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## EDITORIAL: Changing the game on wastewater



Written by Patriot Staff

The Conservation Law Foundation's May 9 forum at Cape Cod Community College – "Wastewater and the Future of Cape Cod Bay" – may prove a game-changer for wastewater management and coastal health.

For those unfamiliar with CLF, it is the organization that sued over the condition of Boston Harbor, requiring the construction of the 9.5-mile outfall pipe into Massachusetts Bay at a cost of billions. The result is a much cleaner harbor and a tab that, by Massachusetts' standards, rivals only the Big Dig. More recently, CLF and other organizations successfully sued the Massachusetts Highway Department in U.S. District Court over road contaminants washing down state drains. The state is under a court order to have an updated management plan by December of this year.

CLF has used the federal Clean Water Act to great effect in this and other states, focusing on the TMDLs (total maximum daily loads) for various contaminants.

For Cape communities, the TMDL that matters is nitrogen. While not the only source, the greatest contributor of nitrogen is septic systems, failed or otherwise. All but the most sophisticated alternative systems do nothing to remove the nitrogen flushed into them.

The Massachusetts Estuaries Program has been measuring the nitrogen load for coastal systems across Southeastern Massachusetts to determine just how much nitrogen individual estuaries are receiving, how much they can take and how much needs to be removed to coax systems back to health.

In Barnstable, the board of health, with healthy opposition from some business and property owners, adopted an interim regulation to limit the further degradation of coastal systems from nitrogen. The regulation placed a cap on the size of new development based on lot size, which will remain in place until the town addresses the underlying nitrogen problem in some other fashion.

The tipping point for the Barnstable Board of Health is that based on the work of Massachusetts Estuaries Program, the town's southwestern waters are deemed impaired under the U.S. Clean Waters Act.

Sewers or smaller-scale community treatment plants are often seen as the only effective remedies, but there are other, less expensive and relatively simple solutions.

Barnstable is contracting for a town-wide nutrient loading study, which will look at all of this. In many respects, the town is ahead of the game compared to other towns, but still unable to say the problem has been solved.

That's important to remember in the context of the MassHighway decision. The court found MassHighway professional and responsive in its attempts to address the contamination, but wrote, "Best efforts, of course, is not the standard. The Congress of the United States, in order to preserve the waterways of our nation, has enacted the Clean Waters Act and enjoined the Courts of the United States to see to it that its provisions are genuinely obeyed."

If CLF has its sites set on the Massachusetts Coastline, as it has for New Hampshire's Great Bay estuary and Chesapeake Bay, all bets could be off on future development in areas deemed as contributing to high nitrogen levels.

The language used in describing coastal health has been escalating over the past year, and CLF's public records request for all documentation related to the estuaries program seems headed for a crescendo. It may not be at this weekend's forum, but it's looking more likely that it will come.

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