



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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OPERATIONS

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

'09 APR 27 A11:06

April 24, 2009

Michael J. Hornbrook  
Chief Operating Officer  
Massachusetts Water Resources Authority  
Charlestown Navy Yard  
100 First Avenue  
Charlestown, MA 02129

Re: Massachusetts Water Resources Authority, Permit Number MA0103284  
Submission Pursuant to Part I.7.c.iii. – Ambient Monitoring Plan Modifications

Dear Mr. Hornbrook:

The Environmental Protection Agency (EPA) has reviewed the Massachusetts Water Resources Authority's ("MWRA") request for interim modifications to the *Ambient Monitoring Plan for the Massachusetts Water Resources Effluent Outfall, Revision 1, March 2004*. EPA has determined that the proposed modifications represent significant changes to the current plan and exceed the level of change that should be approved as interim modifications. This letter therefore constitutes EPA's written objection to the proposed modifications as interim modifications, pursuant to Part I. 7.c.iii of your Permit.

EPA is prepared to review this proposal as an annual submission under the ambient monitoring plan modification process set forth a Part I.7.c.i of the NPDES permit, following the steps outlined below. First, because the requested modifications are considerable, we would suggest that MWRA address any preliminary EPA and MassDEP comments. We anticipate sending you our initial comments within the next two weeks. Your proposal must then be presented to the Outfall Monitoring Science Advisory Panel (OMSAP) for its review, in accordance with Part I.7.c.ii. of the Permit. EPA has requested that OMSAP be convened, and we understand that a meeting is currently being scheduled for June. Given the magnitude of the proposed modifications EPA does not believe that the OMSAP review process should occur sooner than that or otherwise be rushed.

Following OMSAP review and comment, there must be an opportunity for public comment on the final proposed modifications. In accordance with the Permit and as further explained in the September 5, 2002 letter from Jeffrey Fowley of our Office of Regional Counsel, the MWRA must give public notice of the proposed changes by describing them on its website and in documents filed in the two repositories established

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pursuant to the Permit. In addition, the MWRA must publish a description of the proposed changes in the Environmental Monitor. The Notice should follow the guidance set forth in Mr. Fowley's letter and provide for a public comment period of at least 30 days. The MWRA also should give individual notice by mail to EPA, MADEP and NMFS and any members of the public who have requested such notice.

Following OMSAP review and the public comment process, the final decision on your proposal will be made by MADEP and EPA.

As you are aware, EPA is currently drafting the proposed NPDES Permit to be reissued to the MWRA. We anticipate that we will be in a position to meet with you regarding the proposed draft permit during the fall. The draft permit will address ambient monitoring requirements. If the EPA and MADEP approve changes to the ambient monitoring plan prior to issuance of the new permit, then we anticipate that the changes will be reflected in what also is required by the new permit.

Finally, with respect to your potential request for the elimination of the ambient monitoring program, we note that this may not be allowed either as an interim or as an annual modification under Part I.7.c. of the Permit. Rather, the elimination of the program clearly rises to the level requiring full consideration through the new permit reissuance process (or a later permit modification). In any event, we have seen nothing to date that convinces us that the entire monitoring program should be eliminated. However, MWRA will have an opportunity to present its case – in connection with the reissuance of the Permit.

If you have any questions regarding this letter, please call Michele Barden of my staff at 617- 918-1539 or Jeffrey Fowley in the Office of Regional Counsel at 617-918-1094.

Sincerely,



Kenneth Moraff  
Acting Director  
Office of Ecosystem Protection