



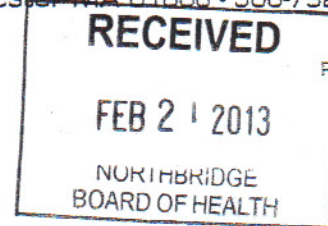
Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Central Regional Office • 627 Main Street, Worcester, MA 01608 • 508-792-7650

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Lieutenant Governor



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Secretary

KENNETH L. KIMMELL  
Commissioner

DATE: February 15, 2013

West End Creamery, Inc.  
481 Purgatory Road  
Northbridge, MA. 01588

RE: PWS Town: **Northbridge**  
PWS Name: **West End Creamery, Inc.**  
PWSID#: **2216007**  
Program: Enforcement  
• 310 CMR 22.26  
Ground Water Rule (GWR)

ATTN: Mr. Gregory Vandenakker

### Notice of Noncompliance

Dear Public Water Supplier:

**ENF#: NON-CE-13-5D003**

Please note that the signature on this cover letter indicates formal issuance of the attached document.

- NOTICE OF NONCOMPLIANCE VIOLATION SUMMARY REPORT

Sincerely,

Andrea Lemerise  
Acting Section Chief  
Drinking Water Program

cc: (no attachment) DWP/Boston Office

cc: (w/attachments)

Certified Operator: Erik Jensen, WhiteWater Inc.  
Local Board of Health  
Cheryl Poirier, DEP, CERO, Enforcement Coordinator  
Mike Maher, DEP, CERO, Office of Enforcement Copy  
Kristin Divris, DEP, CERO – WS "File Copy"  
WS Enforcement Book Copy  
W:\WS\DWP SCANNED DOCUMENT ARCHIVE

Archive File Name: Y:\DWP Archive\CERO\Northbridge-2216007-WQ-GWR-ENF-(NON-CE-13-5D003)-2013-02-15

**NOTICE OF NONCOMPLIANCE  
VIOLATION SUMMARY REPORT**

THIS IS AN IMPORTANT NOTICE. FAILURE TO TAKE ADEQUATE ACTION IN RESPONSE TO THIS NOTICE COULD RESULT IN SERIOUS LEGAL CONSEQUENCES.

ISSUED: **FEBRUARY 15, 2013**

PWS TOWN: **NORTHBRIDGE**

PWS NAME: **WEST END CREAMERY, INC.**

PWSID#: **2216007**

ENF#: **NON -CE-13-5D003**

The Massachusetts Department of Environmental Protection (MassDEP or the Department), Drinking Water Program is in receipt of monitoring results indicating fecal contamination in your source water (well). MassDEP has determined that you have failed to perform corrective actions identified in accordance with the requirements of MassDEP Drinking Water Regulations 310 CMR 22.00. As such, your Public Water System (PWS) is in violation of the following requirements:

- Failure to meet the treatment technique requirements for ground water systems, which is in violation of 310 CMR 22.26(4)(a)1. and 310 CMR 22.26(4)(a)2.
- Failure to complete corrective action within 120 days of receiving Department direction on September 16, 2011 that a fecal indicator-positive sample requires corrective action, which is in violation of 310 CMR 22.26(4)(a)5.a.
- Failure to conduct Tier 2 public notice within 30 days for a GWR treatment technique violation, which occurred on **January 14, 2012**, in violation of 310 CMR 22.26(5)(d), 310 CMR 22.16(3)(b)1.a.
- Failure to submit Emergency Response Report within 30 days of a Level III Emergency (E.coli / enterococci detection) or higher emergency occurring on **September 9, 2011, October 7, 2011, September 9, 2012, and October 1, 2012**, in violation of 310 CMR 22.15(9)(c).

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The following regulatory citations are pertinent to these violations:

310 CMR 22.26(4) Treatment Technique Requirements for Ground Water Systems.

(a) Ground water systems with significant deficiencies or source water fecal contamination.

1. The treatment technique requirements of 310 CMR 22.26(4) must be met by ground water systems when a significant deficiency is identified or when a ground water source sample collected under 310 CMR 22.26(3)(a)4. is fecal indicator-positive.



2. If directed by the Department, a ground water system with a ground water source sample collected under 310 CMR 22.26(3)(a)2., (3)(a)5., or (3)(b) that is fecal indicator positive must comply with the treatment technique requirements of 310 CMR 22.26(4).
5. Within 120 days (or earlier if directed by the Department) of receiving written notification from the Department of a significant deficiency, written notice from a laboratory that a ground water source sample collected under 310 CMR 22.26(3)(a)4. was found to be fecal indicator positive, or direction from the Department that a fecal indicator-positive sample collected under 310 CMR 22.26(3)(a)2., (3)(a)5., or (3)(b) requires corrective action, the ground water system must either:
  - a. Have completed corrective action in accordance with applicable Department plan review processes or other Department guidance or direction, if any, including Department-specified interim measures; or
  - b. Be in compliance with a Department-approved corrective action plan and schedule subject to the conditions specified in 310 CMR 22.26(4)(a)5.b.i. and (a)5.b.ii.

