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April 16, 2018

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VIA ELECTRONIC MAIL ONLY

*Re: Draft Part 70 Operating Permit, St. Louis Metropolitan Sewer District—
Bissell Point (Installation ID: 510-0053 Project No.: 2007-06-088)*

Dear Sir or Madam:

On behalf of the Missouri State Conference of the National Association for the Advancement of Colored People (“Missouri NAACP”), Phil Valko, and Doug Eller, Great Rivers Environmental Law Center (“Great Rivers”) submits the following comments to the Missouri Department of Natural Resources (“MDNR”), Air Pollution Control Program (“APCP”) regarding the draft Part 70 Operating Permit for St. Louis Metropolitan Sewer District (“MSD”)—Bissell Point (Installation I.D.: 510-0053; Project No. 2007-06-088).

The mission of the NAACP is to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate race-based discrimination. Furthermore, the NAACP has an Environmental and Climate Justice Program (“ECJ”) that addresses environmental injustices that have a disproportionate impact on communities of color and low-income communities in the United States and around the world. The NAACP ECJ Program was created to provide resources and to support community leadership in addressing these types of human and civil rights issues by advocating to reduce harmful emissions, advance energy

efficiency and clean energy, strengthen community resiliency and livability.¹ Members of the Missouri NAACP are residents of the Old North, Hyde Park, and College Hill neighborhoods in North St. Louis City, are MSD ratepayers, and are adversely affected by the air emissions from MSD's Bissell Point facility. Phil Valko and Doug Eller are residents of Old North and Hyde Park, respectively, are MSD ratepayers, and are adversely affected by the air emissions from MSD's Bissell Point facility. Great Rivers has dedicated much time and effort since 2012 to investigate and attempt to alleviate the negative impacts imposed on North St. Louis City residents and workers from the pollution caused by businesses located in and near the North St. Louis Riverfront Corridor.

Bissell Point is a wastewater treatment facility ("WWTF") located in the North St. Louis Riverfront Corridor that disposes of its wastewater sewer sludge by incineration in its four (4) multiple hearth sewer sludge incinerators ("SSIs"), which were constructed in 1967. SSIs are responsible for emitting a toxic elixir of amalgamated pollutants into the atmosphere from sources such as pesticides, medical waste, industrial by-products and waste from small factories, automotive repair shop waste, cleaning agents, hormones, and pharmaceuticals. The health effects from these pollutants include premature death, cancer, heart attacks, kidney disease, weakened immune systems, developmental delays, and an array of respiratory problems. MSD should discontinue use of SSIs, especially in heavily populated, urban centers, where negative health impacts are more likely to occur and are certain to disproportionately impact minority and low-income communities in close proximity to the facility.

General Comments

MSD should discontinue multiple hearth incineration of sewer sludge and instead use anaerobic digestion, methane capture technology, and landfill disposal of such waste because it leads to better health outcomes, is more economical and is more environmentally friendly. In response to EPA's promulgation of 40 CFR Part 60, Subpart M, several wastewater treatment facilities across the country made the correct decision to abandon use of SSIs and instead use anaerobic digestion and landfills to dispose of their wastewater sludge. The health problems associated with incinerating these wastes is justification alone to discontinue such practice. The green and yellow haze that can constantly be seen trickling out of the stack at Bissell Point after incineration may have been an acceptable practice in 1967 when the SSIs were constructed, but is no longer acceptable as a means to address disposal of wastewater sludge.

A 2017 scientific study conducted at the Bissell Point WWTF, based on 2011 emissions data, concludes that "[o]n the level of damage categories (human health, ecosystem quality and resources depletion) ... the damages from multiple hearths incineration are the highest in all categories..."² See Attachment A. Furthermore, "if the plant continues with the existing treatment method, they will cause 40.6 (±62%) [Disability Adjusted Life Years] in human life, 0.11 (±88%) species loss, and $\$1.08 \times 10^8$ (±69%) more expenses on future generations.

¹ See <http://www.naacp.org/environmental-climate-justice-about/> (Last visited April 9, 2018).

