



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Western Regional Office • 436 Dwight Street, Springfield MA 01103 • 413-784-1100

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October 8, 2024

James Mercer, Treasurer
Housatonic Water Works Company
80 Maple Ave Ste 1
Great Barrington, MA 01230

Re: Great Barrington – DWP
PWS #: 1113003
Enforcement Doc #: 00016912
Issuing Bureau: BWR
Issuing Region: WERO

Unilateral Administrative Order

THIS IS AN IMPORTANT NOTICE. FAILURE TO RESPOND TO THIS NOTICE COULD RESULT IN SERIOUS LEGAL CONSEQUENCES.

Dear James Mercer:

Attached is a Unilateral Administrative Order (No.00016912) issued by the Massachusetts Department of Environmental Protection (“MassDEP”) for violations of Massachusetts Drinking Water Regulations 310 CMR 22.00 at the Public Water System located at 80 Maple Ave Ste 1, Great Barrington, MA 01230.

MassDEP encourages you to review and follow the requirements of the attached documents. Failure to do so may subject you to further enforcement action. There is a right to appeal the attached document. Any appeal must be initiated as specifically set forth in the document.

If you have any questions, please contact David Averill at 857-330-1069 or David.averill@mass.gov.

Sincerely,

*1st Michael Gorski
by Keller Niemiec*

Michael J. Gorski
Regional Director
Bureau of Water Resources
Western Regional Office

This information is available in alternate format. Please contact Melixza Esenyie at 617-626-1282.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

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Encls. 1113003-2024-10-08-UAO-HOUSATONIC WATER WORKS, Public Notice

Sent via Standard Mail Delivery; Certified Return Receipt; and Certified Mail

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ecc: MassDEP Boston DWP
Great Barrington BOH
Tri-Town BOH
DEP-WERO: D. Averill, A. Kelly, D. Paine, J. Gibbs, A. Piubeni, D. Hall

SP:\DEP WERO\BWR\WS\Enforcement\UAO\1113003-2024-10-08-UAO-HOUSATONIC WATER WORKS

**COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**In the matter of:
Housatonic Water Works Company**

**UNILATERAL
ADMINISTRATIVE ORDER**

Enforcement Document # **00016912**
PWS #: **1113003**
Town: **Great Barrington**
Issuing Bureau: **BWR**
Issuing Region: **WERO**

I. THE PARTIES

1. The Massachusetts Department of Environmental Protection (“MassDEP” or “the Department”) is a duly constituted agency of the Commonwealth of Massachusetts established pursuant to M.G.L. c. 21A, §7. MassDEP has its principal office located at 100 Cambridge Street, Boston, Massachusetts 02114, and its Western Regional Office at 436 Dwight Street, Springfield, Massachusetts 01103.
2. Housatonic Water Works Company (“HWWC”) is a corporation. HWWC owns and operates a community public water system, which is a type of Public Water System (PWS), as defined in 310 CMR 22.02, and therefore is a Supplier of Water, as defined in 310 CMR 22.02. The PWS is located at 80 Maple Street, Great Barrington, Massachusetts. HWWC’s mailing address for purposes of this Order is 80 Maple Street, Great Barrington, Massachusetts 01230.

II. STATEMENT OF FACTS AND LAW

3. MassDEP has primary enforcement responsibility for the requirements of the Federal Safe Drinking Water Act, 42 U.S.C. § 300f et seq. and the regulations promulgated thereunder by the United States Environmental Protection Agency (“EPA”). MassDEP implements and enforces statutes and regulations of the Commonwealth of Massachusetts for the protection of the public drinking water supply, including, without limitation, M.G.L. c. 111, §5G and §160, and 310 CMR 22.00 (“the Massachusetts Drinking Water Regulations”).

The Department’s authority to issue this Unilateral Administrative Order (“Order”) and to set deadlines for compliance is conferred by the foregoing and by M.G.L. c. 111, § 2C.

