



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

DEVAL L. PATRICK
Governor

RICHARD K. SULLIVAN JR.
Secretary

KENNETH L. KIMMELL
Commissioner

THE OFFICE OF APPEALS AND DISPUTE RESOLUTION

January 13, 2014

In the Matter of
Pioneer Brewing Company, LLC,
Todd R. Sullivan and
Timothy P. Daly d/b/a Pioneer Brewing
Company, LLC

Docket No. 2013-030
DEP File No. PAN-CE-13-9001-A; and
Docket No. 2013-032
DEP File No. UAO-CE-13-9001-A

FINAL DECISION

The Petitioners Pioneer Brewing Company, LLC (“Pioneer”), Todd R. Sullivan (“Mr. Sullivan”), and Timothy P. Daly (“Mr. Daly”) brought these consolidated appeals challenging two enforcement orders that the Central Regional Office (“CERO Office”) of the Massachusetts Department of Environmental Protection (“MassDEP” or “the Department”) issued to the Petitioners on July 18, 2013 for purported violations of the Massachusetts Clean Water Act, G.L. c. 21, §§ 26-53; the Surface Water Discharge Regulations at 314 CMR 3.00; and the Ground Water Discharge Permit Program Regulations at 314 CMR 5.00 in connection with their operation of a brewery and tasting room (“the Facility”) at Hyland Orchard, 195 Arnold Road,

Sturbridge, Massachusetts (“the Site”). Specifically, the Petitioners challenged:

- (1) a \$12,650.00 Penalty Assessment Notice (“PAN” or “Civil Administrative Penalty”) that the CERO Office issued to the Petitioners for their purported violations (Docket No. 2013-030 or “the PAN appeal”); and
- (2) a Unilateral Administrative Order (“UAO”) that the CERO Office issued to the Petitioners directing them to take certain actions to correct their purported violations (Docket No. 2013-032 or “the UAO appeal”).

The Petitioners and the Department have settled these appeals by executing a Settlement Agreement in the form of an Administrative Consent Order With Penalty and Notice of Non-Compliance (“ACOP”). I issue this Final Decision approving and incorporating the ACOP that has been executed by (1) Todd R. Sullivan, Member of Pioneer Brewing Company, LLC and (2) Lee Dillard Adams, Regional Director of the Department’s Central Regional Office.

Pursuant to the ACOP, the effective date of the ACOP is the date of this Final Decision.

In accordance with the ACOP, I issue the following Orders:

- (1) In accordance with ¶¶ 3 and 7T of the ACOP, any claims against Mr. Sullivan and Mr. Daley d/b/a Pioneer Brewing Company, LLC are dismissed because the Department is no longer seeking any claims against them and is only proceeding against Pioneer.
- (2) Pioneer shall perform the actions set forth in ¶¶ 10A-10E of the ACOP.

Specifically:

- A. Effective immediately, Pioneer shall not discharge pollutants to the ground water and ground surface without a permit at the Site or any other facility in Massachusetts that Petitioner owns and or operates, in compliance with 314 CMR 5.03(1);
- B. Effective immediately, Pioneer shall not discharge pollutants to surface waters without a permit at the Site or any other facility in Massachusetts that Pioneer owns and or operates, in compliance with 314 CMR 3.03(1);

- C. Effective immediately, Pioneer shall discharge all industrial wastewaters at the Site to the in-ground holding tank, in compliance with 310 CMR 18.00;
- D. Within fourteen (14) days of the effective date of the ACOP, Pioneer shall submit a report to the Department on the quantity of all the industrial wastewaters generated by and/or for Pioneer at the Site and their sources and a confirmation that they will be disposed of in accordance with ¶ 10C of the ACOP; and
- E. Within thirty (30) days of the effective date of the ACOP, Pioneer shall draft an article on the proper handling and disposal of industrial wastewater generated by small breweries and submit to MassDEP for review and approval. Within thirty (30) days of MassDEP's approval, Pioneer shall submit the article for publication in a minimum of three (3) trade and/or business newspapers or journals of the microbrewery industry and Pioneer shall provide MassDEP with the list of newspapers and/or trade journals to which the article was submitted. If the article is selected for publication, Pioneer shall submit a copy of the published article to MassDEP.

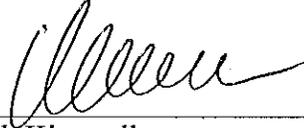
(3) In accordance with ¶ 15 of the ACOP, Pioneer shall pay a civil administrative penalty of \$6,900.00 to the Commonwealth within 30 days of the effective date of the ACOP.

(4) In accordance with ¶ 22 of the ACOP, if Pioneer violates any provisions of the ACOP, Pioneer shall pay the Commonwealth stipulated civil administrative penalties in the following amounts:

<u>Period of Violation</u>	<u>Penalty per day</u>
1 st through 15 th days	\$250.00 per day
16 th through 30 th days	\$500.00 per day
31 st day and thereafter	\$1,000.00 per day.

The stipulated civil administrative penalties shall be in addition to the \$6,900.00 civil administrative penalty that Pioneer is required to pay the Commonwealth pursuant to ¶ 15 of the ACOP.

(5) In accordance with 310 CMR 1.01(8)(c) and ¶ 4 of the ACOP, these appeals (Docket Nos. 2013-030 and 2013-032) are dismissed with the parties waiving whatever rights they may have to further administrative review before the Department as well as any appeal to Court.



Kenneth Kimmell
Commissioner

SERVICE LIST

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Docket No. 2013-030
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Docket No. 2013-032
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Representative

Party

Matthew S. Rousseau, Esq.
Rousseau & Marino, P.C.
49 Main Street
Sturbridge, MA 01566
e-mail: mrousseau@rmlegalpc.com

PETITIONERS' REPRESENTATIVE

Rebecca Tobin, Senior Regional Counsel
MassDEP/Office of General Counsel
MassDEP Central Regional Office
627 Main Street
Worcester, MA 01608
e-mail: Rebecca.Tobin@state.ma.us

DEPARTMENT'S REPRESENTATIVE

cc:
John F. Kronopolus, Regional Director
Bureau of Waste Prevention
MassDEP/Central Regional Office
627 Main Street
Worcester, MA 01608
e-mail: John.Kronopolus@state.ma.us

DEPARTMENT

Mary Jude Pigsley, Chief Regional
Counsel
MassDEP/Office of General Counsel
MassDEP Central Regional Office
627 Main Street
Worcester, MA 01608
e-mail: MaryJude.Pigsley@state.ma.us

Leslie DeFillipis, Paralegal
MassDEP/Office of General Counsel