



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Western Regional Office • 436 Dwight Street, Springfield MA 01103 • 413-784-1100

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Lieutenant Governor

Kathleen A. Theoharides  
Secretary

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Commissioner

November 24, 2020

Mr. Tim Fulco  
Berkshire School  
245 North Undermountain Road  
Sheffield, MA 01257

RE: Berkshire School-WWM  
Public Notice for Draft Individual  
Groundwater Discharge Permit  
Berkshire School  
MassDEP Transmittal Number: X286769  
MassDEP Project Number: 267-012

Dear Mr. Fulco:

The Massachusetts Clean Water Act (M.G.L. c.21, s.21-53) was amended by Chapter 246 of the Acts of 1973 to authorize the Massachusetts Department of Environmental Protection (MassDEP), to regulate discharges into all waters of the Commonwealth, including groundwaters. MassDEP regulates discharges through the issuance of discharge permits, which impose limitations on the amount of pollutants that may be discharged in the effluent. These actions, together with monitoring and reporting requirements and other conditions, insure adequate treatment of all liquid wastes prior to discharge.

MassDEP has completed its technical review of your application submitted on behalf of the Berkshire School Wastewater Treatment Plant to discharge treated wastewater from the facility located at 245 North Undermountain Road, Sheffield, Massachusetts to the ground, and has developed the conditions contained in the enclosed draft permit.

The proposed permit can only be considered in draft form because of provisions in the Law regulating public notice of the proposed issuance of the permit and opportunity for public comments and public hearing. Following receipt of comments on the public notice, and public hearing, if held, MassDEP will issue its final determination to issue or deny the permit.

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: [www.mass.gov/dep](http://www.mass.gov/dep)

Printed on Recycled Paper

Enclosed herewith is a copy of the public notice for your groundwater discharge permit. The enclosed public notice should be published to start the thirty (30) day public comment period.

In accordance with 314 CMR 2.06(4) and M.G.L. c.30A, the applicant or permittee, as applicable, shall publish public notice of the permit proceedings in *The Environmental Monitor*, a publication of the Massachusetts Executive Office of Energy and Environmental Affairs. For instructions on filing this notice with MEPA please refer to MEPA's website at: <http://eeaonline.eea.state.ma.us/eea/emepa/submittin notices.htm>.

Berkshire School must submit to MassDEP, a copy of the public notices as published in the *Environmental Monitor*, within seven (7) days after the date of publication or at such other time as the Department requires. This information should be sent to the attention of Dan Kurpaska at the above letterhead address. The mandatory thirty (30) day public comment period will commence with the date of publication of the public notice.

If you have any questions on any of the information discussed in this letter, please contact the undersigned at 413-755-2218 or Dan Kurpaska at 413-755-2274.

Sincerely,

This final document copy is being provided to you electronically by the  
Department of Environmental Protection. A signed copy of this document  
is on file at the DEP office listed on the letterhead.

Matthew J. Sokop, P.E.  
Wastewater Section Chief  
Bureau of Water Resources

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W:\BWR\WPC\wpcdoc\Groundwater Discharges\Sheffield Berkshire School\Cover LetterIndividual GWDP PN  
BerkshireSchoolNovember2020.mjs.docx

Enclosures: Public Notice, Draft Groundwater Discharge Permit 682-2, Permit Fact Sheet

cc: DEP WERO File (2) with all enclosures

ecc: Dave Prickett  
Dave Prickett Consulting, LLC

Bill Ingram  
Berkshire School

Sheffield Board of Health

DEP WERO File  
DEP Boston GWDP

PUBLIC NOTICE  
MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF RESOURCE PROTECTION/WASTEWATER MANAGEMENT PROGRAM  
436 DWIGHT STREET  
SPRINGFIELD, MA 01103  
TEL#: 413-784-1100

Notice is hereby given that the following application for an Individual Groundwater Discharge Permit is being processed and the following actions being proposed thereon pursuant to Section 43 of Chapter 21 of the General Laws, and 314 CMR 5.00 and 2.06:

CITY/TOWN:	Sheffield
PROJECT NAME:	Berkshire School Wastewater Treatment Plant
APPLICANT:	Mr. Tim Fulco
FACILITY LOCATION:	245 North Undermountain Road, Sheffield, MA 01257
TYPE OF DISCHARGE:	Treated wastewater
QUANTITY OF DISCHARGE:	80,000 Gallons Per Day
PERMIT NO:	682-2
TRANSMITTAL NO:	X286769
PROPOSED ACTION:	Tentative determination to issue individual groundwater discharge permit

A copy of the application, draft permit, and statement of basis or fact sheet relative to the draft permit may be obtained from the MassDEP's Wastewater Management Program at the above address and telephone number or online at:

<http://www.mass.gov/eea/agencies/massdep/news/comment/>

Comments on the proposed action or requests for a public hearing thereon pursuant to 314 CMR 2.07 must be filed with MassDEP at the above address within thirty (30) days of this notice. For information on the process for formally intervening in adjudicatory proceedings, please refer to 310 CMR 1.00: Adjudicatory Proceedings, Section (7) Intervention and Participation.

<http://www.mass.gov/eea/agencies/massdep/water/regulations/310-cmr-1-00-adjudicatory-proceedings.html>.



