



Connecticut Fund
for the Environment

Save the Sound®

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Via E-mail (Timony.meridith@Epa.gov) and First Class Mail

Alexandra Dapolito Dunn, Regional Administrator
U.S. EPA
Region 1
5 Post Office Square
Suite 100
Boston, MA 02109-3912

**RE: Draft NPDES PERMIT for the Springfield Water and Sewer Commission
Permit Number; MA0101613; Public Notice Number: MA-007-18**

Dear Regional Administrator Dunn,

The Connecticut Fund for the Environment and its bi-state programs Save the Sound and The Long Island Sound Soundkeeper, submit the following comments on the draft National Pollutant Discharge Elimination System (NPDES) Permit for the Springfield Regional Waste Water Treatment Facility (SWWTF) and 24 Combined Sewer Overflow (CSO) discharges at 24 CSO outfall locations.

The draft permit integrates the Springfield Water and Sewer Commission's (SWSC) two existing permits for the publically owned treatment facility at Bondi Island and for 25 CSO outfalls in Springfield and Agawam that discharge into the Connecticut, Chicopee and Mill Rivers into a single permit. The draft permit replaces the existing permit for the SWWTF issued on December 8, 2000, which has been administratively continued without modification for the past twelve years, and the existing CSO outfalls permit issued in November, 2009 and administratively continued on September 15, 2014. The draft permit also includes as co-permittees the six towns that operate sanitary waste water collection systems that discharge flows to the SWWTF.

The segments of the receiving waters in which the discharges occur have been designated by the Commonwealth of Massachusetts as a Class B water, warm water fishery, and, pursuant to Massachusetts Surface Water Quality Standards have the following uses: habitat for fish, other aquatic life, and wildlife; primary and secondary contact recreation; a source of public watersupply (where designated and with appropriate treatment); suitable for irrigation and other agricultural uses and compatible for cooling and process use; and, have consistently good aesthetic value. These segments of the receiving waters are identified in the Massachusetts Surface Water Quality Standards with a CSO designator. The CSO designator for these waters

indicates that these waters are impacted by the discharge of combined sewer overflows. Furthermore, the 2014 final Massachusetts Integrated List of Waters lists the specific segments of the Connecticut River where the WWTF discharges and the Connecticut, Mill and Chicopee Rivers where CSO outfalls are located as requiring a TMDL for impairments caused by E. coli and fecal coliform.

Specific Comments:

- In light of the descriptions and designations of the receiving waters for these permitted discharges and the listing of segments of the receiving waters into which CSO outfalls discharge as requiring a TMDL for bacterial pollutants associated with CSOs, it is beyond belief that during the past two decades, EPA has not required elimination or at least a reduction in the number of CSO outfalls impacting these waters. The continued permitting of this number of CSO outfalls for another permit term is unconscionable. The number of permitted CSO outfalls should be extremely limited in light of the designated uses of these surface waters.
- The inclusion of communities that contribute sanitary waste water flows to the treatment facility as co-permittees is a welcome modification to this permit and we believe it will enhance compliance and enforcement of the permit.
- Discharges from Springfield add to the nitrogen load in Long Island Sound and contribute to water quality violations in the Sound. On December 23, 2015, the administrators of EPA Regions 1 and 2 issued the *Long Island Sound Nitrogen Reduction Strategy* (the Nitrogen Strategy) in the form of a letter with attachments addressed to the Environmental Protection Commissioners of the states of New Hampshire, Vermont, Connecticut and New York and the Commonwealth of Massachusetts. The Nitrogen Strategy acknowledges the impact of nitrogen discharged from upstream states has on the Dissolved Oxygen crisis in Long Island Sound and its impact on water quality standards for the Sound. Incredibly, the Long Island Sound nitrogen TMDL was not considered in the waterbody assessment for the receiving waters. The Clean Water Act grants EPA the authority to require conditions in NPDES permits which ensure compliance with the water quality standards of any other state.¹ Furthermore, in light of the First Circuit Court of Appeals decision in *Upper Blackstone Water Pollution District v. EPA*, 690 F. 3d 9 (1st Cir. 2012) *cert. denied*, 133 S. Ct. 2382 (2013), EPA has the authority to require permit conditions that comply with water quality standards of downstream states. The impact to Long Island Sound from the nitrogen load from the discharges in this proposed permit must be taken into consideration by EPA.

