



CITY OF HARTFORD

DEPARTMENT OF PUBLIC WORKS
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Hon. Luke Bronin, Mayor
Michael T. Looney, Director of Public Works

VIA FIRST CLASS MAIL & EMAIL

June 9, 2023

Mr. James Chow
Acting Director
Enforcement and Compliance Assurance Division
Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

RE: MDC Response to EPA Letter of 3/8/23

Dear Director Chow:

The City of Hartford (City) has reviewed the MDC's response letter, dated 4/6/23 and signed by Mr. Scott Jellison, CEO of MDC, in regard to the EPA's letter to MDC dated 3/8/23. The City of Hartford has several concerns with statements made by MDC in the body of this letter, and we wish to address these concerning statements within the context of the City of Hartford's own response letter dated 4/28/23 to EPA's letter to the City, dated 3/30/23, as well as within the context of legal and regulatory responsibility including the MDC's charter and the City of Hartford Zoning Regulations.

In the third paragraph of MDC's 4/6/23 response letter, MDC purports that ***"...the City of Hartford (COH) is the MS4 Permittee for the management of stormwater within Hartford."*** In fact, the City of Hartford is one of multiple entities within the City's corporate boundaries that have MS4 responsibilities, including MDC, the State of Connecticut DOT, and the Hartford Correctional Center. As the owner and operator of the vast majority of the storm and combined sewer systems within the City, the MDC has significant responsibilities related to stormwater quality. Numerous operational and maintenance activities associated with the sewer systems are the responsibility of the MDC, not the City of Hartford. The MS4 regulations or modifications must, therefore, consider which entity is legally responsible for the various components of the system. Interjurisdictional cooperation between the City and these entities has been attempted, at times successfully, but full cooperation has remained elusive since the City initially engaged with MDC on an MS4 MOU beginning in 2017. As you are well aware, interdepartmental coordination and coordination with interconnected MS4 is a mandate of the MS4 program. To date, agreement on and execution of such an MS4 MOU between the City and MDC has not occurred (as discussed in our prior letter dated 4/28/23). However, this fact does not in any way alleviate MDC of its considerable stormwater management responsibilities within the boundaries of the City of Hartford.

City Buildings, Engineering Design, Contract Administration and Permits, Flood Control, Forestry
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FIRST RESPONDER

In the fourth paragraph, MDC expresses a variety of supposed concerns that it has with MS4 compliance activities on the part of the City. Specifically, the letter states, ***“These concerns included:***

- ***Lack of construction site runoff control***
- ***Poor management of pollutants from parks and open space***
- ***Lack of street sweeping***
- ***Lack of a catch basin cleaning program***

Additionally, the COH has not sent the MDC any draft MS4 reports or related submissions for comment or review.”

All four of the listed concerns have been addressed by way of the City’s response letter to EPA dated 4/28/23 and the associated supporting materials attached to the subject letter. Additionally, without an executed MOU in place that specifies the agreed-upon coordination mechanisms between the City and MDC, we are unaware of any requirement that we are required to submit our draft MS4 reports to MDC for their review and/or comment, as the City reports directly to CT DEEP in matters related to MS4 compliance. Finally, the City has engaged with MDC on several occasions to develop a mutually agreeable MOU regarding the cleaning of MDC catch basins, for which the City had offered to pay for a reasonable portion of both historical and future costs related to this work. To date these efforts at engagement have been ineffective in getting MDC to jointly execute such an MOU.

In the fifth paragraph, MDC argues that ***“while MS4 compliance is not the MDC's responsibility, the lack of the COH's ability to comply with these regulations has a direct impact on both the MDC's combined sewer system, and the street flooding that has been a public complaint in recent years.”***

The MDC attempts to interconnect the issues of street flooding and MS4 compliance, while saying at the same time that it has no responsibility for MS4 compliance. It is also important to note MDC’s clear acceptance of their “combined sewer system” in this sentence, which comprises both wastewater and stormwater. MDC’s ongoing work to separate their combined sewer pipes into separate wastewater and stormwater pipes cannot in any way be construed as ending their long-standing wastewater and stormwater responsibilities.

The issue of street flooding is beyond the scope of the MS4 program, as MS4 is focused on managing stormwater quality, not drainage. As discussed above, and in considerable detail in our response letter to EPA dated 4/28/23, the City has taken concrete actions in managing the comparatively limited amount of stormwater quality responsibility under its jurisdiction, as well as planning for additional future initiatives in line with MS4 BMPs. With the exception of occasional instances of debris collecting on top of catch basin grates restricting stormwater flow, the street flooding experienced in the City of Hartford has been primarily due to obstructions in MDC-owned combined sewer infrastructure, lack of overall combined and separated MDC sewer system capacity, historically heavy rainfall far exceeding the normal range of rainfall experienced in the MDC service territory prior to increasing climate change impacts (including rainfall that occurs on portions of the MDC service territory outside the City limits of Hartford,

which drains into MDC assets within the City limits), or some combination thereof. None of these factors are within the purview of the City of Hartford.

