



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
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APR 17 2019

Board of Selectmen
Town of Hardwick

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

APR 10 2019

Theresa A. Cofske, Town Administrator
Municipal Office Building
307 Main Street
P.O. Box 575
Gilbertville, MA 01031

Subject: NPDES Permit Numbers MA0100102 and MA0102431
Administrative Order Docket No. CWA-AO-R01-FY19-021

Dear Ms. Cofske:

Enclosed is an Administrative Order (Order) that the U.S. Environmental Protection Agency (EPA) is issuing to the Town regarding compliance with the above-referenced National Pollutant Discharge Elimination System (NPDES) permits for the Wheelwright and Gilbertville Wastewater Treatment Plants. The Order contains a schedule for submitting a feasibility study and then a compliance report, with a schedule, to bring the plants into compliance with their NPDES permits.

If you have any questions regarding the enclosed Order, please contact Doug Koopman at 617-918-1747, or have the City's legal counsel contact Jeff Kopf, Senior Enforcement Counsel, at 617-918-1796.

Sincerely

Karen McGuire
for Karen McGuire, Director
Office of Environmental Stewardship

cc:

Dan Kurpaska, MassDEP via Email
Jeff Kopf, EPA via Email
Doug Koopman, EPA via Email
Scott Potter, WPCF superintendent via Email

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

IN THE MATTER OF:) DOCKET NO.
)
Town of Hardwick, Massachusetts) CWA-AO-R01-FY19-21
NPDES Permit No's. MA0102431 and)
MA0100102) FINDINGS OF VIOLATION
)
Proceedings under Sections 308 and) AND
309(a)(3) of the Clean Water Act,)
33 U.S.C. §§ 1318 and 1319(a)(3)) ORDER FOR COMPLIANCE

I. STATUTORY AUTHORITY

The following Findings are made, and ORDER issued pursuant to Sections 308(a) and 309(a)(3) of the Clean Water Act (the "Act"), 33 U.S.C. §§ 1318 and 1319(a)(3). Section 309(a)(3) of the Act grants to the Administrator of the U.S. Environmental Protection Agency ("EPA") the authority to issue orders requiring persons to comply with Sections 301, 302, 306, 307, 308, 318 and 405 of the Act and any permit condition or limitation implementing any of such sections in a National Pollutant Discharge Elimination System ("NPDES") permit issued under Section 402 of the Act, 33 U.S.C. § 1342. Section 308(a) of the Act, 33 U.S.C. § 1318(a), authorizes EPA to require the submission of any information required to carry out the objectives of the Act. These authorities have been delegated to the Regional Administrator of EPA, Region 1, and, in turn, to the Director of the Office of Environmental Stewardship, EPA Region 1 ("Director").

The Order herein is based on findings of violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a), and the conditions of NPDES Permit No. MA0102431 and MA0100102. Pursuant to Section 309(a)(5)(A) of the Act, 33 U.S.C. § 1319(a)(5)(A), the Order provides a schedule for compliance which the Director has determined to be reasonable.

II. DEFINITIONS

Unless otherwise defined herein, terms used in this Order shall have the meaning given to those terms in the Act, 33 U.S.C. §§ 1251 *et seq.*, the regulations promulgated thereunder, and any applicable NPDES permit. For the purposes of this Order, "Wheelwright NPDES Permit" means the Town of Hardwick's NPDES Permit, No. MA0102431 for the Wheelwright treatment plant and "Gilbertville NPDES Permit" means the Town of Hardwick's NPDES Permit, No. MA0100102 for the Gilbertville treatment plant, and all amendments or modifications thereto, and renewals thereof, as are applicable and in effect at the time.

