



Commonwealth of Massachusetts  
Executive Office of Energy and Environmental Affairs

## Department of Environmental Protection

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Commissioner

January 30, 2026

David Michelson, P.E., Executive Director ([dmichelsen@sesd.com](mailto:dmichelsen@sesd.com))  
South Essex Sewerage District (SESD)  
P.O. Box 989  
Salem, MA 01970

Re: Final 2026 Massachusetts Permit to Discharge Pollutants to Surface Waters for the  
South Essex Wastewater Treatment Facility

Dear Mr. Michelson:

Enclosed please find the Final 2026 Massachusetts Permit to Discharge Pollutants to Surface Waters (“Final State Permit” or “Surface Water Discharge Permit”) for the South Essex Wastewater Treatment Facility, being issued by the Massachusetts Department of Environmental Protection (“MassDEP”) on January 30, 2026, pursuant to the Massachusetts Clean Waters Act, as amended (M.G.L. Chap. 21, §§ 26-53), and the implementing regulations at 314 CMR 3.00 and 314 CMR 4.00. On December 22, 2025, the United States Environmental Protection Agency (“USEPA”) issued NPDES Permit MA0100501 to the South Essex Sewerage District (“SESD”) and separately numbered NPDES permits to Co-permittees the Cities of Beverly, Peabody, and Salem, Massachusetts and the Towns of Danvers, and Marblehead, Peabody, and Salem, Massachusetts. Those Cities and Towns are Co-permittees to this Final State Permit and are copied on this letter. The NPDES Permit issuance included MassDEP’s Final Water Quality Certification. Please note that NPDES and Surface Water Discharge Permits are no longer jointly issued by EPA and MassDEP.

Also enclosed is MassDEP’s response to the comments received on the draft permit and information related to appeal of Surface Water Discharge Permits.

The Final State Permit will become effective on the date specified in the permit unless you file a timely appeal with MassDEP’s Office of Appeals and Dispute Resolution and request a stay, pursuant to 314 CMR 2.08(2). Information regarding the appeals process, including deadlines for filing an appeal, may be found at <https://www.mass.gov/guides/about-the-massdep-appeals-process>. In addition, enclosed please find as Attachment 3 the Notice of Appeal Rights for the Surface Water Discharge Permit.

MassDEP appreciates your cooperation throughout the development of this Final State Permit. Please contact Ms. Claire Golden, the MassDEP permit writer, at 617-997-8874 or at [claire.golden@mass.gov](mailto:claire.golden@mass.gov) if you have any questions.

Sincerely,



Lealdon Langley, Director  
Division of Watershed Management  
Department of Environmental Protection  
Commonwealth of Massachusetts

Enclosures:

- Attachment 1: Final Surface Water Discharge Permit
- Attachment 2: Response to Comments
- Attachment 3: Notice of Appeal Rights (Surface Water Discharge Permit)
- Attachment 4: MassDEP Communications Document

ecc: Lisa Chandler, P.E., Beverly City Engineer ([lchandler@beverlyma.gov](mailto:lchandler@beverlyma.gov))  
Stephen King, P.E., Danvers Town Engineer ([sking@danversma.gov](mailto:sking@danversma.gov))  
Amy McHugh, Marblehead Water/Sewer Superintendent ([mchugha@marblehead.org](mailto:mchugha@marblehead.org))  
Edward A. Bettencourt, Jr., Mayor of Peabody ([mayor@peabody-ma.gov](mailto:mayor@peabody-ma.gov))  
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Claire Golden, MassDEP ([claire.golden@mass.gov](mailto:claire.golden@mass.gov))

**MASSACHUSETTS PERMIT TO DISCHARGE POLLUTANTS TO SURFACE WATERS**

In compliance with the provisions of the Massachusetts Clean Waters Act, as amended (M.G.L. Chap. 21, §§ 26 - 53) and the implementing regulations at 314 CMR 3.00 and 4.00,

South Essex Sewerage District (SESD)  
P.O. Box 989  
Salem, MA 01970

is authorized to discharge from the facility located at

South Essex Wastewater Treatment Facility  
50 Fort Avenue  
Salem, MA 01970

to receiving waters named

Salem Sound (Segment MA 93-56); North Coastal Watershed; Class SB - Shellfishing

in accordance with the following effluent limitations, monitoring requirements and additional conditions:

1. The issuance date of this permit is the date it is signed by the Massachusetts Department of Environmental Protection (MassDEP).<sup>1</sup>
2. This permit shall become effective on March 1, 2026.
3. This permit shall expire five years after the effective date.
4. This permit supersedes the permit issued on May 5, 2016.
5. Pursuant to MassDEP's authority under M.G.L. c. 21, §§26-53, 314 CMR 3.00, and 314 CMR 4.00, this permit incorporates by reference: Part IA., Effluent Limitations and Monitoring Requirements; Part IB., Unauthorized Discharges; Part IC., Operation and Maintenance of the Treatment and Control Facilities; Part ID., Alternate Power Source; Part IE., Industrial Users and Pretreatment Program; Part IF., Sludge Conditions; Part IG., Special Conditions; Part II, Reporting Requirements; and Part II, Standard Conditions, as set forth in the 2025 Final NPDES Permit No. MA0100501,<sup>2</sup> issued by the United States Environmental Protection Agency (EPA), Region 1, issued to the South Essex Sewerage District ("Permittee") on December 22, 2025 (2025 Final NPDES Permit) and attached hereto by reference as Appendix 1 and available on EPA's website at <https://www.epa.gov/npdes-permits/massachusetts-final-individual-npdes-permits>; provided, however:

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<sup>1</sup> Any person aggrieved by the issuance of this permit may file an appeal within 30 days of the issuance date. See the enclosed Notice of Appeal Rights for further details on appeal rights and how to file an appeal.

<sup>2</sup> This Final MassDEP permit references the 2025 Final EPA Permit.

