



Charles D. Baker, Governor
Karyn E. Polito, Lieutenant Governor
Stephanie Pollack, MassDOT Secretary & CEO
Luis Manuel Ramirez, General Manager & CEO



November 27, 2017

George Papadopoulos
USEPA Region I – New England
5 Post Office Square
Suite 100 (OEP 06-1)
Boston, MA 02109-3912

Re: Public Comment Pursuant to Draft NPDES Discharge Permit MA0028941
North Station Railroad Terminal, 135 Causeway Street, Boston MA 02116

Dear Mr. Papadopoulos:

Please accept this letter as the comments of the applicants Massachusetts Bay Transportation Authority (MBTA) and Keolis Commuter Services, LLC (Keolis) pursuant to the Public Notice for the draft NPDES Discharge Permit MA0028941 (draft permit).

Comments to the draft permit are organized to follow the structure of the draft permit.

DRAFT PERMIT SIGNATURE PAGE

1. Page 1 of 18: Responsibility of co-Permittees

MBTA and Keolis request that the following statement be removed from the permit: *“The co-Permittee Delaware North Corporation is responsible only for the requirements of Part I.B of this Permit for the portions of the stormwater collection system that it owns or operates”.*

MBTA and Keolis recommend that the statement be revised to read: “The co-Permittees Massachusetts Bay Transportation Authority (MBTA) as owner of certain Parcels of land consisting of North Station and Commuter Rail facilities, Keolis Commuter Services, LLC. (Keolis) as operator of the Commuter Rail, and Delaware North Corporation as owner of certain Parcels of land consisting of facilities and operations of TD Garden are responsible for the implementation of this Permit. Further, Delaware North Corporation is responsible for the implementation of best management practices (BMPs) to meet the requirements of Part I.A, B, D, and E of this Permit.”

Operations of the Delaware North Corporation control approximately half of the total permitted drainage area and approximately half of the impervious surface of the permitted drainage area. Therefore, Delaware North Corporation is subject to requirements established in Part I. A, B, D, and E of this Draft Permit and is responsible for

implementing stormwater controls and best management practices to support permit requirements as further described in comments herein.

PART I. A EFFLUENT LIMITATIONS AND MONITORING REQUIRMENTS

2. A.1, Page 2 of 18: MassDOT Building

MBTA and Keolis request that references to the MassDOT building are deleted from the permit. The draft permit states that the authorized discharge includes treated stormwater runoff from “a Massachusetts Department of Transportation Building”. However, the revised permit renewal application documents submitted on June 30, 2015 stated that “the Massachusetts Highway Department building is not connected to the North Station stormwater drainage system, according to available historical documentation.” Also note that this building is not located on North Station or TD Garden property. (See also Comment 6.)

3. A.1, Page 2 of 18: Responsibility of co-Permittees

MBTA and Keolis request that each co-Permittee (MBTA, Keolis, and Delaware North) be specifically identified as responsible for meeting the requirements specified in the Effluent Monitoring Table of Part I. A.

The final sentence of A.1 reads: “*Such discharges shall be limited and monitored by the Permittees as specified below.*” MBTA and Keolis recommend that the statement be revised to read: “Such discharges shall be limited and monitored by all co-Permittees as specified below.”

Since stormwater of all co-Permittees comingles prior to being discharged at Outfall Serial Number 001, all co-Permittees are required to control and limit the discharge of pollutants.

4. A. Effluent Monitoring Table, Page 3 of 18: Chronic C-NOEC

MBTA and Keolis request clarification. The draft permit text and Fact Sheet do not include chronic Whole Effluent Toxicity (WET) testing and it appears that NOAEL should be included in the table instead of Chronic C-NOEL. Footnote 9 of the Effluent Monitoring Table states that WET testing is to be conducted in accordance with Attachment A, *Freshwater Acute Toxicity Test Procedure and Protocol*. Section VII of this protocol includes reporting the “No Observed Acute Effect Level (NOAEL)”, but makes no reference to the “Chronic C-NOEC”, as stated in the draft permit’s table listing WET effluent characteristics to be reported.

