



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
WATER

Honorable Harry Reid  
United States Senate  
Washington, D.C. 20510

Dear Senator Reid:

Thank you for your letter of July 31, 1997, to Administrator Carol Browner, in which you asked the United States Environmental Protection Agency (EPA) to examine the issue of discharges from utility manhole pumping operations, and to clarify EPA's position on whether utility manholes are point sources for purposes of the Clean Water Act (CWA). Utility manhole dewatering is covered by the CWA if the pumped manhole water is discharged to a water of the United States, which generally includes most rivers, streams, lakes and wetlands, as well as to a municipal separate storm sewer system which drains to any of these waters. Under these circumstances, the pump, pipe, or hose would constitute a point source discharge of pollutants to waters of the United States, which is prohibited unless in compliance with certain other provisions of the CWA discussed below. The Agency can envision different ways in which authorization for such a discharge could occur.

First, the utility manhole water may be directly discharged into a water of the United States. In this instance, as in all instances of direct discharges of pollutants from point sources, the discharge would require a National Pollutant Discharge Elimination System (NPDES) permit. Because most manholes are typically located closer to storm water drains than they are to surface waters, we expect most dewatering operations discharge into municipal separate storm drains which then lead directly to surface waters without treatment. If there were a sufficient number of utility manholes within a State discharging directly to waters of the United States (including discharges through storm drains), or our regulatory criteria are met, the permitting authority could develop a "general permit" that covers all such dewatering discharges in the State. California has issued a general permit for these purposes.

Second, the utility manhole water may be discharged into a storm drain that feeds into a combined sewer system (one which collects and conveys both sanitary wastes and storm water runoff) or into a publicly owned treatment works (POTW). This discharge into such systems (combined sewers or sanitary sewers) would not require a separate NPDES permit because the

manhole water would be conveyed to the POTW that has a permit. If the manhole water discharged into these types of sewers is posing a danger to the operation of the sewage treatment plant, its operators, or if it is interfering with the plant's ability to effectively treat wastewater, then local authorities typically impose requirements on manhole dewatering under the "pretreatment program" operated by the POTW (or in some States, by the State), as provided by the CWA. These requirements would be developed based on consideration of localized factors applicable to the specific POTW. The Agency has not developed any national pretreatment standards that apply on a categorical basis for utility manhole water.

Finally, as alluded to above, the utility manhole water may be discharged into a storm drain that feeds into a municipal separate storm sewer system (MS4); this is a very common manhole water disposal method. As explained above, the discharge to the municipal separate storm drain is subject to the NPDES Program. Additionally, however, the MS4 may also establish additional, locally developed controls for the manhole water discharges into the storm-drain system in order to assure compliance with the provisions of its NPDES permit. A municipality may want to prohibit or control such discharges because the municipality is ultimately responsible for the quality of the water from its storm sewer system where it discharges into waters of the United States.

Currently, NPDES permits are only required for discharges from MS4s that serve populations over 100,000 and where the permitting authority (the Agency or authorized States) specifically requires a permit, for example, because the MS4 is a significant contributor of pollutants to the surface water or is the cause of water quality problems. These NPDES permits for MS4s are issued under the authority of CWA section 402(p). EPA and authorized NPDES States are in the process of implementing a storm water permitting program that is environmentally protective yet flexible. This program is based on the use of low cost, yet highly effective, best management practices (BMPs) as the means to protect the environment. Storm water permits give municipalities considerable flexibility in designating which BMPs will be used.

Manhole dewatering is not storm water discharge because it is neither runoff nor surface drainage. Water in manholes contacts pollutants not typically found in stormwater; also, water in manholes can come from ground water or sewer line breaks. Manhole dewatering discharges, however, may be permitted by the municipality as authorized non-storm water discharges under the terms of municipal storm water permits. We do not expect that municipalities would allow discharge of heavily contaminated utility manhole water nor would EPA allow such a discharge in the permit issued to the municipality.

Finally, there are a few isolated cases where utility manhole dewatering would not be addressed by the CWA. For example, some discharges are pumped into a tank truck for more advanced processing or treatment. This is commonly done where polychlorinated biphenyls (PCBs) or other toxic or hazardous contaminants are known to be present in the manhole.

The U.S. Telephone Association and large telephone utilities have been meeting with my staff on this issue over the last several months and are interested in establishing management practices to more effectively control, and as necessary, treat discharges from manhole pumping.

Thank you for your interest in this matter. The EPA will continue to meet with representatives of the telephone utilities next month. Should you have any further questions concerning this matter, please contact me, or have your staff call James F. Pendergast, Acting Director of the Permits Division, at (202) 260-9545.

Sincerely,

A handwritten signature in black ink that reads "Bob Perciasepe". The signature is written in a cursive, slightly slanted style.

Robert Perciasepe  
Assistant Administrator

# United States Senate

WASHINGTON, DC 20510-2803

July 31, 1997

The Honorable Carol Browner  
Administrator, Environmental Protection Agency  
401 M. Street, S.W./Suite 1101  
Washington, D.C. 20460

Dear Administrator Browner,

As you may know, I have long been interested in protecting citizens from the harmful effects of lead, and other contaminants as they enter the environment through various sources.

Recently, one of my constituents, an environmental technology firm based in Nevada, presented to me findings of a study of various utilities throughout the country. The study showed that each year more than 6 billion gallons of water are pumped from the nation's one million utility manholes and vaults. Of this water, an estimated 10 to 20 percent is polluted. This means that, potentially, a minimum of 625 million gallons of polluted water enter the water supply each year from manholes and vaults. The most common pollutants found in man-holes and vaults are lead, copper, and hydrocarbons.

I have been informed there is some confusion in the utility industry as to whether these utility manholes and vaults are considered point sources for purposes of the Clean Water Act since they are not specifically named in the definition of "Point Source" in the code of federal regulation. In pertinent part the definition for point source discharge includes "[a]ny discernible, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container..."

If vaults and manholes are included in the point source definition, then utilities would be required to test and treat the water for pollutants before it is dumped. I believe this is not only sound public policy, but clearly within the scope of Congressional intent. Therefore, I would urge you to examine the issue, and, if the concern is valid, to clarify the EPA's opinion as to whether vaults and manholes are included in the definition of Point Source for purposes of the Clean Water Act.

Thank you in advance for your attention to this matter. I look forward to your reply.

Sincerely,



HARRY REID  
United States Senator