- a. that the reporting required by Part IB.1 shall be in accordance with 314 CMR 3.19(20)(e) (24- hour reporting); and
  - b. that, if there is a conflict between the definitions in 314 CMR 3.02 and/or 314 CMR 4.00 and the definitions in Part IIE, the definitions in 314 CMR 3.02 and/or 314 CMR 4.00 shall control, as applicable.
6. This permit incorporates by reference the Standard Permit Conditions set forth in 314 CMR 3.19.
7. Beginning the first full calendar quarter following 6 months after the 2025 Final NPDES Permit effective date, the Permittee shall collect, or require to be collected, annual samples of discharges from all Significant Industrial Users<sup>3,4</sup> discharging into the Permittee's Publicly Owned Treatment Works (POTW) using Method 1633.
8. Notwithstanding any other provision of the 2025 Final NPDES permit to the contrary, all PFAS monitoring results (influent; effluent; sludge; SIUs; and specific industries as specified in the final NPDES permit) and Adsorbable Organic Fluorine monitoring results shall be reported to MassDEP via the eDEP portal, or as otherwise specified in writing by MassDEP to the Permittee, within 30 days after the permittee receives the sampling results, in addition to the final NPDES Permit reporting requirements. Information regarding the submittal of data via eDEP may be found at <https://www.mass.gov/how-to/submit-wastewaterresiduals-pfas-data-via-edep>.
9. In order to ensure that the discharge will not cause or contribute to a violation of applicable state water quality standards, pursuant to M.G.L. c. 21, §§ 26-53, and 314 CMR 3.00 and 4.00, including 314 CMR 3.11(3), 314 CMR 3.19(1), and 314 CMR 4.05:
  - a. The discharge shall be free from pollutants in concentrations or combinations that settle to form objectionable deposits; float as debris, scum or other matter to form nuisances; produce objectionable odor, color, taste or turbidity; or produce undesirable or nuisance species of aquatic life.
  - b. The discharge shall be free from pollutants in concentrations or combinations that adversely affect the physical or chemical nature of the bottom, interfere with the propagation of fish or shellfish, or adversely affect populations of non-mobile or sessile benthic organisms.

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<sup>3</sup> Significant Industrial User (SIU) is defined at 40 CFR part 403: All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subpart N; **and** any other industrial user that: discharges an average of 25,000 GPD or more of process wastewater to the POTW, contributes a process wastestream that makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW, or designated as such by the POTW on the basis that the industrial users has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirement.

<sup>4</sup> This requirement applies to all Significant Industrial Users and not just those within the sectors identified by EPA in the NPDES permit.

- c. The discharge shall be free from floating, suspended and settleable solids in concentrations and combinations that would impair any use assigned to the receiving water, that would cause aesthetically objectionable conditions, or that would impair the benthic biota or degrade the chemical composition of the bottom.
- d. The discharge shall be free from color and turbidity in concentrations or combinations that are aesthetically objectionable or would impair any use assigned to the receiving water.
- e. The discharge shall be free from oil, grease and petrochemicals that produce a visible film on the surface of the receiving water, impart an oily taste to the edible portions of aquatic life, coat the banks or bottom of the water course, or are deleterious or become toxic to aquatic life.
- f. The discharge shall be free from taste and odor in such concentrations or combinations that are aesthetically objectionable, that would impair any use assigned to the receiving water, or that would cause tainting or undesirable flavors in the edible portions of aquatic life.
- g. The discharge shall be free from pollutants in concentrations or combinations that are toxic to humans, aquatic life or wildlife.

The Cities of Beverly (NPDES Permit No. MAC010501), Peabody (NPDES Permit No. MAC040501) and Salem (NPDES Permit No. MAC050501), Massachusetts and the Towns of Danvers (NPDES Permit No. MAC020501) and Marblehead (NPDES Permit No, MAC030501), Massachusetts are Co-permittee(s) for Part IB., Unauthorized Discharges; and Part IC., Operation and Maintenance of the Sewer System; and Part I.D, Alternate Power Source as set forth in the 2025 Final NPDES Permit. These sections include conditions regarding the operation and maintenance of the collection systems owned and operated by the Cities of Beverly, Peabody and Salem and the Towns of Danvers and Peabody.

Operation and maintenance of the sewer system shall be in compliance with the General Requirements of Part II and the terms and conditions of Part IB., Part IC., and Part ID. of the 2025 Final NPDES permit. The Permittee and Co-permittees are severally liable under Part IB., Part IC., and Part ID. for their own activities and required reporting with respect to the portions of the collection system that they own or operate. They are not liable for violations of Part IB., Part IC., and Part ID. committed by others relative to the portions of the collection system owned and operated by others. Nor are they responsible for any reporting that is required of the Permittee and other Co-permittees under Part IB., Part IC., and Part ID. The responsible municipal departments are:

City of Beverly  
c/o City Engineer  
Beverly City Hall  
191 Cabot Street  
Beverly, MA 01915

Town of Danvers  
c/o Town Engineer  
Public Works Eng. Div.  
1 Burroughs Street  
Danvers, MA 01923

Town of Marblehead  
c/o Superintendent  
Water/Sewer Department  
P.O. Box 1108  
Marblehead, MA 01945

City of Peabody  
c/o Mayor  
24 Lowell Street  
Peabody, MA 01960

City of Salem  
c/o City Engineer  
120 Washington Street, 4th Fl  
Salem, MA 01970

In addition, the Permittee and the Co-permittees are responsible for all public notifications, public health warnings and all other applicable requirements of 314 CMR 16.00 as they relate to their own collection systems including any approved CSO Notification Plans and/or SSO Notification Plans.

Issued on this 30<sup>th</sup> day of January, 2026



Lealdon Langley, Director  
Division of Watershed Management  
Department of Environmental Protection

**RESPONSE TO COMMENTS****MA Permit No. MA0100501  
South Essex Wastewater Treatment Facility  
50 Fort Avenue, Salem, MA 01970**

The Massachusetts Department of Environmental Protection (MassDEP or the “Department”) is issuing a Surface Water Discharge (SWD) Permit for the South Essex Wastewater Treatment Facility. The permit is being issued under the Massachusetts Clean Waters Act, as amended (M.G.L. Chap. 21, §§ 26 - 53) and the implementing regulations at 314 CMR 3.00 and 4.00.

