

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

In the matter of:

**Cherry Valley and Rochdale
Water District**

Enforcement Document #00000047
File No.: UAO-CE-16-5D006
PWS ID # 2151001

UNILATERAL ADMINISTRATIVE ORDER

I. THE PARTIES

1. The Massachusetts Department of Environmental Protection (“MassDEP”) is a duly constituted agency of the Commonwealth of Massachusetts established pursuant to M.G.L. c. 21, § 7. MassDEP has its principal office located at One Winter Street, Boston, Massachusetts 02108, and a regional office located at 8 New Bond Street, Worcester, Massachusetts 01606.
2. The Cherry Valley and Rochdale Water District (“CVRWD”) was established by Chapter 381 of the Acts of 1910 for the purpose of supplying drinking water to the inhabitants of the Cherry Valley and Rochdale sections of Leicester, Massachusetts. CVRWD is a public water supplier having its principal place of business at 148 Henshaw Street, Leicester, Massachusetts 01524. Respondent’s mailing address for purposes of this Consent Order is Cherry Valley and Rochdale Water District, P.O. Box 138, Rochdale, Massachusetts 01542.

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”). Pursuant to M.G.L. c.111, § 160, MassDEP may issue such orders as it deems necessary to ensure the delivery of fit and pure drinking water by public water systems to all consumers. Pursuant to M.G.L. c. 111, § 5G, MassDEP may require the provision and operation of such treatment facilities as it deems necessary to ensure the delivery of a safe water supply to all consumers. Pursuant to M.G.L. c. 111, § 2C, MassDEP may issue orders to any person in violation of any law or regulation MassDEP is authorized to enforce.
4. 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 average of at least 25 individuals daily at least 60 days of the year. Public Water Systems include: (1) any collection, treatment, storage, and distribution facilities under control of the operator of such systems and used primarily in connection with such systems; and (2) any collection or pretreatment storage facilities not under such control that are used primarily in connection with such systems. The regulations also define a supplier of water as "any person who owns or operates a public water system." See 310 CMR 22.02.

5. CVRWD operates a community public water system ("PWS") in Leicester, Massachusetts that includes the Henshaw Filtration Plant, the Grindstone Well, and connected facilities. CVRWD is registered with MassDEP as PWSID #2151001 and serves approximately 3,300 customers.

6. CVRWD operates the Henshaw Filtration Plant, a slow sand water filtration plant built in 1944, to comply with federal and state water quality requirements. Respondent treats water at the Henshaw Filtration Plant from Henshaw Pond, which is a surface water source. CVRWD separately treats water from the Grindstone Well, which is a groundwater source.

7. The provisions of 310 CMR 22.07E (the Disinfection Byproduct Rule) apply to community public water systems and establish Maximum Contaminant Levels ("MCL") for disinfection byproducts, including Total Trihalomethanes ("TTHM"). The MCL established by the United States Environmental Protection Agency ("EPA") and MassDEP for TTHM is 0.800 mg/L.

8. From 2006 through 2016, MassDEP has issued CVRWD sixteen (16) Notices of Noncompliance ("NON") because water samples from locations within CVRWD's distribution system demonstrated exceedances of the MCL for TTHM, in violation of 310 CMR 22.07E. In response to these NONs, CVRWD has been required to provide public notice to the users of the water about the health risks associated with TTHMs, some of which have been classified by EPA as probable or possible human carcinogens. Studies of populations that have been exposed to TTHMs above the drinking water standard also suggest a possible connection between long-term exposure and developmental (e.g., fetal growth) and reproductive (e.g., miscarriages and stillbirths) effects.

9. On March 25, 2013, Respondent entered into an Administrative Consent Order (ACO-CE-13-5D003) (the "Consent Order") with MassDEP to address outstanding water quality issues with the PWS, including the numerous TTHM exceedances. Since the issuance of the Consent Order, MassDEP has issued CVRWD six (6) Notices of Noncompliance ("NON") because water samples from locations within CVRWD's distribution system demonstrated exceedances of the MCL for TTHM, in violation of 310 CMR 22.07E.

10. Paragraph 17.I of the Consent Order required CVRWD to conduct a pilot study to determine whether modifications to the Henshaw Filtration Plant were feasible to meet

applicable water quality standards, including the MCL for TTHMs. The Consent Order required that if the pilot study found that modifications to the Henshaw Filtration Plant would not lead to compliance with the water quality standards, CVRWD would submit a schedule by January 15, 2014 for the permitting and use of alternative approved sources and removal of Henshaw Pond source from service. Alternative sources could include the interim or permanent purchase of water through approved interconnections and/or new source development.

