

**United States Environmental Protection Agency
Region I - New England**

IN THE MATTER OF)	DOCKET NO. CWA-AO-R01-FY17-11
)	
Town of Belmont, Massachusetts)	
)	
)	FINDINGS OF VIOLATION
)	
)	AND
Proceedings under Sections 308(a))	
and 309(a)(3) of the Clean Water Act,)	ORDER FOR COMPLIANCE
as amended, 33 U.S.C. §§ 1318)	
and 1319(a)(3))	ON CONSENT

I. STATUTORY AUTHORITY

The following Findings are made and ORDER ON CONSENT (“Order”) issued pursuant to Sections 308(a) and 309(a)(3) of the Clean Water Act, as amended (the “Act”), 33 U.S.C. §§ 1318 and 1319(a)(3). Section 309(a)(3), 33 U.S.C. § 1319(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, including the 2003 General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts and New Hampshire 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 EPA, Region I Administrator, and in turn, to the Director of the EPA, Region I Office of Environmental Stewardship (“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. MAR021074. 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 that 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 Small MS4 General Permit. For the purposes of this Order, “Small MS4 General Permit” or “General Permit” means the 2003 NPDES General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts and New Hampshire, and all amendments or modifications thereto and renewals thereof as are applicable, and in effect at the time, including without limitation the 2016 Massachusetts Small MS4 General Permit which is intended to become effective on July 1, 2017 (the “2016 MS4 Permit”).

III. FINDINGS

The Director makes the following findings of fact:

1. The Town of Belmont, Massachusetts (the “Town” or “Belmont”) 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, as such, is a “person” under Section 502(5) of the Act, 33 U.S.C § 1362(5).
2. The Town is a customer community of the Massachusetts Water Resources Authority (“MWRA”) and does not operate its own wastewater treatment facility. The Town is the owner and operator of the separate sanitary collection system (the “Collection System”) within the Town and is responsible for the conveyance of its residential, commercial and industrial sewage to the MWRA.

3. The Town is the owner and operator of a Municipal Separate Storm Sewer System (“MS4”), which is comprised of a system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, and storm drains) designed to collect, convey, and discharge stormwater to receiving waters. The Town’s sanitary Collection System and MS4 are designed to keep sewage separate from stormwater.
4. Pursuant to Section 402(p)(6) of the Act, 33 U.S.C. § 1342(p)(6), on December 8, 1999 (64 Fed. Reg. 68722), EPA promulgated regulations at 40 C.F.R. § 122.26 that set forth NPDES permit requirements to address stormwater discharges from Small MS4s.
5. On April 18, 2003, EPA issued a NPDES General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (hereinafter, this NPDES General Permit will be referred to as the “2003 Small MS4 General Permit” or “2003 General Permit”) pursuant to Section 402(p) of the Act, 33 U.S.C. § 1342(p), and 40 C.F.R. § 122.26.
6. On October 9, 2003, pursuant to the 2003 Small MS4 General Permit, the Town notified EPA that it was seeking coverage under the 2003 Small MS4 General Permit. By letter dated October 30, 2003, EPA notified the Town that its application was complete. The 2003 Small MS4 General Permit Number MAR021074 authorizes the Town to discharge from the MS4 outfalls listed in its application, in accordance with the conditions of the General Permit.
7. The Town’s 2003 application for coverage under the 2003 Small MS4 General Permit lists 34 outfalls from the Town’s MS4 that discharge to the following surface waters: Little Pond, Claypit Pond, Mill Pond, Duck Pond, Wellington Brook, Winn Brook,

Beaver Brook, unnamed tributary to Beaver Brook, unnamed tributary to Spy Pond, unnamed tributary to Blair Pond, and other unnamed tributaries. Spy Pond drains to Little Pond. Wellington Brook, Winn Brook, Little Pond, Claypit Pond, and Blair Pond are all tributaries to Little River, which is in turn a tributary to Alewife Brook. Alewife Brook drains to the Mystic River. Alewife Brook and the Mystic River are surface water bodies designated as Class B pursuant to the Massachusetts Surface Water Quality Standards, 314 C.M.R. § 4.00, and drain to Boston Harbor, which drains to Massachusetts Bay. All of the surface waters listed in this paragraph are “navigable waters” under Section 502(7) of the Act, 33 U.S.C. § 1362(7).