310 CMR 22.26(5) Treatment Technique Violations for Ground Water Systems.

(b) Unless the Department invalidates a fecal indicator-positive ground water source sample under 310 CMR 22.26(3)(d), a ground water system is in violation of the treatment technique requirement if, within 120 days (or earlier if directed by the Department of meeting the conditions of 310 CMR 22.26(4)(a)1. or (4)(a)2., the system:

1. Does not complete corrective action in accordance with any applicable Department plan review processes or other Department guidance and direction, including Department-specified interim measures, or
2. Is not in compliance with a Department-approved corrective action plan and schedule.

(d) Ground water system must give public notification under 310 CMR 22.16 for the treatment technique violations specified in 310 CMR 22.26(5)(a) through (c).

310 CMR 22.16: Public Notification Requirements

(3) Tier 2 Public Notice:

(a) Violations or Situations Requiring Tier 2 Public Notice.

1. All violations of the MCL, MRDL, and treatment technique requirements, except where a Tier 1 notice is required under 310 CMR 22.16(2)(a): Table 3 or where the Department determines that a Tier 1 notice is required.
4. Failure to take corrective action or failure to maintain at least 4-log treatment of viruses (using inactivation, removal, or a Department-approved combination of 4-log virus inactivation and removal) before or at the first customer under 310 CMR 22.26(4)(a).

(b) Timeframe Required for Tier 2 Notification.

1.
  - a. Each supplier of water shall provide the public notice as soon as practical, but no later than 30 days after the system learns of the violation.
  - b. If the public notice is posted, the notice shall remain in place for as long as the violation or situation persists, but in no case for less than seven days, even if the violation or situation is resolved.



310 CMR 22.15: General Reporting Requirements

(9) Emergency Reporting.

(c) Unless otherwise determined by the Department in writing, a water supplier must file an Emergency Response Report **within 30 days** of any of the emergencies identified in 310 CMR 22.04(13)(a), a Level III or higher emergency, as described in Massachusetts Drinking Water Guidelines and Policies for Public Water Supplies, Appendix O – Handbook for Water Supply Emergencies, or any cross connection problem that results in contamination of the water provided by the PWS. The Emergency Response Report must include the following information at a minimum:

1. Detailed timeline of the incident and response;
2. Evaluation of the incident;
3. Recommendations for improvements to emergency response planning, training and communication;
4. Recommendations for improvements to water system operations, staffing and budget;
5. Timeline for making all recommended changes;
6. Updated emergency response plan except for those items that are security sensitive; and
7. A completed Emergency Response Checklist. (A copy of the Emergency Response Checklist form is contained in the Massachusetts Drinking Water Guidelines and Policies for Public Water Supplies, Appendix O - Handbook for Water Supply Emergencies, Attachment E).

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West End Creamery (PWS) experienced its first GWR Tier 1 event on September 9, 2011 with a single, E.coli bacteria positive sample collected on September 8, 2011 from its one source, Well #1 (01G). An initial exterior well assessment performed by PWS's contract operators revealed no obvious damage or other significant deficiencies at the wellhead. Subsequently, repeat source samples collected on September 9, 2011 were also E.coli bacteria positive and MassDEP directed the PWS to take corrective actions. These included at a minimum, public notification, raw water microscopic particulate analysis (MPA) due to flooding from an adjacent pond, attainment of 1.0-2.0 mg/L chlorine residual in the distribution system, daily to weekly chlorine residual monitoring, completion and submission of both GWR Form A and a written corrective action plan, and an interior inspection of the well by camera.

As the PWS continued to experience four additional GWR Tier 1 events, the Department required PWS representatives meet with MassDEP Drinking Water Program staff on October 18, 2012 to review GWR noncompliance and establish corrective actions necessary for long-term compliance with the Massachusetts Drinking Water Regulations. PWS immediately submitted a corrective action plan on October 19, 2012 that identified the schedule for camera inspection of the well, camera inspection report submission, and recommendations for actions based upon the report. Additionally, PWS submitted all outstanding Emergency Response Reports as required. MassDEP subsequently approved the corrective action plan, and an internal camera inspection of the well was performed by McKinstry Artesian Well Service, Inc. on October 23, 2012. Following MassDEP review of the well inspection report submitted on October 30, 2012, MassDEP approved installation of a jaswell seal within the source between 40' to 45' to effectively seal the uppermost fracture and potentially eliminate the contamination. This approval was issued on December 3, 2012.

