

Settlement Agreement Summary

Conservation Law Foundation (CLF) v. US Environmental Protection Agency (EPA)

On November 17, 2014 CLF and EPA filed a settlement agreement in US District Court requesting an extension of the existing stay of the Section 208 Action from June 1, 2015 until September 15, 2015, a stay of the TMDL Action until September 15, 2015 and a dismissal of both actions upon completion of a series of actions to be completed by EPA, including the approval of the Cape Cod Section 208 Plan Update.

The following actions are identified in the settlement agreement as necessary for dismissal of the actions:

- 1** WITHIN 15 DAYS of the Court's entry of the agreement, EPA will send a letter to the Massachusetts Department of Environmental Protection (DEP), the Cape Cod Commission, Barnstable County and each of the Cape Cod Towns describing the Court's supervisory role in the 208 Action.
- 2** WITHIN 15 DAYS of the Court's entry of the agreement, EPA will send a letter to DEP and the Cape Cod Commission outlining EPA's expectation that the 208 Plan Update submitted for approval to EPA must include DEP and/or CCC designated Waste Management Agencies possessing adequate authority to carry out certain requirements set forth in the Clean Water Act.
- 3** WITHIN 45 DAYS of the Court's entry of the agreement, the EPA will send a letter to DEP and the Massachusetts Water Pollution Abatement Trust (Trust) outlining the requirement that projects funded through the Massachusetts Clean Water State Revolving Fund (SRF) be consistent with relevant plans in accordance with the Clean Water Act.
- 4** WITHIN 75 DAYS of the Court's entry of the agreement, EPA will send a letter to DEP encouraging all future nitrogen Total Maximum Daily Loads (TMDLs) submitted to EPA for approval to consider impacts that climate change may have on nitrogen loading and transport in the embayments and waters encompassed by that TMDL. To the extent sufficient data is available, consider how the effects of climate change should be incorporated in setting the loads in the TMDL.
- 5** BY SEPTEMBER 15, 2015 EPA must approve a state-certified Section 208 Plan Update for Cape Cod, including the designation of waste management agencies (WMAs).

EPA is further required to assure that financial assistance from the SRF be only for those projects on Cape Cod that are consistent with any updated and approved Section 208 Plan.

For additional detail please see the full Settlement Agreement.