5. A. Footnotes, Footnote 9, Page 5 of 18: Submittal Deadline for Annual May WET Results:

MBTA and Keolis requests that the deadline described in Section V.K (Page 23 of 29) of the Fact Sheet be included in Footnote 9 in order to provide time to complete the *weather-*

dependent WET sampling, analysis and laboratory report preparation. The current version of the Draft Permit is inconsistent with the submittal deadline for the WET sampling included in the Fact Sheet (Sec. V.K, p. 23). The draft permit requires WET test results to be submitted by the last day of the month following the completion of the test (i.e., June 30 for May testing). However, this submittal deadline described in Section V.K (Page 23 of 29) of the Fact Sheet states that “the test report for a May sampling event shall be submitted with the July DMR, which will be due no later than August 15”. It further states that “if the sampling event is delayed due to impracticability, the reporting date is also delayed by the same number of months.”

Additionally, please clarify whether the WET retest should be conducted only during the following calendar quarter, per the Fact Sheet. An inconsistency is noted regarding the timing of retesting in the event that the WET test indicates toxicity. The draft permit states that another WET test shall be conducted “no later than the end of the following calendar quarter”, while the Fact Sheet states that “another WET test would need to be conducted during the following calendar quarter.”

6. A.13, Page 8 of 18: Chemicals Used at the Facility

Since product formulations can change, be discontinued over time, or may be unavailable at the time of procurement, MBTA and Keolis request that the permit reference a certain type, or class of product rather than specific Brand Name products (e.g., include the permitted use of potassium acetate-based or sodium chloride-based deicing compounds, and soy-based dry lubricant).

Further, MBTA and Keolis request that co-Permittees be permitted to use either potassium acetate-based or sodium chloride-based deicing compounds, as the stormwater from both areas eventually mixes and flows to the same outfall.

7. A.13.f, Page 8 of 18: Solid Waste and Refuse Activities at TD Garden

The draft permit states that storage and handling of solid waste and refuse associated with food service activities at TD Garden takes place in the site’s northeast, ground-level loading/unloading area. Please clarify that this refers to the loading/unloading area inside the TD Garden building.

8. A.13.g, Page 8 of 18: 2,000-gallon Aboveground Storage Tank in MassDOT Building

This 2,000-gallon diesel fuel aboveground storage tank (AST) is located in the off-site MassDOT building and this building is not connected to the North Station stormwater drainage system, according to available historical documentation. Therefore, MBTA and Keolis requests that references to this tank and the MassDOT building be removed from the permit.

PART I. B. STORMWATER POLLUTION PREVENTION PLAN

9. B, introductory paragraph, Page 9 of 18: Stormwater Pollution Prevention Plan (SWPPP)
Section B Page 9 of the Draft Permit reads: “Two of the Permittees, MBTA and Keolis shall continue to jointly implement a stormwater Pollution Prevention Plan (SWPPP). A separate SWPPP shall also be developed by the third co-Permittee, Delaware North Corporation (DNC), for property under its control which drains to the oil water separator and discharges to Outfall 001. Alternatively, DNC can adopt the portions of the Keolis/MBTA SWPPP that apply to its operations and discharges.”

MBTA and Keolis request that the term “alternatively” and language in this section be replaced and recommend the following language: All co-Permittees shall develop SWPPPs in a collaborative effort to meet the required Permit standards that apply to their respective operations and discharges.

10. B.6, Page 11 of 18: Bacteria Reduction Report

MBTA and Keolis request that the last sentence of the first paragraph (Section B.6) be revised and recommend the following language: “By March 1 of each year, the Permittee shall submit as a DMR attachment a Bacteria Reduction Report, if an exceedance of the Massachusetts State Water Quality Standard for *E. Coli* (benchmark) is observed within the previous 12 months. The Bacteria Reduction Report is to include the following information...”

11. B.9, Page 12 of 18: Weekly Inspection and Maintenance of Absorbent Pads and Oil/Water Separator

MBTA and Keolis request that the current permit requirements be continued as established for the inspection and maintenance of absorbent pads and the oil/water separator. The draft permit includes a new requirement to conduct weekly inspection and maintenance of the absorbent pads and oil/water separator. However, under the current permit, absorbent pads located where locomotives park and the oil/water separator are inspected monthly and maintained (at a minimum) quarterly.

Since Keolis assumed operations of the Commuter Rail in July of 2014, there have been no violations of the oil and grease effluent limit. Therefore, Keolis requests that the current maintenance procedures and frequency be continued. The Fact Sheet (Sec. V.B, p. 14) states that the inspection frequency increase to weekly is “due to the occasional high levels of oil & grease resulting in permit violations.” Specifically, the Fact Sheet refers to five (5) violations of the 15 mg/L effluent limit (20 – 230 mg/L, Attachment 1: Discharge Monitoring Data, p. 3). All of these permit violations occurred from March 2011 to September 2013, prior to Keolis’ operation of North Station.