Throughout each of the GWR events, Tier 1 public notification (PN) containing the required health language was conducted and submitted within the appropriate timeframes, and meet the PN requirements of 310



CMR 22.16 and the General Reporting requirements of 310 CMR 22.15. However, the required Tier 2 PN cited above in this document, indicating the PWS' failure to take corrective action within the required timeframe, was not performed.

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**DESCRIPTION OF THE ACTION TO BE TAKEN NOW, AND THE DEADLINE FOR TAKING SUCH ACTION:**

1. **Within 30 days** upon receipt of this notice, the PWS shall notify persons served by its system of its failure to comply with GWR treatment technique requirements by:
  - a. Continuous posting of the attached public notice in conspicuous locations within each building served by the PWS until MassDEP directs otherwise. Posting is to continue until acceptable bacteriological analyses, as determined by MassDEP, are received by MassDEP.
  - b. The PWS must also use any other method reasonably calculated to reach other persons served by the system if they would not normally be reached by the posting.
  - c. Submit a copy of the public notice and public notice certification statement to MassDEP and the local board of health.
  
2. **The PWS shall continue** to adhere to the approved corrective action plan and interim actions as prescribed by MassDEP, including:
  - a. Installation of a jaswell seal in 2216007-01G placed between 40' to 45' by **March 31, 2013**.
  - b. The PWS shall submit a written request to MassDEP for approval to open for the 2013 season by **March 31, 2013**.
  - c. Upon written MassDEP approval of PWS start-up and opening in 2013, disinfection levels shall be applied and maintained to meet a minimum of 2 mg/L free chlorine, and shall continue until further notice from MassDEP.
  - d. The PWS shall measure, record and report to MassDEP, each week, chlorine residuals with the collection of each bacteria sample, to ensure the minimum dosage level is met.
  - e. The PWS shall report weekly chlorine dosages applied to the system on the monthly MassDEP chemical treatment report form.
  - f. An appropriately licensed drinking water operator shall supervise the disinfection system. The primary operator shall conduct a minimum of weekly site visits for as long as disinfection remains in operation.

Please note that failure to maintain compliance with the approved corrective action plan, or Department specified interim actions, constitutes a treatment technique violation under the Ground Water Rule.

3. **Within 14 days** upon installation of the jaswell seal, and proper well disinfection and flushing, the PWS shall collect two rounds of five, raw water, source samples on separate days for the analysis of Total coliform and E. coli bacteria. Results shall be submitted to MassDEP as soon as they are available.
  
4. **Within 7 days** of MassDEP written approval for the PWS 2013 opening, the PWS shall perform weekly sampling for Total coliform bacteria at both the raw water sample tap (RW-01G), and the routine distribution sample tap (RS001) until otherwise directed by MassDEP. Results shall be submitted to MassDEP within the shorter of the following time periods:

- a. The first ten days following the month in which results are received or
  - b. The first ten days following the end of the required monitoring period as stipulated by the MassDEP.
5. **Within 48 hours** of any fecal indicator positive source sample result received after installation of the jaswell seal, the PWS shall:
- a. Submit a written, revised, corrective action plan for MassDEP approval, identifying a detailed timeline for movement of the seal to between 70' and 80' as secondarily recommended within the well inspection report, or other remedial actions.
  - b. Submit written monthly updates to MassDEP until the situation is resolved.

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Department records show this event is the **first GWR TT** noncompliance of this type to occur for the source (2216007-01G). Please note, the Department is keeping a record for this and all other violations and it will be reported to the U.S. EPA as required. Systems designated as a significant noncomplier (SNC) according to EPA regulations, are subject to federal enforcement action.

If you fail to take any action the Department now wants you to take by the prescribed deadline, or if you otherwise fail to remain in compliance in the future with requirements applicable to you, you could be subject to legal action including, but not limited to, criminal prosecution, court-imposed civil penalties, or civil administrative penalties assessed by the Department. A civil administrative penalty may be assessed for every day from now on that you are in noncompliance with the requirements referred to above.

You are hereby notified to comply with 310 CMR 22.00 and to stay in compliance with said regulations in the future. If you have any questions or wish to discuss this matter, please contact Kristin Divris of this office at (508) 849-4028.