III. FINDINGS

The Director makes the following findings of fact:

1. The Town of Hardwick (the "Permittee" or "Town") is a municipality, as defined in Section 502(4) of the Act, 33 U.S.C. § 1362(4), established under the laws of the Commonwealth of Massachusetts, and, therefore, a person under Section 502(5) of the Act, 33 U.S.C. § 1362(5).
2. The Town is the owner of two publicly-owned water pollution control facilities ("Gilbertville" and "Wheelwright") from which each discharges pollutants, as defined in Sections 502(6) and (12) of the Act, 33 U.S.C. §§ 1362(6) and (12), from a point source, as defined in Section 502(14) of the Act, 33 U.S.C. § 1362(14), to the Ware River. The Ware River is a Class B waterway under Massachusetts water quality standards, and a "navigable water" under Section 502(7) of the Act, 33 U.S.C. § 1362(7), and the regulations promulgated thereunder.
3. On November 6, 2012, the Town was issued the Wheelwright NPDES Permit No. MA0102431 and the Gilbertville NPDES Permit No. MA0100102 by the Director of the Office of Ecosystem Protection of EPA,

Region 1, under the authority given to the Administrator of EPA by Section 402 of the Act, 33 U.S.C. § 1342. This authority has been delegated by the Administrator of EPA to the Regional Administrator of EPA, Region 1 and, in turn, to the Director of the Office of Ecosystem Protection.

4. The Wheelwright NPDES Permit and the Gilbertville NPDES Permit authorize the Town to discharge pollutants, including Biological Oxygen Demand (“BOD”), Total Suspended Solids (“TSS”), Total Residual Chlorine (“TRC”), pH, Total Phosphorus and Bacteria each a “pollutant,” as defined in Sections 502(6) and (12) of the Act, 33 U.S.C. §§ 1362(6) and (12), from outfall serial number 010, a “point source,” as defined in Section 502(14) of the Act, 33 U.S.C. § 1362(14), to the Ware River, subject to the effluent limitations, monitoring requirements and other conditions specified in each NPDES Permit.
5. Part 1. A.1. of the Wheelwright NPDES Permit and the Gilbertville NPDES Permit establishes effluent limitations and monitoring requirements for the discharge of treated effluent from outfall serial number 010.
6. Since at least January 2016 to the present, in violation of the Wheelwright NPDES Permit, the Town has at various times, discharged wastewater containing BOD, TSS, TRC, pH, Total Phosphorus and Bacteria in concentrations greater than the effluent limitations for outfall serial number 010 contained in the Wheelwright NPDES Permit.
7. Since at least January 2016 to the present, in violation of the Gilbertville NPDES Permit, the Town has at various times, discharged wastewater containing TRC and Bacteria in concentrations greater than the effluent limitations for outfall serial number 010 contained in the Gilbertville NPDES Permit.
8. Section 301(a) of the Act, 33 U.S.C. § 1311(a), makes unlawful the discharge of pollutants to waters of the United States except in compliance with the terms and conditions of an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

9. The Town's discharges of pollutants from the Wheelwright and Gilbertville treatment facilities to the Ware River in violation of the Wheelwright and Gilbertville NPDES Permits, is a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

IV. ORDER

Accordingly, pursuant to Sections 308 and 309(a)(3) of the Act, 33 U.S.C. §§ 1318 and 1319(a)(3), it is hereby ordered that:

1. By June 30, 2019, the Town shall submit a feasibility study which will evaluate the options the Town has to continue operating the Wheelwright and Gilbertville treatment facilities or seek other options to deal with the Town's wastewater needs.
2. By September 30, 2019, the Town shall submit a compliance report. The compliance report shall include a schedule(s) for implementing the recommendations of the feasibility study and achieving compliance with the Wheelwright and Gilbertville NPDES Permits which shall become enforceable under this Order. The Town shall immediately implement the recommendations of the compliance report. The Town shall incorporate into the compliance report any comments provided by EPA or MADEP necessary to achieve compliance with the permits.

V. Interim Effluent Limits

1. Upon the Effective Date of this Order, the Town shall, at a minimum, comply with the interim effluent limitations for set forth in Attachment 1 and 2 of this Order. The Town shall also comply with all other effluent limitations, monitoring requirements and other conditions specified in the Wheelwright NPDES Permit for parameters not addressed in Attachment

- 1 and for the Gilbertville NPDES Permit for parameters not addressed in Attachment 2.
2. EPA may review and revise the interim limits in Attachment 1 and Attachment 2 as EPA deems necessary.
3. The interim effluent limitations shall expire upon completion of the work required in paragraph IV. 2 of this Order to address compliance with the Wheelwright and Gilbertville NPDES permits.

