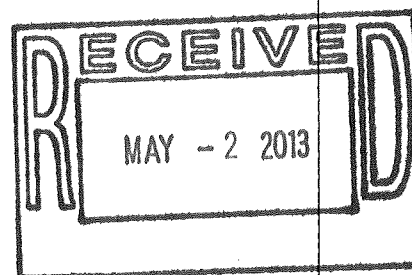


Attention: Anne Hartley, Case Administrator
MA DEP Office of Appeals & Dispute Resolution
One Winter Street
Boston, MA 02108



IN THE MATTER OF:

2013-011

Groundwater Discharge Permit No. 933-0 Issued to Wayland Wastewater Management District Commission (MassDEP Transmittal No. X253712) Pursuant to a Determination of Coverage Under a General Groundwater Discharge Permit

Notice of Appeal, Request for Adjudicatory Hearing & Request for a Stay

This is an appeal of and request for adjudicatory hearing on an April 2, 2013 groundwater discharge permit and the administrative determination to allow said permit to issue under "General Permit For Small Publicly Owned Wastewater Treatment Facilities That Discharge Treated Effluent to the Ground Water and the Discharge from Said Facilities". In addition, we request a stay of the terms and conditions of the general permit coverage in this matter.

Grounds for Appeal

By letter dated April 2, 2013, the Northeast Regional Office of the Department of Environmental Protection (DEP) approved coverage under the aforementioned General Permit to allow the discharge of treated sanitary wastewater from an off-site wastewater treatment facility designed to provide secondary treatment to MORE than 50,000 gallons of sewage per day in violation of the DEP's authority and regulations. *See especially* 314 CMR 5.13(1) Authority to Issue General Permits.

The DEP's regulations at 314 CMR 5.00, *et seq.* require that a permit be obtained by anyone who wishes to discharge wastewater treatment plant effluent to groundwater. The regulations provide for two distinct regulatory schemes – 1) application for an individual permit; or 2) coverage under a general permit. 314 CMR 5.03(1).

In order to be eligible for coverage under a general permit, the discharger must meet the eligibility requirements for coverage under that general permit. 314 CMR 5.13(8)(a). The requirements for coverage under the general permit issued in the instant matter (i.e., "General Permit For Small Publicly Owned Wastewater Treatment Facilities That Discharge Treated Effluent to the Ground Water and the Discharge from Said Facilities") are, among other things: a) that there is a publicly owned wastewater treatment facility; b) that the treatment facility is designed to provide and does provide secondary treatment to *less than* 50,000 gallons of sewage per day; and c) that there will be a discharge of effluent to the groundwater from that treatment facility.

The wastewater treatment facility being relied on in this case is already in existence and was previously permitted by DEP to handle in excess of 52,000 gallons of sewage per day. Moreover, that facility apparently was designed to handle well in excess of the 52,000 gallons per day. It does not meet the eligibility requirements for coverage under the general permit at issue in this matter because, among other things, it was designed to provide secondary treatment to more than 50,000 gallons of sewage per day. Therefore, neither the treatment plant nor the discharge can be approved under this general permit.

Requested Relief

Inasmuch as Groundwater Discharge Permit No. 933-0 was issued unlawfully, in violation of the DEP's own regulations, contrary to the specific eligibility requirements enumerated in the general permit, and in excess of the DEP's regulatory authority, we request that the permit be set aside. And, we submit that it must be set aside. As currently issued, Groundwater Discharge Permit No. 933-0 fails for lack of fulfilling the jurisdictional prerequisites for issuance.

Respectfully submitted,

Anette Lewis, 33 Claypit Hill Road, Wayland, MA 01778

Anette Lewis

Contact Phone: 508/358-7281

Linda Segal, 9 Aqueduct Road, Wayland, MA 01778

Linda Segal

Alice Boelter, 106 Lakeshore Drive, Wayland, MA 01778

Alice Boelter

Prescott Baston, 11 Cochituate Road, Wayland, MA 01778

Prescott Baston

Clifford Lewis, 33 Claypit Hill Road, Wayland, MA 01778

Clifford Lewis

Sherre Greenbaum, 181 Plain Road, Wayland, MA 01778

Sherre Greenbaum

Margery Baston, 11 Cochituate Rd, Wayland, MA 01778

Margery Baston

Marionne Marshall, 12 Meadowbrook, Wayland, MA 01778

Marionne Marshall

E. Gail Morrissey, 24 Grove St., Wayland, MA 01778

E. Gail Morrissey

Virginia Landiorio, 29 Claypit Hill Rd, Wayland, MA 01778

Virginia Landiorio

Dated: May 2, 2013

With copies to:

