



MCWRS
Massachusetts Coalition for
Water Resources Stewardship

September 22, 2017

Scott Pruitt, Administrator
USEPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101A
Washington, DC 20460

RE: Request to Rescind Potable Water Treatment Facility General Permit issued by Region 1

Dear Administrator Pruitt:

Massachusetts Water Works Association (MWWA) and the Massachusetts Coalition for Water Resources Stewardship (MCWRS), both of whom are non-profit organizations representing municipalities and districts, along with the undersigned Public Water Systems, write to ask you to intervene and direct EPA Region 1 to rescind the Potable Water Treatment Facility General Permit (PWTF GP) for Massachusetts & New Hampshire that was finalized on March 6, 2017. The PWTF GP regulates the discharge of drinking water treatment facility filter backwash waters pursuant to the Clean Water Act National Pollutant Discharge Elimination System (NPDES). There are two main reasons that we are making this request. First, Region 1 failed to appropriately notify, following its established past practice, interested stakeholders of the availability of the draft permit and second, the final PWTF GP contains numeric limits for Aluminum that MWWA, MCWRS and the Public Water Systems in Massachusetts feel are inappropriate for application to the waters of the Northeast.

On the first point, when the PWTF GP was last issued in 2009, MWWA, Region 1 and the Massachusetts Department of Environmental Protection (MassDEP) engaged in lengthy discussions regarding MWWA's concerns about the proposal to include numeric limits for Aluminum in the permit. Many Public Water Systems use alum (aluminum sulfate) as a coagulant in their drinking water treatment process and we felt it would be difficult for them to achieve the numeric limit while maintaining their current treatment processes. Many of the receiving waters in Massachusetts,

including many high quality, pristine waterways, already have natural background levels of Aluminum that exceed the national water quality standard that is used as the basis for numeric permit limits. The high levels of background Aluminum in waters generally considered to be very clean suggest that the current standard is grossly inaccurate and unnecessarily overprotective.

Given our concerns, we had many meetings with Region 1 staff before the 2009 draft permit was issued for public comment. When Region 1 issued the 2009 draft they sent postcards to directly notify interested stakeholders and permittees of the issuance and the ensuing public comment period. MWWA and many other affected parties submitted extensive comments on the draft. Since the 2009 permit was issued, MassDEP has been discussing how they might amend their Surface Water Quality Standards to address the concern that the national criteria established for Aluminum is not appropriate for waters in the Northeast. Region 1 has been aware of MassDEP's efforts in this regard.

Fast forward to 2016 and Region 1 prepared a new draft permit and published notice of its availability for public comment in the Federal Register on August 10, 2016 (81 FR 52851). Never did they reach out to MWWA, MCWRS or Public Water Systems subject to the permit and let them know about the availability of the draft beyond this one required notice. While we understand that Region 1 is only legally obligated to provide notice in the Federal Register, one would question why they did not use their usual public communications channels to ensure interested stakeholders had the opportunity to comment? Given they did not use their normal communication channels (usually an email from Region 1 staff), not one single comment was submitted on the draft permit from anyone in Massachusetts or New Hampshire. One might think that Region 1 would find this odd given the interest from stakeholders and permittees back in 2009; yet no one on Region 1 staff reached out to MWWA. The permit was then issued as final on March 6, 2017 and an email was sent by Region 1 to all permittees on Thursday, March 9, 2017 at 12:53 PM letting them know about the timeline for filing Notices of Intent. We requested an in-person meeting with Region 1 staff on March 27, 2017 and it took until July 26th for that meeting to take place. When questioned about the lack of stakeholder engagement, Region 1 stated it was an inadvertent mistake not to use their normal communications channels. The lack of outreach from Region 1 gives the appearance that the Agency was trying to minimize the comments they received on what they know is a controversial issue.

This new permit included language stipulating that permittees would file their Notice of Intent for permit coverage and **after** doing so Region 1 would let them know what their Aluminum limit would be. Certainly it is not at all transparent, appropriate or even fair, to ask a permittee to agree to a permit without knowing the full terms of the permit. Further, it now required monitoring of Iron if using Ferric-based coagulants and Phosphorous if using phosphorous-containing treatment chemicals (widely used in New England for corrosion control to reduce lead under the Lead and Copper Rule). To MWWA, the writing is on the wall that these will be the next frontier for

numeric-based limits in forthcoming permits. To that end, we are concerned that drinking water quality is going to be compromised going forward if Public Water Systems are forced to comply with discharge standards that will be very challenging to meet.