8. Part I(B)(2)(j) of the 2003 Small MS4 General Permit specifically provides that the General Permit does not authorize the discharge of stormwater that is mixed with non-stormwater, unless the discharge is in compliance with another NPDES permit or allowable under Part I(F) of the 2003 Small MS4 General Permit.¹
9. Part I(B)(2)(k) of the 2003 Small MS4 General Permit specifically provides that the General Permit does not authorize the discharge of stormwater that would cause or contribute to instream exceedances of water quality standards.
10. Fecal coliform bacteria, *Escherichia coli* (“*E. coli*”) bacteria, enterococcus bacteria, and sewage are “pollutants” within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362(6).
11. Since January 2007, the Massachusetts surface water quality standard for *E. coli* bacteria

¹ Part I(F) of the Small MS4 General Permit authorizes 18 categories of non-stormwater discharges provided that it has been determined by the permittee that the discharges are not significant contributors of pollutants to the MS4. These categories include water line flushing, landscape irrigation, diverted stream flows, and rising ground waters. In addition, discharges or flows from firefighting activities occurring during emergency situations are authorized as allowable non-stormwater discharges, unless identified by EPA as significant sources of pollutants.

in Class B water bodies has been a geometric mean of samples collected within the most recent six months of not more than 126 colony forming units per 100 milliliters (“cfu/100ml”) typically based on a minimum of five samples, with no single sample exceeding 235 cfu/100ml. Alternatively, the geometric mean of all enterococci samples taken within the most recent six months shall not exceed 33 cfu/100ml typically based on a minimum of five samples and no single sample shall exceed 61 cfu/100ml.

12. The MS4 outfalls from which the Town discharges to Spy Pond, Wellington Brook, Winn Brook, Claypit Pond, Little Pond, and Little River are “point sources,” as defined in Section 502(14) of the Act, 33 U.S.C. § 1362(14).
13. On June 19, 2012, EPA personnel collected surface water quality samples, in accordance with an EPA-approved Quality Assurance Project Plan, from Belmont MS4 outfalls to Wellington Brook immediately east of Common Street (Sample “WellB2”), Wellington Brook at Clay Pit Pond (Sample “WellB1”), and Winn Brook at Little Pond (Sample “WinnB”). Analyses indicated that the discharges from these Town MS4 outfalls exceeded the Massachusetts surface water quality standards single sample standard for *E. coli* bacteria and enterococci bacteria for Class B Waters. These samples and the resulting data, summarized in Attachment 1, demonstrate that the Town has discharged stormwater mixed with non-stormwater containing *E. coli* and enterococcus bacteria through its MS4 into Wellington Brook and Winn Brook and, in turn, into the Little River, Alewife Brook, and the Mystic River. These discharges were also analyzed for, and found to contain, selected pharmaceutical compounds. EPA believes that the presence of the specific pharmaceutical compounds in these samples provides evidence that the sources of the bacterial water quality exceedances are of human origin and are

due to the presence of sanitary sewage.

14. On February 6, 2013, EPA issued a Notice of Violation (“NOV”) to the Town (Attachment 2) for discharges of non-stormwater mixed with stormwater from its MS4 outfalls, including discharges that exceeded bacterial water quality standards as determined by the EPA sampling conducted on June 19, 2012.
15. On April 14, 2015, EPA personnel collected surface water quality samples, in accordance with an EPA-approved Quality Assurance Project Plan, from ten locations within the Town of Belmont MS4, as well as a surface water quality sample from a MS4 outfall “OF-15” in the adjacent Town of Arlington, MA (“Arlington”) (the Belmont MS4 connects with, and discharges into, Arlington MS4 infrastructure upstream of this location). Analyses indicated that the discharges from six of ten locations within the Belmont MS4, as well as the “OF-15” location, exceeded the Massachusetts surface water quality standards single sample standard for *E. coli* bacteria and/or enterococci bacteria for Class B Waters. These samples and the resulting data, summarized in Attachment 1, demonstrate that the Town has discharged stormwater mixed with non-stormwater containing *E. coli* and enterococcus bacteria through its MS4 into Wellington Brook, Winn Brook, Little Pond, and, in turn, into the Little River, Alewife Brook, and the Mystic River. The discharges were also analyzed for, and 10 of 11 locations (including all of those locations that exceeded bacterial surface water quality standards and repeated sampling of those locations included in the EPA NOV) were found to contain, selected pharmaceutical compounds. EPA believes that the presence of the specific pharmaceutical compounds in these samples provides evidence that the sources of the bacterial water quality exceedances are of human origin and are due to the

presence of sanitary sewage.

