



Bruce Berman

2003 Commonwealth Avenue #26
Brighton, Massachusetts 02135
1-617-293-6243
bruce@bostonharbor.com

Michele Barden
US Environmental Protection Agency - Region 1
5 Post Office Square, Suite 100 (06-4)
Boston, MA 02109-3912
Submitted via email: barden.michele@epa.gov

Claire Golden
Massachusetts Department of Environmental Protection, Surface Water Discharge Program 150
Presidential Way, Woburn, MA 01801
Submitted via email: MassDEP.npdes@mass.gov

Michele and Claire,

I am writing to you today as the Chair of the Public Interest Advisory Committee (PIAC) of the Outfall Monitoring Science Advisory Panel (OMSAP) with my concerns and comments on the proposed revisions to the Deer Island NPDES permit MA0103284.

Though the 68 page permit and the accompanying 195 page fact sheet made great summer reading, they are complicated technical documents, which require subject matter expertise to evaluate.

To help me, PIAC, and the public to better understand the proposed changes, I looked to the Massachusetts Water Resources Authority (MWRA) and the Wastewater Advisory Committee (WAC). I share their concerns that the requirements in the draft concerning Ambient Monitoring, Harmful Algae Blooms, CSO sampling frequency, and storm event plans, which are unrealistic, overly proscriptive and inflexible, and place an undue burden on the 43 MWRA cities and towns.

I also urge you to carefully consider the comments from the Outfall Monitoring Science

Advisory Panel and ask you to include a Science Advisory Panel and a robust monitoring plan with specific questions in the permit.

It is particularly hard for me to imagine that you can pull together an effective monitoring plan in 30 days. It took more than one year, a well-attended scientific conference, and countless hours of peer reviewed research by OMSAP members and others to prepare the white papers on emerging contaminants and microplastics that inform the current monitoring efforts. The data set produced by the monitoring program shaped by OMSAP is invaluable to our understanding of the dramatic changes we have seen in the Southern Gulf of Maine in the past 30 years and likely will face in the coming years as well. Though the initial questions we framed together have been largely asked and answered, new questions have emerged which the monitoring needs to address.

I was pleased to see that in this draft you have revised the well intentioned, but unreasonable, arbitrary and capricious and costly decision to require the MWRA's cities and towns to pull together individual storm event plans based on speculations about what the situation will be 100 years from now in just 12 months. Under the initial language in the prior draft permit, Community A and B might produce individual plans using very different assumptions and methodologies, while adjacent Community C would not be required to produce a plan at all. Planning for climate change is critically important, but to be useful it has to be comprehensive and not piecemeal.

This permit clearly took a very long time to produce, as we have been waiting for the US EPA's promised draft permit for more than a decade. From my perspective, it seems unrealistic to expect the USEPA to thoughtfully revise the permit every five years, which they have been unable to do in the past.

At the same time, given the rapid changes to the Gulf of Maine due to global warming and storming, which have resulted in dramatic changes in the species, extent and duration of algae blooms, and the range of black sea bass, lobsters and invasive species like green crabs and the Asian shore crab, five years is an awfully long time.

Under the circumstances, I'd urge you to build more flexibility into the permit, and to continue to provide opportunities for both independent scientists with subject matter expertise and the public to have near real time input into thresholds, exceedances and the monitoring regime.

For more than 20 years, OMSAP and PIAC have played a critical role in helping the regulators and the public understand and respond to the impacts of the Mass Bay Outfall on the changing marine environment. For reasons that I still do not fully understand - in part because those who made the decision within the US EPA are not permitted to freely discuss their thinking - the US EPA has chosen to remove both OMSAP and PIAC from the permit, which I believe is a big mistake.

The men and women who volunteer to serve on OMSAP bring subject matter expertise and institutional resources that have clarified our thinking and increased our understanding of the impacts of the 250 million gallons of effluent we currently discharge into Mass Bay.

Their work has made it possible for us to keep the commitment Judge A. David Mazzone and Save the Harbor/Save the Bay's Founding Chair Beth Nicholson made when the Mass Bay Outfall went online in September of 2000: The Boston Harbor Cleanup would not come at the expense of Mass Bay or Cape Cod.

By my calculation, OMSAP members have contributed more (much more) than \$4 million dollars in in-kind contributions to make certain that the Boston Harbor cleanup did not come at the expense of the health of Mass Bay. The idea that the expert advice and institutional resources this panel provides can be replaced by a handful of well-intentioned government regulators with very full plates seems silly.

PIAC also performs two functions that are critical to the continued success of the Boston Harbor Cleanup. We share the public's questions and concerns about the impacts and potential impacts of the outfall on the public's health and the health of the Boston Harbor, Broad Sound, Mass Bay and the Gulf of Maine with OMSAP, and share OMSAP's answers and insights with the public and the press.

Over the past twenty years I have often reached out to the group and individual members of OMSAP with questions from the public and the press about algae blooms, fish kills, unexplained marine mammal mortality, dissolved oxygen concentration and saturation, and emerging contaminants. Sometimes they seemed silly. Sometimes not.

In every case, no matter what the question, I have received a prompt, forthright, and collegial response. They have attended numerous meetings on their own time and at their own expense to explain complicated facts to sometimes skeptical advocates, activists and the public.

Over the same period, I have often reached out to the men and women of EPA Region 1 with similar questions, many of whom I consider my friends and allies. Though they have often been frank and forthcoming, too many times I have been told that they cannot freely discuss the matter with me on the record because of legal, political or policy concerns.

In 2017, for example, Trump Administration officials e-mailed staff to inform them that they could no longer discuss agency research or departmental restrictions with anyone outside of the agency—including news media. That same administration subsequently attempted in 2020 to limit which scientific data and studies the EPA could even consider in its decision making.

Good decisions require good data, sound science, subject matter expertise and peer review. Good public policy requires transparency and the free exchange of ideas.

For more than 20 years, OMSAP and PIAC have provided decision makers and the public with good data, subject matter expertise, peer review, transparency and the free exchange of ideas and information critical to informed decision making.

The direct cost of both OMSAP and PIAC to the Commonwealth is minimal – postage, a part time staffer, and occasionally lunch at a meeting. I strongly urge you to find a way to keep both OMSAP and PIAC in the permit. If it helps, I'll buy lunch for as long as I am Chair.

Thanks for your time and attention.

All the best,

A handwritten signature in dark ink, appearing to read "Bruce Berman". The signature is fluid and cursive, with the first name "Bruce" being more prominent than the last name "Berman".

E. Bruce Berman, Jr., Chair,
Public Interest Advisory Committee, Outfall Monitoring Science Advisory Panel