In the sixth paragraph of the subject letter, the MDC states the *“the COH continues to promote development including allowing stormwater and groundwater connections to be made to the MDC's combined system and/or separated storm drains. This is a violation of the District's NPDES permit and the COH's own Planning and Zoning Ordinances. The District has asked CT DEEP for guidance multiple times on this topic, and has yet to receive any. Building additional stormwater capacity to serve new development due to the fact the existing CSO system does not have sufficient capacity, is not regulated by CT DEEP, or EPA and therefore cannot be MDC's responsibility as a CSO community sewer authority.”*

Further in the sixth paragraph, MDC presents the following statement:

“It is the MDC's opinion that if additional stormwater capacity is needed to support development, this capacity should be constructed, owned, and maintained by the COH.”

Fundamentally, this statement summarizes the fallacy that MDC is reliant upon in its attempts to shirk its clear and unambiguous responsibility for the management of its combined and separated sewer system to accommodate both sanitary sewage and stormwater in Hartford. For over 90 years, MDC has managed a combined (and lately, partially separated) sewer system that accommodated the growth of Hartford from approximately 138,000 residents in 1920 to over 177,000 residents in 1950, as well the continued development of the City through new development and major redevelopment projects in the years since. Compared to its past peak, the City's population now stands at just over 120,000 residents. MDC's charter, as approved by the State of Connecticut General Assembly in 1929, clearly states that through its charter MDC both subsumed the functions and duties of the City of Hartford as they related to owning and operating the combined sewer system, and undertook the responsibilities of providing for adequate capacity in such system for all future years. In Section 14-1 Transfer of Sewerage, Etc. to District, the charter states:

“As soon as may be after the organization of said district board as hereinbefore provided, the chairman shall signify to the mayor of the city of Hartford that the district is ready to take over from the city of Hartford the functions now within the control of the street department and the department known as the department of engineering, (which includes ‘sewage and drainage systems’)...”

Further, Section 14-2 Organization of Bureau of Public Works, the charter also states:

“The district board shall thereupon organize a bureau of public works to be constituted as hereinafter provided. The bureau of public works shall carry on the work within said district in as nearly as practicable the same manner as said work is then being carried on by the local authorities within the cities, towns and districts comprising the district.”

Finally, under Section 8-3 Powers, Sewage Disposal, Etc., the charter reads:

“The district board of The Metropolitan District may, whenever in its opinion the adequate sewerage or drainage of any portion of said district shall require such action, construct any sewage disposal plant or any structure, mechanical appliance or apparatus artificially or mechanically to sewer or drain the same, and may maintain and operate such means of drainage...”

The verbiage is clear that MDC’s own charter specifically mandates MDC responsibility for the ownership, operation, and prudent expansion of such system, as necessary. For the MDC to adopt its apparent position that all or most new economic or property development within the City of Hartford shall not be allowed to connect to the MDC sewer and stormwater systems going forward is clearly unreasonable and a violation of the MDC’s mandate under its Charter.

In the eighth paragraph, the letter states that ***“from the MDC’s perspective, CT DEEP has decided to enforce some requirements of the NPDES, but not all, such as not allowing new inflow connections.”*** The City objects to this characterization of CT DEEP’s position on new inflow connections. The City’s understanding is that the requirements of the NPDES do not mandate anything resembling a complete ban on new inflow connections, but rather that CT DEEP is encouraging MDC to be creative and holistic in its approach to managing the balance between new inflow connections and capacity constraints within the existing MDC sewer system. In fact, it is the City’s understanding that CT DEEP’s view is that an attempt by MDC to define “inflow” as part of a proposed ordinance in December 2022 (which was not adopted) was overly broad, and misinterpreted CT DEEP’s view of the matter. The City shares that view and believes that any interpretation of CT DEEP’s policy as mandating a complete or even partial ban on new economic or property development in Hartford, the state’s capital city, is clearly absurd. *It is therefore incumbent upon MDC to develop capacity management solutions for new inflow connections into its combined and partially separated sewer system that they themselves admit to owning, in a manner that satisfies the NPDES while permitting responsible new inflow connections.* In addition, the City also objects to MDC’s interpretation of the NPDES requirements as a ban on reconnections for properties in Hartford that are being redeveloped, even when redevelopment projects result in no net increase in stormwater flows (and in many cases, actually reduce the stormwater flows) as compared to previous development on the same site.

