

EXHIBIT #5



For a thriving New England

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Submitted electronically

January 22, 2021

Mr. James W. Parker, Presiding Officer
Board of Environmental Protection
c/o Ruth Ann Burke ruth.a.burke@maine.gov
17 State House Station
Augusta, ME 04333-0017

Re: Friends of Casco Bay (FOCB) Appeal of the General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems

Dear Mr. Parker and Members of the Board:

As I noted to Mr. Wood of the Department of Environmental Protection little more than a year ago, Conservation Law Foundation appreciated the amount of effort and time that the Department and many stakeholders invested in reviewing, commenting on and working to improve the Department's General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems ("MS4s"). The final draft MS4 General Permit dated June 24, 2020 ("Draft MS4 Permit") reflected comments from a number of parties, including Friends of Casco Bay and the US EPA Region 1 and as such garnered CLF's support. However, the final MS4 General Permit dated October 15, 2020 ("Final MS4 Permit") omitted certain key language that had been part of the Draft MS4 Permit, leading, in part, to this appeal by FOCB and to a letter from EPA Region 1 dated November 18, 2020.

Both the FOCB appeal and the letter from EPA Region 1 raise strong factual and legal grounds for remanding the final MS4 General Permit to the Department in order to modify it consistent with the suggestions made by EPA Region 1 as to the effective date of the MS4 General Permit and the conditions governing post-construction stormwater management in new development and redevelopment.

Founded in 1966, CLF is a member-supported environmental advocacy organization that works to solve the problems threatening our natural resources and communities in Maine and throughout New England. Among those issues, CLF advocates to promote effective regulations, permits and strategies to reduce and minimize the significant impacts of stormwater pollution. These efforts are increasingly urgent in light of sea level rise and the growing severity of coastal storms exacerbated by climate change.

CLF respectfully urges the Board to remand the MS4 General Permit to the Department to make the changes required by the Clean Water Act and its implementing regulations.

Sincerely,

Sean Mahoney
Executive Vice President and Director, CLF Maine