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### **INDIVIDUAL GROUNDWATER DISCHARGE PERMIT**

Name and Address of Applicant: Tim Fulco  
Berkshire School  
245 Undermountain Road  
Sheffield, MA 01257

Date of Application: 10/20/2020  
Application Number: X286769  
Permit Number: 682-2  
Date of Issuance: DRAFT  
Date of Expiration: DRAFT  
Effective Date: DRAFT

### **AUTHORITY FOR ISSUANCE**

Pursuant to authority granted by Chapter 21, Sections 26-53 of the Massachusetts General Laws, as amended, 314 CMR 2.00, and 314 CMR 5.00, the Massachusetts Department of Environmental Protection (the Department or MassDEP) hereby issues the following permit to:

Berkshire School  
245 Undermountain Road  
(State Route 41)  
Sheffield, MA 01257

(hereinafter called "the Permittee) authorizing discharges to the ground, from the year-round Berkshire School onsite wastewater treatment facility (WWTP or facility) located at:

Berkshire School  
245 Undermountain Road  
Sheffield, MA 01257

such authorization being expressly conditional on compliance by the Permittee with all terms and conditions of the permit hereinafter set forth.

\_\_\_\_\_  
**Matthew J. Sokop, P.E.**  
**Section Chief, Wastewater Management**  
**Bureau of Water Resources**

\_\_\_\_\_  
**Date**

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: [www.mass.gov/dep](http://www.mass.gov/dep)

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**I. SPECIAL CONDITIONS****A. EFFLUENT LIMITS**

1. The Permittee is authorized to discharge into the ground from the WWTP for which this permit is issued a treated effluent whose characteristics shall not exceed the following values:

<b>EFFLUENT CHARACTERISTICS</b>	<b>DISCHARGE LIMITATIONS</b>
EFFLUENT FLOW	80,000 GALLONS PER DAY
BIOCHEMICAL OXYGEN DEMAND (BOD), 5 DAY @ 20° C	30.0 MG/L
TOTAL SUSPENDED SOLIDS (TSS)	30.0 MG/L
TOTAL NITROGEN EXPRESSED AND REPORTED AS NO <sub>2</sub> -N + NO <sub>3</sub> -N + TKN	10.0 MG/L
UV DOSE	NOT LESS THAN 30,000 MICROWATT SECONDS/CM <sup>2</sup>
FECAL COLIFORM	200 COLONY FORMING UNITS (CFU)/100 ML
NITRATE NITROGEN NO <sub>3</sub>	10.0 MG/L
OIL AND GREASE	15.0 MG/L

- a. The pH of the effluent shall not be less than 6.5 SIU nor greater than 8.5 SIU at any time or not more than 0.2 standard units outside the naturally occurring range.
- b. The discharge of the effluent shall not result in any demonstrable adverse effect on the groundwater or violate any water quality standards that have been promulgated.
- c. The monthly average concentration of BOD and TSS in the discharge shall not exceed 15 percent of the monthly average concentrations of BOD and TSS in the influent into the Permittee's WWTP.
- d. When the average annual flow exceeds 80 percent of the permitted flow limitations, the Permittee shall submit a report to the Department describing what steps the Permittee will take in order to remain in compliance with the permit limitations and conditions, inclusive of the flow limitations established in this permit.

**B. MONITORING AND REPORTING**

1. The Permittee shall monitor and record the quality of the influent and the quality and quantity of the effluent prior to discharge to the effluent disposal area (EDA) according to the following schedule and other provisions:

**INFLUENT:**

<b>INFLUENT PARAMETER</b>	<b>MINIMUM FREQUENCY OF ANALYSIS</b>	<b>SAMPLE TYPE</b>
pH	DAILY	GRAB OR BY CONTINUOUS MONITOR
BIOCHEMICAL OXYGEN DEMAND,	MONTHLY	24 HOUR COMPOSITE

BOD <sub>5</sub>		
TOTAL SUSPENDED SOLIDS (TSS)	MONTHLY	24 HOUR COMPOSITE
TOTAL SOLIDS (TS)	MONTHLY	24 HOUR COMPOSITE
AMMONIA NITROGEN (NH <sub>3</sub> -N)	MONTHLY	24 HOUR COMPOSITE
OIL AND GREASE	MONTHLY	24 HOUR COMPOSITE

**EFFLUENT:**

EFFLUENT PARAMETER	MINIMUM SAMPLING FREQUENCY	SAMPLE TYPE
EFFLUENT FLOW RATE	CONTINUOUS	MINIMUM, MAXIMUM, AND AVERAGE BY CONTINUOUS MONITOR
pH	DAILY	GRAB OR BY CONTINUOUS MONITOR
BIOCHEMICAL OXYGEN DEMAND, BOD <sub>5</sub>	MONTHLY	24 HOUR COMPOSITE
TOTAL SUSPENDED SOLIDS (TSS)	MONTHLY	24 HOUR COMPOSITE
TOTAL SOLIDS (TS)	MONTHLY	24 HOUR COMPOSITE
NITRATE NITROGEN NO <sub>3</sub>	MONTHLY	24 HOUR COMPOSITE
TOTAL NITROGEN (NO <sub>3</sub> -N + NO <sub>2</sub> -N+TKN)	MONTHLY	24 HOUR COMPOSITE
OIL AND GREASE	MONTHLY	24 HOUR COMPOSITE
UV DOSE/INTENSITY	CONTINUOUS MONITOR	CONTINUOUS MONITOR
FECAL COLIFORM	MONTHLY	GRAB
VOLATILE ORGANIC COMPOUNDS BY APPROVED METHOD	1 SAMPLE QUARTERLY	GRAB
TOTAL PHOSPHORUS	QUARTERLY	24 HOUR COMPOSITE
ORTHOPHOSPHATE	QUARTERLY	24 HOUR COMPOSITE