² Isam Alyaseri and Jianpeng Zhou, *Towards better environmental performance of wastewater sludge treatment using endpoint approach in LCA methodology*, *Heliyon* 3 (2017) at pp. 16-17.

Scenarios such as fluid bed incineration/landfilling and anaerobic digestion/landfilling can achieve better environmental performance.”³ Clearly, the current practice of multiple hearth incineration at Bissell Point WWTF is the least economical and least environmentally friendly option of sewer sludge disposal—nearby residents and ratepayers alike deserve better.

Notably, MSD shut down Incinerator #6, constructed in 1991, which would have been subject to stricter New Source Performance Standards (“NSPS”) and which would have required reductions in the amounts of pollutants being emitted into the air of St. Louis City residents. Instead, MSD has opted to use four incinerators from 1967 that are exempt from stricter regulation, that continue to leak toxic pollutants into the St. Louis City’s ambient air, and that disproportionately affect low income and minority populations in North St. Louis City, including the Hyde Park, College Hill, and Old North neighborhoods.

MDNR’s permitting process suffers from (1) a lack of meaningful public participation by minority or low-income communities in the permit process; (2) unavailability or inaccessibility of certain information to the public early in the permit process; and (3) a failure of the permit process to address disproportionate adverse environmental impacts on minority and low-income communities.⁴ To address these concerns, MDNR should provide a permit applicant with relevant information on environmental justice where a potential environmental justice area is identified early in the permitting processes. Then, the applicant should be required to submit a written public participation plan as part of its complete application to ensure that environmental communities are provided with meaningful public participation and the documents necessary for such meaningful participation.⁵

The permittee’s public participation plan should identify stakeholders, including nearby residents, local elected officials, community-based organizations, and community residents; provide for distribution and posting of written information on the proposed action and permit review process; provide for public information meetings to keep the public informed about the proposed action and permit review process; and establish easily accessible document repositories in or near the potential environmental justice area to make available pertinent information. MDNR’s current method of providing public notice and opportunity for comment (i.e. an email to those persons subscribed to an email list with APCP) is woefully short of actually affording meaningful participation by the communities impacted by this permit action.⁶

³ *Id.* at p. 18.

⁴ *See e.g.*, New York Department of Environmental Conservation, Environmental Justice Policy, Commissioner Policy 29 (“CP-29”). Located at <https://www.dec.ny.gov/regulations/36951.html>. (Last visited April 9, 2016).

⁵ *See, e.g.*, EPA Activities To Promote Environmental Justice in the Permit Application Process, 78 Fed. Reg. 27220, 27229 (May 9, 2013) (“Another useful tool is a public participation plan. . . . [Its purpose] is to aid the permit applicant in organizing its outreach. It can also help convey the facility’s outreach strategy to a community.”)

⁶ *See* EPA Activities To Promote Environmental Justice at 27224 (“Use communication techniques that community members value, such as direct mailings, posters, articles in local newspapers, and emails to list serves.”)