A lesson learned from the Flint, Michigan situation is that water systems do not want to be altering their water quality and water treatment in ways that could potentially compromise public health, especially when there is no environmental gain. This NPDES permit, as currently written, puts communities in the position of choosing between Clean Water Act compliance and Safe Drinking Water Act compliance as meeting regulations on both fronts may not be possible.

We are also troubled that in this 2017 PTWF GP, Region 1 is intent on moving forward with issuing permits with stringent Aluminum criteria even though your agency currently has a draft proposal out for public comment for changing the methodology for calculating the Aluminum criteria. MWWA and MCWRS are in the process of reviewing the proposed criteria and will be submitting comments during the public comment period. Upon initial review, it appears that the revised criteria will provide some flexibility to Public Water Systems in Massachusetts since it uses an equation that takes into account specific water quality in the receiving waters. Many wastewater treatment plants also have aluminum limits in new NPDES permits. That public sector would also benefit from a more science-based and practical standard for this common element.

The Clean Water Act has anti-backsliding provisions in permits and therefore, it is inappropriate for Region 1 to be moving forward with issuing permits using the old criteria while a new methodology, based on the latest science, is under review. At the meeting on July 26th, we did ask Region 1 if less stringent standards came out of the new criteria would permit limits be modified and they said they would have to review that legally and get back to us. We still do not have an answer on that outstanding question. Therefore, we are asking you to rescind the current permit and direct Region 1 to wait until EPA headquarters finalizes the new methodology upon which time Region 1 can include the updated criteria and release a new draft of the PWTF GP for public comment.

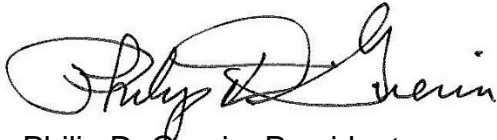
We understand that President Trump intends to reduce unnecessary regulation. MWWA and MCWRS would argue that the applicability of Aluminum criteria in NPDES permits in Massachusetts would be ripe for review. It simply does not make sense to have Public Water Systems potentially compromising public health, or having to make costly investments to change coagulants or treatment processes, so that they do not exceed an arbitrary water quality standard, which even if exceeded, does not appear to be causing environmental harm in our area. Nor does it make sense for wastewater treatment plants serving communities across the state to spend their limited funds trying to reduce Aluminum in treated discharges with no environmental benefit to be gained.

We respectfully ask you to direct Region 1 to rescind this permit and go back to the drawing board, while engaging stakeholders in a robust discussion on the contents of the permit before it is reissued in draft form.

Sincerely,



Jennifer A. Pederson, Executive Director
Massachusetts Water Works Association



Philip D. Guerin, President
Massachusetts Coalition for Water Resources Stewardship

Co-signed by:

Steven Duchesne, Operations Superintendent and Eliana Morales, Laboratory
Director
Lowell Regional Water Utility, City of Lowell, MA

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DPW-Water Division, Town of Hudson, MA

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Lynnfield Center Water District, Lynnfield, MA

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Joseph Lobao, Business and Utility Manager
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John Curran, Town Manager
Town of Billerica, MA

Daniel Callahan, Superintendent
Abington/Rockland Joint Water Works, Rockland, MA

Manuel H. Silva, Acting Commissioner
Department of Public Infrastructure, City of New Bedford, MA

John M. Deline, Jr., Deputy Commissioner of Water Supply
DPW – Division of Water Supply, City of Fitchburg, MA

cc: Deborah Szaro, Acting Regional Administrator, Region 1
David Webster, Water Permit Branch Chief, Region 1
Jane Downing, Drinking Water Chief, Region 1
Martin Suuberg, Commissioner, MassDEP
The Honorable Edward Markey
The Honorable Elizabeth Warren
The Honorable Richard Neal
The Honorable James McGovern
The Honorable Niki Tsongas
The Honorable Joseph Kennedy
The Honorable Katherine Clark
The Honorable Seth Moulton
The Honorable Michael Capuano
The Honorable Stephen Lynch
The Honorable William Keating