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By Email

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**Re: Greater Lawrence Sanitary District Comments
Massachusetts Water Resource Authority (MWRA) Deer Island – Draft
National Pollutant Discharge Elimination System (NPDES) Permit No.
MA0103284**

Dear Ms. Barden and Ms. Golden:

On behalf of the Greater Lawrence Sanitary District (GLSD), I am writing to submit the following comments regarding the draft NPDES Permit for the MWRA's Deer Island Treatment Plant. We thank EPA and MassDEP for the extended public comment period, which provided the public and interested parties such as GLSD the appropriate time to consider the draft NPDES Permit.

About GLSD

GLSD is a Massachusetts water pollution abatement district that operates a wastewater treatment facility on behalf of its member communities: the environmental justice community of Lawrence, the Massachusetts municipalities of Methuen, Andover, North Andover, and Dracut, and Salem, New Hampshire. The facility is located in North Andover and discharges into the Merrimack River pursuant to a NPDES permit issued jointly by the U.S. Environmental Protection Agency (EPA) and the Massachusetts Department of Environmental Protection (MassDEP).

Comments

1) Industrial Pretreatment Program – PFAS Sampling

The draft NPDES Permit requires the permittee (or the co-permittees) to undertake new PFAS sampling as part of the Industrial Pretreatment Program. This obligation, which must begin during the first calendar year after the NPDES Permit becomes effective, requires the permittee to sample the discharge from certain industrial users (commercial car washes, platers/metal finishers, paper and packaging manufacturers, tanneries and leather/fabric/carpet treaters, manufacturers of parts with Polytetrafluoroethylene (PTFE) or teflon type coatings (i.e., bearings), landfill leachate, centralized waste treaters, known or suspected PFAS contaminated sites, firefighting training facilities, airports and any other known or expected sources of PFAS) for PFAS.

GLSD has concerns with both the cost and scope of the PFAS sampling obligation on permittees. First, the level of effort necessary to implement such a PFAS sampling program is potentially significant, although as discussed below, there are many uncertainties with the number of users potentially implicated. For instance, if GLSD were subject to such a condition, it would have to identify and sample a substantial number of users. Without reviewing every potential industrial user that might be implicated by this condition, there are over 35 car washes in GLSD's service. These are in addition to the 34 industrial users permitted to discharge to the facility. Identification and sampling of such a significant number of users will be a burden on permittees and goes well beyond the scope of the Clean Water Act.

Second, and more importantly, although the requirement suggests sampling of certain industrial users, the broad nature of the users covered, including known or suspected PFAS contaminated sites and any other known or expected sources of PFAS, burdens the permittee well beyond current industrial pretreatment program obligations. A permittee could be required to (1) identify properties or users that are not otherwise covered by the industrial pretreatment program and undertake sampling; (2) determine whether a user is potentially a source of PFAS; or (3) determine every contaminated site within its service area that might be, or could be, PFAS contaminated. This obligation goes well beyond the industrial pretreatment program currently operated under NPDES permits and EPA's authority to require such investigation and sampling. EPA should be taking the lead on identifying potential PFAS sources and regulating such sources with Categorical Pretreatment requirements.

While PFAS is a significant concern to wastewater treatment facilities and the public, EPA and MassDEP are in a better position than wastewater treatment facilities to identify and regulate PFAS-containing products and users. EPA and MassDEP should limit wastewater treatment facilities' obligation for PFAS sampling to currently (or future) permitted industrial users where costs can be passed to such users rather than ratepayers. The identification and regulation of all other potential sources should be undertaken by EPA and MassDEP through other regulatory mechanisms such as establishing Categorical Pretreatment requirements through clearly articulated statutory authority.

2) Resiliency Planning.

The draft NPDES permit requires significant planning regarding operation and maintenance of MWRA's treatment plant and other infrastructure. This includes development and implementation of a Sewer System Flood Events Plan as an element of the Operations and Maintenance Plan. The Plan contains three components: (1) an asset vulnerability evaluation, (2) a systemic vulnerability evaluation of the system and (3) a mitigation measures alternatives analysis. The Plan shall include resiliency planning and implementation informed by an evaluation of all sewer system vulnerabilities to major storm and flood events. At a minimum, the plan is required to take future conditions into consideration, specifically midterm (i.e., 20-30 years) and long-term (i.e., 80-100 years) and, in the case of sea level change, the plan must consider extreme sea level change. The Plan shall be updated every five years from the effective date of the Permit.

While GLSD believes that planning for a changing environment is appropriate, the long-term nature of this condition (80 years in the future) in a permit that is valid for only five years is onerous. The study and implementation of resiliency measures is a costly undertaking due to the complexity of issues to be reviewed, the broad scope of potential (and often unknown) future impacts and the long-term nature of climate change and sea level rise. In addition, there is substantial uncertainty on the scope of operations or actions that must be taken because a facility must address all infrastructure and plan for potential changes or upgrades based on uncertain data and unknown future conditions.

For instance, the permit indicates that in order to determine vulnerabilities to the facilities from major storm and flood events, the permittee must conduct the evaluation using, at a minimum, the worst-case data relating to changes in precipitation, sea level rise, extreme weather events, coastal flooding, inland flooding, sewer flow and inflow and infiltration and relevant to the facilities from: 1) the data generated by the 13 federal agencies that conduct or use research on global climate change that contributed to the latest National Climate Assessment produced by the U.S. Global Change Research Program (USGCRP); 2) climate data generated by the Commonwealth of Massachusetts; and 3) resiliency planning completed by the municipality in which a given facility is located (i.e., City of Boston) and incorporate the results of the evaluation in a manner that demonstrates that the control measures taken are precautionary and sufficiently protective. Evaluation must be completed by a on a five-year basis considering: 1) historical observations from all years the Permittee has operated the facility prior to this permit's term; 2) set midterm (i.e., 20-30 years); and 3) long-term (i.e., 80-100 years) ranges.

Further, the permit uses the term "Major storm and flood events," which refer to instances resulting from major storms such as hurricanes, extreme/heavy precipitation events, and pluvial, fluvial, and flash flood events such as high-water events, storm surge, and high-tide flooding. "Extreme/heavy precipitation" refers to instances during which the amount of rain or snow experienced in a location substantially exceeds what is normal. What constitutes a period of heavy precipitation varies according to location

and season. "Extreme/heavy precipitation" does not necessarily mean the total amount of precipitation at a location has increased, but just that precipitation is occurring in more intense or more frequent events.

The required analysis is a very broad undertaking requiring assumptions on what is necessary presently versus in the future, and is well outside the validity period of any permit. While planning is necessary, it is not clear how such long-term planning is related to EPA and MassDEP's authority under the Clean Water Act. EPA and MassDEP should explain how such long-term planning, at great cost to wastewater treatment facilities and their ratepayers, is authorized by the Clean Water Act. EPA and MassDEP should limit the scope of such planning to near term impacts and improvements within the permit cycle that are directly required to meet permit effluent limits.

Thank you for your consideration of these comments. Please let me know if you have any questions or clarifications.

Sincerely,

Cheri Cousens

Cheri Cousens, P.E.
Executive Director
Greater Lawrence Sanitary District