- a. The Influent sample shall be representative of the influent to the wastewater treatment plant. The sample must be taken prior to any treatment of the waste stream. All samples shall be representative of flow to the wastewater treatment plant.
  - b. Effluent samples shall be taken in concurrence with the influent samples. All samples shall be representative of flow from the wastewater treatment plant.
  - c. Flow shall be monitored continuously by the effluent flow meter with the Permittee reporting the average, maximum, and minimum daily flows.
2. The Permittee shall monitor, record, and report water quality and water surface elevations in monitoring wells MW-1 (UG), MW-2 (DG), MW-3 (DG) and MW-4 (DG), MW-5(DG) ,MW-6 (DG)as noted on the plans submitted to the Department entitled:

*Hydrogeologic Investigation  
At Septic Leach Field  
For*

*Berkshire School  
Sheffield, MA  
Dated: May 15, 2000*

Labels identifying each monitoring well's identification in accordance with the above-referenced approved plan shall be affixed to the steel protective casing of each monitoring well. The Permittee shall monitor, record and report the quality of water in the above referenced monitoring wells according to the following schedule:

<b>MONITORING WELL PARAMETER</b>	<b>SAMPLING FREQUENCY</b>
STATIC WATER LEVEL WELLS MW-1 (UG), MW-2 (DG), MW-3 (DG), MW-4 (DG), MW-5(DG)	1 SAMPLE WEEKLY
PH	1 TIME PER QUARTER
SPECIFIC CONDUCTANCE	1 TIME PER QUARTER
TOTAL NITROGEN (NO <sub>3</sub> -N+NO <sub>2</sub> -N+TKN)	1 TIME PER QUARTER
NITRATE NITROGEN NO <sub>3</sub>	1 TIME PER QUARTER
TOTAL PHOSPHOROUS	1 TIME PER QUARTER
ORTHOPHOSPHATE	1 TIME PER QUARTER
VOLATILE ORGANIC COMPOUNDS	1 TIME PER QUARTER

3. All sampling shall be representative of wastewater flow to and from the WWTP. Any grab sample or composite sample required to be taken less frequently than daily shall be taken during peak wastewater flows, and during the period of Monday through Friday inclusive. All composite samples shall be taken over the operating day during peak flow to the WWTP.
4. Static Water Level shall be expressed as an elevation and shall be referenced to the surveyed datum established for the site. It shall be calculated by subtracting the depth to the water table from the surveyed elevation of the top of the monitoring well's PVC well casing/riser.
5. The permittee shall submit all monitoring reports within 30 days of the last day of the reporting month to MassDEP and to the Board of Health [include BOH mailing address]. All discharge monitoring reports submitted to MassDEP must be submitted through eDEP. To register for electronic submission, go to: <http://www.mass.gov/eea/agencies/massdep/service/online/edep-online-filing.html>. Reports shall also be sent to the Sheffield Board of Health, PO Box 325, Sheffield, MA 01257-0325.

### **C. FINANCIAL ASSURANCE MECHANISMS**

1. The Permittee shall maintain a financial assurance mechanism that provides for the continued availability of an immediate repair and replacement account. The immediate repair and replacement account shall contain adequate funds to correct any unanticipated problem immediately so that any disruption of operation is minimized, and

a violation of the terms and conditions contained in the permit does not occur. To create an immediate repair and replacement account, the Permittee shall deposit at least 25% of the estimated construction cost of the WWTP into an interest-bearing escrow account in accordance with the financial assurance mechanism and 314 CMR 5.15.

- a. For purpose of the financial assurance mechanism requirement, the estimated construction cost of the wastewater treatment plant shall include the cost of constructing the wastewater treatment plant, sewer system, associated mechanical equipment, but not including the land, ground and disposal area.
2. The Permittee shall meet the obligation to establish the required financial assurance mechanism by using Department-approved form documents and shall submit said Department-approved form documents to the Department for its review and approval as follows:
  - a. A Permittee with a wastewater treatment facility in existence prior to the submission of the individual permit renewal application may submit the financial assurance mechanism to the Department for its review and approval no later than ninety (90) days from the date of submission of the individual permit renewal application. Said Permittee shall be in compliance with the provision of the approved financial assurance mechanism requiring contributions to the immediate repair and replacement account no later than thirty (30) days prior to the date on which the renewal is issued.
3. The Permittee shall maintain the current form documents evidencing the required financial assurance mechanism approved by the Department. The Permittee shall perform all its obligations under the required financial assurance mechanism as approved by the Department.
4. Once established and funded, the Permittee shall keep an amount equal to at least 25% of the estimated construction cost of the WWTP in the immediate repair and replacement account and shall replenish the account within 90 days of any disbursement.
5. On or before January 31<sup>st</sup> of each year, the Permittee shall submit an annual financial report identifying the initial and current balance in the immediate repair and replacement account and confirming the continuing availability of the funds in said account for the purposes specified in the permit and 314 CMR 5.15. Said report shall be prepared in accordance with generally accepted accounting principles. Reports pertaining to the required financial assurance mechanism(s) shall be sent to the Wastewater Management Section Chief at the appropriate Regional Office.