PART I. C. DRY WEATHER OUTFALL AND STORMWATER DRAINAGE SYSTEM SCREENING

No comment.

PART I. D. SOURCE IDENTIFICATION AND REDUCTION PLAN (SIRP)

12. D, Introductory Paragraph, Page 14 of 28: Implementing the Source Identification and Reduction Plan (SIRP)

Section D, page 14 of the Draft Permit reads: “Permittees (MBTA and Keolis) shall continue to implement the Source Identification and Reduction Plan (SIRP) that was required by the 2010 permit for the pollutants iron, magnesium, manganese, pathogenic bacteria, and COD. The goal of the SIRP is to reduce to the maximum extent possible, the discharge of these pollutants from the facility”. Since stormwater runoff from all co-Permittees co-mingle before discharging to Outfall 001, MBTA and Keolis request that language in the Draft Permit is revised and recommend the following language:

“All co-Permittees shall implement the Source Identification and Reduction Plan (SIRP) following the requirements established in the 2010 permit for pollutants iron, magnesium, manganese, pathogenic bacteria, and COD. The goal of the SIRP is to reduce, to the maximum extent possible, the discharge of these pollutants from the Facility. All co-Permittees shall incorporate within their SWPPPs the BMPs established in the SIRP to meet the requirements of discharge of these pollutants to the maximum extent possible as established in this Permit.”

13. D.2, Page 12 of 18: Annual Cleaning of Storm Sewer Lines and Appurtenances

MBTA and Keolis request that the requirement for Annual Cleaning of Storm Sewer Lines and Appurtenances (Sec. D.2, p.14) be reduced to a single cleaning to occur within one year of the effective date of the permit.

Under the current permit, the SIRP required a single cleaning of all storm sewer lines and appurtenances after the permit was authorized. The draft permit increases this requirement to “clean all storm sewer lines and appurtenances discharging to Outfall 001 on an annual basis, or more frequently if necessary. This includes the cleaning of pipes, culverts, catch basins, or other structures located along the entire alignment of the storm sewer system discharging to Outfall 001.”

Based on a review of the Fact Sheet and recent effluent data, the increased cleaning frequency is not warranted. The goal of the SIRP is to reduce the discharge of iron, magnesium, manganese, pathogenic bacteria, and COD. Data collected during the current permit term (March 2011 through March 2016) indicate that the discharge of these constituents have largely decreased or remained comparable to levels observed during

the previous permit term (April 2004 through March 2009). Specifically, the Fact Sheet indicates:

- **Iron** (p. 19): “The current permit term’s iron concentrations have been reduced considerably”, from an average concentration of 1,162 mg/L during the previous permit to 1.74 mg/L. The average concentration of iron was decreased by approximately 99.8% from the previous to the current permit term.
- **Magnesium** (p. 19): “Significant reductions from the last permit term”, from an average concentration of 88,750 mg/L to 139 mg/L. The average concentration of magnesium was decreased by approximately 99.8% from the previous to the current permit term.
- **Manganese** (p. 20): “Significant reductions from the last permit term”, from an average concentration of 340 mg/L to 0.54 mg/L. The average concentration of manganese was decreased by approximately 99.8% from the previous to the current permit term.
- **COD** (p. 18): “The average and range of COD values over this period are similar to those evaluated during the development of the current permit” (generated between April 2004 through March 2009).

The draft permit addresses the minimization of bacteria discharges through the new SWPPP requirements. Specifically, the draft permit includes a new E. coli benchmark to trigger additional source identification, reduction and/or treatment to attempt to reduce the discharge level of E. coli. The draft permit also requires a one-time dry weather screening study to assess whether there are any illicit connections to the stormwater drainage system which could be a source of bacterial or other pollutants. The new SWPPP requirements as proposed in the draft permit are designed to achieve meaningful bacteria reduction.

As current data show that iron, magnesium, and manganese concentrations “have been reduced considerably” and that COD concentrations have remained similar to the previous permit term, and the draft permit requires the implementation of increased measures for bacteria control, an increased frequency of stormwater drainage system cleaning is not warranted. MBTA and Keolis request that this BMP be reduced to a single cleaning to occur within one (1) year of the effective date of the permit.

