



Massachusetts Water Resources Authority

Presentation to the

Wastewater Advisory Committee

Deer Island Treatment Plant Draft NPDES Permit
and
Summary of the *San Francisco vs EPA* case

April 4, 2025



Background on the Draft Deer Island NPDES Permit

- On May 31, 2023 EPA issued a draft Deer Island NPDES Permit. DEP issued a separate Surface Water Discharge Permit.
- Public Comment Period closed November 28, 2023. MWRA and 47 other parties submitted comments.
- Comments are made to:
 - Request certain elements be changed
 - Preserve right to appeal

NPDES Permit No. MA0103284

2023 Draft Permit

AUTHORIZATION TO DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Federal Clean Water Act as amended, 33 U.S.C. §§ 1251 et seq. (the "CWA"),

Massachusetts Water Resource Authority (MWRA)

is authorized to discharge from the facility located at

MWRA Deer Island Treatment Plant (DITP)
190 Tafts Avenue
Winthrop, MA 02152

to the receiving water named

Receiving Water	Segment	Outfall
Massachusetts Bay	Undefined, 314 CMR 4.06, Table 23	T01

and

Four (4) Combined Sewer Overflow (CSO) Treatment Facilities with 5 outfalls
to the receiving waters named

Receiving Water	Segment	CSO Treatment Facility Name	Outfalls
Boston Inner Harbor	MA70-02	Prison Point	MWR203
Boston Inner Harbor	MA70-02	Union Park	MWR215
Mystic River	MA71-03	Somerville Marginal	MWR205
Upper Mystic River	MA71-02	Somerville Marginal	MWR205A
Charles River	MA72-38	Cottage Farm	MWR201

and

Six (6) additional Combined Sewer Overflow (CSO) Outfalls (See Attachment A)

in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.



Important Elements of the Draft Permit for Deer Island

- Seasonal Enterococcus limit
- No Nitrogen Limit
- Additional Limits for TSS and cBOD
- No Contingency Plan
- Modified Ambient Monitoring
- Stricter acute toxicity limit





Other Elements of the DRAFT Permit

- PFAS Monitoring
 - Influent, effluent, biosolids, industries



- Combined Sewer Overflows
 - Monitoring requirements, only minor changes in limits
 - Need to ensure consistency with CSO program



- Blending - no acknowledgement of 700 MGD secondary process limit
- Environmental Justice



Comment Letter Highlights

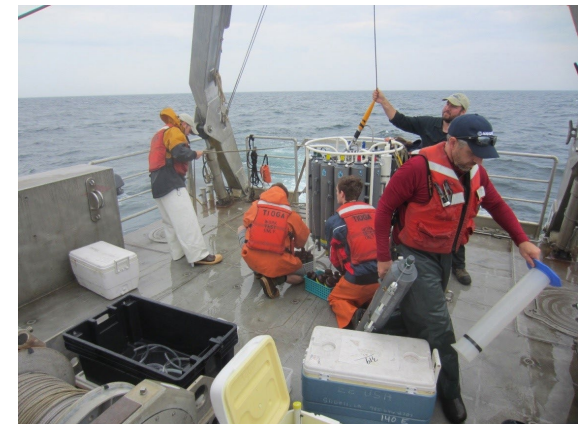
- Blending:
 - Important to maximize flows to the plant, needs to be incorporated into the permit
- Co-Permittees
- Storm Event Plans/Adaptation Plans:
 - Significant level of effort, unbalanced with other needs
 - Modified language in recent permits





Comment Letter Highlights

- CSO Program:
 - Concerns with setting LTCP volume and activation goals as limits
- Nuisance and Harmful Algal Bloom Monitoring:
 - Some reductions in MA Bay Monitoring Program
 - But algal monitoring additions are significant
- Pretreatment Program:
 - Report deadlines





Where are we now?

- After the close of the comment period, EPA compiles all the comments, develops responses to all the comments, and potentially makes changes to the permit language.
- A new draft permit can be re-issued for additional comments. A permit potentially can be re-issued multiple times.
- There is no set time period for going from draft to final.
- When the final permit is issued, it goes into effect approximately 60 days later.



Is there an appeals process?

- For appeals to the federal permit:
 - Appeals first go to EPA's Environmental Appeals Board.
 - If the appeal is pursued further it then to the First Circuit.
- Appeals to the state Surface Water Discharge Permit:
 - First goes to MassDEP's Office of Appeals and Dispute Resolution.
 - Then to state courts if the appeal process is continued.



What do we know about the status of the DITP draft permit?

- Not much!
- We do know that EPA has been busy developing response to comments.
- No known timeline for finalization.



City & Cnty. of San Francisco, California v. Env't Prot. Agency, 604 U. S. ____, 145 S. Ct. 704 (2025).

1. Facility and Procedural Background
2. Supreme Court Decision
3. Majority Opinion of the Court
4. Dissenting Opinion



City & Cnty. of San Francisco, California v. Env't Prot. Agency, 604 U. S. ____, 145 S. Ct. 704 (2025).

Court's Decision:

1. Rejected the City's First "Broad Argument"
2. Agreed with the City's Second "More Narrow" Argument



Dissent:

1. Likewise, Dismissed the City's Broad Argument
2. Would Have Also Found the More Narrow Argument Without Merit.



Links

- EPA's page on the 2023 draft permit:
 - <https://www.epa.gov/npdes-permits/epas-permit-massachusetts-water-resources-authority-mwra-deer-island-treatment-plant>
 - Includes copies of the draft permit and fact sheet, as well as associated attachments and all received comments.
- MWRA comments:
 - <https://www3.epa.gov/region1/npdes/mwra/pdf/2023/mwra-ditp-mwra-comments-11282023.pdf>
- Supreme Court Opinion in *City & Cnty. of San Francisco, California v. Env't Prot. Agency*, 604 U. S. ____, 145 S. Ct. 704 (2025):
 - https://www.supremecourt.gov/opinions/24pdf/23-753_f2bh.pdf



Questions?

