



REGION 1

BOSTON, MA 02109

October 23, 2023

BY ELECTRONIC MAIL

Michael Looney, Director
Department of Public Works
550 Main Street
Hartford, Connecticut 06103
michael.looney@hartford.gov

Re: Municipal Separate Storm Sewer System Discharges in Hartford

Dear Mr. Looney:

The U.S. Environmental Protection Agency ("EPA") has received the City of Hartford's ("the City's") response, dated April 28, 2023, to EPA's letter, dated March 30, 2023, as well as the City's letter, dated June 9, 2023, responding to statements made by the Metropolitan District Commission ("MDC" or "the District") in their April 6, 2023 letter. In addition, on August 15, 2023, EPA provided an inspection report for its June 14 and 15, 2023, reconnaissance and sampling inspections of the Municipal Separate Storm Sewer System ("MS4") in Hartford.

The City's letter dated April 28, 2023, provides that the City owns only a portion of the storm drainage infrastructure (e.g., pipes, manholes, and outfalls) located in Hartford. However, as defined in both federal regulations and the General Permit for the Discharge of Stormwater from Small MS4s that was issued by the Connecticut Department of Energy and Environmental Protection ("CT DEEP") on September 29, 2023 ("2023 MS4 GP"), municipal streets, curbs, and gutters are also part of the MS4.

Section 6(b)(3) of the 2023 MS4 GP requires that, when multiple municipalities share responsibility for management of the MS4, the registration for authorization to discharge submitted to CT DEEP shall include a description of the respective responsibilities of each entity. In the registration form submitted by the City on March 29, 2017, for the 2016 MS4 GP, the City did not identify the District, or any other entity, as having responsibility for implementing any portion of the Stormwater Management Plan.

EPA is concerned that the City has misinterpreted the requirements in the MS4 GP related to shared responsibility for management of the MS4. The draft Illicit Discharge Detection and Elimination ("IDDE") program document submitted by the City in its April 28, 2023 letter provides, in Section 2.2, that "MDC is the lead agency responsible for implementing the IDDE program pursuant to the

provisions of *the Ordinances of The Metropolitan District Relating to Sewers* for the portion of the separate storm sewer system owned and operated by the MDC. The Department of Public Works is the lead municipal agency or department responsible for implementing the IDDE program for the portion of the separate storm sewer system owned and operated by the City of Hartford.”

Because the MS4 is comprised of both City-owned streets, curbs, and gutters and (primarily) District-owned pipes, manholes, and outfalls, the Hartford MS4 cannot be apportioned geographically. Rather, for each control measure of the MS4 GP, the City and the District are each required to submit a Stormwater Management Plan that clearly delineate responsibilities. The registration submitted by the City for the 2004 issuance of the MS4 GP stated that the City and the District were in the process of developing a Memorandum of Understanding (“MOU”) that defines the respective responsibilities relative to the implementation of stormwater management activities to address all elements of a comprehensive Stormwater Management Plan. Unfortunately, it appears that such an agreement between the City and the District has not been reached. The failure to delineate, and agree upon these responsibilities, such as the obligation to keep certain catch basins free from debris, has clearly contributed to flooding issues in Hartford, subsequently harming the people of Hartford.

EPA and CT DEEP expect the City to revise its Stormwater Management Plan to include a signed MOU or other interagency agreement delineating responsibilities between the City and the District. Without such an agreement, neither the District nor the City will be able to comply with the requirements of a stormwater NPDES permit, potentially subjecting both MDC and the City to enforcement action. Concurrent with this letter, EPA is sending a letter to the District directing MDC to also seek NPDES permit authorization for its currently unauthorized discharges of MS4 stormwater to waters of the United States.

EPA recognizes that the District and the City have previously and unsuccessfully sought to reach agreement on appropriate roles and responsibilities for stormwater management in Hartford. EPA is prepared to offer mediation services to the parties.

We believe a productive next step would be to schedule a meeting with MDC, the City of Hartford, and CT DEEP to discuss stormwater responsibilities in Hartford. We will work with CT DEEP to coordinate.

If you have questions regarding this request, please contact John (“Jack”) Melcher, Enforcement Officer at (617) 918-1663 or melcher.john@epa.gov or have your attorney contact Jeff Kopf, Senior Enforcement Counsel at (617) 918-1796 or kopf.jeff@epa.gov.

Sincerely,

James Chow, Deputy Director
Enforcement and Compliance Assurance Division

cc: Jack Melcher, EPA
Jeff Kopf, Senior Enforcement Counsel, EPA
Graham Stevens, CT DEEP
Jennifer Perry, CT DEEP
Audra Dickson, CT DEEP
Nisha Patel, CT DEEP
Chris Stone, Counsel, MDC
Scott Jellison, MDC