16. On March 30, 2016, EPA personnel collected surface water quality samples, in accordance with an EPA-approved Quality Assurance Project Plan, from Belmont MS4 outfalls to Wellington Brook immediately east of Common Street (Sample “WellB2”), Wellington Brook at Blanchard Road (Sample “OF-8a”), and Winn Brook discharging to Little Pond (Sample “WinnB”). Analyses indicated that the discharges from the “WellB2” and “WinnB” locations exceeded the Massachusetts surface water quality standards single sample standard for *E. coli* bacteria and enterococcus bacteria for Class B Waters. These samples and the resulting data, summarized in Attachment 1, demonstrate that the Town has discharged stormwater mixed with non-stormwater containing *E. coli* and enterococcus bacteria through its MS4 into Wellington Brook and Winn Brook and, in turn, into the Little River, Alewife Brook, and the Mystic River. All three discharges were also analyzed for, and found to contain, selected pharmaceutical compounds. EPA believes that the presence of the specific pharmaceutical compounds in these samples provides evidence that the sources of the bacterial water quality exceedances are of human origin and are due to the presence of sanitary sewage.
17. As part of this same March 30, 2016 Compliance Sampling Inspection (“CSI”), EPA collected surface water quality samples from an MS4 outfall in the City of Cambridge, MA (“Cambridge”) that conveys MS4 stormwater discharges from Belmont. Belmont’s MS4 connects with, and discharges into, the Cambridge MS4 infrastructure at a number of locations. The location “NormT” is downstream of locations where the Belmont MS4 discharges into the Cambridge MS4. These samples were analyzed and the resulting data, summarized in Attachment 1, demonstrate that Belmont may have discharged

stormwater mixed with non-stormwater containing *E. coli* and enterococcus bacteria through its MS4, into the Cambridge MS4, and in turn into Wellington Brook, Little River, Alewife Brook, and the Mystic River. These samples were also analyzed for, and found to contain, selected pharmaceutical compounds. EPA believes that the presence of the specific pharmaceutical compounds in these samples provides evidence that the sources of the bacterial water quality exceedances are of human origin and are due to the presence of sanitary sewage.

18. As part of the same March 30, 2016 CSI, EPA collected a surface water quality sample from location “OF-15” in Arlington. The Belmont MS4 connects with, and discharges into, Arlington MS4 infrastructure upstream of this location. The sample was analyzed and the resulting data, summarized in Attachment 1, demonstrate that Belmont may have discharged stormwater mixed with non-stormwater containing *E. coli* and enterococcus bacteria through its MS4 into Spy Pond and in turn into Little Pond, Little River, Alewife Brook, and the Mystic River. The sample was also analyzed for, and found to contain, selected pharmaceutical compounds. EPA believes that the presence of the specific pharmaceutical compounds in this sample provides evidence that the sources of the bacterial water quality exceedances are of human origin and are due to the presence of sanitary sewage.
19. Cambridge currently collects water quality samples at multiple locations from within its MS4 as a requirement of two prior MassDEP enforcement actions (MassDEP Administrative Consent Order ACOP-NE-96-1004 and MassDEP Notice of Noncompliance and Determination of Significant Contributor of Pollution to the Waters of the Commonwealth NON-NE-00-1004). Several locations where Cambridge collects

water quality samples pursuant to these enforcement actions are at or downstream of locations where stormwater flows from the Belmont MS4 into the Cambridge MS4. Analyses of recent samples collected by Cambridge, included as Attachment 3, indicates the discharges from the Belmont MS4 to the Cambridge MS4 have exceeded the Massachusetts surface water quality standards single sample standard for *E. coli* bacteria and/or enterococci bacteria for Class B Waters on multiple occasions. These data demonstrate that Belmont has discharged stormwater mixed with non-stormwater containing *E. coli* and/or enterococcus bacteria through its MS4, into the Cambridge MS4, and in turn into Wellington Brook and the Little River, Alewife Brook, and the Mystic River.

20. On November 8, 2016 and November 16, 2016, Belmont collected and analyzed dry- and wet-weather samples at Belmont's MS4 outfalls, certain locations identified by EPA, and key junction manholes in larger tributary areas in accordance with EPA Region 1's "EPA New England Bacterial Source Tracking Protocol," January 2012 Draft (included in this Order as Attachment 4). The data resulting from these sampling events is contained in Attachment 5.
21. Discharges of pollutants from Belmont's MS4 include waste streams that are not "stormwater" as defined in 40 C.F.R. § 122.26(b)(13) and are not included in any of the 18 categories of allowable non-stormwater discharges under Part I(F) of the 2003 Small MS4 General Permit. Such discharges are specifically listed in Part I(B)(2)(j) of the 2003 Small MS4 General Permit as not authorized by the General Permit and are not authorized by any other NPDES permit or any other provision of the Act.
22. The data demonstrates that discharges of pollutants from the Town's MS4 identified

above may have caused, or contributed, to in-stream exceedances of water quality standards. Such discharges are specifically listed in Part I(B)(2)(k) of the 2003 Small MS4 General Permit as not authorized by the General Permit and are not authorized by any other NPDES permit or any other provision of the Act.

