



August 2, 2010

Attn: Water Docket
US Environmental Protection Agency
Mail Code: 4203M
1200 Pennsylvania Avenue, NW
Washington, DC 20460

By electronic mail to OW-Docket@epa.gov

Subject: Docket ID No. EPA-HQ-OW-2010-0464

To Whom It May Concern:

The Massachusetts Coalition for Water Resources Stewardship (“the Coalition”) has reviewed EPA’s questions regarding Sanitary Sewer Overflows (SSOs) and Peak Flows rulemaking. This letter provides our responses to the questions.

In general, the Coalition **strongly discourages** EPA from considering any changes at this time as all municipal entities are struggling to survive financially. Communities cannot afford additional unfunded mandates from the federal or state government.

Question 1: Should EPA propose to clarify and expand standard permit requirements to establish a comprehensive framework for monitoring, reporting and recordkeeping for SSOs from municipal sanitary sewer collection systems?

Comment: Yes, only on a limited basis as follows. EPA should clarify and expand the requirements because they are not clearly specified in current NPDES permits. The only SSO events that should be subject to recordkeeping and public notice requirements are those that have a **substantial, direct** impact on public health and the environment. There should **not** be any monitoring requirements included because those are too costly and not feasible for permittees to perform.

EPA should clarify that such requirements only apply to SSOs that result in a discharge to waters of the United States. The requirements for each type of SSO discharge, i.e. sewer back-up to basement, manhole overflow to street, etc. should have different and specific requirements. For example, an SSO

sewer back-up to a residential basement should not be subject to public notification requirements because the resident will already be aware of the SSO and no other public will be impacted by it. The same is true for a manhole overflow that does not have the potential to affect public health or the environment. Each and every SSO event may be different and unique and they should not all be combined into one NPDES requirement.

The only SSO events that should be reported immediately are those that discharge to waters of the United States or have a substantial and direct impact on public health or the environment.

Again, **no SSO monitoring** requirements should be included in NPDES permits.

Immediate notification to the public should only be required for SSO events that have the potential to significantly impact public health and the environment. Non-point source pollution can have the same public health impact that most SSO events would have and the public is not notified of those events.

Question 2: Should EPA propose to develop a standard permit condition with requirements for capacity, management, operations and maintenance programs based on asset management principles?

Comment: We do not believe that EPA should attempt to manage wastewater collection and treatment systems, nor do we believe it has the authority to do so under the Clean Water Act.

Question 3: Should EPA propose to require permit coverage for municipal satellite collection systems?

Comment: We do not believe that EPA has the authority under the Clean Water Act to regulate satellite collection systems under an NPDES permit that is issued to a wastewater treatment facility.

Question 4: What is the appropriate role of NPDES permits in addressing unauthorized SSOs that are caused by exceptional circumstances?

Comment: As a responsible NPDES permittee, we would argue that most, if not all SSOs are caused by exceptional circumstances beyond our control. It is virtually impossible to police all activities occurring in a sewer on a day to day, hour by hour basis. SSOs caused by exceptional circumstances should be considered and excused through enforcement discretion. Some criteria that comes to mind may be construction debris caused by irresponsible private construction activities finding its way into a sewer and causing a blockage. Another may be an unauthorized discharge of grease into the sewer causing a blockage. We all saw the report of an extreme example with the spring 2010 floods in New England that put a wastewater treatment plant completely underwater – is that a violation?

Question 5: How should EPA address peak flows at POTWs?

Comment: The requirements for peak flows at POTWS should be clarified. The NPDES permit has always contained language in the bypass provision section that specified when a diversion around a treatment process would be allowed. This language has been used in the past by the NPDES permittees to prevent loss of biomass (secondary biological treatment) at the POTW, i.e. severe property damage – which it most certainly is. EPA is now saying that is only allowed if no feasible alternative is available and is implying that the permittee must perform an alternative analysis. The no feasible alternative language has always been in the bypass provision section since day one of each originally issued NPDES permit. Did EPA intend at that time for POTW's to finance and build treatment and/or storage units shortly after the original treatment plant was designed, built, approved and funded under the Clean Water Act? There appears to be a new interpretation of the original NPDES permit language that should be addressed in a new regulation, not a policy.

Furthermore, the issue of by-pass with respect to blending at the POTW needs more detailed clarification for CSO communities. Blending at POTWs is specifically allowed pursuant to the 1994 CSO Control Policy which has been codified into the Clean Water Act. Part II, Section C, Number 7 of the 1994 CSO Control Policy addresses Maximizing Treatment at the Existing POTW. The provisions which allow for Blending are a critical component to properly developing a comprehensive Long Term CSO Control Plan (LTCP). Disallowing blending will have significant operational and financial impacts to CSO communities that are currently developing LTCPs as well as communities that have already constructed CSO control projects with the intent of blending at the POTW. Disallowing blending would make it a violation to provide primary treatment of combined sewage at POTW's whose primary processes were **designed** to exceed the capacity of the secondary treatment process.

Please consider that, to spend hundreds of millions of dollars to eliminate a minor problem that will not reap any measureable benefit for water quality is a complete waste of resources especially in a down economy when we cannot afford basic services.

Question 6: What are the costs and benefits of CMOM programs and asset management of sanitary sewers?

Comment: Pursuant to existing NPDES Permits, utility operators have always been required to maintain and operate the collection system that serves the POTW. CMOM requirements add a substantial administrative level of effort which has an associated cost. This cost may impact utilities depending on their size and existing staffing structure. Money spent on administration is money that is not spent on operation and maintenance. Additionally, asset management may provide some



benefits to select communities, at a cost. How a community inventories and maintains its assets should be that community's choice, and each community should be able to determine its operational structure in the context of budget, staffing needs, operations and maintenance requirements, capital planning, and pending unfunded mandates and regulatory changes.

These programs not only represent a substantial cost to utilities, but require a significant commitment of staffing to respond to. These commitments to satisfy the ever-growing regulatory requirements keep us and our staff from our doing our jobs – keeping the waters of the United States clean.

We appreciate the opportunity to provide responses to EPA's questions regarding SSO and Peak Flow rulemaking. Please do not hesitate to contact me with any questions. I can be reached at 508-799-1430 or at moylanr@worcesterma.gov.

Sincerely,

MASSACHUSETTS COALITION FOR WATER RESOURCES STEWARDSHIP, INC.

A handwritten signature in black ink, appearing to read "Robert L. Moylan, Jr.", is placed below the organization's name.

Robert L. Moylan, Jr. P.E., President

Cc: MCWRS Board of Directors
Massachusetts Federal Delegation
Massachusetts State Delegation