




OFFICE OF COMMUNITY DEVELOPMENT

MEMO

MEMO TO: Thomas G. Younger, Town Administrator
Board of Selectmen

FROM: Glenn R. Clancy, P.E. 

SUBJECT: Notice of Noncompliance

DATE: July 10, 2007

On Friday July 6, 2007 I received from the Department of Environmental Protection via certified mail a Notice of Noncompliance. The Notice cites violations to 314 CMR: Division of Water Pollution Control. Specifically, locations in the Wellington Brook watershed and the Winn Brook watershed were tested and found to be in violation of water quality standards. In total, six locations were tested with five being located in the Wellington Brook watershed.

As you are aware the Town of Belmont is currently under another Notice of Noncompliance issued in January 2000 for similar violations. The Town has spent over \$2.5 million dollars to investigate and correct deficiencies in the sanitary sewer system that were discovered as a result of that Notice. A large portion of the Winn Brook watershed was evaluated and repaired under this original Notice.

The Mystic River Watershed Association (MyRWA) has been actively performing water quality testing in Belmont for years. In fact, it appears their test results have led directly to this most recent Notice of Noncompliance. They repeatedly inquired about the Wellington Brook watershed and our plans to address water quality in the watershed. I informed MyRWA on several occasions that the Town would turn its attention to the Wellington Brook watershed after the January 2000 Notice of Noncompliance work was substantially complete. This is exactly what has happened. Last winter, with the execution of a \$1.4 million dollar construction contract for sewer repairs connected to the first Notice, I also executed a contract for water quality sampling in the Wellington Brook watershed. This sampling was complete two weeks ago and I am waiting for the summary report from our sewer consultant Fay Spofford and Thorndike. Upon receipt of this report I will be scheduling a meeting with DEP representatives to discuss this most recent Notice.

Please feel free to contact me if you would like to discuss this matter further. I will forward additional information when it becomes available.



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
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Lieutenant Governor

IAN A. BOWLES
Secretary

ARLEEN O'DONNELL
Commissioner

July 2, 2007

Mr. Glen Clancy, P.E.
Director of Community Development
19 Moore Street
Belmont, MA 02478

2007 JUL -6 AM 11:59
COMMUNITY
DEVELOPMENT

**RE: Wastewater Discharge without a permit
NOTICE OF NONCOMPLIANCE – NON-NE-07-1N005**

NOTICE OF NONCOMPLIANCE

**WARNING! THIS IS AN IMPORTANT NOTICE. FAILURE TO ADEQUATELY
DEAL WITH THIS NOTICE COULD RESULT IN SERIOUS LEGAL
CONSEQUENCES.**

Dear Mr. Clancy:

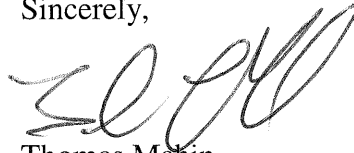
On May 14 and May 24, 2007, staff from the Massachusetts Department of Environmental Protection Northeast Regional Office ("MassDEP") observed conditions and took water quality samples at various locations in Winn's Brook and Wellington Brook in Belmont. The sampling results indicated that both Winn's Brook and Wellington Brook violated water quality standards during dry weather conditions, with a number of locations in Wellington Brook well in excess of the secondary contact standard. These MassDEP results are consistent with sampling data collected by the Mystic River Watershed Association, and data collected by the Town as part of your program to identify and remove illegal wastewater connections to the stormdrain system. MassDEP also confirmed that bacteria counts remain considerably above the water quality standard at the Blanchard Avenue storm drain discharging to Blair Pond (identified as WelB01p in the attached table), and the Town of Belmont appears to be contributing pollutant loads to this drain (owned by Cambridge).

Actions by the Town to identify and remove pollutant sources in these watersheds and achieve compliance with the water quality standards have not been successful, and more aggressive actions are needed. Discharge of wastewater to the stormdrain system are not authorized under the Town's Municipal Separate Storm Sewer System permit, and constitute a discharge of wastewater without a permit.

Attached hereto is a written description of (1) each activity referred to above, (2) the requirements violated, (3) the actions the Department now wants you to take, and (4) the deadline for taking such actions.

If you have any questions regarding this matter, please contact Kevin Brander of my staff at (978) 694-3236.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Mahin', written over a horizontal line.

Thomas Mahin
Acting Deputy Regional Director
Bureau of Resource Protection

Cc: Todd Borci, US EPA Region One
Bill Dunn, Division of Watershed Management, DEP/CERO
Owen O'Riordan, Cambridge DPW

NOTICE OF NONCOMPLIANCE
NONCOMPLIANCE SUMMARY

NAME OF ENTITY IN NONCOMPLIANCE:

Town of Belmont

LOCATION WHERE NONCOMPLIANCE OCCURRED OR WAS OBSERVED:

Wellington Brook, Winn's Brook
Belmont, MA

DATE WHEN NONCOMPLIANCE OCCURRED OR WAS OBSERVED:

May 14, 2007 and May 24, 2007
Data Report Attached

DESCRIPTION OF NONCOMPLIANCE:

Discharge of wastewater without a permit

DESCRIPTION OF THE REQUIREMENT(S) NOT COMPLIED WITH:

A. 314 CMR 3.03(1): Discharges Requiring A Permit

No person shall discharge pollutants to surface waters of the Commonwealth without a currently valid permit from the Department pursuant to M.G.L. c. 21, § 43 and 314 CMR 3.00, unless exempted in 314 CMR 3.05. No person shall construct, install, modify, operate or maintain an outlet for such a discharge or any treatment works required to treat such discharge without having first obtained a discharge permit in accordance with 314 CMR 3.03(1) and written approval from the Department for such activity, unless exempted pursuant to 314 CMR 3.05. The Department may require any person to provide information as the Department may reasonably require to determine whether that person is subject to M.G.L. c. 21, §§ 26 through 53 or to 314 CMR 3.00 or has violated the M.G.L. c. 21, §§ 26 through 53 or 314 CMR 3.00. The Department may require any person that it determines is subject to or in violation of M.G.L. c. 21, §§ 26 through 53 or 314 CMR 3.00 to apply for and obtain an individual permit, or if applicable, apply for and obtain coverage under a general permit under 314 CMR 3.06. Any person who discharges or proposes to discharge pollutants to surface waters of the Commonwealth may apply for an individual permit or, if applicable, apply to obtain coverage under a general permit under 314 CMR 3.06, by filing the appropriate application forms in accordance with 314 CMR 3.00 and 2.00.