#### **D. SUPPLEMENTAL CONDITIONS**

1. The Permittee shall notify the Department at least thirty (30) days in advance of the proposed transfer of ownership of the facility for which this permit is written. Said notification shall include a written agreement between the existing and new Permittee's containing a specific date for transfer of permit, responsibility, coverage and liability between them.



2. The Permittee shall notify the Department of any change in use of the Facility that would increase the flow to the treatment works and/or the EDA or change the dates and duration that the school is in operation. Berkshire School currently operates year-round.
3. A staffing plan for the WWTP shall be submitted to the Department once every two (2) years and/or whenever there are staffing changes. The staffing plan shall include the following components:
  - a. The operator's names, operator grades and operator license numbers;
  - b. The number of operational days per week;
  - c. The number of operational shifts per week;
  - d. The number of shifts per day;
  - e. The required personnel per shift;
  - f. Saturday, Sunday and holiday staff coverage;
  - g. Emergency operating personnel.
4. Operation and maintenance of the proposed facility must be in accordance with 314 CMR 12.00, *"Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Discharges"*, and, 257 CMR 2.00, *"Rules and Regulations for Certification of Operators of Wastewater Treatment Facilities"*.
  - a. The facility has been rated (in accordance with 257 CMR 2.00), to be a Grade 4M facility. Therefore, the Permittee shall provide for oversight by a Massachusetts Certified Wastewater Treatment plant operator (Chief Operator) Grade 4M or higher. The Permittee will also provide for a backup operator who shall possess at least a valid Grade 3M license;
  - b. Berkshire School shall maintain the sewn bound wastewater treatment plant inspection logbook. The logbook shall be maintained on location at the WWTP. The date and time of the operator's inspection along with the operator's name and certification shall be recorded in the logbook. All daily inspection logs consistent with the O&M Manual requirements shall be kept at the facility for a period of three (3) years;
  - c. Records of operation of wastewater treatment facilities or disposal systems required by the Department shall be submitted on forms supplied by the Department or on other forms approved by the Department for such use. Monthly reports shall be certified by the wastewater treatment plant operator in charge and shall be included in the discharge monitoring reports submitted each month.
5. If the operation and maintenance of the facility is contracted to a private concern, the Permittee shall submit a copy of the contract, consistent with what is required by the approved Operation and Maintenance manual and signed only by the contractor, to the appropriate MassDEP Regional Office within thirty (30) days of permit issuance. Along with the contract, a detailed listing of all contract operation obligations of the proposed contractor at other facilities shall also be submitted.
6. Any additional connections to the Berkshire School sewer system must be approved by MassDEP prior to the connection.
7. All sampling, analytical determinations and quality assurance and quality controls (QA/QC) for compliance with these permit standards and requirements shall be

completed using procedures found in the most recent version of 314 CMR 12.00 and 40 CFR 136. Any laboratory analysis not performed on site shall be conducted by a Massachusetts Certified Laboratory. All QA/QC shall be the responsibility of the Permittee.

8. The Permittee shall notify the appropriate MassDEP Regional Office, in writing, within thirty (30) days of the following events:
  - a. Any interruption of the treatment system operation, other than routine maintenance;
  - b. Final shut down of the WWTP.
9. The Permittee shall contract to have any and all solids and sludges generated by the treatment system for which this permit is issued removed off site by a properly licensed waste hauler for disposal at an EPA/MassDEP approved facility. The name and license number of the hauler along with the quantity of wastes removed and the date(s) of removal shall be reported by the Permittee in writing to MassDEP WERO.
10. Within two (2) years from the effective date of this Permit, Berkshire School shall submit the following reports to MassDEP WERO, for review and approval, as follows:
  - a. An engineering report, prepared by a Massachusetts Registered Professional Engineer, that outlines in sufficient detail what modifications (if any) to the WWTP or other changes are required to ensure that the WWTP can remain in compliance with its GWDP and other applicable requirements through the next 5 year permit term (year 2026) and beyond.
  - b. A financial plan that contains the cost estimates for implementing the facility modifications or other changes identified in the engineering report, and describes and demonstrates, how and when the Permittee will finance the needed facility modifications or other changes;
  - c. A comprehensive evaluation of the Berkshire School sewer system, piping, force mains, pump stations, pretreatment tanks, septic tanks and grease traps to determine their current condition and remaining life expectancy. The comprehensive assessment shall be performed by a Massachusetts Registered Professional Engineer. The Engineers evaluation shall also include a projected construction schedule for the repair or replacement of any appurtenances noted to meet subpar criteria.
11. If at any time the need arises to replace any equipment or appurtenances at the WWTP (i.e. UV Unit), or in the sewer system, the Permittee shall utilize the most recent MassDEP Guidance in place at the time of the replacement (i.e. the latest version of TR-16 and Guidelines for the Design, Construction, Operation and Maintenance of Small Wastewater Treatment Facilities with Land Disposal).
12. In the event that effluent limits are not met, or the discharge is determined to impair groundwater quality in accordance with 314 CMR 5.16(1), the Permittee may be obligated to modify, supplement or replace the permitted treatment process so as to ensure that the discharge does not impair the ability of the groundwater to act as an actual or potential source of potable water.
13. Pursuant to M.G.L. Chapter 21A, section 18(a), and 310 CMR 4.03, holders of this Permit may be subject to annual compliance assurance fees as assessed each year