Fred Knight, Chairman
Wayland Wastewater Management District Commission
41 Cochituate Road
Wayland, MA 01778

Kevin Brander, DEP/NERO

Certificate of Service

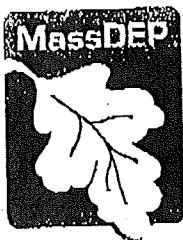
Today, I sent copies of this administrative appeal via U.S. mail and notice of the appeal via e-mail to:

Eric Worrall, Acting Regional Director, Northeast Region
Department of Environmental Protection
205B Lowell Street
Wilmington, MA 01887
eric.worrall@state.ma.us

Fred Knight, Chairman
Wayland Wastewater Management District Commission
41 Cochituate Road
Wayland, MA 01778
fred@knightway.org

DATE: May 2, 2013


Anette Lewis



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Northeast Regional Office • 205B Lowell Street, Wilmington MA 01887 • 978-694-3200

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

RICHARD K. SULLIVAN JR.
Secretary

KENNETH L. KIMMELL
Commissioner

April 2, 2013

Fred Knight, Chairman
Wayland Wastewater Management District Commission
41 Cochituate Road
Wayland, MA 01778

**RE: Determination of Coverage Under a General Groundwater Discharge Permit
Wayland Wastewater Management District Commission, Wayland, MA
MassDEP Transmittal No. X253712
Groundwater Discharge Permit No. 933-0**

Dear Mr. Knight:

The Massachusetts Clean Waters Act (M.G.L. c.21, s.26-53) was amended by Chapter 246 of the Acts of 1973 to authorize the Massachusetts Department of Environmental Protection ("MassDEP") to regulate discharges into all waters of the Commonwealth, including groundwaters. MassDEP regulates discharges through the issuance of discharge permits which impose limitations on the amount of pollutants which may be discharged in effluent, together with monitoring and reporting requirements and other conditions to ensure adequate treatment of all liquid wastes prior to discharge.

In response to your Notice of Intent (the "NOI") application for coverage under the General Permit for a Small Publicly Owned Wastewater Treatment Facility, submitted on January 17, 2013, on behalf of the Wayland Wastewater District Commission ("WWMDC"), to discharge treated sanitary wastewater from an off-site wastewater treatment facility, to the ground at the Town Hall site at 41 Cochituate Road, Wayland, MA, MassDEP hereby issues this approval letter. The public notice appeared in the Wayland Town Crier on February 14, 2013, in the Environmental Monitor on February 20, 2013, and in the Central Register on February 13, 2013.

The facility has been assigned permit number 933-0 and is approved under its hydrogeologic evaluation approval to treat and discharge a maximum of 17,000 gallons per day

of treated sanitary sewage from the Town's existing wastewater treatment plant located at 430 Boston Post Road in Wayland, MA. There are a total of three (3) monitoring wells installed as part of this facility: upgradient well UG1, and downgradient wells DG2 and DG3. The locations of these monitoring wells are shown on Figure 4-3R of the Tighe & Bond Hydrogeological Report dated March 2012.

MassDEP notes that this groundwater discharge is also the subject of Administrative Consent Order ACO-NE-12-1N001, which establishes the requirement and the timeframe for the Town to proceed with design and construction of groundwater discharge facilities, in order to ensure compliance with the terms and conditions of the Town's NPDES permit for the existing effluent discharge to the Sudbury River.

MassDEP received four written comments on the draft determination to approve coverage under the General Permit for a Small Publicly Owned Wastewater Treatment Facility for the WWMDC. Each commenter requested that MassDEP hold a public hearing prior to final action on the WWMDC permit application, although there were no comments challenging the eligibility of WWMDC for the General Permit, or challenging the technical basis for coverage under the Permit. Rather, the commenters were aggrieved at the lack of information provided by the Town on this matter. MassDEP has reviewed the comments received, and made a determination that a public hearing is not warranted. A full response to comments document is attached to this letter.

Since comments were received by MassDEP, the approval for coverage for WWMDC shall take effect 30 days from the date of this approval letter. Parties aggrieved by your eligibility of coverage under this permit are hereby advised of their right to request an Adjudicatory Hearing under the provision of Chapter 30A of the Massachusetts General Laws and 310 CMR 1.00, Rules for the Conduct of Adjudicatory Proceedings. Unless the person(s) requesting the adjudicatory hearing requests and is granted a stay of the terms and conditions of the general permit coverage, the general permit coverage shall remain fully effective.

