



REGION 1

BOSTON, MA 02109

Dated by electronic signature

VIA ELECTRONIC FILING

Tommie Madison
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

David Michelsen
Executive Director
South Essex Sewerage District
P.O. Box 989
50 Fort Avenue
Salem, MA 01970
Email: dmichelsen@sesd.com

**RE: South Essex Sewerage District
NPDES Permit No. MA0100501; NPDES Appeal No. 26-03**

Dear Mr. Madison and Mr. Michelsen:

In accordance with 40 C.F.R. §§ 124.16 and 124.60, United States Environmental Protection Agency Region 1 (“the Region”) is providing notice of uncontested and severable permit conditions in connection with National Pollutant Discharge Elimination System (“NPDES”) Permit No. MA0100501, issued by the Region to the South Essex Sewerage District (“SES”) on December 22, 2025 (“2025 Permit”). When effective, the 2025 Permit will supersede SESD’s

previous permit, which has been administratively continued since its expiration on July 31, 2021 (“2016 Permit”).

On January 21, 2026, SESD filed its Petition for Review. SESD contested:

1. The special condition ambient water quality assessment (Permit Part I.G at pages 21-26);
2. The effluent bacteria limits for enterococci and fecal coliform (Permit Part I.A.1 at page 3, and the corresponding footnotes 7, 8, and 9 at page 7);
3. The monitoring requirements for PFAS and adsorbable organic fluorine (AOF) (Permit Part I.A.1 at pages 4-5, and the corresponding footnotes 11 and 12 at pages 7 and 8); and
4. The weekly nitrogen testing requirements in the growing season (Permit Part I.A.1 at 3)

See Petition for Review at 3, 7-11. 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 an appeal is pending, 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).

The Region is notifying you that the Contested Conditions are stayed pending final agency action. The stay operates in accordance with EPA regulations. As the holder of an existing, administratively continued permit, SESD must continue to comply with conditions of that 2016 Permit that correspond to the stayed conditions. *Id.* at § 124.16(c)(2). As such:

1. The special condition ambient water quality assessment is stayed. There are no corresponding requirements in the 2016 Permit with which SESD must comply.
2. The effluent bacteria limits for enterococci and fecal coliform are stayed. SESD must comply with the effluent bacteria limits in the 2016 Permit for enterococci and fecal coliform. Average monthly limits for enterococci and fecal coliform are 35 cfu/100mL and 88 cfu/100mL, respectively. 2016 Permit Part I.A.1 at 2. The daily maximum limit for enterococci is 276 cfu/100mL. *Id.* at 2. No more than 10 percent of the fecal coliform samples in any calendar month shall exceed 260 cfu/100mL. *Id.* at 3.
3. The monitoring requirements for PFAS and AOF are stayed. There are no corresponding requirements in the 2016 Permit with which SESD must comply.
4. The weekly nitrogen testing requirement in the growing season is stayed. SESD must comply with the monthly nitrogen testing requirement in the 2016 Permit, Part I.A.1 at 2.

EPA has determined that all other conditions of the 2025 Permit are uncontested and severable, and accordingly will become fully effective and enforceable on July 1, 2026.

If you have any questions regarding this notice, please contact Erin Flannery-Keith of the Office of Regional Counsel at flannery-keith.erin@epa.gov or (617) 918-1096.

Sincerely,

MARK
SANBORN

Digitally signed by MARK
SANBORN
Date: 2026.05.05 11:02:25
-04'00'

Mark Sanborn
Regional Administrator
US EPA-Region 1

cc:

Matthew Connolly, Counsel for Petitioner

Matthew Snell, Counsel for Petitioner

Ken Moraff, Director, Water Division, EPA Region 1

Danielle Gaito, Acting Manager, Water Permits Branch, EPA Region 1

Michael Cobb, EPA Region 1

Michele Barden, EPA Region 1

Lealdon Langley, Massachusetts Department of Environmental Protection

Rebekah Lacey, Massachusetts Department of Environmental Protection

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Uncontested and Severable Permit Conditions in connection with *In re South Essex Sewerage District*, NPDES Appeal No. 26-03, was sent to the following persons in the manner indicated:

By Electronic Filing:
Tommie Madison
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
WJC East Building, Room 3332
Washington, DC 20004

By Electronic Mail:
Counsel for Petitioner
Matthew J. Connolly
mconnollyg@nutter.com
Matthew Snell
msnell@nutter.com
Nutter McClennen & Fish, LLP

Petitioner
David Michelsen, Executive Director, South Essex Sewerage District
dmichelsen@sesd.com

Massachusetts Department of Environmental Protection
Rebekah Lacey, Esq., Rebekah.lacey@mass.gov
Whitney Fenwick, whitney.fenwick@mass.gov

Dated: May 5, 2026

ERIN KEITH Digitally signed by ERIN KEITH
Date: 2026.05.05 13:09:31
-04'00'

Erin Flannery-Keith, Esq.
Alison Newman, Esq.
Attorney-Advisors
U.S. Environmental Protection Agency
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109
(617) 918-1096
(617) 918-1195
Flannery-Keith.Erin@epa.gov
Newman.Alison@epa.gov