on July 1st and invoiced by MassDEP. Failure of the Permit holder to pay applicable annual compliance assurance fees shall result in the automatic suspension of the permit by operation of law under the statute. If fee non-payment continues for sixty days or more, MassDEP has the statutory option of revoking the Permit, denying any other pending permit applications filed by the Permit holder or taking other enforcement action. Permit holders are required to notify MassDEP in writing if they wish to relinquish or transfer a permit. Failure to do so will result in the continued assessment of fees.

OPERATION AND MAINTENANCE OF THE SEWER SYSTEM:

14. Berkshire School shall update and implement the written operation and maintenance plan for its sewer system. At a minimum the plan shall include but is not limited to the following:
- Routine maintenance of the sewer system (i.e. pretreatment tank cleanings and pumping, sewer jetting, seasonal usage, etcetera). All routine maintenance shall be documented in the logbook identified in Part I.D.4.b of this Permit;
  - Description of staffing utilized to perform sewer system work;
  - Identified areas of backups or problematic issues in the sewer system;
  - Adequate funding for the yearly maintenance in the sewer system.
- a. An ongoing written program to control inflow and infiltration in the sewer system. Berkshire School shall note all work completed as well as any proposed work on its sewer system in the WWTP logbook referenced in Part I.D.4.b of this Permit and make it available to MassDEP upon request. The plan shall, at a minimum, include the following:
- Consider all recommendations set forth in MassDEP's *Guidelines for the Design, Construction, Operation and Maintenance of Small Wastewater Treatment Facilities with Land Disposal* most recent edition.
  - An inflow identification and control program that focuses on the disconnection and redirection of any sump pumps, foundation drains, floor drains, and roof down spouts.
  - An infiltration identification program that sets a schedule for inspection work (i.e. CCTV inspection, Ground Water Monitoring versus wastewater flow, rain fall monitoring, etcetera) on all wastewater sewer system piping, manholes, isolation valves, overflow tanks, pretreatment tanks (i.e. septic tanks, grease traps etcetera), pumping stations and force mains.
- b. Within twelve (12) months of the effective date of this permit, Berkshire School shall prepare, keep current at all times, and submit to MassDEP WERO, a comprehensive sewer system map for its entire property. At a minimum the map shall contain the following:
- The location of all buildings owned and operated by Berkshire School;
  - All wastewater sewer system piping, manholes, isolation valves, overflow tanks, pretreatment tanks (i.e. septic tanks, grease traps etcetera), pumping stations, force mains and the WWTP;
  - The location of all surface waters and wetlands on the campus;

- Date or approximate dates of installation of all wastewater sewer system piping, manholes, isolation valves, overflow tanks, pretreatment tanks (i.e. septic tanks, grease traps etcetera), pumping stations and force mains.
- c. Berkshire School shall maintain existing pretreatment septic tanks, grease traps, pump stations and pump station generators on its campus in accordance with MassDEP regulations at 314 CMR 12.00. Berkshire School is responsible for the operation and maintenance of all sewers, pretreatment tanks, pump stations, and treatment units for the permitted facility, which shall be operated and maintained under the direction of a properly certified wastewater operator. All records of maintenance shall be documented in the logbook referenced in Part I.D.4.b, and maintained at the WWTP.

## **E. APPEAL RIGHTS**

During the thirty (30) day period following issuance of this permit, a Notice of Claim for an Adjudicatory Appeal may be sent by any person aggrieved (the "Petitioner") by the issuance to:

Case Administrator  
Office of Appeals and Dispute Resolution  
Department of Environmental Protection  
One Winter Street/2<sup>nd</sup> Floor  
Boston, MA 02108

310 CMR 1.01(6)(b) requires the Notice of Claim to: include sufficient facts to demonstrate aggrieved person status; state the facts which are grounds for the appeal specifically, clearly and concisely; and, state relief sought. The permit shall become or remain effective at the end of the 30 day appeal period unless the person filing the Notice of Claim requests, and is granted, a stay of its terms and conditions. If a permit is modified under 314 CMR 2.10, only the modified terms and conditions may be subject to an Adjudicatory Appeal. All other aspects of the existing permit shall remain in effect during any such Adjudicatory Appeal.

Per 310 CMR 4.06, the hearing request to the Commonwealth will be dismissed if the filing fee is not paid. Unless the Petitioner is exempt or granted a waiver, a valid check payable to the Commonwealth to Massachusetts in the amount of \$100.00 must be mailed to:

Commonwealth of Massachusetts  
Department of Environmental Protection  
P.O. Box 4062  
Boston, MA 02211

The filing fee is not required if the Petitioner is a city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority effective January 14, 1994, or any municipal housing authority; or, per MGL 161A s. 24, the Massachusetts Bay Transportation Authority. The Department may waive the adjudicatory hearing filing fee for a Petitioner who shows that paying the fee will create an undue financial hardship. A Petitioner seeking a waiver must file, along with the hearing request, an affidavit setting forth the facts believed to support the claim of undue financial hardship.