In accordance with the provisions of 314 CMR 2.09, MassDEP is obligated to prepare a response to comments received on the draft SWD Permit No. MA0100501 (the “Draft Permit”). The Response to Comments explains and supports MassDEP’s determinations that form the basis of the final permit (the “Final Permit”). From January 23, 2025, through February 24, 2025, and extended to April 10, 2025, MassDEP solicited public comments on the Draft Permit for the reissuance of a permit to discharge treated wastewater Salem Sound and the associated Draft Water Quality Certificate.

During the public comment period for the draft NPDES permit (January 23, 2025, through April 10, 2025), EPA received comments from the following:

1. South Essex Sewerage District (SESD), dated April 10, 2025
2. Commonwealth of Massachusetts, Executive Office of Energy and Environmental Affairs, Office of Coastal Zone Management, dated March 10, 2025.
3. Salem Sound Coastwatch (SSCW), dated April 10, 2025
4. Massachusetts Water Resources Authority (MWRA), dated April 10, 2025
5. Massachusetts Coalition for Water Resources Stewardship (MCWRS), dated April 10, 2025

During the public comment period for the draft SWD Permit, MassDEP received identical comments as those submitted to EPA from:

1. SESD, dated April 10, 2025
2. MCWRS, dated April 10, 2025

In addition, MassDEP received comments from the following:

1. Massachusetts Water Resources Authority (MWRA), dated April 10, 2025
2. Beatrice Heinz, dated January 27, 2025

3. Beatrice Heinz, dated January 28, 2025

MassDEP has reviewed EPA's Response to Comments, issued concurrent with the final NPDES permit on December 22, 2025, and concurs with their responses and the associated adjustments made to the final NPDES permit. MassDEP hereby incorporates by reference EPA's Response to Comments into this Response. There were, however, comments received which were directed specifically to MassDEP's Draft SWD Permit and Draft Water Quality Certificate which EPA did not address and which MassDEP will address in this document.

MassDEP's knowledge of the facility has benefited from the various comments and additional information submitted during the public comment period, but the information and arguments presented did not raise any substantial new questions concerning the Permit that warranted MassDEP exercising the discretion to reopen the public comment period. MassDEP does, however, make certain clarifications in response to comments. Any improvements and changes are explained in this document and reflected in the Final Permit. Below, MassDEP provides a summary of the changes made in the Final Permit.

A copy of the Final Permit and this Response to Comments document will be posted on the MassDEP website: <https://www.mass.gov/info-details/massachusetts-final-individual-surface-water-discharge-permits-and-associated-documents>

A copy of the Final Permit may be also obtained by writing or calling Claire Golden, MassDEP, Surface Water Discharge Permitting Program, 150 Presidential Way, Woburn, MA 01801; telephone: 617-997-8874; email: [claire.golden@mass.gov](mailto:claire.golden@mass.gov). Interested parties are strongly encouraged to email or telephone Claire Golden if they wish to obtain a copy of the Final Permit.

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**I. Summary of Changes to the Final Permit**

1. References to the draft NPDES permit have been modified to reflect the final NPDES permit.
2. MassDEP reevaluated the language of Condition 7 of the Draft Permit and determined that a change should be made to ensure clarity and consistency with the Final Permit. MassDEP has revised “the Permittee shall commence annual monitoring of all Significant Industrial Users” to “the Permittee shall collect, or require to be collected, annual samples of discharges from all Significant Industrial Users.”
3. MassDEP reevaluated the language of Condition 9 of the Draft Permit and determined that a change should be made to ensure clarity and consistency with MassDEP regulations. MassDEP has revised “violate applicable state water quality standards” to “cause or contribute to a violation of state water quality standards.”

**II. Responses to Comments**

Comments are reproduced below as received; they have not been edited, corrected or otherwise modified.

**A. Comments from David Michelsen, P.E., Executive Director, South Essex Sewerage District, dated April 10, 2025.**

**Comment 1**

**PFAS Testing for Industrial Discharges**

....

**8B. PFAS Testing for Industrial Discharges in MassDEP Permit (Paragraphs 7 and 8):**

The MassDEP Permit further requires that the District "shall commence annual monitoring of all Significant Industrial Users...discharging into the Permittee's Publicly Owned Treatment Works (POTW) using Method 1633," clarifying that "all Significant Industrial Users (SIUs) and not just those within the sectors identified by EPA in the NPDES permit" (DEP Permit, Condition 7, Footnote 5) are to be monitored, and defining SIUs as "[a]ll industrial users subject to Categorical Pretreatment Standards and any other industrial user that: discharges an average of 25,000 GPD or more of process wastewater to the POTW, contributes a process wastestream that makes up 5% or more of the average dry weather hydraulic organic capacity of the POTW, or designated as such by the POTW on the basis that the industrial users have a reasonable potential for adversely affecting the POTW's operation...". This is a large category that sets an inappropriate standard for the Pretreatment Program. Without knowing that PFAS through a WWTF is a problem MassDEP is requiring the District to monitor every SIU that discharges to the system, which is a large number of users. This is a general research requirement for which the burden to investigate and report on the presence of PFAS in SIU discharges should be that of MassDEP, not the District. The District should not be responsible for the development, funding, and administration of a research program that MassDEP wants to conduct. While the District issues permits to industrial facilities and can modify those permits, there are industrial users that are not currently issued permits due to the nature of the flow but that are included in the PFAS sampling program, which would require the District to increase the scope of the Pretreatment Program to include facilities that are not currently permitted dischargers at an administrative and operational support cost to the District and the rate payers, another example of a unfunded mandate. Where adding facilities to the Pretreatment Program does not make sense, the District would have to collect and pay for sampling, an added burden and expense that would not improve treatment quality and would siphon limited funds from plant operations, maintenance and capital improvements to this unfunded mandate without providing any benefit to the environment or public health.

Additionally, some SIUs may already be required to sample for PFAS under the Massachusetts Contingency Plan, M.G.L. c. 21E, 310 CMR 40, meaning that the District's reports would likely be duplicative. Therefore, PFAS testing of industrial users beyond the categorical users included in the existing industrial pretreatment program should be removed from the MassDEP Permit.