PART I. E. PHOSPHOROUS CONTROL PLAN (PCP)

14. E.2, Page 15 of 18: Development and Implementation of Separate PCPs

MBTA and Keolis request that the permit stipulates that co-Permittees MBTA/Keolis and TD Garden are responsible for preparing and implementing separate Phosphorous Control Plans (PCP) for the portions of the drainage area under their control. MBTA/Keolis and Delaware North are responsible for controlling and operating separate areas of the

permitted drainage area. For this reason, MBTA and Keolis request that the Permit establishes that two PCPs be jointly developed for submittal to EPA within 1.5 years of effective date of permit.

The total area covered by the NPDES Permit for the Facility is composed of separate Parcels of properties owned by MBTA (North Station) and operated by Keolis; and, other Parcels owned by Delaware North (TD Garden). The facility's total drainage area covered by the Permit is approximately 8.45 acres, of which impervious surface covers approximately 6.34 acres. The impervious portion of the drainage area is recognized as a major source of phosphorous contamination in stormwater discharge, per the Face Sheet (Section V. J., Page 20 of 29). Of the impervious surface area MBTA/Keolis own and operate approximately 48% and Delaware North approximately 52%. As a result, MBTA, Keolis and Delaware North should be considered at least equally responsible for controlling impacts to the drainage system that may result in phosphorous contamination in the discharge.

A successful plan will require development of BMPs that are unique to the distinct operations and will address site access and control issues that are present at separately operated portions of the drainage area. Requiring MBTA/Keolis and Delaware North to develop separate PCPs is consistent with the requirement for Delaware North to develop its own Stormwater Pollution Prevention Plan.

Section E, page 15 of the Draft Permit reads: *"the Permittees shall develop and implement the following site-specific BMPs for phosphorus..."*. The MBTA and Keolis request that this sentence be revised and recommend the following language: "All co-Permittees are responsible for preparing and implementing a Phosphorus Control Plan (PCP) for their distinct properties within the drainage area of the permitted Facility".

15. E.2, Page 15 of 18: Phosphorous Reduction

MBTA and Keolis request clarification regarding the 62% phosphorus reduction value. It is unclear whether the 62% reduction of phosphorus is intended as a "goal" or "limit", as there appears to be some inconsistency between the Fact Sheet and the Permit. The Fact Sheet (Sec. V.E, p. 21, last paragraph) refers to the "phosphorus load reduction goal of 62%". The Permit (Sec. I.E.2) says to "undertake to reduce" the average annual load by at least 62%, but it does not appear to specify that it is a limit.

Further, MBTA and Keolis request that the term *"by at least"* (Sec. I.E.2) be replaced and recommend the following language: "undertake to reduce the average annual baseline phosphorus load (calculated in Part E.1. above, using Attachment C) to the maximum extent possible by 62%." The Facility is geographically constrained, built out, and occupied by continuous operations. An assessment following best engineering practices may result in suggesting the addition of structural BMP for phosphorus control and credits is likely infeasible.

PART I. F. REPORTING REQUIREMENTS

16. F.1, Page 16 of 18: Submittal of Quarterly DMRs

MBTA and Keolis request clarification. The due date for submittal of quarterly DMRs is not specified. It is assumed that the quarterly DMRs due date continues to be the 15th day of the month following the end of the calendar quarter.

PART I. G. STATE PERMIT CONDITIONS

No comment.

FACT SHEET

17. Section I.A, Page 4 of 29: TD Garden Distinct from North Station

The Fact Sheet states that the North Station Railroad Terminal is also referred to as TD Garden, or the "Facility". North Station and TD Garden operate different areas of the entire Facility covered by the Permit. Thus, we request that the Facility be defined as a combination of the North Station Railroad Terminal and TD Garden for clarity.

18. Section I.A, Page 4 of 29: Add Second Supplemental Permit Renewal Application


The second supplemental permit renewal application, dated November 23, 2016, also should be referenced in the second paragraph of this section.

If you have any questions or need additional clarification, please do not hesitate to contact Janis Kearney (jkearney@mbta.com, 617-222-1592) or Clary Coutu (clary.coutu@keoliscs.com, 617-222-8009).

Sincerely,



Janis O. Kearney, MBTA
Director of Environmental
Compliance/Assistant General Counsel I



Clary Coutu, Keolis Commuter Services, LLC.
Director of Environmental Affairs

Cc: Thomas Joyce, TD Garden