## **II. GENERAL PERMIT CONDITIONS**

The following conditions from 314 CMR 5.16 applies to all individual and general permits:

- a. No discharge authorized in the permit shall cause or contribute to a violation of the Massachusetts Surface Water Quality Standards (314 CMR 4.00) or any amendments thereto. Upon promulgation of any amended standard, this permit may be revised or amended in accordance with such standard and 314 CMR 2.10 and 3.13 or 5.12. Except as otherwise provided in 314 CMR 5.10 (3)(c), 310 CMR 5.10(4)(a)2 and 314 CMR 5.10(9), no discharge authorized in the permit shall impair the ability of the ground water to act as an actual or potential source of potable water. Evidence that a discharge impairs the ability of the ground water to act as an actual or potential source of potable water includes, without limitation, analysis of samples taken in a downgradient well that shows one or more exceedances of the applicable water quality based effluent limitations set forth in 314 CMR 5.10. In those cases where it is shown that a measured parameter exceeds the applicable water quality based effluent limitations set forth in 314 CMR 5.10 at the upgradient monitoring well, evidence that a discharge impairs the ability of the ground water to act as an actual or potential source of potable water is deemed to exist if a measured parameter in any downgradient well exceeds the level of that same measured parameter in the upgradient well for the same sampling period. . A statistical procedure approved by the Department shall be used in determining when a measured parameter exceeds the allowable level.
- b. Duty to comply. The Permittee shall comply at all times with the terms and conditions of the permit, 314 CMR 5.00, M.G.L. c. 21, §§ 26 through 53 and all applicable state and federal statutes and regulations.
- c. Standards and prohibitions for toxic pollutants. The Permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Federal Act, 33 U.S.C § 1317(a), for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- d. Proper operation and maintenance. The Permittee shall at all times properly operate and maintain all facilities and equipment installed or used to achieve compliance with the terms and conditions of the permit, and the regulations promulgated at 314 CMR 12.00 entitled "*Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Discharges*", and 257 CMR 2.00, "*Rules and Regulations for Certification of Operators of Wastewater Treatment Facilities*".
- e. Duty to halt or reduce activity. Upon reduction, loss, or failure of the treatment facility, the Permittee shall, to the extent necessary to maintain compliance with its permit, control production or discharges or both until the facility is restored or an alternative method of treatment is provided. It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
- f. Power Failure. In order to maintain compliance with the effluent limitations and prohibitions of this permit, the Permittee shall continue to provide an alternative power source sufficient to operate the wastewater control facilities;

- g. Duty to mitigate. The Permittee shall take all reasonable steps to minimize or prevent any adverse impact on human health or the environment resulting from non-compliance with the permit.
- h. Duty to provide information. The Permittee shall furnish to the Department within a reasonable time as specified by the Department any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine whether the Permittee is complying with the terms and conditions of the permit.
- i. Inspection and entry. The Permittee shall allow the Department or its authorized representatives to:
  - a. Enter upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records required by the permit are kept;
  - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
  - c. Inspect at reasonable times any facilities, equipment, practices, or operations regulated or required under the permit; and
  - d. Sample or monitor at reasonable times for the purpose of determining compliance with the terms and conditions of the permit.
- j. The Permittee shall physically secure the treatment works and monitoring wells and limit access to the treatment works and monitoring wells to those personnel required to operate, inspect and maintain the treatment works and to collect samples.
- k. The Permittee shall identify each monitoring well by permanently affixing to the steel protective casing of the well a tag with the identification number listed in the permit.
- l. Monitoring. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless other test procedures are specified in the permit.
- m. Recordkeeping. The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and all records of all data used to complete the application for the permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time. Records of monitoring information shall include:
  - a. The date, exact place, and time of sampling or measurements;
  - b. The individual(s) who performed the sampling or measurement;
  - c. The date(s) analyses were performed;
  - d. The individual(s) who performed the analyses;
  - e. The analytical techniques or methods used; and
  - f. The results of such analyses.

- n. Prohibition of bypassing. Except as provided in 314 CMR 5.16(13), bypassing is prohibited, and the Department may take enforcement action against a Permittee for bypassing unless:
- a. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the Permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - c. The Permittee submitted notice of the bypass to the Department:
    1. In the event of an anticipated bypass, at least ten days in advance, if possible; or
    2. In the event of an unanticipated bypass, as soon as the Permittee has knowledge of the bypass and no later than 24 hours after its first occurrence.
- o. Bypass not exceeding limitations. The Permittee may allow a bypass to occur which does not cause effluent limitations to be exceeded, but only if necessary for the performance of essential maintenance or to assure efficient operation of treatment facilities.
- p. Permit actions. The permit may be modified, suspended, or revoked for cause. The filing of a request by the Permittee for a permit modification, reissuance, or termination, or a notification of planned changes or anticipated non-compliance does not stay any permit condition.
- q. Duty to reapply. If the Permittee wishes to continue an activity regulated by the permit after the expiration date of the permit, the Permittee must apply for and obtain a new permit. The Permittee shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Department in writing.
- r. Property rights. The permit does not convey any property rights of any sort or any exclusive privilege.
- s. Other laws. The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, nor does it relieve the Permittee of its obligation to comply with any other applicable Federal, State, and local laws and regulations.
- t. Oil and hazardous substance liability. Nothing in the permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject under § 311 of the Federal Act, 33 U.S.C. § 1321, and M.G.L. c. 21E.
- u. Removed substances. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed in a manner

consistent with applicable Federal and State laws and regulations including, but not limited to, the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53 and the Federal Act, 33 U.S.C. § 1251 *et seq*, the Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C, and the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*, 310 CMR 19.000 and 30.000, and other applicable regulations.

v. Reporting requirements.