Specific Comments

1. On Page 9, Permit Condition (EP-03 through EP-06) – 003 retains the exact same charging rates (per incinerator per day and combined annually) as the previous permit. Please explain how the facility will be able to meet the new emissions limits of 40 CFR Part 60, Subpart M, Table 3, when such limits are significantly more stringent than the emissions limit contained in the previous permit and when no new control devices or technology have been adopted at the facility since the previous permit.
2. On Pages 15-16, Permit Condition (EP-03 through EP-06) – 006 discusses MSD's obligation to meet initial compliance requirements without any discussion of whether the requirements were met. Pursuant to (1) 40 CFR Part 60, Subpart M, Table 1, (2) 10 CSR 10-6.191(3)(H), and (3) Section VI (Table IV) of Missouri's 111(d)/129 State Plan implementing the federal rule, the latest date that MSD could demonstrate compliance with final requirements was March 21, 2016-- over two years ago. Please explain whether MSD met initial compliance requirements prior to the issuance of the draft Operating Permit and provide this information in the permit or Statement of Basis.
3. On Page 23, Permit Condition (EP-03 through EP-06) – 008 requires MSD to submit a Control Plan within one (1) year of state plan approval. Since state plan approval occurred several years ago, please state whether MSD submitted a Control Plan within one (1) year of state plan approval and, if so, when the Control Plan was approved by MDNR.
4. On Page 23, Permit Condition (EP-03 through EP-06) – 008 requires MSD to submit an initial compliance report within 60 days of the initial compliance test. Please state whether MSD submitted this report within 60 days of initial compliance test, if applicable.
5. On Page 25-27, Permit Condition (EP-03 through EP-06) – 008 requires MSD to submit a deviation report for a deviation from a standard identified in Section 4) i)-iv). Please state whether any deviation reports have been submitted by MSD to MDNR under this provision and identify which standard (i.e. i) – iv)) MSD has deviated.
6. On Page 29, the monitoring for Permit Condition (EP09) - 002 states that the permittee may use "EPA Reference Method 22-like procedures." This contradicts both Permit Condition (EP09) - 001 and 40 CFR Part 60, Subpart M, Table 3, which requires use of Method 22, Appendix A-7 of 40 CFR Part 60 as the visible emissions test for fugitive particulate matter from wet ash handling systems in all instances. This reference also appears in Attachment E—Compliance Assurance Monitoring Plan (CAM) on Page 52 (Measurement Approach, Indicator #1).
7. On Page 38, the draft operating permit sets forth a "state only" condition restricting odor from the facility pursuant to 10 CSR 10-6.165. This condition sets the standard for what is a violation of the regulation, and describes where the testing procedure to determine a violation should be taken, but sets forth no actual monitoring frequency. MSD should be

required to conduct monitoring to demonstrate compliance with this condition at least once per month, if not more frequently.

8. On Page 48, in Appendix A, MDNR states: “The Program requests the Installation document the metrics in a table and compare it to historical reduction data and operating parameters documented during all prior performance tests for incinerators 2 through 5, but not earlier than those tests conducted after the combination impingement tray scrubbers and venturi scrubbers were installed. The table should be submitted with the performance test report for each performance test completed.” As noted in Specific Comment 2 above, initial compliance requirements, such as the 85% maximum permitted capacity requirement, should already be complete prior to the final compliance deadline of March 21, 2016. Please provide this information in the draft permit or in the Statement of Basis.
9. On Pages 1 – 2 of the Statement of Basis, MDNR states that the reason that PTE is less than actual emissions for PM10, PM 2.5, and SOx is that (1) MSD has discontinued use of incinerator #1 and # 6 and (2) MSD has replaced impingement tray scrubbers and single venturi scrubbers for incinerators #2 through #5. In regards to (1): how does charging the same amount of sludge (as mentioned above in Specific Comment 1) result in a reduction in PTE and actual emissions whether that same amount of sludge is charged from four, five, or six incinerators? In regards to (2): MSD has been using venturi scrubbers and impingement tray scrubbers since at least 2007 on incinerators #2 through #5. Please explain how emissions will be reduced using the same control devices and technology that has produced significantly greater actual emissions than PTE over the past five years.

Conclusion

The human health impacts caused by the multiple hearth incinerators at the Bissell Point WWTF have a disproportionate impact on low-income and minority communities located near the facility. Yet, these communities are not given an opportunity to meaningfully participate in the permitting process by either MDNR or MSD. Scientific studies have specifically demonstrated the adverse health impacts caused by multiple hearth sewer sludge incineration at the facility. Ironically and sadly, there is no long-term economic advantage to ratepayers to continue this method of waste disposal at the facility, which is impossible to reconcile with the aforementioned adverse health impacts to the surrounding community. MDNR and MSD must proactively provide more meaningful opportunity for input from environmental justice communities impacted by permit actions. MSD ratepayers deserve to know the truth about where their money is going and the human health impacts it is causing.

Sincerely,

Bob Menees,
Staff Attorney