23. The Town's unauthorized discharges of pollutants from its MS4 to the Mystic River and its tributaries have occurred in violation of the 2003 MS4 General Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a).
24. The Town neither admits nor denies any of the findings of fact.

IV. ORDER ON CONSENT

1. Pursuant to Sections 308 and 309(a)(3) of the Clean Water Act, the Director hereby orders and the Town agrees to the following:

Illicit Discharge Detection and Elimination ("IDDE") Program

2. The Town shall continue its efforts to identify and eliminate unauthorized discharges of sewage from its MS4 to waters of the United States and shall complete all of its illicit discharge investigations and eliminate all identified unauthorized sewage discharges from its MS4 to waters of the United States no later than five (5) years from the Effective Date of this Order, unless otherwise permitted or required by the Director. To achieve this result, the Town shall implement the requirements described below.
3. All work conducted by the Town pursuant to this Order shall be performed using sound engineering practices to ensure that construction, management, operation, and maintenance of the MS4 and Collection System comply with the CWA, including

practices to improve the resilience of the Collection System and MS4 to the impacts of climate change.

4. The Town shall inspect and sample its MS4 outfalls and MS4 discharges to other municipalities' MS4s or non-Town owned outfalls, in accordance with the requirements below. The Town shall utilize the following Illicit Discharge Detection and Elimination ("IDDE") screening thresholds as guidelines for its analysis of the data generated for each field sample, unless different thresholds are in effect and applicable pursuant to the 2016 MS4 Permit:

Bacteria: Class A or B waters - *E. coli*: greater than 235 coliform forming units /100 milliliters ("cfu/100 ml") and/or enterococcus: greater than 61 cfu/100 ml

Class SA or SB waters – enterococcus: greater than 104 cfu/100 ml

Surfactants: equal to or greater than 0.25 milligrams per liter ("mg/l") (via field kits) or 0.1 mg/l via laboratory analysis

Ammonia: equal to or greater than 0.5 mg/l

Chlorine: greater than non-detect (0.02 mg/l method detection limit)

5. By June 1, 2017, the Town shall submit for EPA approval an IDDE Plan for screening and monitoring of all MS4 outfalls and interconnections, investigation of Sub-Catchment areas, and identification and removal of illicit discharges. The IDDE Plan shall be consistent with EPA Region 1's "EPA New England Bacterial Source Tracking Protocol," January 2012 Draft (see Attachment 4), the 2003 Small MS4 General Permit, the 2016 MS4 Permit, any NPDES permits that may be issued, or made applicable, to the Town in the future, and this Order. The Town shall immediately and continuously

implement the IDDE Plan upon EPA approval. The Town shall utilize the screening thresholds listed in Section IV, Paragraph 4 to prioritize all MS4 drainage Sub-Catchment areas for IDDE investigations. For purposes of this Order, the “Date of Verification” of an illicit discharge shall be the date on which the Town has identified a point of entry from a specific location or address that contributes wastewater flow to the MS4. The IDDE Plan shall include:

- a. An MS4 Sub-Catchment area map showing the boundaries of each Sub-Catchment area and each associated MS4 outfall or interconnection;
- b. A prioritization of all Sub-Catchment areas based on all information and data available, including EPA and Town monitoring results and applicable Total Maximum Daily Loads (“TMDLs”) for impaired waterbodies on the applicable EPA-approved Massachusetts CWA § 303(d) Integrated List of Waters;
- c. An illicit discharge removal and abatement plan that shall contain a schedule for removal of illicit discharges:
 - i. Illicit discharges shall be removed within sixty (60) Days of the Date of Verification, except as circumstances require an alternative schedule in accordance with Section IV, Paragraph 5(c)(ii).
 - ii. If the Town cannot remove an illicit discharge within sixty (60) Days of the Date of Verification, or within sixty (60) Days of the Effective Date for illicit discharges verified before the Effective Date, the Town shall submit for EPA approval a schedule to remove the illicit discharge(s) as expeditiously as possible. The Town shall meet milestones in such schedule unless EPA

responds to the submitted proposal with a different schedule. Schedules for removal of verified illicit discharges shall be consistent with the following:

1. Within thirty (30) Days of the Date of Verification, or within thirty (30) Days of the Effective Date for illicit discharges verified before the Effective Date, if the Town determines that the removal of the illicit discharge is the responsibility of the property owner, the Town shall notify the property owner in writing, sent both by certified mail/return receipt requested and regular mail, that it is responsible for eliminating the illicit discharge.
2. If the Town determines that removal of the illicit discharge is the responsibility of the property owner, and the property owner has not eliminated the illicit discharge, within sixty (60) Days of the Date of Verification, or within sixty (60) Days of the Effective Date for existing verified illicit discharges, the Town or Town Counsel shall send the property owner a letter that notifies the property owner of its responsibility to remove the illicit discharge as expeditiously as possible, the legal consequences of its failure to do so, and details the range of available enforcement options from penalties to terminating service.
3. If the Town determines that removal of the illicit discharge is the responsibility of the property owner, and the property owner has not eliminated the illicit discharge within ninety (90) Days of the Date of Verification, or within ninety (90) Days of the Effective Date for

existing verified illicit discharges, the Town or Town Counsel shall send the property owner a second letter. This letter shall, to the extent permitted by law, notify the property owner that imposition of fines is commencing, that fines will continue to escalate until removal of the illicit discharge, and that fines will be included in the property owner's water and sewer bill. In addition, the letter shall enumerate further actions that the Town may take in accordance with its regulations governing the use of sanitary and combined sewers and storm drains. Thereafter, the Town Counsel shall diligently prosecute its action against the property owner for removal of the illicit discharge. Under Section V (Reports on Compliance), the Town shall report on each legal action and the steps it has taken to escalate enforcement.

- d. Where the Town's IDDE investigation identifies a source of pollutants to the Town's MS4 for which infrastructure repair or correction will not eliminate the illicit discharge, and therefore the elimination of the source of pollutants requires implementation of stormwater best management practices ("BMPs"), the Town shall implement appropriate green infrastructure ("GI")/low-impact development ("LID") BMPs to remediate the pollutant source(s) to the maximum extent practicable. For the purposes of this Order, GI/LID shall mean the range of stormwater control measures that use natural or engineered systems to direct stormwater to areas where it can be stored, infiltrated, evapotranspired, or reused. GI/LID may include, but is not limited to, bioretention and extended detention wetland areas, vegetated swales, pocket wetlands, rain gardens, infiltration planters, green roofs, and porous and

permeable pavements. Where GI/LID BMPs are not implemented in such a situation, the Town shall provide a reason why GI/LID BMP implementation is not being implemented for each particular location.

- e. Within sixty (60) Days following the removal of a verified illicit discharge, or such longer time as permitted by EPA, the Town shall conduct additional dry- and wet-weather monitoring consistent with the approved IDDE Plan to confirm that the illicit discharge has been eliminated.
 - f. The Town shall comply with all schedules for removal for verified illicit discharges establish pursuant to Section IV, Paragraph 5.
- 6. By November 1, 2017, the Town shall complete an illicit discharge investigation of the MS4 Sub-Catchment area tributary to Winn Brook, in accordance with the Town's approved IDDE Plan.
 - 7. By November 1, 2017, the Town shall complete an investigation of the MS4 Sub-Catchment area tributary to Wellington Brook, in accordance with the Town's approved IDDE Plan.
 - 8. By November 1, 2018, the Town shall complete investigations of the MS4 Sub-Catchment area tributary to Spy Pond and the remaining MS4 Sub-Catchment areas tributary to Little Pond, in accordance with the Town's approved IDDE Plan.
 - 9. Within five (5) years of the Effective Date of the Order, IDDE investigations of all Sub-Catchment areas discharging from the Town's MS4 shall be conducted according to the Town's priority ranking order, and removal of all identified illicit discharges shall be completed except as circumstances require alternative schedules for removal of illicit discharges in accordance with Section IV, Paragraph 5(c)(ii).

CMOM Self-Assessment

10. By December 31, 2017, the Town shall submit for approval by EPA a Capacity, Management, Operation, and Maintenance (“CMOM”) Program Self-Assessment that contains the following:
 - a. An inventory of the Collection System that characterizes the age, condition, type of construction, and operation of each element where such information exists and provides for further assessments where warranted;
 - b. An assessment of the capacity of critical elements of the Collection System; and
 - c. An assessment of the Town’s current operation and maintenance practices regarding the Collection System, all of which shall comprise the “CMOM Program Self-Assessment.” The CMOM Program Self-Assessment shall be conducted in accordance with EPA’s “Guide for Evaluating Capacity, Management, Operation, and Maintenance (CMOM) Programs at Sanitary Sewer Collection Systems,” EPA 305-B-05-002, January 2005 (the “Guide for Evaluating CMOM Programs”), which is available on-line at http://www.epa.gov/npdes/pubs/cmom_guide_for_collection_systems.pdf. As part of the CMOM Program Self-Assessment, the Town shall complete and submit EPA Region 1’s “Wastewater Collection System CMOM Program Self-Assessment Checklist,” September 2009 (the “CMOM Program Self-Assessment Checklist”) (included as Attachment 6), which is a Region 1 modification of the checklist included in the Guide for Evaluating CMOM Programs. The CMOM Program Self-Assessment shall include an assessment of the Town’s Fats, Oils, and Grease (“FOG”) Program, the purpose of which is to ensure that fats, oils, and grease