Furthermore, since the PFAS testing methods have not been promulgated and published in the Federal Register, including test methods 1633 and 1633A, it is inappropriate, premature, and regulatory overreach to include a PFAS testing requirement for industrial users at this time. (See also comments in Section 3). Given that the testing methods have not been promulgated, if the EPA and MassDEP do not have the authority to cause compliance with testing, it follows that the District likewise does not have authority to

force industrial users to comply with the testing requirements under the Industrial Pretreatment Program.

In addition to the issue of authority, the attempt to regulate the quality of water within the District's system and facilities, not the quality of water at the point of discharge, is an overreach beyond the authority conferred under the Clean Water Act. The D.C. Circuit Court endorsed this concept in *Am. Iron & Steel Inst. v. EPA*, 115 F.3d 979, 996 (D.C. Cir. 1997) ("The statute is clear: The EPA may regulate the pollutant levels in a waste stream that is discharged directly into the navigable waters of the United States through a 'point source'; it is not authorized to regulate the pollutant levels in a facility's internal waste stream."). The 8th Circuit Court endorsed the concept and cited this language in *Iowa League of Cities v. EPA*, 711 F.3d 844 (8th Cir. 2013) in deciding that the blending rule at issue in the case imposes secondary treatment regulations on flows within facilities, which exceeds the EPA's statutory authority.

Setting aside the regulatory overreach of both the EPA and the MassDEP Draft Permits, given the size of the area that discharges to the WWTF and the number of facilities that would have to be sampled, the six-month timeline for initiation of sampling does not provide enough time for the District to evaluate the list of users that must be sampled, plan for how the sampling will occur, and coordinate with the necessary parties. The District would need more time to coordinate this significant expansion of the Pretreatment Program and would need to fit the program into the existing budget at the time that the permit becomes effective: 6-months is not an adequate amount of time for such a large expansion of the program that would require additional District planning, resources and approval by the Board- a one (1) year compliance schedule would be more manageable.

**Request:** The District requests that EPA remove the annual sampling requirements for known or suspected sources of PFAS and that MassDEP remove the EPA requirement along with the annual sampling from all SIUs for PFAS. If these requirements remain in the permits the request is that the sampling requirement be removed for sites that are proven not to have PFAS after the first or second round of sampling.

If PFAS sampling is maintained in the Final Federal NPDES and MassDEP Permits, the District requests that the sampling and analysis not be required until a test method for PFAS in wastewater is promulgated and in effect.

In addition, the District requests that if any form of PFAS reporting requirements remains in the new Permit and the Permit is administratively continued after the five-year term expires, that the PFAS reporting requirement be discontinued as EPA and MassDEP will have collected sufficient data for any future permitting requirements.

The District also requests that if this expansion of the Industrial Pretreatment Program is expanded to include PFAS testing that a 1-year timeframe be provided instead of 6-months to allow the District the time to coordinate and obtain funding for the expanded program.

### **Response 1**

Regarding the request for a reduction in monitoring after 2 years or after 5 years. MassDEP concurs with EPA's response that quarterly monitoring is necessary throughout the life of the permit and will ensure that a robust, up-to-date PFAS dataset is available when this permit is next being reissued.

In reference to the request to defer monitoring for PFAS until a final test method is promulgated at 40 C.F.R. part 136, MassDEP concurs with EPA's response that until such a time that a final test method is promulgated, in accordance with 40 CFR § 122.44(i)(v)(B), the permit must clearly specify which analytical method to use. The NPDES permit specifies that Method 1633A must be used.

In regard to the request for an additional 1 year if the permit requires an expansion of the Industrial Pretreatment Program, MassDEP has retained the requirement to begin PFAS testing the first full calendar quarter following 6 months after the final NPDES Permit effective date. Per 40 C.F.R. §403.8(f)(1)(iii), Significant Industrial Users must be controlled via an individual or general permit or other control mechanism. The control mechanism must be enforceable and must contain the requirements for self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored per 40 C.F.R. §403.8(f)(1)(iii). Therefore, MassDEP does not believe that including an additional monitoring requirement for SIUs constitutes an expansion of the Industrial Pretreatment Program.

### **Comment 2**

#### **Water Quality Standards in MassDEP Surface Water Discharge Permit (Paragraph 9) and Section 401 Water Quality Certification:**

The water quality standards set forth in Paragraph 9.a. through 9.g. and repeated in the Section 401 Water Quality Certification are vague "end-result" requirements which assign responsibility to the District for the quality of water in an area that could be impacted by pollution from other sources. In *City and County of San Francisco, California v. Environmental Protection Agency*, the U.S. Supreme Court struck down end-result requirements and agreed with the permittee that the EPA is not authorized to impose "NPDES requirements that condition permit holders' compliance on whether receiving

waters meet applicable water quality standards”. See *City and County of San Francisco, California v. Environmental Protection Agency*, Docket No. 23-753, pages 910 of Slip Opinion (March 4, 2025). It follows that MassDEP should eliminate end-result requirements and instead include requirements that are sufficiently specific to enable the District to comply with the terms of the permit. For example, as written, it is impossible for the District to determine whether discharge is “aesthetically objectionable”. The vague language leaves the District in a position similar to that of San Francisco in the Supreme Court case in that the standard for compliance is unclear and may be outside of the District’s control.

**Request:** Remove the requirements in Paragraphs 9.a. through 9.g from the MassDEP Surface Water Discharge Permit and Section 401 Water Quality Certification.

## Response 2

The 2025 SESD NPDES Permit does not include certain narrative effluent limitations included in the previous SESD discharge permit issued jointly by MassDEP and EPA. MassDEP has therefore included appropriate narrative effluent limitations in its SWDP and WQC for the SESD facility. Note that the WQC was issued with these limitations on May 9, 2025, and was not appealed.

In the case cited in the comment, *City and County of San Francisco, California v. Environmental Protection Agency*, 604 U.S. 334 (2025), the U.S. Supreme Court relied on federal Clean Water Act language that differs from the language of the state Clean Waters Act, M.G.L. c. 21, §§ 26-53. The state Clean Waters Act includes, for example, the following language:

“The director shall grant a permit only if the discharge ... will ... conform to ... receiving water standards ....” M.G.L. c. 21, § 43(5).