VI. NOTIFICATION PROCEDURES

1. Where this Order requires a specific action to be performed within a certain time frame, the Town shall submit to EPA a written notice of compliance or noncompliance with such action within seven (7) days following the applicable deadline; however, written notice of compliance is not necessary if the action required by the Order is submission of a document, report, or other written material, and the Town has timely submitted such document, report, or written material to EPA.
2. If noncompliance is reported, the written notice submitted to EPA must include the following information:
 - a. A description of the noncompliance;
 - b. A description of any actions taken or proposed by the Town to comply with the required action;
 - c. A description of any factors that tend to explain or mitigate the noncompliance; and
 - d. A date by which the Town will perform the required action.
3. After a notification of noncompliance has been submitted to EPA, the Town must achieve compliance as expeditiously as possible, but by no later than the date the Town submitted to EPA pursuant to paragraph VI. 2.d., and submit to EPA the required document, report, or written material, as applicable, or a written notice that compliance with the action has been achieved.

4. Submissions required by this Order shall be in writing and shall be provided in hardcopy and in an electronic format to EPA and MassDEP at the following addresses:

U.S. Environmental Protection Agency
Region I
5 Post Office Square, Suite 100
Mail Code OES04-03
Boston, MA 02109-3912
Attn: Douglas Koopman
Koopman.Douglas@EPA.gov

and

Massachusetts Department of Environmental
Protection
Western Regional Office
436 Dwight Street
Springfield, MA 01103
Attn: Dan Kurpaska
Daniel.J.Kurpaska@state.Ma.US

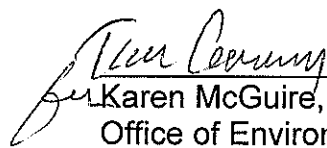
5. EPA and/or MassDEP shall notify the Town in writing of any changes to the contact persons or addresses.

VII. GENERAL PROVISIONS

1. This Order does not constitute a waiver or a modification of the terms and conditions of the Wheelwright and Gilbertville NPDES Permits. The Wheelwright and Gilbertville NPDES Permits remain in full force and effect. EPA reserves the right to seek any and all remedies available under Section 309 of the Act, 33 U.S.C. § 1319, for any violation cited in this Order.
2. The Town may seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

3. This Order shall become effective upon receipt by the Town.

4/9/19
Date



Karen McGuire, Director
Office of Environmental Stewardship
Environmental Protection Agency
Region I

Attachment 1 for Wheelwright

Interim Effluent Limits and Monitoring Requirements

- From the effective date of this Order, the Town shall, at a minimum, comply with the following interim effluent limitations and monitoring requirements for the effluent limits and monitoring requirements listed. The Town shall comply with all other effluent limitations, monitoring requirements and other conditions specified in the Wheelwright NPDES Permit for parameters not addressed below:

	Units	Average Monthly	Average Weekly	Maximum Daily	Measurement Frequency	Sample Type
Biological Oxygen Demand	mg/l	Report	Report	Report	1/week	24 Hour Composite ¹
	lbs/day	Report	Report	Report		
Total Suspended Solids	mg/l	Report	Report	Report	1/Week	24 Hour Composite ¹
	lbs/day	Report	Report	Report		
Total Phosphorus	mg/l	Report	-----	Report	1/Week	24 Hour Composite ¹
E-Coli Bacteria (April 1 – October 31)	cfu/100ml	Report	-----	Report	1/Week	Grab
Total Residual Chlorine April 1 – October 31)	mg/l	Report	-----	Report	2/Day	Grab
pH		Report			1/Day	Grab

¹ 24-hour composite samples will consist of at least twenty-four (24) grab samples taken during one consecutive 24-hour period, either collected at equal intervals and combined proportional to flow or continuously collected proportionally to flow.

Attachment 2 for Gilbertville

Interim Effluent Limits and Monitoring Requirements

1. From the effective date of this Order, the Town shall, at a minimum, comply with the following interim effluent limitations and monitoring requirements for the effluent limits and monitoring requirements listed. The Town shall comply with all other effluent limitations, monitoring requirements and other conditions specified in the Gilbertville NPDES Permit for parameters not addressed below:

	Units	Average Monthly	Average Weekly	Maximum Daily	Measurement Frequency	Sample Type
Total Residual Chlorine (April 1 – October 31)	mg/l	.44	-----	1.2	2/Day	Grab
E-Coli Bacteria (April 1 – October 31)	cfu/100 ml	Report	-----	Report	1/Week	Grab

