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RE: Draft NPDES Permit – Clinton Wastewater Treatment Plant-MA0100404

The Massachusetts Coalition for Water Resources Stewardship (MCWRS) is pleased to submit the following comments on the revised Draft NPDES Permit for the Clinton Wastewater Treatment Plant (WWTP) in Clinton, MA. MCWRS is a non-profit organization dedicated to the application of sound science, cost consideration and best use of fiscal resources in water resource management regulation. Aspects of the Clinton WWTP NPDES permit will have far-reaching impacts on our member communities and systems and municipalities throughout New England. We are thus compelled to offer these comments in hopes that EPA Region 1 and MassDEP will reconsider their approach.

The singular item of concern in the Clinton WWTP permit is the co-permittee issue. This permit proposes to make the towns of Clinton and Lancaster co-permittees. It includes expansive language on requirements for collection system mapping, operation and maintenance that apply to the co-permittees. The permit will thus increase costs for residential and business rate-payers first, by levying new, unfunded treatment mandates on the WWTP and second, by imposing new collection system unfunded mandates upon the communities that send wastewater to the WWTP. MCWRS believes the latter is beyond the authority of EPA Region 1 and should be stricken from the permit.

The NPDES program under the Clean Water Act (CWA) is intended to regulate the discharge of pollutants to waters of the United States. Clearly, a WWTP discharges pollutants to receiving waters and is subject to a NPDES permit. A so-called satellite system that conveys wastewater to a permitted WWTP is not discharging pollutants to receiving waters except via combined sewer overflows (CSOs) or sanitary sewer overflows (SSOs). If CSOs are present then that community would have its own NPDES permit for the CSO. NPDES permits do not allow SSOs, thus those

inadvertent discharges to receiving waters are prohibited and not subject to a NPDES permit. Wastewater conveyed to a permitted entity (WWTP) is covered by the WWTP NPDES permit which dictates water quality compliance terms. To now regulate that same discharge via a co-permittee approach is, in essence, regulatory “double-dipping.” It is unnecessary and beyond a reasonable application of the law.

It is clear from the permit, fact sheet and appended document “EPA Region 1 NPDES Permitting Approach for Publicly Owned Treatment Works That Include Municipal Satellite Sewage Collection Systems” that EPA Region 1 is confusing its **desire** to regulate collection systems with its **authority** to do so. EPA Region 1 uses a circuitous reasoning to arrive at its conclusion that it can and must take this approach. The explanation behind this understanding is void of any unambiguous statutory language or case law, but is instead totally dependent on other EPA-crafted documents for support. In essence, EPA Region 1 is saying that it can take the co-permittee approach because it has written other documents that state that it can.

There is a conundrum relative to collection systems and WWTPs. Most regional WWTPs are not regulatory agencies and do not have the ability to control their members in a regulatory sense. Thus addressing collection system issues is generally not within the purview of the WWTP. However, that does not open the door for EPA or states to step up and assume that role of collection system regulator. Until there is a clear statutory mandate and authority for the federal government to take such a step, controlling collection systems via WWTP NPDES permits is unacceptable. That, however, does not mean the matter is without solution. Most communities and WWTPs desire to do the right thing and are attempting to tackle collection system problems while also dealing with costly WWTP upgrades, CSO issues and stormwater matters. MCWRS encourages EPA Region 1 and MassDEP to develop a “carrot” rather than a “stick” approach to collection system operations and maintenance. We believe a comprehensive plan of assistance, education and support for collection system management would go a lot further toward meeting CWA goals than does the heavy handed, permit and enforcement approach. MCWRS would be pleased to work with both agencies in development of this approach.

We appreciate the opportunity to submit comments. Please do not hesitate to contact me if you have questions or would like to discuss this matter and opportunities to work together on an approach that is reasonable and sustainable for communities and utilities.

Sincerely,



Philip D. Guerin  
President and Chairman

CC: MCWRS members