



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

December 14, 2020

VIA ELECTRONIC FILING

Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
U.S. EPA East Building, Room 3332
Washington, DC 20004

Joshua D. Schimmel
Executive Director
Springfield Water and Sewer Commission
P.O. Box 995
Springfield, MA 01101-0995

**RE: Springfield Water and Sewer Commission
NPDES Permit No. MA0101613; NPDES Appeal No. 20-07**

Dear Ms. Durr and Mr. Schimmel:

In accordance with 40 C.F.R. §§ 124.16 and 124.60, Region 1 of the United States Environmental Protection Agency (“EPA”) is providing notice of uncontested and severable permit conditions in connection with National Pollutant Discharge Elimination System (“NPDES”) Permit No. MA0101613 (“Permit”). EPA issued the Permit to the Springfield Water and Sewer Commission (“SWSC”) on September 30, 2020.

SWSC timely petitioned EPA’s Environmental Appeals Board (“EAB”) for review of the Permit on October 30, 2020. SWSC contested:

1. The total nitrogen limit and nitrogen optimization requirements (Permit at Parts I.A.1, pg. 4; 1.H.1.a, pg. 22);¹
2. The inclusion of satellite communities as co-permittees (Permit at Parts I.C-E, pg. 15-19);
3. The characterization of, and imposition of requirements relating to, secondary bypasses (Permit at Part I.A.1, fn. 3, pg 5);

¹ SWSC does not contest the Permit’s nitrogen monitoring requirements.

4. The reclassification of Outfall 042 as a CSO (Permit at Parts I.B.1, pg. 10; I.B.4, pg. 15, as applied to Outfall 042 only) and the 12-month compliance schedule to provide appropriate treatment (Permit at Part I.H.4,² pg. 23-24);
5. Certain public notification plan requirements (Permit at Part I.B.3.g.1,2,3 and 6, pg. 13-14);
6. The prohibition of septage to the CSO during wet weather (Permit at Part I.B.3.c, pg. 12);
7. The requirement to report hours and volume of CSO discharges and to quantify those discharges through direct measurement (Permit at Part I.B.3.e, pg. 13);
8. The CSO requirements, insofar as they turn on the definition of “dry weather” (Permit at Parts I.A.1.e, pg. 9; I.B.3.d, I, pg. 12-13; I.H.3.a, pg. 23).
9. The requirement to develop a preventative maintenance program to prevent overflows and bypasses (Permit at Part I.D.2, pg. 16);
10. The requirement to complete collection system mapping, insofar as this condition was not subject to a 36-month compliance schedule (Permit at Part I.D.4, pg. 17);
11. The requirement to complete a collection system study and an operation and maintenance plan, insofar as these conditions were not subject to 18- and 36-month compliance schedules, respectively (Permit at Parts I.D.5.a-b, pg. 17-18);
12. The requirement to prepare and submit a written technical evaluation regarding the need to revise local limits, insofar as this condition was not subject to an 18-month compliance schedule (Permit at Part I.G.1, pg. 21);
13. The new E. coli limits, insofar as these limitations were not subject to an 18-month compliance schedule (Permit at Parts I.A.1, fn.7, pg. 6; Part I.H.2.a, p. 23); and
14. The phosphorous monitoring requirements (Permit at Parts I.A.1, pg. 3; I.A.1 fn. 9, pg. 7; I.H.3, pg. 23).

See Petition for Review at 1-2. These conditions are collectively referred to as the “Contested Conditions.”

When a permit appeal is filed, EPA must issue a notification identifying which permit conditions are stayed as a result of the appeal and which permit conditions will go into effect. *See* 40 C.F.R. §§ 124.16(a)(2)(i) and (ii). While a permit appeal is pending, the contested permit conditions are stayed. *Id.* at § 124.16(a)(1). Uncontested permit conditions that are “inseverable” from contested conditions are also considered to be contested and are stayed. *Id.* at §§ 124.60(b)(4), 124.16(a)(2)(i). Uncontested permit conditions that are severable from contested conditions are not stayed and become enforceable conditions of the permit. *Id.* at §§ 124.16(a)(2)(i) and (ii).

EPA is notifying you that the Contested Conditions are stayed pending final agency action. As the holder of an existing, administratively-continued permits, SWSC must continue to comply with conditions of those permits that correspond to the stayed conditions. *Id.* at § 124.16(c)(2).³ EPA has determined that all other conditions of the permit are uncontested and severable, and accordingly will become fully effective and enforceable on February 1, 2021.

If you have any questions regarding this notice, please contact Samir Bukhari (617-918-1095) or Michael Knapp (617-918-1053) of the Office of Regional Counsel.

² The Table of Contents and the body of the Petition (pg. 30) cites Part I.B.2, pg. 12, for this claim, but EPA assumes this is an error: the corresponding “Permit Conditions for Review” paragraph (5) does not list I.B.2. It does list I.H.4, which is more directly on point.

³ The Permit consolidates the WWTF permit that expired in 2005 (NPDES Permit No. MA0101613) and the CSO permit that expired in 2014 (NPDES Permit No. MA0103331).

Sincerely,

Dennis Deziel
Regional Administrator
US EPA-Region 1

cc:

Fredric P. Andes
Erika K. Powers
Ashley E. Parr
Lealdon Langley, MassDEP
Jennifer Perry, CTDEEP