The Massachusetts Drinking Water Regulations apply to all Public Water Systems in the Commonwealth. The regulations define a Public Water System as “a system for the provision to the public of water for human consumption, through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an

Housatonic Water Works Company

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average of at least 25 individuals daily at least 60 days of the year.” A Public Water System includes: “any collection, treatment, storage, and distribution facilities under control of the operator of such a system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control that are used primarily in connection with such system.”

4. The following facts have led to the issuance of this Order:
 - A. As a community Public Water System, HWWC is subject to Massachusetts State Drinking Water Regulations 310 CMR 22.00 *et seq.*, which include requirements for water quality monitoring, reporting, and public notification.
 - B. Pursuant to its authority conferred by 310 CMR 22.07D(2), on August 2, 2018, MassDEP required HWWC to complete special water quality monitoring for multiple analytes including manganese at two distribution system locations every two weeks (meaning on a biweekly basis). (Hereinafter referred to as the August 2, 2018 Correspondence).
 - C. Pursuant to its authority conferred by 310 CMR 22.07D(2), on August 12, 2020, MassDEP required HWWC to continue special water quality monitoring referenced in the August 2, 2018 Correspondence, and approved 314 N. Plain Road as an alternate monitoring location. Within the same August 12, 2020 correspondence, MassDEP also required that water quality results be provided in writing to MassDEP within 24 hours of receipt.
 - D. In a January 9, 2024 Sanitary Survey Report, MassDEP approved a request by HWWC to reduce the required special monitoring sampling frequency to monthly.
 - E. On July 24, 2024, HWWC collected a water sample from the location “314 N Plain Road” to be analyzed for Iron, Manganese, Color, Alkalinity, and Total Dissolved Solids. The samples were collected by HWWC’s contractor, Housatonic Basin Sampling & Testing (“HBST”).
 - F. On August 5, 2024, Microbac Laboratories, Inc (“Microbac”), on behalf of HWWC & HBST, provided MassDEP with the Color, Alkalinity, and Total Dissolved Solids analytical results.
 - G. In correspondence of August 5, 2024, MassDEP inquired to HWWC about the missing Iron and Manganese analytical results. HWWC’s response of the same day stated that Iron and Manganese were being analyzed by a different laboratory, results were expected that week, and HWWC would ensure that MassDEP would receive those results simultaneously with HWWC.

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- H. On September 10, 2024, using MassDEP's eDEP submission portal, Eurofins Lab provided MassDEP with routine monthly Iron and Manganese results, which were collected on August 26, 2024. Manganese results for the 314 N. Plain Road indicated a concentration of 0.025 milligrams per Liter (mg/L), below the Office of Research and Standards Guideline ("ORSG") of 0.3 mg/L pursuant to 310 CMR 22.16A(27)(c).
 - I. On September 24, 2024, MassDEP contacted HBST and Eurofins Lab and requested that they provide MassDEP the Iron and Manganese sample results for the sample that was collected on July 24, 2024. On September 24, 2024, Eurofins Lab provided MassDEP with the requested sample results.
 - J. Upon review of the July 24, 2024 sample results, and upon further investigation, MassDEP determined the following:
 - a. On August 22, 2024, Eurofins Lab provided to HBST, and subsequently HBST provided to HWWC, the Iron and Manganese results for the sample collected on July 24, 2024, following analysis by Eurofins Lab (MA Lab Cert #M-PA009).
 - b. Results of the Manganese analysis indicated a concentration of 0.74 mg/L, which is an exceedance of the ORSG for manganese of 0.3 mg/L pursuant to 310 CMR 22.16A(27)(c).
 - c. Neither HWWC, nor HBST, nor Eurofins Lab provided the results of the July 24, 2024 Manganese sample to MassDEP within 24 hours of receipt.
 - d. Neither HWWC, nor HBST, nor Eurofins Lab notified MassDEP of the exceedance of the ORSG for Manganese identified by the analysis of the July 24, 2024 sample.
 - e. Neither HWWC nor HBST conducted a confirmation sample following the exceedance of the ORSG for Manganese.
 - K. HWWC failed to provide MassDEP the sampling results within 24 hours of receipt as required by MassDEP's August 2, 2018 and August 12, 2020 correspondence, in violation of 310 CMR 22.07D(2).
5. The foregoing facts establish violations of the following statutes and regulations:
- A. 310 CMR 22.07D(2), which states in part: "...Monitoring for Secondary Contaminants. The monitoring frequency for the contaminants listed in 310 CMR 22.07D(1) is at the discretion of the Department."
 - B. 310 CMR 22.16A(27)(c), which states in part:

Chemical (CASRN)	SMCL	Health and/or Aesthetic Effects
Manganese ⁵	0.05 mg/L (0.30 mg/L, ORSG)	Drinking water may naturally have manganese and, when concentrations are greater than 50 ppb, the water may be discolored and taste bad. Over a lifetime, the EPA recommends that people drink water with manganese levels less than 300 ppb and over the short term, EPA recommends that people limit their consumption of water with levels over 1000 ppb, primarily due to concerns about possible neurological effects. Children younger than one year old should not be given water with manganese concentrations over 300 ppb, nor should formula for infants be made with that water for more than a total of ten days throughout the year.

⁵ EPA has established a lifetime “Health Advisory” (HA) of 0.3 mg/L and an acute HA at 1.0 mg/L for Manganese and this HA 5 contains a precautionary statement that "for infants younger than six months, the lifetime Health Advisory of 0.3 mg/L be used even for an acute exposure of ten days, because of the concerns for differences in manganese content in human milk and formula and the possibility of a higher absorption and lower excretion in young infants". MassDEP extended that age to one year out of concerns for formula use up to that age and the potential susceptibility of this early life stage to excessive manganese exposure and potential resultant toxicity.

III. ORDER

6. For the reasons and pursuant to the authority stated above, the Department hereby orders that:
 - A. By no later than seven (7) days from the date of issuance of this Order, HWWC shall issue Tier 2 Public Notification in accordance with the requirements of 310 CMR 22.16(11)(a) to address the manganese ORSG exceedance. HWWC shall keep the Public Notice posted for thirty (30) days and shall, within ten (10) days of completing the Public Notice, certify to MassDEP and Great Barrington Board of Health that the Public Notification requirements have been met. All submittals under this Paragraph shall be submitted to David Averill electronically at David.Averill@mass.gov.
 - B. By no later than thirty (30) days from the date of issuance of this Order, HWWC must submit to MassDEP, for review and approval, a complete WS-25 permit application with any associated fees, prepared by a Massachusetts licensed professional engineer, for the design of a manganese treatment system using the

treatment methodology approved in MassDEP's March 25, 2024 WS-22 permit approval letter.

- C. By no later than thirty (30) days from the date of issuance of this Order, HWWC shall submit to MassDEP for review and approval a Corrective Action Plan that includes a schedule for the construction, and activation of, a treatment facility as described in the WS-25 permit submittal. Construction shall commence within ninety (90) days of MassDEP's approval of said submittal.
7. Failure to comply with this Order may constitute grounds for further legal action. You are hereby advised that, if you fail to comply with this Order, M.G.L. c. 111, § 160 provides for civil penalties of up to \$25,000 per violation per day, for violations of the statute, its implementing regulations and this Order. The Department reserves the right to exercise the full extent of its legal authority, including without limitation, pursuit of criminal prosecution or civil action, court-imposed civil penalties, and/or administrative penalties assessed by the Department.

IV. HEARING RIGHTS

8. HWWC is hereby notified of the right to an adjudicatory hearing under the Massachusetts Administrative Procedures Act, G.L. Chapter 30A, Section 10, regarding this Order.
 - A. Notice of Claim: In accordance with the Department's Rules for Conduct of Adjudicatory Proceedings, 310 CMR 1.00, should HWWC choose to appeal this Order, a Notice of Claim for Adjudicatory Hearing ("Notice of Claim") must be filed in writing, as follows:

Pursuant to 310 CMR 1.01(6), HWWC must file any Notice of Claim **within twenty-one (21) days** of the date of issuance of this Order.

The Notice of Claim must state clearly and concisely the facts which are grounds for the proceedings and the relief sought; and must include the appropriate filing fee.