accumulations are not impacting the Collection System capacity and contributing to sanitary sewer overflows (“SSOs”). For the purposes of this Order, SSOs shall mean any overflow, spill, diversion or release of wastewater from, or caused by, the Town’s Collection System. SSOs include, but are not limited to, discharges to waters of the United States from the Town’s Collection System, as well as any release of wastewater from the Town’s Collection System to public or private property that does not reach waters of the United States, including wastewater backups onto public streets, into buildings, or onto private property. The FOG Program shall, at a minimum, include the following, to the extent permitted by law:

- i. Specific requirements for the installation or upgrade of FOG control equipment at all food preparation establishments;
- ii. Provisions for periodic and random FOG equipment inspections by the Town;
- iii. Enforcement procedures for non-compliant facilities including, unless otherwise prohibited by law, the ability to assess fines for violations of the Town’s FOG Program and the Town’s sewer use ordinances;
- iv. A public education program targeted at FOG facilities;
- v. All necessary modification to local regulations, including the Town’s sewer use ordinances, to allow full enforcement of the FOG Program including standard operating procedures for escalating enforcement from warnings through penalties;
- vi. An explanation of which department(s) within the Town has (have) the authority and will be responsible for (a) managing, (b) inspecting, and (c) enforcing the FOG Program; and

- vii. A list of all food preparation establishments that includes average daily discharge volume.

CMOM Corrective Action Plan

- 11. By June 30, 2018, the Town shall submit for EPA approval a CMOM Corrective Action Plan that shall include the following:
 - a. a list of any deficiencies identified by the CMOM Program Self-Assessment;
 - b. a list of causes and contributing factors that led to SSOs or flow restrictions identified in the response to the CMOM Program Self-Assessment Checklist;
 - c. a description of the specific short and long-term actions that the Town is taking, or plans to take, to address any of the deficiencies identified during the completion of the CMOM Program Self-Assessment Checklist; and
 - d. a schedule for implementation of the CMOM Corrective Action Plan (the “CMOM Corrective Action Plan Implementation Schedule”).

Upon submission to EPA, the Town shall immediately begin to and shall continuously implement the CMOM Corrective Action Plan Implementation Schedule.

CMOM Program Document

- 12. By July 31, 2018, the Town shall consolidate all of the Collection System preventative and reactive maintenance programs and Collection System capital improvement plans into a single CMOM Program Document. The CMOM Program Document shall be maintained on a publicly-accessible website.

GIS Map

13. By January 31, 2018, the Town shall develop and submit for EPA approval a Geographic Information System (“GIS”) or other digital map of the Town’s Collection System and MS4 to facilitate the Town’s operation and maintenance of its Collection System and MS4. Thereafter, on each January 31st and July 31st through termination of this Order, the Town shall submit for EPA approval updated maps reflecting newly developed and/or discovered information, corrections, and modifications in conjunction with the Compliance Reports submitted pursuant to Section V (Reports on Compliance) of this Order. Such mapping shall be designed to provide a comprehensive depiction of key infrastructure and factors influencing the proper operation and maintenance of the Town’s Collection System and MS4, and each update shall include progress toward achieving that design. Mapping themes shall include: water resource and topographic features; sanitary, stormwater, and combined sewer infrastructure; prior investigation and study findings; cleaning and repair activities; and capital projects. The scale and detail of the maps shall be appropriate to facilitate a clear understanding of the Town’s Collection System and MS4. In addition, the mapping shall serve as a planning tool for the implementation of future remedial measures, shall delineate the extent of completed and planned investigations and corrections, and other related capital projects. To ensure legible mapping, information shall be grouped appropriately and represented thematically (*e.g.*, by color coding) with legends or schedules where necessary. Mapping shall be updated as necessary to reflect newly developed and discovered information, corrections, or modifications. The following information and features shall be available to be included in the mapping:

- a. Base Map
 - i. Municipal boundaries;
 - ii. Street names;
 - iii. Private property delineations;
- b. Water Resources and Topographic Features
 - i. Water bodies and watercourses identified by name and all use impairments identified in Massachusetts' most recent Integrated List of Waters prepared to fulfill reporting requirements of Section 303(d) of the Act;
 - ii. Topography;
 - iii. Infrastructure;
- c. MS4
 - i. Outfalls;
 - ii. Pipes (including size and material);
 - iii. Open channel conveyances (*e.g.*, swales, ditches);
 - iv. Catch basins;
 - v. Manholes;
 - vi. Inter-municipal connections;
 - vii. Municipally-owned stormwater treatment structures (*e.g.*, detention and retention basins, infiltration systems, bioretention areas, water quality swales, gross particle separators, oil/water separators, or other proprietary systems);
 - viii. Delineation of Sub-Catchment areas for each outfall;
- d. Collection System
 - i. Pipes (including size, material, and approximate age);

