- What is environmental benefit ??
- Program will become very political
- Impact of Trump administration
- Health care will dwarf environment
- Improve water programs without delegation
- Beware of the unknown



A photograph of a forest with many tall, thin trees. A dirt path is visible in the background, winding through the trees. The ground is covered with green moss and some fallen leaves. The text is overlaid on a dark, semi-transparent band across the middle of the image.

*WHICH PATH WILL NPDES
DELEGATION IN
MASSACHUSETTS TAKE ???*



DELEGATION: YES OR NO ????



Thanks for listening and voting !!!
Questions, Ideas, Comments???!!!!

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