



REGION 1

BOSTON, MA 02109

October 23, 2023

BY ELECTRONIC MAIL

Scott W. Jellison, Chief Executive Officer
The Metropolitan District
555 Main Street
Hartford, Connecticut 06104
sjellison@themdc.com

Re: Municipal Separate Storm Sewer System Discharges in Hartford

Dear Mr. Jellison:

The U.S. Environmental Protection Agency ("EPA") has received the Metropolitan District Commission's ("the District's" or "MDC's") response, dated April 6, 2023, to EPA's letter, dated March 9, 2023.

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. Section 301(a) of the federal Clean Water Act, 33 U.S.C. § 1311(a), makes unlawful the discharge of pollutants to navigable waters of the United States except, among other things, in compliance with the terms and conditions of a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to Section 402 of the Clean Water Act.

In advance of EPA's June 2023 inspections, the District provided EPA with a Geographic Information Service ("GIS") geodatabase showing separate sanitary sewer, separate storm sewer, and combined sanitary and storm sewers in Hartford. These data list approximately 35 stormwater outfalls owned by the District. EPA's sample results from four locations in stormwater conveyance assets owned by the District indicate that the District is discharging pollutants, including *E. coli* bacteria, to waters of the United States. The expectation of EPA and CT DEEP is that the District will seek NPDES permit authorization for its currently unpermitted discharges of stormwater to waters of the United States.

The NPDES General Permit for the Discharge of Stormwater from Small MS4s was issued by the Connecticut Department of Energy and Environmental Protection ("CT DEEP") on September 29, 2023 ("2023 MS4 GP"). 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.

Whether the District seeks NPDES permit authorization under the 2023 MS4 GP or under an individual NPDES permit, the general permit registration or the individual permit application shall include a signed Memorandum of Understanding (“MOU”) or other interagency agreement for sharing MS4 responsibilities with the City. Without such an agreement, neither the District nor the City of Hartford will be able to comply with the requirements of a stormwater NPDES permit, potentially subjecting both MDC and the City to enforcement action. 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 residents of Hartford.

EPA recognizes that the District and the City of Hartford 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.

Concurrent with this letter, EPA is sending a similar letter to the City of Hartford.

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
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Audra Dickson, CT DEEP
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Chris Stone, Counsel, MDC
Michael Looney, City of Hartford