The Notice of Claim for Adjudicatory Hearing and a copy of the filing fee (if not excepted as set forth below) must be addressed to:

Docket Clerk
Office of Appeals and Dispute Resolution
Department of Environmental Protection
100 Cambridge Street
Boston, Massachusetts 02114

A copy of said Notice of Claim must be sent concurrently to:
Andrew Kelly, Section Chief
MassDEP Drinking Water Program
andrew.kelly@mass.gov

A COPY OF THE DOCUMENT BEING APPEALED MUST BE INCLUDED WITH THE NOTICE OF CLAIM FILED WITH THE DOCKET CLERK.

B. Filing Fee: The Notice of Claim for Adjudicatory Hearing must be made concurrently with the payment of a filing fee payable to the Commonwealth of Massachusetts in the amount of \$100.00. The check for the filing fee and the Fee Transmittal Form (found at <https://www.mass.gov/doc/adjudicatory-hearing-fee-transmittal-form/download>) must be mailed separately to:

Commonwealth of Massachusetts
Department of Environmental Protection
Lock Box 4062
Boston, Massachusetts 02211

- (1) The hearing request **will be dismissed** if the filing fee is not paid, unless the appellant is exempt or granted a waiver as described below.
- (2) FILING-FEE EXCEPTIONS: The filing fee is not required if the appellant is a city or town (or municipal agency), county, or district of the Commonwealth of Massachusetts, or a municipal housing authority.
- (3) FILING-FEE WAIVER: The Department may waive the adjudicatory hearing filing fee for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file, together with the hearing request as provided above, an affidavit setting forth the facts believed to support the claim of undue financial hardship.

SO ORDERED:

Department of Environmental Protection,

By: 1st Michael Gorski
by Kellee Nemiec
Michael J. Gorski, Regional Director
MassDEP, Western Regional Office
436 Dwight Street
Springfield, Massachusetts 01103

Date: October 8, 2024



重要 महत्वपूर्ण σημαντικός
Important
կարևոր quan trọng مهم



Communication for Non-English-Speaking Parties

This document is important and should be translated immediately.

If you need this document translated, please contact MassDEP's Director of EJ at the telephone number listed below.

Español Spanish

Este documento es importante y debe ser traducido de inmediato. Si necesita este documento traducido, comuníquese con la Directora de Diversidad de MassDEP al número de teléfono que aparece más abajo.

Português Portuguese

Este é um documento importante e deve ser traduzido imediatamente. Se precisar de uma tradução deste documento, entre em contato com o Diretor de Diversidade da MassDEP nos números de telefone listados abaixo.

繁體中文 Chinese Traditional

本文件非常重要，應立即翻譯。如果您需要翻譯這份文件，請用下面列出的電話號碼聯絡 MassDEP 多元化負責人。

简体中文 Chinese Simplified

本文件非常重要，应立即翻译。如果您需要翻译这份文件，请用下面列出的电话号码与 MassDEP 的多元化主任联系。

Ayisyen Kreyòl Haitian Creole

Dokiman sa-a se yon bagay enpòtan epi yo ta dwe tradwi l imedyatman. Si ou bezwen dokimar sa a tradwi, tanpri kontakte Direktè Divèsite MassDEP la nan nimewo telefòn endike anba.

Việt Vietnamese

Tài liệu này rất quan trọng và cần được dịch ngay lập tức. Nếu quý vị cần dịch tài liệu này, xin liên lạc với Giám đốc Đa dạng của MassDEP theo các số điện thoại ghi dưới đây.

ប្រទេសកម្ពុជា Khmer/Cambodian

ឯកសារនេះគឺសំខាន់ហើយគួរត្រូវបានបកប្រែភ្លាមៗ។ ប្រសិនបើអ្នកត្រូវការឱ្យគេបកប្រែឯកសារនេះ:

សូមទាក់ទងមកនាយកផ្នែកពិពិធកម្មរបស់ MassDEP តាមលេខទូរស័ព្ទខាងក្រោម។

Kriolu Kabuverdianu Cape Verdean

Kel dokumentu li é inportáti y debe ser traduzidu imediatamenti. Se bu meste di kel dokumentu traduzidu, pur favor kontakta Diretor di Diversidádi di MassDEP na numeru abaxu indikadu.