- ii. Flow type (*e.g.*, pressure, vacuum, gravity);
- iii. Manholes;
- iv. Pump stations (public and private), and other key sewer appurtenances;
- v. Locations of interceptor sewers;
- vi. Delineation of Sewershed areas for each connection to the interceptor sewer;
- vii. Sewersheds or sewer alignments experiencing inadequate level of service (with indication of reason(s));
- viii. Common/twin-invert manholes or structures (*i.e.*, structures serving or housing both separate storm and sanitary sewers);
- ix. Collection System alignments served by known or suspected underdrain systems;
- x. Sewer alignments with common trench construction and major crossings representing high potential for communication during high groundwater conditions;
- xi. Investigations, remediation, and capital projects completed for the Town's MS4 and Collection System in accordance with this Order, including:
 - 1. Alignments, dates, and thematic representation of work completed (with legend) of past investigations (*e.g.*, flow isolation, dye testing, closed-circuit television, etc.);
 - 2. Locations of suspected, confirmed, and eliminated illicit discharges (with dates and flow estimates) to the Town's MS4;
 - 3. Alignments and dates of past and planned infrastructure remediation projects;

4. Planned Collection System and MS4 capital projects; and
 5. Proposed phasing of future capital projects.
14. Within one year after the 2016 MS4 Permit or any future NPDES permit that may be issued, or made applicable, to the Town in the future becomes effective upon the Town, the Town shall submit for EPA approval plans for the design, construction, operation, and maintenance of any additional remedial measures that would be required in order for the Town to comply with such future NPDES permit and the Act in the form of, if necessary, a Revised IDDE Plan, a Revised CMOM Corrective Action Plan, a Revised GIS Map, and any additional plans for the MS4 and Collection System. If a Revised IDDE Plan, a Revised CMOM Corrective Action Plan, a Revised GIS Map, and any additional plans for the MS4 and Collection System are not necessary, the Town shall submit for EPA approval a letter explaining why such revised report or plan(s) or any additional plans for the MS4 and Collection System are not necessary. Any revised report or plan(s) shall include and emphasize the use of all appropriate currently available GI/LID techniques. Where GI/LID BMPs are not recommended for implementation, the Town shall provide a reason why such BMP implementation is not being recommended for each particular location. Any revised report or plan(s) shall also include a schedule that shall provide for the required remedial measures to be performed as expeditiously as possible. Upon EPA approval, these revised report(s) or plan(s) or any additional plans for the MS4 and Collection System shall be implemented in accordance with the schedule(s) set forth therein and shall replace the original plans approved under this Order.

V. REPORTS ON COMPLIANCE

1. Beginning on January 31, 2018, and on each January 31st and July 31st thereafter through termination of this Order, the Town shall submit to EPA for review Compliance Reports from the Effective Date to the date of the Compliance Report or, following the first such Compliance Report, for the previous six-month period (January 1st through June 30th, and July 1st through December 31st) (“Reporting Period”), with a copy to MassDEP. Each Compliance Report shall include, at a minimum, the following items:
 - a. A listing of all illicit discharges identified during the previous Reporting Period, including the following:
 - i. The estimated flow from each illicit discharge;
 - ii. The actions taken by the Town to remove each illicit discharge;
 - iii. The date each illicit discharge was removed;
 - iv. The cost of removing each illicit discharge;
 - v. The resulting volume removed from the Town’s MS4 under the IDDE Plan during the Reporting Period for each individual illicit discharge, cumulative for the Reporting Period, and cumulative for all illicit discharges to date;
 - vi. An Attachment that contains a summary listing of the address, associated volume of sewage and/or industrial/commercial wastewater, and date of elimination for all illicit discharges cumulative to date; and
 - vii. An Attachment that contains a listing of each Sub-Catchment area, the percentage within each Sub-Catchment area investigated during the Reporting Period, and the cumulative percentage of IDDE investigations completed for each Sub-Catchment area.

