



# Haverhill

Robert E. Ward, Deputy DPW Director  
Water/Wastewater Division  
Phone: 978-374-2382 Fax: 978-521-4083  
[rward@haverhillwater.com](mailto:rward@haverhillwater.com)

November 28, 2023

## By Email

Michele Barden  
U.S. Environmental Protection Agency – Region 1  
5 Post Office Square, Suite 100 (06-1)  
Boston, MA 02109-3912  
Telephone: (617) 918-1539  
Email: [barden.michele@epa.gov](mailto:barden.michele@epa.gov)

Claire Golden  
Massachusetts Department of Environmental Protection  
Surface Water Discharge Program  
150 Presidential Way  
Woburn, MA 01801  
Email: [claire.golden@mass.gov](mailto:claire.golden@mass.gov); [massdep.npdes@mass.gov](mailto:massdep.npdes@mass.gov)

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

Dear Ms. Barden and Ms. Golden:

The City of Haverhill (City) respectfully submits the enclosed comments on the draft NPDES permit (Draft Permit) issued by the United States Environmental Protection Agency (EPA) and Massachusetts Department of Environmental Protection (MassDEP) for the draft NPDES Permit for the MWRA's Deer Island Treatment Plant. The City appreciates the extended public comment period and supports the additional public involvement that such an extension provides.

The City owns and operates both a wastewater treatment facility and thirteen CSO outfalls within its service area, which includes the City, which is an environmental justice community, and the Town of Groveland. As such, the City is interested in conditions and permit obligations imposed on other treatment facilities in Massachusetts.

## Comments

### *1) Resiliency Planning.*

The draft NPDES permit requires significant planning regarding operation and maintenance of MWRA's treatment plant and other infrastructure including development and implementation of a Sewer System Flood Events Plan as an element of the Operations and Maintenance Plan. The plan is required to take future conditions into consideration, including midterm (i.e., 20-30 years) and long-term (i.e., 80-100 years) and extreme sea level change.

Planning for a changing environment is a necessary obligation; however, City believes that the scope of such planning should be tailored to the permit cycle. The long-term nature of the planning (80 years in the future) in a permit that is valid for only five years is onerous and potentially costly where repeated corrections as more accurate information is developed over time occurs. 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, it is unclear what operations or actions that must be taken because a facility is required to address all infrastructure and plan for potential changes or upgrades based on uncertain data and unknown future conditions. Further, the Draft Permit contemplates completion of this planning withing twelve months of the effective date of the permit. This is insufficient time to undertake costly and expansive planning.

A facility must take into account a variety of information and potential vulnerabilities, using worst case information. This includes evaluating changes in precipitation, sea level rise, extreme weather events, coastal flooding, inland flooding, sewer flow, inflow, and infiltration and relevant to the facilities from a plethora of sources. The Draft Permit includes such sources as: (1) the data generated by the thirteen 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.

The Draft Permit uses also requires evaluation of impacts related to “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.”

The City believes that although planning is necessary and appropriate, EPA and MassDEP should limit the scope of such planning to near term impacts and improvements within the permit cycle and extend the timing to complete the planning. Because the proposed analysis is expansive, requiring assumptions on what is necessary presently versus in the future, and is well outside the validity period of any permit, EPA and MassDEP should detail the statutory authority for such long-term planning and the correlation to compliance with the Clean Water Act during the permit period. Any explanation should be very clear in explaining why such long-term planning, at great cost to wastewater treatment facilities and their ratepayers, is authorized by the Clean Water Act.

## *2) Industrial Pretreatment Program – PFAS Sampling*

The Draft Permit requires new PFAS sampling as part of the Industrial Pretreatment Program. As guidance, the Draft Permit identifies a broad and uncertain collection of 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) that must be sampled for PFAS by the permittee.

The City is concerned about the scope of this obligation, and EPA and MassDEP's authority to require such sampling, as it appears to require a permittee to identify potential PFAS sources outside of current industrial pretreatment program obligations. The condition appears to require a permittee identify properties or users that are not otherwise covered by the industrial pretreatment program but may be sources of PFAS, determine if a user or property is a potentially a source of PFAS, or identify any 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.

The City also is concerned about the capacity of laboratories to complete the sampling in as more facilities are required to undertake similar sampling. Few laboratories may be prepared for the magnitude of such testing in the limited timeframe proposed in the Draft Permit.

EPA and MassDEP should limit the requirement for PFAS sampling to currently identified and permitted industrial users. While the City has significant concerns about PFAS impacts, EPA and MassDEP should take the lead in identifying PFAS products and users, and regulating the same. The significant cost to undertake investigation and sampling of such users should be borne by the users rather than ratepayers. EPA and MassDEP should then separately regulate such sources using other regulatory means such as Categorical Pretreatment requirements.

Thank you for your consideration of these comments.

Sincerely,



Robert E. Ward  
DPW Director

cc: Chief, Environmental Enforcement Section, U.S. DOJ  
Joshua S. Levy, Acting U.S. Attorney, MA District  
Michael Wagner, USEPA, [wagner.michael@epa.gov](mailto:wagner.michael@epa.gov)  
Kevin Brander, DEP, [kevin.brandner@state.ma.us](mailto:kevin.brandner@state.ma.us)  
I. Andrew Goldberg, MA Assistant Attorney General, [andy.goldberg@state.ma.us](mailto:andy.goldberg@state.ma.us)  
Mayor James J. Fiorentini, City of Haverhill, [mayor@cityofhaverhill.com](mailto:mayor@cityofhaverhill.com)  
William Cox, City Solicitor, [billcoxlaw@aol.com](mailto:billcoxlaw@aol.com)  
Michael Leon, Nutter, McClennen & Fish LLP, [MLeon@nutter.com](mailto:MLeon@nutter.com)  
Matthew Snell, Nutter, McClennen & Fish LLP, [MSnell@nutter.com](mailto:MSnell@nutter.com)  
Mike Stankovich, DPW Director, [mstankovich@cityofhaverhill.com](mailto:mstankovich@cityofhaverhill.com)  
Paul Jessel, Wastewater, [pjessel@haverhillwater.com](mailto:pjessel@haverhillwater.com)  
Isaiah Lewis, WWTP Facility Manager, [ilewis@haverhillwater.com](mailto:ilewis@haverhillwater.com)