**Enclosures:**

- Tier 2 Public Notification, Instructions and Certification Form



## Instructions for GWR Failure to Take Corrective Action Within Required Time Frame Notice – Template

A system's failure to take corrective action within the required timeframe or be in compliance with a state approved corrective action plan and schedule for a fecal indicator-positive ground water source sample or significant deficiency under the Ground Water Rule (GWR) is a treatment technique violation and requires Tier 2 notification. You must provide public notice to persons served as soon as practical, but within 30 days after you learn of the violation. You must issue a repeat notice every three months for as long as the violation persists. Check with your MassDEP regional office to make sure you meet all requirements.

If this notice is for failing to address a fecal indicator-positive source sample, a Tier 1 notice for detecting a fecal indicator in the source water should have already been issued. Consider providing the history of the situation in this notice (i.e., what events lead to requiring corrective action) to avoid confusing the public when this second notice is issued.

Non-community systems must use one of the following methods (310 CMR 22.16 (3)(c)):

- Posting in conspicuous locations (minimum of 7 days and must remain until resolved).
- Hand delivery
- Mail

Your system must also use *another* method reasonably calculated to reach others if they would not be reached by the first method (310 CMR 22.16 (3)(c)). Such methods could include newspapers, e-mail, or delivery to community organizations. If you mail, post, or hand deliver, print your notice on letterhead, if available. Newspaper notices shall be a minimum of 1-day advertisement (legal ads are not acceptable).

The notice on the following page is appropriate for hand delivery or mail. However, you may wish to modify it before using it for posting or other publication. If you do, you must still include all the required elements including mandatory language.

### Mandatory Language

Mandatory language on health effects language (310 CMR 22.16 (5)(d)) must be included as written and is presented in this notice in *italics*.

This template also includes mandatory language encouraging further distribution to persons who may not have received the notice and is presented in this notice in italics. However, if you post the notice such that all possible users have access to the notice, this language is not applicable and can be omitted.

### Corrective Action

In your notice, describe corrective actions you are taking. Listed below are some steps commonly taken by water systems with Ground Water Rule treatment technique violations. You can use one or more of the following statements, if appropriate, or develop your own text:

- Although we did not meet our deadline, we are now in consultation with the state to develop a corrective action plan.
- The [source of contamination/significant deficiency] has been identified and addressed.
- We have implemented a short-term plan to address the immediate issue while we pursue the long-term solution.

### After Issuing the Notice

Make sure to send a copy of each type of notice and a certification that you have met all the public notice requirements to your regional office of the DEP Drinking Water Program and local Board of Health within 10 days after issuing the notice (310 CMR 22.15 (3)(b)).

For repeat notices, you should state how long the violation has been ongoing and remind consumers of when you sent out the previous notice. If you are making progress in installing filtration, describe it. It is a good idea to inform your consumers when the violation has been resolved, especially if you have regular customers.



# DRINKING WATER NOTICE

## West End Creamery

Located in Northbridge, Massachusetts

### Failed to Fully Correct Significant Issues Concerning the Drinking Water System within Required Time Frame

Our water system was required to take action by January 14, 2012 to address multiple fecal-indicator samples collected from our well that serves this facility. However, we failed to take action by the required date.

#### WHAT THIS MEANS

Although this is not an emergency, as our customers, you have a right to know what this means and what we are doing to correct the situation. Due to bacterial contamination in our source water prior to treatment with disinfection, we were required to inspect our well by October 31, 2011 in an effort to determine the potential source of bacterial contamination. Although some corrective actions were made, we did not inspect the well as required until October 23, 2012. We are now taking corrective actions to repair our well, continue to disinfect the water as required by the Massachusetts Department of Environmental Protection (MassDEP), and have increased our sampling frequency for bacteria to ensure that the corrective actions taken are effective. However, until the problem is completely rectified, there is an increased chance that disease-causing organisms could contaminate the water supply.

*Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites, which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches. These symptoms, however, are not caused only by organisms in drinking water. If you experience any of these symptoms and they persist, you may want to seek medical advice.*

**You may drink the water.** However, if you have specific health concerns, consult your doctor. If you have a severely compromised immune system, have an infant, are pregnant, or are elderly, you may be at increased risk and should seek advice from your health care providers about drinking this water.

#### STEPS WE ARE TAKING

**Our system is taking the following corrective actions:**

Although we did not meet our deadline, we are now in consultation with MassDEP and are following an approved corrective action plan. We have implemented a short-term plan to address the immediate issue while we pursue the long-term solution.

We are retrofitting our well with a seal to isolate specific water bearing fractures in the ground, providing continuous chlorination of the water used, and monitoring our water quality more frequently to ensure the measures taken have resolved the issue.

#### CONTACT INFORMATION

For more information please contact:

**Stuart Harkins of WhiteWater, Inc. at 1-888-377-7678**

*Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.*