Contact Deneen Simpson 857-406-0738

**Massachusetts Department of Environmental Protection
100 Cambridge Street 9th Floor Boston, MA 02114**

TTY# MassRelay Service 1-800-439-2370 • <https://www.mass.gov/environmental-justice>
(Version revised 4.21.2023) 310 CMR 1.03(5)(a)

Русский Russian

Это важный документ, и он должен быть безотлагательно переведен. Если вам нужен перевод данного документа, пожалуйста, свяжитесь с директором по вопросам многообразия (Diversity Director) компании MassDEP по указанному ниже телефону.

العربية Arabic

هذه الوثيقة مهمة ويجب ترجمتها على الفور. إذا كنت بحاجة إلى هذه الوثيقة مترجمة، يرجى الاتصال بمدير التنوع PMassDE على أرقام الهواتف المدرجة أدناه.

한국어 Korean

이 문서는 중요하고 즉시 번역해야 합니다. 이 문서의 번역이 필요하시다면, 아래의 전화 번호로 MassDEP의 다양성 담당 이사에 문의하시기 바랍니다.

հայերեն Armenian

Այս փաստաթուղթը կարևոր է և պետք է անմիջապես թարգմանվի:
Եթե Ձեզ անհրաժեշտ է այս փաստաթուղթը թարգմանել, դիմեք MassDEP-ի բազմազանության տնօրենին ստորև նշված հեռախոսահամարով:

فارسی Farsi Persian

این سند مهم است و باید فوراً ترجمه شود.
اگر به ترجمه این سند نیاز دارید، لطفاً با مدیر بخش تنوع نژادی MassDEP به شماره تلفن ذکر شده در زیر تماس بگیرید.

Français French

Ce document est important et devrait être traduit immédiatement. Si vous avez besoin de ce document traduit, veuillez communiquer avec le directeur de la diversité MassDEP aux numéros de téléphone indiqués ci-dessous.

Deutsch German

Dieses Dokument ist wichtig und sollte sofort übersetzt werden. Sofern Sie eine Übersetzung dieses Dokuments benötigen, wenden Sie sich bitte an den Diversity Director MassDEP unter der unten aufgeführten Telefonnummer.

Ελληνική Greek

Το παρόν έγγραφο είναι σημαντικό και θα πρέπει να μεταφραστεί αμέσως. Αν χρειάζεστε μετάφραση του παρόντος εγγράφου, παρακαλούμε επικοινωνήστε με τον Διευθυντή Διαφορετικότητας του MassDEP στους αριθμούς τηλεφώνου που αναγράφονται παρακάτω.

Italiano Italian

Comunicazione per parti che non parlano inglese. Questo documento è importante e dovrebbe essere tradotto immediatamente. Se avete bisogno di questo documento tradotto, potete contattare il Direttore di Diversità di MassDEP al numero di telefono elencato di seguito.

Język Polski Polish

Dokument ten jest ważny i powinien zostać natychmiast przetłumaczony. Jeśli potrzebujesz przetłumaczonej wersji dokumentu, prosimy o kontakt z dyrektorem ds. różnorodności MassDEP pod jednym z numerów telefonu wymienionych poniżej.

हिन्दी Hindi

यह दस्तावेज महत्वपूर्ण है और इसका तुरंत अनुवाद किया जाना चाहिए. यदि आपको इस दस्तावेज़ का अनुवाद करने की आवश्यकता है, तो कृपया नीचे सूचीबद्ध टेलीफोन नंबरों पर मासडेप्स डाइवर्सिटी के निदेशक से संपर्क करें.

Contact Deneen Simpson 857-406-0738

Massachusetts Department of Environmental Protection
100 Cambridge Street 9th Floor Boston, MA 02114

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(Version revised 4.21.2023) 310 CMR 1.03(5)(a)