B. 314 CMR 12.03(8) provides:

No person responsible for the operation of treatment works shall permit wastes to bypass the facility or any portion, unit of part, thereof, except as may be necessary under existing design limitation as approved by the Department, unless in accordance with the provisions of a discharge permit. If bypassing due to an emergency condition occurs, the Department shall be notified immediately. Such notification or its acknowledgement shall not be construed as permission by the Department to discharge wastes in contravention of the Massachusetts water quality standards.

C. Part I, Section B.2(k) of the Town's MS4 (General) Permit provides:

The following stormwater discharges are not authorized by this permit:

(k) Discharges that would cause or contribute to instream exceedance of water quality standards. The storm water management program must include a description of the BMPs that will be used to ensure that this will not occur. EPA, MA DEP, or NH DES may require corrective action or an application for an individual permit or alternative general permit if an MS4 is determined to cause an instream exceedance of water quality standards.

CORRECTIVE ACTIONS TO TAKE AND THE DEADLINE FOR TAKING SUCH ACTIONS:

The Town of Belmont must provide to MassDEP by September 1, 2007:

- A. A summary of all work performed to identify and remove illegal wastewater connections to the storm drain systems, in the Winn's Brook and Wellington Brook drainage areas.
- B. A plan and schedule for proceeding with work in the Winn's Brook and Wellington Brook watersheds to identify and eliminate wastewater sources discharging to the Town's stormdrain system. The Plan must include:
 - A map of the drainage system in these watersheds;
 - A plan and schedule for investigating and identifying pollutant sources in the drain system, using inspections, sampling, TV inspection, dye testing, smoke testing, or other means to confirm pollutant sources.
 - A schedule and budget for proceeding with work to remove identified wastewater sources from the storm drain system

In developing the plan and schedule the Town should consider the July 2005 Charles River Illicit Discharge Detection & Elimination Protocol from EPA (attached), and

the Illicit Discharge Detection and Elimination Manual issued by the New England Interstate Water Pollution Control Commission (and available online at http://www.neiwpcc.org/neiwpcc_docs/iddmanual.pdf)

- C. Copies of any sewer system evaluations, infiltration/inflow studies, or other engineering analyses that were done for the Town to assess the sewer and drainage system capacity and conditions, including any recommendations for system improvements.
- D. A map of the town's sewer system, including connections to MWRA interceptors, and locations of flow meters.

Submit all information required under this Notice of Noncompliance to:

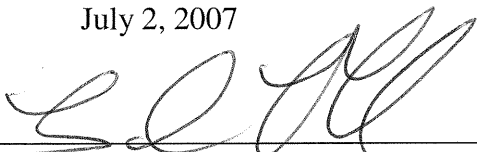
Kevin Brander, P.E.
Wastewater Management Section Chief
Department of Environmental Protection
205B Lowell Street, Wilmington, MA 01887

IMPORTANT INFORMATION

A civil administrative penalty may be assessed for every day that you are in noncompliance with the requirements referred to in this notice as provided in G.L.C/ 21A, § 16.

Notwithstanding this Notice of Noncompliance, the Department reserves the right to exercise the full extent of its legal authority in order to achieve full compliance with all applicable requirements including, but not limited to, criminal prosecution, court-imposed civil penalties, or civil administrative penalties

Issuance/date mailed: July 2, 2007



Thomas Mahin, Acting Deputy Regional Director

Certified mail #: 7006 2760 0000 4035 1225

Dry Weather *E. coli* Concentrations in the Winn's Brook, and Wellington Brook Sub-watersheds
(MPN/100mL), Boston Harbor - Mystic Basin

Site ID	5/14/2007	5/24/2007	Type	Waterbody	Town	Site Description
WinB01	318	727	stream	Winn's Brook	Belmont	Winn's Brook: outlet to Little Pond, access via path between Larch Circle & Sandrick Rd. off Brighton St., same as MyRWA WIB001
WelB01p	>24,196	1,095	pipe	Wellington Brook	Belmont	Wellington Brook: outfall to Blair Pond where Wellington Br. emerges fr Blanchard Rd/Brighton St, S rectangular outfall, same as MyRWA CAMD34
WelB02	5,172	1,376	stream	Wellington Brook	Belmont	Wellington Brook: inflow to Blair Pond where Wellington Br. emerges fr Blanchard Rd/Brighton St, S & middle circular 48" pipe, same as MyRWA BEL08S
WelB03	20	41	stream	Wellington Brook	Belmont	Wellington Brook: inflow to Blair Pond where Wellington Br. emerges fr Blanchard Rd/Brighton St, N & side circular 48" pipe, same as MyRWA BEL08N
WelB04	4,884	6,131	stream	Wellington Brook	Belmont	Wellington Brook: inflow to Claypit Pond @ SW corner by Concord Ave where brook emerges from underground, sample @ lip above dropoff, same as MyRWA WEB007
WelB05	19,863	7,270	stream	Wellington Brook	Belmont	Wellington Brook: emerging from under Common St., same as MyRWA WEB013