“Permits may specify additional requirements as the director deems necessary to safeguard the quality of the receiving waters ....” M.G.L. c. 21, § 43(7).

MassDEP’s Clean Waters Act authority is also implemented in specific provisions in regulations 314 CMR 3.00 and 4.00, including but not limited to 314 CMR 3.11(3), 314 CMR 3.19(1), and 314 CMR 4.05.

**B. Comments from David Coppes, Chief Operating Officer, MWRA, dated April 10, 2025****Comment 3**

The Massachusetts Water Resources Authority (“MWRA”) has the following comments on the 2025 Draft Massachusetts Permit to Discharge Pollutants to Surface Waters (“State Permit”) for the South Essex Wastewater Treatment Facility, and the Draft Massachusetts Clean Water Act (“CWA”) Section 401 Certification for the 2025 Proposed NPDES Permit for the South Essex Wastewater Treatment Facility Permit No. MA0100501.

**Response 3**

MassDEP acknowledges receipt of these comments and has responded to the issues raised in more detail below.

**Comment 4**

Comment on Item 9

MWRA recommends that MassDEP modify Condition 9 as follows:

In order to ensure that the discharge will not ~~violate~~ cause a violation of applicable state water quality standards, pursuant to M.G.L. c. 21, §§ 26-53, and 314 CMR 3.00 and 4.00, including 314 CMR 3.11(3), 314 CMR 3.19(1), and 314 CMR 4.05...

Water quality standards apply to waterbodies, while effluent limitations apply to discharges. As written, the above text treats broadly applicable water quality standards themselves as specific “limitations” with which the Permittee must comply. Further, MWRA’s suggested modification matches the language used in the Narrative Effluent Limitations section of the State Permit Fact Sheet which explains that the purpose of narrative effluent limitations is to ensure that the discharge “does not cause or contribute to a violation of the Massachusetts Surface Water Quality Standards.”

**Response 4**

MassDEP has reevaluated this language in the Draft Permit and made the determination that the State Permit Fact Sheet language is clearest and most consistent with MassDEP regulations. MassDEP has revised “violate” to “cause or contribute to a violation of” in the Final Permit.

**Comment 5**

Comment on inclusion of co-permittees

MWRA appreciates that MassDEP has included language that provides clarity about responsibilities among the Co-permittees. However, MWRA continues to have reservations about the inclusion of municipal entities that are not directly discharging to a water of the Commonwealth or the United States. The Federal Clean Water Act, 33 U.S.C. § 1251 et seq. (“CWA”), and the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53 do not provide statutory authorization for EPA or MassDEP to take such actions in their respective draft permits. Moreover, even if it can be argued that these statutes provide discretionary authority for EPA and MassDEP to regulate the identified Co-permittees in a single NPDES or State Surface Water Discharge permit, the EPA’s and MassDEP’s actions nevertheless constitute an abuse of that discretion.

**Response 5**

The inclusion of co-permittees is important for the upkeep and maintenance of contributing collection systems as they directly impact the wastewater treatment plant and its compliance with the permit conditions. Please note that SESD’s 2016 NPDES permit included co-permittees and neither SESD nor any of the co-permittees appealed the inclusion of co-permittees. This comment has not resulted in any changes to the Final Permit.

**Comment 6**

In summary, given MWRA’s interest in NPDES permit requirements established by EPA and MassDEP, we appreciate the opportunity to comment on the Draft State Permit for the South Essex Sewerage District. Please do not hesitate to contact David Wu with any questions at [David.Wu@mwra.com](mailto:David.Wu@mwra.com).

**Response 6**

MassDEP acknowledges this comment.

**C. Comments from Beatrice Heinze, dated January 27, 2025****Comment 7**

I am very concerned about the deteriorating condition of Beverly/Salem Harbor. The trunklines and pumping stations that feed the SESD must be in poor condition because

sewage is leaking into our rivers and onto our beaches. Swimming beaches nearest the trunklines were closed 30 times in 2023. 2024 counts weren't published, but I am sure they were higher. Bottom dwelling sand dollars, crabs, and flounder no longer live in Beverly waters by the SESD trunklines and pumping station. (Beaches on Danvers and Bass Rivers and nearest Water St. Pumping Station). Away from those trunklines, beaches are open, and bottom dwellers still flourish.

Beverly/Salem/Danvers have had massive growth in multi-unit housing, beginning in the 1980's. It was exacerbated in 2021 when "3A By-Right" forced the building of thousands more units. BUT, there wasn't any state aid to cities to upgrade all the trunklines under our city streets. Facebook posts by Beverly citizens in Wards 3 and 5 bemoaned sewage backing up into their homes during the Dec.12th storm. The pipes in our streets appear inadequate to cope. And, we have hundreds more units built and soon to be occupied.

All the MA state, city, town, county, elected officials say they have no power to block the "3A Mandate" or to fund local sewage upgrades for "3A Mandates".

### **Response 7**

Beach closures may be caused by bacteria from any of a number of sources including stormwater runoff, leaking sewer lines and failing septic systems. At this time, MassDEP is not aware of any evidence specifically linking beach closures in this area to leaking sewer pipes. The construction of additional housing units, whether in accordance with the MBTA Communities Act or otherwise, would not affect the frequency of beach closures.

### **Comment 8**

Is "The Federal Clean Water Act" our only way to get relief from pollution?

### **Response 8**

MassDEP acknowledges this comment. However, comments related to the Federal Clean Water Act should be directed to EPA.

### **Comment 9**

I am asking for "The Federal Clean Water Act" to call for an immediate postponement of "3A By Right Apartment Construction" in Beverly, Salem, Danvers, Marblehead until the entire SESD trunklines and pumping station system can be upgraded to handle the current volume of sewage. And until MA can help fund upgrades at the city/town level so sewage doesn't back up into Beverly homes.

A BUILDING MORATORIUM IS NEEDED DUE TO HARBOR POLLUTION. THE SESD SYSTEM MUST BE UPGRADED BEFORE A NEW PERMIT IS GIVEN.

**Response 9**

See Response 8.

