Washington Aqueduct's Clean Water Act Permit

EPA Region III

Washington Aqueduct's Clean Water Act Permit:
"NPDES Permit # DC0000019"

- EPA Administers the federal permitting program in the District of Columbia

- Final Permit was issued March 14, 2003. Amended and re-issued February 27, 2004.
  - Replaces and updates two earlier permits to the facility: April 3, 1989 and February 4, 1998

- A legal obligation of the US Army Corps

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- Includes discharge limits for total suspended solids (TSS) called "technology-based effluent limits."
- Includes discharge limits for aluminum.
- Requires the Aqueduct to remove at least 85% of incoming residual solids from the Dalecarlia and Georgetown sedimentation basins
  - Using a combination of engineering and/or Best Management Practices

Clean Water Act Requirements

- Achieve technology-based limits based on "best practicable control technology currently available" no later than July 1, 1977. CWA § 301(b)(1)(A).
- Sources discharging "conventional pollutants," such as TSS, must implement "best conventional pollutant control technology" no later than March 31, 1989. CWA § 301(b)(2)(E).
- Where industry-wide technology-based effluent limitation guidelines do not exist, EPA must calculate technology-based discharge limits on a permit-by-permit basis using best professional judgment, which is what was applied to the Washington Aqueduct's permit. CWA § 402(a)(1); 40 C.F.R. § 125.3(c).

How were Washington Aqueduct's discharge limits for TSS determined?

EPA evaluated for this permit:

- Over 400 permits for water treatment plants in EPA Region III (EPA-1995).
  - 143 permits in PA, 117 in VA, 17 in MD, and 128 in WV.
  - EPA determined that the permits for these facilities contained effluent limits for TSS similar to, if not more stringent than the TSS limits in the Washington Aqueduct's permit.

- A technology transfer handbook on the management of water treatment plant residuals (ASCE et al, 1996)

- Examples of other states' requirements that are more stringent than the limits in the Washington Aqueduct's permit (Michigan and Illinois).

How were Washington Aqueduct's discharge limits for TSS determined?

- Aqueduct specific information
  - a summary of preliminary costs and site-specific concerns for different technologies cited in the Summary of Background Information for the Washington Aqueduct BPJ (Dec. 16, 2002).
- The Washington Suburban Sanitary Commission Potomac River Water Filtration Plant permit (MD)
  - which includes 30/60 limits for TSS based on continuous solids removal, the same limits as those in the Washington Aqueduct permit.

Public Process for the Washington Aqueduct's Clean Water Act permit

- EPA published public notice of a 30-day comment period for the draft permit for the Washington Aqueduct in the *Washington Post* and *Washington Times* on March 28, 2002.
  - EPA extended this public comment period for 60 days to June 28, 2002.
  - EPA received comments from 52 interested parties.
  - Significant comments were received on the potential impact of the solids discharge on Endangered Species (Shortnose sturgeon) and other aquatic life in the Potomac River.

Public Process for the Washington Aqueduct's Clean Water Act permit

- To address comments, EPA amended the draft permit and fact sheet and requested public comment (December 18, 2002 until January 30, 2003).
  - Notice was published in the *Washington Post* and *Washington Times.*
  - On January 21, 2003, EPA conducted a public hearing at Sibley Memorial Hospital in Washington, D.C. Three persons offered testimony during the public hearing.
  - EPA received comments from 13 interested parties, the State of Maryland and the Commonwealth of Virginia.

Time for Compliance with the Washington Aqueduct's Clean Water Act (CWA) Permit

- The Act does not allow EPA to include a compliance schedule for the TSS discharge limits and the aluminum discharge limits in the Washington Aqueduct's Clean Water Act permit.
  - See CWA §§ 301(b)(1) & (b)(2)(E); 40 C.F.R. §§ 122.47(a) & 125.3(a)(2)(i)(B) & (ii)(B).

- Thus, Aqueduct's permit states that the permit limitations are effective immediately.

Federal Facilities Compliance Agreement (FFCA)

- Issued because the permit requirements were effective immediately.
- Is an expression of EPA's enforcement discretion.
  - It provides an enforceable compliance schedule for achieving the discharge limits in the Washington Aqueduct's Clean Water Act permit as quickly as possible, along with environmentally protective conditions for the interim operation of the facility.
- Requires compliance with the discharge limitations of the permit at one or more of the sedimentation basins no later than March 1, 2008 and at all basins no later than December 30, 2009

Federal Facilities Compliance Agreement (FFCA)

- Schedule was designed to accommodate the NEPA process and is legally enforceable.

- One interim deadline has been modified to allow for greater public participation. (for notification of EPA of the treatment technology that will be used to comply with the permit limits and the schedule for completing implementation)
  - Interim deadline was moved from June 2005 to October 17, 2005.

- Although not required, EPA solicited public comment on the FFCA due to the significant public interest. EPA's notice of availability of a draft FFCA and request for public comment was published in the *Washington Post* and the *Washington Times* on March 17, 2003. The comment period was 30 days, and EPA received comments from 5 persons.

- The permit and FFCA remain in full force and effect.