- b. A chronological list of each of the following categories of SSO events that occurred during the Reporting Period: all releases with a reasonable potential to reach surface waters such as releases to streets or areas with storm drain catch basins; Building/Private Property Backups; and citizen reports of SSO events, including Building/Private Property Backups. Each of the lists shall include, but need not be limited to, the following information, if known:
- i. The date and time(s) when each event was discovered/reported and was stopped;
 - ii. The location by address;
 - iii. The final disposition of the SSO, *e.g.*, whether it discharged to the ground, street, or surface water, including: the name of the water body, street, or intersecting streets nearest the SSO; and, if the release occurred to the ground or street, the name of the nearest downgradient MS4 catch basin and the name of the receiving water of the MS4;
 - iv. The source of notification (*e.g.*, property owner, general public, field crew, police);
 - v. The cause(s) of the event (*e.g.*, vandalism, sediments, roots, grease, mechanical, electrical and structural failures, capacity issues);
 - vi. A determination of whether the event was caused by blockages or hydraulic limitations within the publicly-owned portion of the Collection System;
 - vii. The measures taken to stop the event;
 - viii. The estimated gallons of wastewater released, the estimated gallons of wastewater that reached a surface water, and the bases for those estimates; and

- ix. The date of the last SSO that occurred at the event location.
 - c. A GIS map or figure, consistent with the requirements of Section IV, Paragraph 13, indicating the location of each illicit discharge and SSO event including a Building/Private Property Backup;
 - d. A description of the activities undertaken during the Reporting Period to address the CMOM Program Self-Assessment and CMOM Corrective Action Plan;
 - e. A description of any additional activities undertaken during the Reporting Period directed at achieving compliance with this Order;
 - f. A description of any proposed changes to the remedial measures;
 - g. An identification of all plans, reports, and other submissions required by this Order that the Town completed and submitted during the Reporting Period;
 - h. A description of the activities the Town plans to undertake during the six months following the Reporting Period in order to achieve compliance with this Order; and
 - i. An identification of any noncompliance with the requirements of this Order. If any noncompliance is reported, the notification shall include the following information:
 - i. A description of the noncompliance;
 - ii. A description of any actions taken or proposed by the Town to comply with any lapsed requirements;
 - iii. A description of any factors that tend to explain or mitigate the noncompliance; and
 - iv. The date by which the Town will perform the required action.
2. The reporting requirements set forth in this Section do not relieve the Town of its obligation to submit any other reports or information as required by federal,

Commonwealth or local law or regulation. EPA reserves the right to review and require modifications to the above reporting requirements.

VI. NOTIFICATION PROCEDURES

1. Where this Order requires a specific action to be performed within a certain time frame, the Town shall submit a written notice of compliance or noncompliance with each deadline. Notification shall be mailed within fourteen (14) business days after each required deadline. The timely submission of a required report shall satisfy the requirement that a notice of compliance be submitted.
2. If noncompliance is reported, notification shall 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 lapsed schedule requirements;
 - c. A description of any factors that explain or mitigate the noncompliance; and
 - d. An approximate date by which the Town will perform the required action.
3. After a notification of noncompliance has been filed, compliance with the past-due requirement shall be reported by submitting any required documents or providing EPA with a written report indicating that the required action has been achieved.
4. Submissions required by this Order shall be in writing and shall be mailed to the following addresses:

United States Environmental Protection Agency
Region I – New England
5 Post Office Square - Suite 100
Boston, MA 02109-3912
Attn: Todd Borci (Mail Code: OES04-4)

And to:

United States Environmental Protection Agency
Region I – New England
5 Post Office Square - Suite 100
Boston, MA 02109-3912
Attn: Kevin Pechulis (Mail Code: OES04-4)

And to:

Massachusetts Department of Environmental Protection
Northeast Region Main Office
205B Lowell Street
Wilmington, MA 01887
Attn: Kevin Brander

In addition, electronic copies of submissions shall be emailed to the following addresses:

borci.todd@epa.gov and kevin.brander@state.ma.us. 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 Small MS4 General Permit. The Small MS4 General Permit remains 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, as amended, for any violation cited in this Order.
2. This Order shall become effective upon signature by both parties (the “Effective Date”).
3. Any material modification to the terms of this Order shall be by written agreement of the Parties. Any nonmaterial modifications to the terms of this Order, such as approval of modifications to submissions to EPA or the due dates of such submissions, shall be effective upon written approval from EPA.

4. The Town waives any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which the Respondent may have with respect to any issue of fact or law set forth in this Order, including, but not limited to, any right of judicial review of the Section 309(a)(3) Compliance Order under the Administrative Procedure Act, 5 U.S.C. §§ 701-708, but not with respect to its compliance with this Order or issues or facts not covered within this Order.

Date

Susan Studlien, Director
Office of Environmental Stewardship
Environmental Protection Agency, Region I

Consented to by:

5/15/17
Date


Phyllis Marshall, Interim Town Administrator
Town of Belmont, Massachusetts