**D. Comments from Beatrice Heinze, dated January 28, 2025**

**Comment 10**

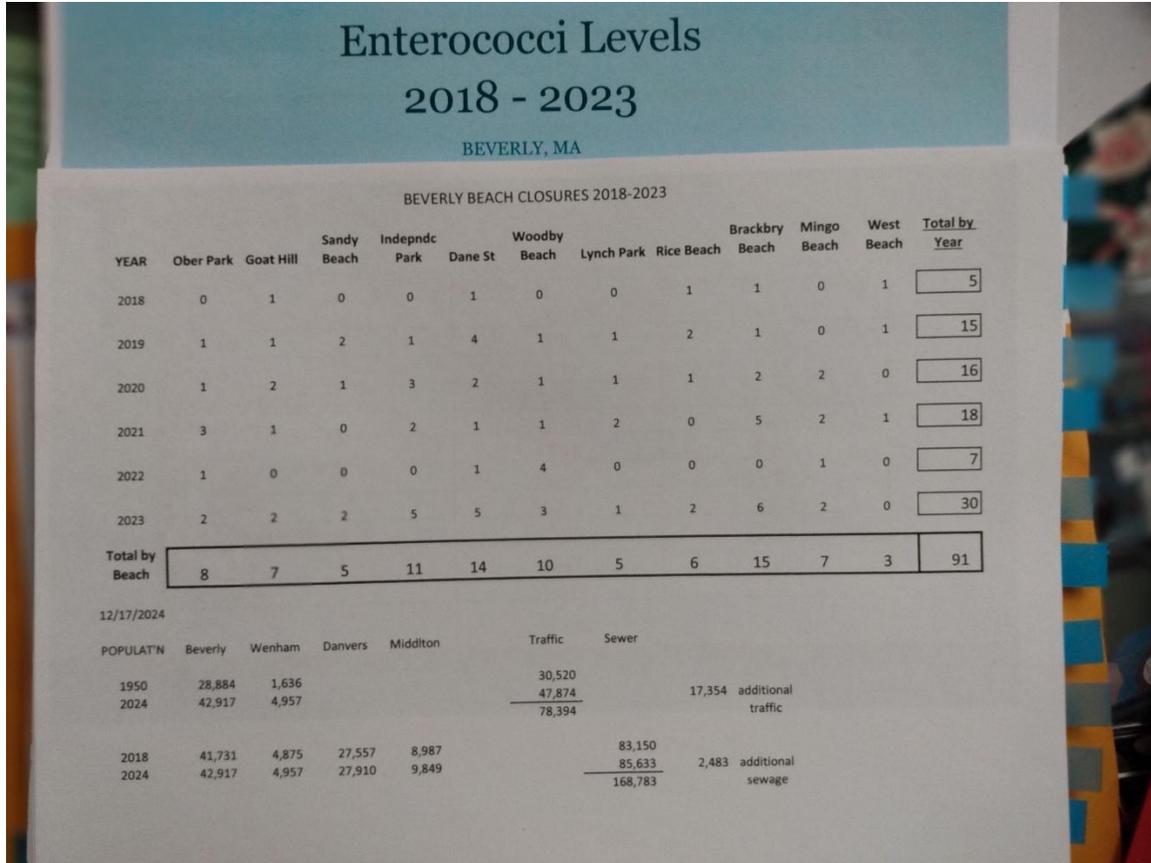
I sent a comment letter requesting a Moratorium on all future "3A By Right" construction before the (WQC) Water Quality Permit is issued to SESD. It must be based on a Federal Clean Water Act clause, because no MA government agency can challenge the Gov. Baker 2021 "3A Mandate" to build more.

To support my opinions stated in my letter, I am attaching FACT FINDING to support my request for a Moratorium on 3A Building.

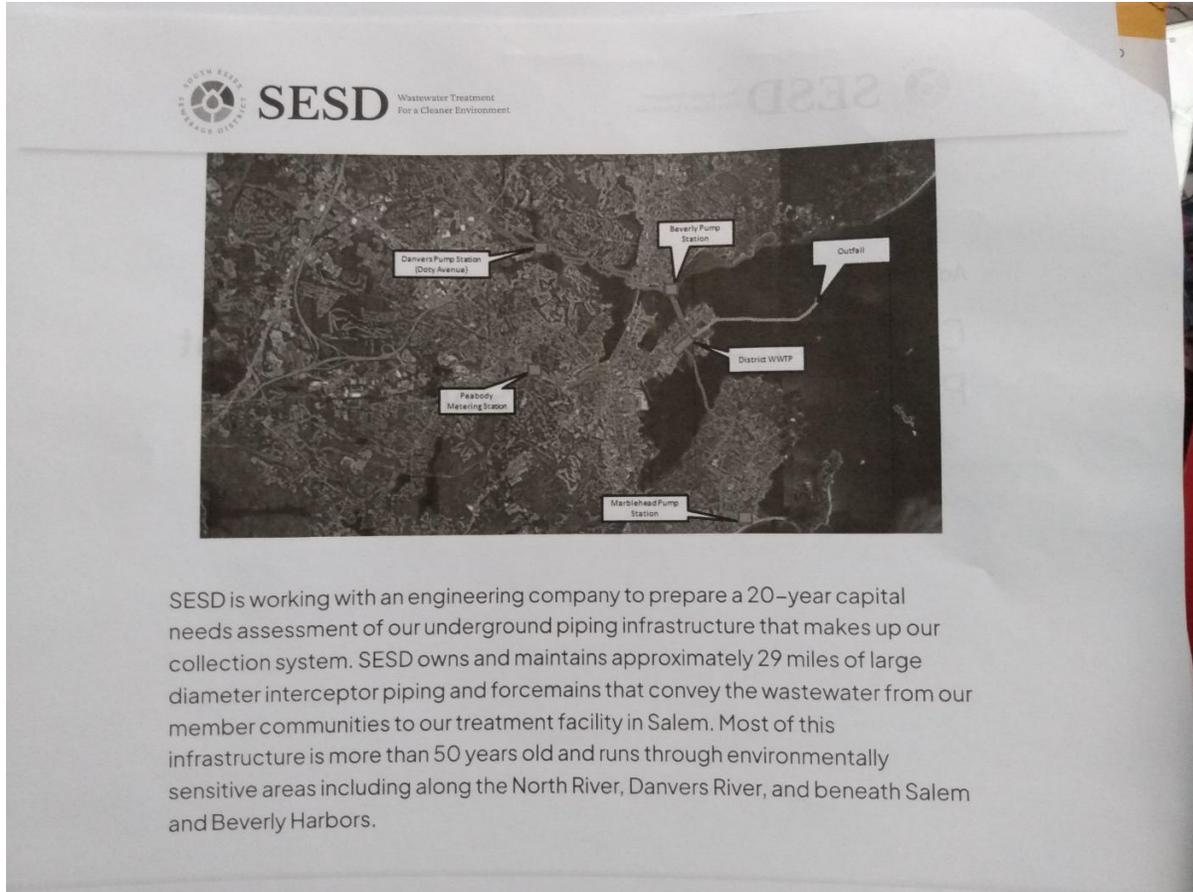
1: Copy of the Pollution Chart at Beverly Beaches 2018-2023 published by the Beverly Board of Health.