11. On December 5, 2013, MassDEP met with CVRWD to discuss progress with regard to the pilot study referenced in Paragraph 17.I of the Consent Order. CVRWD's consultant concluded that the initial results of the pilot study were not satisfactory. CVRWD subsequently proposed that in lieu of treatment modifications to the Henshaw Filtration Plant, it would remove Henshaw Pond from service and purchase water from the City of Worcester in order to provide fit and pure water to its members.

12. On September 29, 2016, in response to an NON, CVRWD submitted a schedule for constructing the interconnection with the City of Worcester, installing approximately 1,300 residential water meters, and activating the interconnection by September 2017. The schedule did not include a date for removing Henshaw Pond from service.

13. On October 6, 2016, Respondent petitioned MassDEP for a Declaration of State of Water Supply Emergency, pursuant to M.G.L. c. 21G, §§ 15 through 17 and 310 CMR 36.00, to address a critical lack of available supply in Henshaw Pond. At the time, CVRWD had less than two weeks of water available from Henshaw Pond because of extended drought conditions.

14. On October 7, 2016, MassDEP executed Emergency Declaration (UAO-CE-16-5F001) declaring a state of water emergency under M.G.L. c. 21G, § 15. Under the Emergency Declaration, MassDEP authorized CVRWD to purchase water from the City of Worcester. MassDEP also authorized the City of Worcester to provide water to CVRWD through an existing emergency interconnection between the two water systems. Once the interconnection was operational, CVRWD removed Henshaw Pond from service. The State of Water Supply Emergency will remain in effect for six (6) months in accordance with M.G.L. c. 21G, § 15.

15. On October 28, 2016, voters of the CVRWD rejected a proposal to fund construction of permanent infrastructure for the interconnection with the City of Worcester.

16. CVRWD continues to purchase water from the City of Worcester, which is provided through the existing emergency interconnection.

III. DISPOSITION AND ORDER

17. For the reasons stated above, MassDEP hereby ORDERS Respondent to take the following actions pursuant to M.G.L. c. 111, §§ 2C, 5G and 160. This Order shall be binding on Respondent and on its successors and assigns. Respondent shall not violate this Order, and shall not allow or suffer its employees, agents, or contractors to violate this Order.

18. CVRWD is hereby ORDERED to cease the use of Henshaw Pond as a public water supply source until CVRWD has 1) submitted a corrective action plan for MassDEP approval detailing modifications to the Henshaw Filtration Plant that are demonstrated to achieve compliance with applicable water quality standards, and 2) completed construction of the approved modifications.

19. CVRWD is also ORDERED to develop a public outreach and education program about the health effects of TTHMs. CVRWD shall submit a public outreach and education proposal to MassDEP for approval within 30 days of the date of this Order. CVRWD shall implement the public outreach and education program within 30 days of MassDEP's approval.

20. All notices, submittals, and other communications to MassDEP required by this Order shall be directed to:

Robert A. Bostwick, Drinking Water Section Chief
MassDEP
8 New Bond Street
Worcester, Massachusetts 01606
Tel: (508) 849-4036 Fax: (508) 792-7621

21. Respondent is advised that if it fails to comply with this Order, M.G.L. c. 111, § 160 provides for fines and civil penalties of up to \$25,000 and by imprisonment for up to one year for each day during which each violation covered by this Order continues or is repeated. Respondent is further advised that if it fails to comply with this Order, M.G.L. c. 21A, § 16 provides for civil administrative penalties of up to \$25,000, plus the economic benefit realized for such noncompliance.

IV. APPEAL RIGHTS AND TIME LIMITS

22. Pursuant to M.G.L. c. 111, §§147 and 163, whoever is aggrieved by this Order may, within three (3) days after service of the Order upon him/her, give written notice of appeal to MassDEP and file a petition for a jury in the Superior Court in the county where the premises affected are located, and, after notice to MassDEP, may have a trial in the same manner as other civil cases are tried by jury. If by mistake of law or fact or by accident such person fails within said three (3) days to apply for a jury, and if it appears to the court that such failure was caused by such mistake or accident, and that such person has not, since the service of the Order upon him/her, violated it, such person may apply for a jury within thirty (30) days of such service.

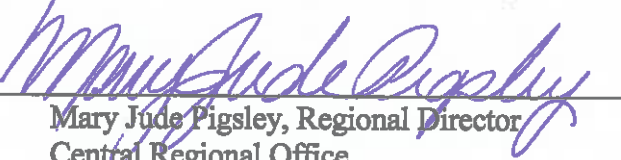
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Pursuant to M.G.L. c. 111, § 163, any such aggrieved person must comply with this Order while the appeal is pending, unless otherwise authorized in writing by MassDEP.

Issued By:

MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: _____


Mary Jude Pigsley, Regional Director
Central Regional Office
8 New Bond Street
Worcester, Massachusetts 01606

Date: _____

11/22/14