- a. Monitoring reports. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) at the intervals specified elsewhere in the permit. If the Permittee monitors any pollutant more frequently than required by the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
- b. Compliance schedules. Reports of compliance or non-compliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date.
- c. Planned changes. The Permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility or activity which could significantly change the nature or increase the quantity of pollutants discharged. Unless and until the permit is modified, any new or increased discharge in excess of permit limits or not specifically authorized by the permit constitutes a violation.
- d. Anticipated non-compliance. The Permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in non-compliance with permit requirements.
- e. 24-hour reporting. The Permittee shall report any non-compliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the Permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Permittee becomes aware of the circumstances. The written submission shall contain a description of the non-compliance, including exact dates and times, and if the non-compliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the non-compliance. The following shall be included as information which must be reported within 24 hours:
  1. Any unanticipated bypass which exceeds any effluent limitation in the permit.
  2. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.
- f. Other non-compliance. The Permittee shall report all instances of non-compliance not reported under 314 CMR 5.16(20)(a), (b), or (e) at the time monitoring reports are submitted. The reports shall contain the information listed in 314 CMR 5.16(20)(e).
- g. Toxics. All manufacturing, commercial, mining, or silvicultural dischargers must notify the Department as soon as they know or have reason to believe:
  1. That any activity has occurred or will occur which would result in the discharge of any toxic pollutant listed in 314 CMR 3.17 which is not



limited in the permit, if that discharge will exceed the highest of the following notification levels:

- a. 100 micrograms per liter (100 ug/l);
  - b. 200 micrograms per liter (200 ug/l) for acrolein and acrylonitrile; 500 micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
  - c. Five times the maximum concentration value reported for that pollutant in the permit application; or
2. That they have begun or expect to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the permit application
- h. Indirect dischargers. All Publicly Owned Treatment Works shall provide adequate notice to the Department of the following:
1. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to § 301 or 306 of the Federal Act, 33 U.S.C. § 1311 or 1316, if it were directly discharging those pollutants; and
  2. Any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
- i. Information. Where the Permittee becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.
- w. Signatory requirement. All applications, reports, or information submitted to the Department shall be signed and certified in accordance with 314 CMR 3.15 and 5.14.
- x. Severability. The provisions of the permit are severable, and if any provision of the permit, or the application of any provision of the permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of the permit, shall not be affected thereby.
- y. Reopener clause. The Department reserves the right to make appropriate revisions to the permit in order to establish any appropriate effluent limitations, schedules of compliance, or other provisions which may be authorized under the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53 or the Federal Act, 33 U.S.C. §1251 *et seq* in order to bring all discharges into compliance with said statutes.
- z. Approval of treatment works. All discharges and associated treatment works authorized herein shall be consistent with the terms and conditions of this permit. Any modification to the approved treatment works shall require written approval of the Department prior to the construction of the modification.
- aa. Transfer of Permits.
- a. RCRA facilities. Any permit which authorizes the operation of a RCRA facility which is subject to the requirements of 314 CMR 8.07 shall be valid only for the person to whom it is issued and may not be transferred.

- b. Transfers by modification. Except as provided in 314 CMR 5.16(25)(a) and (c), a permit may be transferred by the Permittee to a new owner or operator provided that the permit has been modified or revoked and reissued or a minor modification is made to identify the new Permittee in accordance with 314 CMR 5.12(3) and (4).
  - c. Automatic transfers. For facilities other than Privately Owned Wastewater Treatment Facilities (PWTFs) that treat at least some sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, and/or assisted living facilities, PWTFs that have been required to establish financial assurance mechanism(s) pursuant to 314 CMR 5.15(6), and RCRA facilities subject to the requirements of 314 CMR 8.07, a permit may be automatically transferred in accordance with 314 CMR 5.12(5).
- bb. Permit Compliance Fees and Inspection Information. Except as otherwise provided, any Permittee required to obtain a surface water or ground water discharge permit pursuant to M.G.L. c. 21, § 43 and 314 CMR 3.00 and 5.00, shall be required to submit the annual compliance assurance fee established in accordance with M.G.L. c. 21A, § 18 and 310 CMR 4.00 as provided in 314 CMR 2.12. The requirement to submit the annual compliance fee does not apply to any local government unit other than an authority. Any Permittee required to obtain a surface water or ground water discharge permit pursuant to M.G.L. c. 21, §43 and 314 CMR 3.00 and 5.00 may be required to submit inspection information annually as a condition of the permit as provided in 314 CMR 2.12.



**Massachusetts Department of Environmental Protection**  
**One Winter Street, Boston MA 02108 • Phone: 617-292-5751**  
**Communication For Non-English Speaking Parties - 310 CMR 1.03(5)(a)**

**1 English:**

This document is important and should be translated immediately. If you need this document translated, please contact MassDEP's Diversity Director at the telephone numbers listed below.