2. SESD "Collection System Capital Improvement Plan Prepared by CDM Smith, page 2 which shows the trunklines going through all the polluted Beverly beaches. They acknowledge no upgrades since the 1982 project. 20 Years from September 2024 is not soon enough! SESD needs these Capital Improvements ASAP!

Attachment 1: Copy of the Pollution Chart at Beverly Beaches 2018-2023 published by the Beverly Board of Health



Attachment 2: SESD "Collection System Capital Improvement Plan Prepared by CDM Smith, page 2



**Response 10**

MassDEP acknowledges this comment and these attachments. However, comments related to the Federal Clean Water Act should be directed to EPA.

## **NOTICE OF APPEAL RIGHTS for STATE SURFACE WATER DISCHARGE PERMIT**

Within 30 days of the issuance of MassDEP's decision to grant or deny a Surface Water Discharge Permit pursuant to M.G.L. c. 21, § 43, and 314 CMR 3.00, any person aggrieved may request an adjudicatory hearing with MassDEP's Office of Appeals and Dispute Resolution (OADR).

### **How should the request for an adjudicatory hearing be made?**

A request for an adjudicatory hearing for the state Surface Water Discharge Permit must be made during the 30-day period following issuance of the state permit, in accordance with 314 CMR 2.08 and 310 CMR 1.01. 310 CMR 1.01(6)(b) establishes the required form and content of the request. Failure to meet the requirements of 310 CMR 1.01 may result in dismissal of the request or the requirement to file a more definite statement.

A person filing a request for an adjudicatory hearing must complete and mail a MassDEP Adjudicatory Hearing Fee Transmittal Form and send it with a valid check to the Commonwealth Master Lockbox, as instructed below, if a fee is required by 310 CMR 4.06. The MassDEP Adjudicatory Hearing Fee Transmittal Form can be downloaded from: <https://www.mass.gov/doc/adjudicatory-hearing-fee-transmittal-form/download>

The written notice requesting an adjudicatory hearing shall be delivered to MassDEP's Case Administrator together with (i) a copy of the decision being appealed, (ii) a copy of the completed MassDEP Adjudicatory Fee Transmittal Form, if required, and (iii) a copy of the check used to pay any adjudicatory hearing filing fee due for the appeal under 310 CMR 4.06. The notice of claim and other items can be sent to OADR by mail, hand delivery, e-mail (Caseadmin.OADR@mass.gov) or fax (information at <https://www.mass.gov/how-to/file-an-appeal-with-massdeps-office-of-appeals-and-dispute-resolution>).

Please do *not* send the original of the completed MassDEP Adjudicatory Hearing Fee Transmittal Form and check to the Case Administrator. Instead, please follow the instructions below for delivery of the original of the completed Fee Transmittal Form and check to the Commonwealth Master Lockbox.

A \$100 adjudicatory hearing filing fee must be paid, unless (i) a simplified hearing is requested for a reduced fee of \$25, (ii) the person requesting an adjudicatory hearing is a city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority effective January 14, 1994, or any municipal housing authority, in which case there is no fee, or (iii) the person requesting the hearing is seeking to have MassDEP waive the adjudicatory hearing filing fee because paying the fee will create an undue financial hardship.

A person who believes that payment of the fee would be an undue financial hardship shall file with the request for adjudicatory hearing a request for waiver of the fee together with an affidavit setting forth the facts the appellant believes constitute the undue financial hardship. For more information on the adjudicatory hearing filing fee and the grounds on which the Department may waive the fee, please see 310 CMR 4.06.

If a fee is required, the completed MassDEP Adjudicatory Hearing Fee Transmittal Form and a valid check made payable to the Commonwealth of Massachusetts for the amount of the fee due must be mailed to:

Mass. Department of Environmental Protection  
Commonwealth Master Lockbox  
P.O. Box 4062  
Boston, Massachusetts 02211

Failure to pay the adjudicatory hearing filing fee, if required, may be grounds for dismissal of the appeal.

In accordance with 314 CMR 2.08(5), any person, other than the permit applicant or permittee, who files a request for an adjudicatory hearing with the Department pursuant to 314 CMR 2.08(2) on an individual permit or general permit coverage, also shall simultaneously send a copy of the request by certified mail, return receipt requested, to the applicant or permittee. Any person who files a request for an adjudicatory hearing with the Department pursuant to 314 CMR 2.08(2) on a general permit also shall simultaneously send a copy of the request by certified mail, return receipt requested, to each permittee covered by the general permit.



重要 महत्वपूर्ण σημαντικός  
Important  
կարևոր quan trọng مهم



## Communication for Non-English-Speaking Parties

***This document is important and should be translated immediately.***

If you need this document translated, please contact MassDEP's Director of Environmental Justice at the telephone number listed below.

### **Español Spanish**

Este documento es importante y debe ser traducido inmediatamente. Si necesita traducir este documento, póngase en contacto con el Director de Justicia Ambiental de MassDEP (*MassDEP's Director of Environmental Justice*) en el número de teléfono que figura más abajo.