Finally, it should be noted that the City of Hartford is committed to working with MDC and property developers in the City to utilize all means available, both regulatory and otherwise, to manage stormwater during construction on development and redevelopment sites to the greatest extent feasible.

In the tenth paragraph, MDC remarks that ***“that being said, the MDC also acknowledges this opportunity to both address CSOs to the rivers as well as help the residents of Hartford. As discussed in my March 23, 2023 letter to CT DEEP, the MDC has identified some options to help residents in northern Hartford earlier than the schedule in the Consent Order. However, as I discussed, this can only be accomplished if either CT DEEP provides grant and loan funding for these projects; or if other projects (including some Consent Decree Projects) are delayed.”*** This language is reflective of a consistent and perplexing attitude on the part of MDC, wherein MDC purports to be willing to help with issues related to its own combined and

separated sewer systems, provided that some other entity fund their proposed solutions. It is particularly frustrating that MDC does not take responsibility for developing sorely needed stormwater solutions despite being the sole owner and operator of the entire sewer system in Hartford for approximately 94 years.

In the eleventh paragraph, the letter states that ***“the MDC also needs support from the COH and Department of Transportation (DOT) by fulfilling their obligations relating to MS4 permit requirements, and the COH and the Greater Hartford Flood Commission (GHFC) must clear the stormwater receiving capacity of its rivers, including the channels and adjacent properties.”*** Leaving aside the fact that in this statement MDC admits both that they have responsibility for MS4 compliance and that the City is not the sole responsible party in the role of MS4 permittee within Hartford’s corporate boundaries (in direct contradiction to their previous statements in paragraphs three and five), MDC makes the presumptuous statement that the Park River and adjacent properties that are generally developed as residential or institutional land uses are the proximate cause of issues with the MDC combined sewer system, as opposed to the clear absence of sufficient capacity within that MDC system (as alluded to in their previous statements in paragraph six discussed above).

In fact, the City is currently in the process of working collaboratively with MDC and CT DEEP to undertake a drainage study of the entire North Branch of the Park River drainage shed, which includes the Granby St./Blue Hills neighborhood that has been one of the sites impacted by recent flooding events. This nearly \$1 million study is designed to complete a comprehensive analysis of the stormwater dynamics of the drainage shed, and should provide all parties with solutions to reduce the impacts of heavy rainfall and improve drainage in the area. While activities such as dredging the North Branch of the Park River may be part of that package of solutions, the answer will not be clear until the study is actually completed. Regardless of the outcome of this particular study and the limited scope of its study area, nothing it may find or conclude will in any way reduce or eliminate the longstanding responsibility of the MDC for owning, operating, and as reasonably necessary, expanding its overall stormwater management system to meet the needs of the MDC’s Hartford customers. These responsibilities are core to the MDC’s founding mission and purpose.

Finally, in the letter’s thirteenth paragraph, MDC notes that ***“despite this significant delay, the MDC proceeded with a significant sewer rehabilitation program, where we rehabilitated approximately 216,300 LF of sewers over this 4-year period of time. Additionally, while it is being portrayed publicly that the MDC hasn’t been addressing its responsibilities within Northern Hartford, it should be pointed out that 70,122 LF of this work occurred in Northern Hartford.”***

The City does not question the fact that MDC has done work in terms of relining combined sewer system pipes in various areas within the City of Hartford, and that such routine rehabilitation work is a critical piece in the overall program of keeping the combined sewer system operating at its best. However, this relining work is designed primarily to reduce the potential for future sewer pipe failures and eliminate infiltration and inflow (I/I) of groundwater and stormwater. This work only has a negligible impact on sewer capacity (with some minor additional capacity free up by the elimination of I/I), which is ultimately the crux of the problem

related to sewer overflows and surcharging. In the sixth paragraph of the subject letter, the MDC admits as much by stating that the combined and partially separated sewer system that it owns does not have sufficient stormwater capacity. The fact that MDC has performed some meaningful work on improving its sewer system to date does not mean that the totality of its efforts has been sufficient in fulfilling the MDC's clear and longstanding mandate to maintain and operate an adequately functioning sewer system for its customers (i.e. the people of Hartford).

We are hopeful that this letter will assist EPA in understanding the ongoing dynamics between the City and MDC as well as the City's positions on the range of responses MDC has provided to your agency. If you have any additional questions regarding this letter, please contact me directly at 860-757-9961 or at michael.looney@hartford.gov.

We look forward to our continued dialogue regarding critical stormwater issues of concern to the residents of Hartford and all MDC customers.

Sincerely,



Michael T. Looney
Director of Public Works
City of Hartford

Electronic cc: Hon. Luke A. Bronin, Mayor – City of Hartford
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