**2 Español (Spanish):**

Este documento es importante y debe ser traducido inmediatamente. Si necesita este documento traducido, por favor póngase en contacto con el Director de Diversidad MassDEP a los números de teléfono que aparecen más abajo.

**3 Português (Portuguese):**

Este documento é importante e deve ser traduzida imediatamente. Se você precisa deste documento traduzido, por favor, entre em contato com Diretor de Diversidade da MassDEP para os números de telefone listados abaixo.

**4(a) 中國（傳統） (Chinese Traditional):**

本文件非常重要，應立即翻譯。如果您需要翻譯這份文件，請用下面列出的電話號碼與Mass DEP的多樣性總監聯繫。

**4(b) 中国（简体中文） (Chinese Simplified):**

本文件非常重要，應立即翻譯。如果您需要翻譯這份文件，請用下面列出的電話號碼與Mass DEP的多样性总监联系。

**5 Ayisyen (franse kreyòl) (Haitian) (French Creole):**

Dokiman sa-a se yon bagay enpòtan epi yo ta dwe tradui imedyatman. Si ou bezwen dokiman sa a tradui, tanpri kontakte Divèsite Direktè MassDEP a nan nimewo telefòn ki nan lis pi ba a.

**6 Việt (Vietnamese):**

Tài liệu này là rất quan trọng và cần được dịch ngay lập tức. Nếu bạn cần dịch tài liệu này, xin vui lòng liên hệ với Giám đốc MassDEP đa dạng tại các số điện thoại được liệt kê dưới đây.

**7 ប្រទេសកម្ពុជា (Kmer (Cambodian):**

ឯកសារនេះគឺមានសារៈសំខាន់និងគួរត្រូវបានបកប្រែភ្លាមៗ ប្រសិនបើអ្នកត្រូវបានបកប្រែ ឯកសារនេះសូមទំនាក់ទំនងឆ្នោតជាតិរបស់ MassDEP នៅលេខទូរស័ព្ទដែលបានរាយនាមក្រោម។

**8 Kriolu Kabuverdianu (Cape Verdean):**

*Es documento é importante e deve ser traduzido imidiatamente. Se bo precisa des documento traduzido, por favor contacta Director de Diversidade na MassDEP's pa es numero indicode li d'boche.*

**9 Русский язык (Russian):**

Этот документ является важным и должно быть переведено сразу. Если вам нужен этот документ переведенный, пожалуйста, свяжитесь с директором разнообразия MassDEP по адресу телефонных номеров, указанных ниже.

**10 العربية (Arabic):**

هذه الوثيقة الهامة وينبغي أن تترجم على الفور. اذا كنت بحاجة الى هذه الوثيقة المترجمة، يرجى الاتصال مدير التنوع في PMassDE على أرقام الهواتف المدرجة أدناه.

**11 한국어 (Korean):**

이 문서는 중요하고 즉시 번역해야 합니다. 당신이 번역이 문서가 필요하다면 아래의 전화 번호로 MassDEP의 다양성 감독에 문의하시기 바랍니다.

**12 հայերեն (Armenian):**

Այս փաստաթուղթը շատ կարևոր է եւ պետք է թարգմանել անմիջապես. Եթե Ձեզ անհրաժեշտ է այս փաստաթուղթը թարգմանվել դիմել MassDEP բազմազանությունը տնօրեն է հեռախոսահամարների թվարկված են ստորև.

**13 فارسی (Farsi (Persian):**

این سند مهم است و باید فوراً ترجمه شده است.

اگر شما نیاز به این سند ترجمه شده، لطفاً با ما تماس تنوع مدیر PMassDE در شماره تلفن های ذکر شده در زیر.

**14 Français (French):**

Ce document est important et devrait être traduit immédiatement. Si vous avez besoin de ce document traduit, s'il vous plaît communiqué avec le directeur de la diversité MassDEP aux numéros de téléphone indiqués ci-dessous.

**15 Deutsch (German):**

Dieses Dokument ist wichtig und sollte sofort übersetzt werden. Wenn Sie dieses Dokument übersetzt benötigen, wenden Sie sich bitte Diversity Director MassDEP die in den unten aufgeführten Telefonnummern.

**16 Ελληνική (Grep):**

Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφραστούν αμέσως. Αν χρειάζεστε αυτό το έγγραφο μεταφράζεται, παρακαλούμε επικοινωνήστε Diversity Director MassDEP κατά τους αριθμούς τηλεφώνου που αναγράφεται πιο κάτω.

**17 Italiano (Italian):**

Questo documento è importante e dovrebbe essere tradotto immediatamente. Se avete bisogno di questo documento tradotto, si prega di contattare la diversità Direttore di MassDEP ai numeri di telefono elencati di seguito.

**18 Język Polski (Polish):**

Dokument ten jest ważny i powinien być natychmiast przetłumaczone. Jeśli potrzebujesz tego dokumentu tłumaczone, prosimy o kontakt z Dyrektorem MassDEP w różnorodności na numery telefonów wymienionych poniżej.

**19 हिन्दी (Hindi):**

यह दस्तावेज महत्वपूर्ण है और तुरंत अनुवाद किया जाना चाहिए. आप अनुवाद इस दस्तावेज़ की जरूरत है, नीचे सूचीबद्ध फोन नंबरों पर MassDEP की विविधता निदेशक से संपर्क करें.