### **Português Portuguese**

Este documento é importante e deve ser traduzido imediatamente. Se você precisar traduzir este documento, entre em contato com o Diretor de Justiça Ambiental do MassDEP no número de telefone listado abaixo.

### **繁體中文 Chinese Traditional**

本文檔很重要，需要即刻進行翻譯。  
如需對本文檔進行翻譯，請透過如下列示電話號碼與 MassDEP 的環境司法總監聯絡。

### **简体中文 Chinese Simplified**

这份文件非常重要，需要立即翻译。  
如果您需要翻译这份文件，请通过下方电话与 MassDEP 环境司法主任联系。

### **Ayisyen Kreyòl Haitian Creole**

Dokiman sa a enpòtan epi yo ta dwe tradui l imedyatman. Si w bezwen tradui dokiman sa a, tanpri kontakte Direktè. Jistis Anviwònmanal MassDEP a nan nimewo telefòn ki endike anba a.

### **Việt Vietnamese**

Tài liệu này và quan trọng và phải được dịch ngay. Nếu quý vị cần bản dịch của tài liệu này, vui lòng liên hệ với Giám Đốc Phòng Công Lý Môi Trường của MassDEP theo số điện thoại được liệt kê bên dưới.

### **ប្រទេសកម្ពុជា Khmer/Cambodian**

ឯកសារនេះមានសារៈសំខាន់  
ហើយគួរត្រូវបានបកប្រែភ្លាមៗ។  
ប្រសិនបើអ្នកត្រូវការអោយឯកសារនេះបកប្រែ  
សូមទាក់ទងនាយកផ្នែកយុត្តិធម៌បរិស្ថានរបស់  
MassDEPតាមរយៈលេខទូរស័ព្ទដែលបានរាយដូចខា  
ងក្រោម។

### **Kriolu Kabuverdianu Cape Verdean**

Es dokumentu sta important i tenki ser tradusidu imediatamenti. Se nho ta presisa ke es dokumentu sta tradisidu, por favor kontata O Diretor di Justisia di Environman di DEP ku es numero di telefoni menxionadu di baixo.

**Contact Deneen Simpson 857-406-0738**

**Massachusetts Department of Environmental Protection  
100 Cambridge Street 9<sup>th</sup> Floor Boston, MA 02114**

TTY# MassRelay Service 1-800-439-2370 • <https://www.mass.gov/environmental-justice>  
(Version revised 8.2.2023) 310 CMR 1.03(5)(a)

## Русский Russian

Это чрезвычайно важный документ, и он должен быть немедленно переведен. Если вам нужен перевод этого документа, обратитесь к директору Департамента экологического правосудия MassDEP (MassDEP's Director of Environmental Justice) по телефону, указанному ниже.

## العربية Arabic

هذه الوثيقة مهمة وتجب ترجمتها على الفور.

إذا كنت بحاجة إلى ترجمة هذه الوثيقة، فيرجى الاتصال بمدير العدالة البيئية في MassDEP على رقم الهاتف المذكور أدناه.

## 한국어 Korean

이 문서는 중대하므로 즉시 번역되어야 합니다. 본 문서 번역이 필요하신 경우, 매사추세츠 환경보호부의 "환경정의" 담당자 분께 문의하십시오. 전화번호는 아래와 같습니다.

## հայերեն Armenian

Այս փաստաթուղթը կարևոր է, և պետք է անհապաղ թարգմանել այն:  
Եթե Ձեզ անհրաժեշտ է թարգմանել այս փաստաթուղթը, դիմեք Մասաչուսեթսի շրջակա միջավայրի պահպանության նախարարության (MassDEP) Բնապահպանական հարցերով արդարադատության ղեկավարին (Director of Environmental Justice)՝ ստորև նշված հեռախոսահամարով

## فارسی Farsi Persian

این نوشتار بسیار مهمی است و باید فوراً ترجمه شود. اگر نیاز به ترجمه این نوشتار دارید لطفاً با مدیر عدالت محیط زیستی MassDEP در شماره تلفن ذکر شده زیر تماس بگیرید.

## Français French

Ce document est important et doit être traduit immédiatement. Si vous avez besoin d'une traduction de ce document, veuillez contacter le directeur de la justice environnementale du MassDEP au numéro de téléphone indiqué ci-dessous.

## Deutsch German

Dieses Dokument ist wichtig und muss sofort übersetzt werden. Wenn Sie eine Übersetzung dieses Dokuments benötigen, wenden Sie sich bitte an MassDEP's Director of Environmental Justice (Direktor für Umweltgerechtigkeit in Massachusetts) unter der unten angegebenen Telefonnummer.

## Ελληνική Greek

Το έγγραφο αυτό είναι πολύ σημαντικό και πρέπει να μεταφραστεί αμέσως. Αν χρειάζεστε μετάφραση του εγγράφου αυτού, παρακαλώ επικοινωνήστε με τον Διευθυντή του Τμήματος Περιβαλλοντικής Δικαιοσύνης της Μασαχουσέτης στον αριθμό τηλεφώνου που αναγράφεται παρακάτω

## Italiano Italian

Questo documento è importante e deve essere tradotto immediatamente. Se hai bisogno di tradurre questo documento, contatta il Direttore della Giustizia Ambientale di MassDEP al numero di telefono sotto indicato.

## Język Polski Polish

Ten dokument jest ważny i powinien zostać niezwłocznie przetłumaczony. Jeśli potrzebne jest tłumaczenie tego dokumentu, należy skontaktować się z dyrektorem ds. sprawiedliwości środowiskowej MassDEP pod numerem telefonu podanym poniżej.

## हिन्दी Hindi

यह दस्तावेज महत्वपूर्ण है और इसका अनुवाद तुरंत किया जाना चाहिए। यदि आपको इस दस्तावेज का अनुवाद कराने की जरूरत है, तो कृपया नीचे दिए गए टेलीफोन नंबर पर MassDEP के पर्यावरणीय न्याय निदेशक से संपर्क करें।

Contact Deneen Simpson 857-406-0738

Massachusetts Department of Environmental Protection  
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