¹ Clean Water Act § 401, 33 U.S.C. § 1341(a).

- The Permit Fact Sheet indicates that in 2004 – 2005 the SWWTF was meeting the Connecticut Department of Energy and Environmental Protection’s TMDL Waste Load Allocation (WLA) 25% aggregate reduction from baseline loadings to the Connecticut River above the Connecticut-Massachusetts border for nitrogen loading from out-of-basin sources. The data shows that SWWTF is no longer meeting that reduction goal. Is this the result of increased development in the area served by the SWWTF?
- The proposed new nitrogen loading discussed in the Factsheet shifts from a daily load limit for nitrogen to an annual average load limit. Did EPA consider the impact of this change to the Long Island Sound especially in the months of April through September when hypoxia occurs in the Sound?
- Since the issuance of the 2000 NPDES permit for Bondi Island and the 2009 reissuance of the CSO permit, several studies and reports including, but not limited to, the December 23, 2015 *Long Island Sound Nitrogen Reduction Strategy* issued by the administrators of EPA Region 1 and Region 2, and the New England Interstate Water Pollution Control Commission’s (NEIWPCC) report entitled, *Watershed Synthesis Section: A Preliminary and Qualitative Evaluation of the Adequacy of Current Stormwater and Nonpoint Source Nitrogen Control Efforts in Achieving the 2000 Long Island Sound Total Maximum Daily Load for Dissolved Oxygen, August 2014*, which clearly demonstrate that the nitrogen discharges from the wastewater treatment plant, as well as nitrogen from the CSOs, are causing or contributing to water quality violations in Long Island Sound and will continue to do so, even if and when all of the remaining actions to implement the 2000 TMDL are taken. Bacteria from CSOs are also causing and contributing to water quality violations in the Connecticut River, both in Massachusetts and in Connecticut. Were the results of these studies and reports considered in the preparing these draft permits?
- The draft permit does not contain an enforceable limit for nitrogen. Rather, it proposes continued optimization to meet a benchmark based on the current annual average Total Nitrogen load of 2,279 lbs./day. An enforceable limit must be included in the permit.
- Rather than require a nitrogen limit in the permit, EPA invites public comment on three options for addressing nitrogen discharges from the SWWTF. The three options are 1) the TN Optimization Requirement which requires optimization of operations at the facility to meet a benchmark based on the current average TN load of 2,279 lbs./day; 2) the Nitrogen Optimization Benchmark Alternative 1 which includes an annual average concentration based optimization benchmark of 8 mg/l combined with a higher annual mass based optimization benchmark of 2,534 lbs/day to provide Springfield with flexibility for future growth; and 3) Nitrogen Optimization Benchmark Alternative 2 with

an annual average concentration benchmark of 8 mg/l without a specific base load benchmark. The benchmarks in the draft permit and the other two alternatives are not acceptable. A benchmark is not an enforceable limit and, without a numerical limit, enforcement is impossible and there are no consequences for noncompliance. Although we agree that the further review of out-of-basin total nitrogen loads by EPA may require the incorporation of nitrogen limits in future permit modifications, nothing prevents EPA from proposing a nitrogen limit now– even the 8 mg/l that EPA believes that Springfield can currently attain- for purposes of enforcement and the fair and equal treatment of the regulated communities that currently operate under such permit limits.

The existing permit for the SWWTF at Bondi Island was issued on December 8, 2000, and was administratively continued by EPA in 2005 without an opportunity for public comment. In light of the passage of more than seventeen years since the issuance of the existing permit, it is imperative that members of the public in Massachusetts and Connecticut impacted by the discharge from the SWWTF have an adequate and reasonable opportunity to voice their concerns about this proposed permit. Therefore, Connecticut Fund for the Environment and its bi-state programs Save the Sound and The Long Island Sound Soundkeeper request that EPA hold a public hearing on this proposed permit.

Respectfully submitted,

Connecticut Fund for the Environment, Inc.
Save the Sound
William Lucey, Long Island Soundkeeper

BY: _____/s/_____
John M. Looney
Staff Attorney