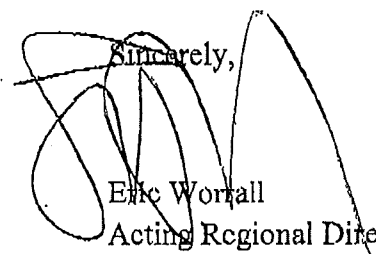
Coverage for WWMDC under the terms and conditions of the General Permit for a Small Publicly Owned Wastewater Treatment Facility, a copy of which is attached for your records, is hereby approved subject to the following conditions:

1. Coverage under this general permit expires on September 14, 2018. You must reapply for coverage in accordance with the requirements of 314 CMR 5.00.
2. An inspection of wastewater conveyance facilities must be performed by MassDEP prior to the system being put on-line.

3. At least ninety (90) days prior to startup, WWMD C must submit the following information, for review and approval by MassDEP:
 - a) An operation and maintenance manual, prepared in accordance with 314 CMR 12.04(1), for the wastewater conveyance and disposal system associated with the groundwater discharge: Both a hard copy and an electronic copy of the manual, including all third party documentation.
 - b) Any modifications to the staffing plan for the Town's wastewater treatment facility, which are needed to provide proper operation and maintenance of the groundwater discharge facility.
 - c) A copy of the plans and specifications for the wastewater treatment works related to the groundwater discharge facility, including the collection and conveyance facilities necessary to direct a portion of the treatment plant effluent to the soil absorption system, and the plans and specifications for the soil absorption system and related facilities. The plans and specifications must be stamped and signed by a Massachusetts Registered Professional Engineer. The plans and specifications must identify all required construction permits for the project.
4. Sewer extensions or connections necessary to connect Town Hall wastewater flows and/or flows from other unsewered areas to the Town's wastewater treatment facility shall be made in accordance with the requirements of 314 CMR 7.00.
5. Operation and maintenance of the proposed facility must be in accordance with 314 CMR 12.00: "Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Discharges" and 257 CMR 2.00: "Rules and Regulations for Certification of Operators of Wastewater Treatment Facilities".
6. If the proposed treatment process is unable to meet the requirements set forth in the Groundwater Discharge Permit for this facility and/or the conditions contained in this approval letter, the treatment process is to be modified, supplemented or replaced, so as to ensure compliance with the permit limitations. Any modification, supplementation or replacement shall require MassDEP approval prior to construction.
7. This Groundwater Discharge Permit is also subject to the terms and conditions of Administrative Consent Order No., ACO-NE-12-1N001, until such time as the ACO is terminated or superseded.

If you have any questions on any of the information discussed in this letter, please contact Kevin Brander at (978) 694-3236.

Sincerely,


Eric Worrall
Acting Regional Director
Northeast Region

Enclosures

cc: Fred Turkington, Town Administrator, Town of Wayland
John Moynihan, Public Facilities Director, Town of Wayland
Ian Catlow, Tighe & Bond Engineers
Mary Upton, 23B Bayfield Road, Wayland, MA 01778
Alice Boelter, 106 Lake Shore Drive, Wayland, MA 01778
Anette Seltzer Lewis, 33 Claypit Hill Road, Wayland, MA 01778
Linda L. Segal, 9 Aqueduct Road, Wayland, MA 01778
DEP/BRP/Wastewater Management Program/Boston

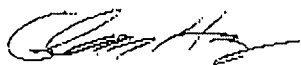
GENERAL PERMIT
For Small Publicly Owned Wastewater
Treatment Facilities That Discharge Treated
Effluent to the Ground Water and the
Discharge from Said Facilities

Date of Issuance: 9/14/2009

Date of Expiration: 9/14/2014

AUTHORITY FOR ISSUANCE

Pursuant to authority granted by Chapter 21, Sections 26-53 of the Massachusetts General Laws, as amended, and 314 CMR 5.00, the Massachusetts Department of Environmental Protection (the Department or MassDEP) hereby issues this General Permit to regulate certain small **publicly** owned wastewater treatment facilities ("POTWs") that are designed to provide and do provide secondary treatment to less than 50,000 gallons of sewage per day and the discharge of effluent to the ground water from those facilities (the "General Permit"). A person granted coverage under the General Permit is a permittee authorized to construct, operate and maintain the covered wastewater treatment facilities and to discharge effluent from said facilities only in accordance with all the terms and conditions of the General Permit. A violation of the terms and conditions set forth herein is a violation of the General Permit, 314 CMR 5.00, and the Massachusetts Clean Waters Act, M.G.L. c. 21, sec. 26-53. MassDEP has also prepared a Fact Sheet for the General Permit. This Fact Sheet is incorporated and made part of the General Permit. The Fact Sheet outlines the factual and legal basis for the General Permit, identifies the facilities that are eligible for coverage under the General Permit and the process for requesting coverage under the General Permit.



9/14/2009

Glenn Haas, Acting Assistant Commissioner

Date