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March 4, 2020

The Honorable Kumar P. Barve
6 Bladen Street, Room 251
House Office Building
Annapolis MD 21401

Re: Letter of Information – HB 1297 – Individual Surface Water Discharge Permits – Study and Permit Decisions (Zombie Permit Elimination Act)

Dear Chairman Barve and Members of the House Environment and Transportation Committee:

The Washington Suburban Sanitary Commission (WSSC) is the largest water and wastewater utility in Maryland, with nearly 5,768 miles of fresh water pipeline and over 5,578 miles of sewer pipeline. Our service area spans nearly 1,000 square miles in Prince George's and Montgomery counties, and we serve 1.8 million residents through approximately 475,000 customer accounts.

HB 1297 – Individual Surface Water Discharge Permits – Study and Permit Decisions is a two-part bill that requires the Maryland Department of the Environment (MDE) to conduct a study and make recommendations, by July 1, 2021, regarding their permitting process for individual surface water discharge permits issued under Title 9, Subtitle 3 of the Environment Article (Water Pollution Control), in accordance with the National Pollutant Discharge Elimination System (NPDES). Concurrently until the study is concluded and recommendations are made, the bill requires to either deny or approve an application to renew an affected permit within five (5) business days after the 180th day of the permit that is being renewed has ended. An applicant whose permit application is denied forfeits all fees and must resubmit an application in accordance with regulatory and statutory requirements. WSSC has six (6) water resource recovery facilities that operate under these types of permits.

Under current regulations, an applicant must file an application to renew a surface water discharge permit one (1) year prior to the end of the term of the permit. MDE reviews the application and issues initial comments to the applicant through a draft tentative determination. After the applicant has satisfactorily addresses the deficiencies in the Draft Tentative Determination, the Department issues a Tentative Determination. At that time, the applicant provides public notice of the pending application and public hearing through advertisements in newspapers. During this time and at the hearing, members of the public can provide comments to the Department. At the conclusion of the public hearing and comment period, MDE conducts a complex and thorough review of the application. Based on their findings and review of the public comment, the Department issues a Final Determination where a permit is issued or denied.

WSSC is not opposed to the prescribed study being performed that requires the examination of methods "that will assist the Department with making permit decisions within 180 days of receipt of a complete

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application” and to improve the overall permitting process. We have concerns about the requirement to have the Department issue permit decisions within 180 days while the study is being conducted and recommendations are being formulated as this is one of the requirements they must examine. Requiring the Department to issue decisions on permit applications may lead to applications being denied simply because they ran out of time to conduct a thorough review of the application. This places the applicant at risk of having to suspend operations at their facility as a result of the Department not having the time and/or resources to meet this statutory requirement. Lastly, the applicant will face increased costs as any permit application that is denied will forfeit all fees, including public advertising fees paid by the applicant, and must be resubmitted as a new application.

For these reasons, WSSC requests that you allow MDE to conduct the study to determine what methods and resources are needed in order to have permit decisions be made with 180 days of receipt of the complete permit application without concurrently instilling the 180-day decision timeframe while the examination is being performed.

Thank you for your time and consideration of this request. Please contact me at 240-917-5356 or guy.andes@wsscwater.com should you have any questions or concerns.

Sincerely,



Benjamin F. Guy Andes IV
Government Affairs Manager