

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

IN THE MATTER OF)	DOCKET NO. CWA-AO-R01-FY22-05
)	
Town of Rockland, Massachusetts)	FINDINGS OF VIOLATION
NPDES Permit No. MA0101923)	
)	AND
Proceedings Under Sections 308(a) and)	
309(a)(3) of the Clean Water Act,)	ORDER FOR COMPLIANCE
33 U.S.C. §§ 1318(a) and 1319(a)(3))	
)	

STATUTORY AUTHORITY

The following FINDINGS are made, and ORDER issued pursuant to Section 308(a) and Section 309(a)(3) of the Clean Water Act, (the “Act”), 33 U.S.C. §§ 1318, 1319(a)(3). Section 309(a)(3) of the Act grants the Administrator of the U.S. Environmental Protection Agency (“EPA”) the authority to issue orders requiring persons to comply with Sections 301, 302, 306, 307, 308, 318 and 405 of the Act and any permit condition or limitation implementing any of such sections in a National Pollutant Discharge Elimination System (“NPDES”) permit, issued under Section 402 of the Act, 33 U.S.C. § 1342. Section 308(a) of the Act, 33 U.S.C. § 1318(a), authorizes EPA to require the submission of any information required to carry out the objectives of the Act. These authorities have been delegated to the EPA Region 1 Administrator, and, in turn, to the EPA, Region 1 Director of the Enforcement and Compliance Assurance Division (the “Director”).

The Order herein is based on findings of violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a), and the conditions of NPDES Permit No. MA0101923. Pursuant to Section 309(a)(5)(A) of the Act, 33 U.S.C. § 1319(a)(5)(A), the Order provides a schedule for compliance that the Director has determined to be reasonable.

DEFINITIONS

Unless otherwise defined herein, terms used in this Order shall have the meaning given to those terms in the Act, 33 U.S.C. §§ 1251 *et seq.*, and the regulations promulgated thereunder, and any applicable NPDES permit. For the purposes of this Order, “NPDES Permit” means the Town of Rockland’s NPDES Permit, No. MA0101923, and all amendments or modifications thereto, and renewals thereof, as are applicable and in effect at the time. This Order shall remain in effect should the Town obtain coverage under the NPDES General Permit for Medium Wastewater Treatment Facilities (WWTFs) in Massachusetts (“Medium WWTF GP MAG590000”), in which case “NPDES Permit” shall refer to Medium WWTF GP MAG590038.

FINDINGS

The Director makes the following findings of fact:

1. The Town of Rockland, Massachusetts (the “Town”) is a municipality, as defined in section 502(4) of the Act, 33 U.S.C. § 1362(4), established under the laws of the Commonwealth of Massachusetts, and, therefore, a “person” under Section 502(5) of the Act, 33 U.S.C. § 1362(5).
2. The Town is the owner and operator of a Publicly Owned Treatment Works (“POTW”), which includes a wastewater collection system (“Collection System”) consisting of sewerage conveyance pipelines, pump stations, and a Wastewater Treatment Facility (“WWTF”) from which pollutants, as defined in Section 502(6) and (12) of the Act, 33 U.S.C. §§ 1362(6) and (12), are discharged to waters of the United States as described in Section 502(7) of the Act, 33 U.S.C. § 1362(7), from outfall serial number 001, which is a “point source” as defined in Section 502(14) of the Act, 33 U.S.C. § 1362(14).
3. Section 301(a) of the Act, 33 U.S.C. § 1311(a), makes unlawful the discharge of

pollutants to waters of the United States except in compliance with, among other things, the terms and conditions of a NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. §1342.

4. On January 26, 2006, the Town was issued NPDES Permit No. MA0101923 by the Director of the Water Division (formerly Office of Ecosystem Protection) of EPA, Region I, under the authority given to the Administrator of EPA by Section 402 of the Clean Water Act, 33 U.S.C. §1342. This authority has been delegated by the administrator of EPA to the Regional Administrator of EPA, Region 1 and, in turn, to the Director of the Water Division. On February 15, 2007, EPA issued a modification to the NPDES Permit that changed the permitted flow limitation from a 12-month rolling average of 2.5 million gallons per day (MGD) to a monthly average limitation of 2.5 MGD (“2007 Permit Modification”).
5. The NPDES Permit was reissued on November 29, 2021, with an effective date of February 1, 2022. The flow limitations in the reissued permit are unchanged from the previous permit.
6. Part I.A.1 of the NPDES Permit establishes effluent limitations and monitoring requirements for the discharge of treated effluent from outfall serial number 001.
7. The NPDES Permit authorizes the Town to discharge pollutants, including Ammonia Nitrogen and Total Suspended Solids (TSS), from outfall serial number 001. The NPDES Permit also establishes a flow volume and Whole Effluent Toxicity limits while discharging from the POTW to French Stream.

8. On September 29, 2006, EPA issued Administrative Order Docket No. 06-33 (“2006 AO”) to the Town in response to violations of Total Suspended Solids (TSS) and flow limitations in Part I.A.1 of the NPDES permit.
9. In response to the 2006 AO, the Town submitted a “Plan for Compliance” on February 12, 2007 that included: summaries of previously conducted sewer system studies; a description of plans to remove additional sources of inflow and infiltration (“I/I”); an annual flow monitoring plan to assess the effectiveness of sewer rehabilitation efforts; a listing of specific tasks to be conducted, based on a May 2006 draft I/I plan, including a sump pump identification and removal program and implementation of an August 2006 sewer connection moratorium.
10. The Permittee has continued to discharge wastewater volumes that exceeded the monthly average flow limitation of 2.5 MGD in Part I.A.1 of the NPDES Permit. Over the five-year period, from June 1, 2017, to May 31, 2022, the Permittee violated the monthly average flow limitation for 32 of 60 months. During this same period, the Town also violated its daily maximum and weekly average limitations for Ammonia Nitrogen for three months, its Whole Effluent Toxicity limitations for three months and its TSS limitations for one month. A summary of NPDES permit violations is attached (Enclosure 1).
11. On April 29, 2021, EPA issued a Request for Information under Section 308 of the CWA requiring the submission of information regarding actions that the Town had taken since 2006 to identify and remove I/I that enters the Town’s Collection System.
12. The Town developed a High Flows Management Plan (HFMP) in 1999 (updated in 2016) that identifies actions to be taken at the WWTF and associated pumping stations in the

event of high flows. The HFMP describes procedures to divert high flows into excess process tanks and divert these flows to the outfall when the storage capacity of these tanks is exceeded.

13. On May 19, 2021, the Town of Rockland Sewer Commission established a New Connection Moratorium that became effective on July 1, 2021.
14. The average flow for 2020 was 2.4 MGD. The Town of Rockland Infiltration and Inflow Control Plan Summary Report for Calendar Year 2020 (January 2021) (“I/I Annual Report”) estimated that approximately 1.3 MGD of this flow, or approximately 54 percent, is comprised of infiltration to the sewer system. I/I reports for previous years indicate comparable contributions of infiltration into the sewer system.
15. In September 2021, AECOM, a consultant to the Town, completed a Sewer System Evaluation Survey (“2021 SSES”) that identified and recommended specific pipe segments and service connections for rehabilitation.
16. The 2021 SSES identified approximately 219,000 gallons per day (gpd) of infiltration to the collection system from main pipelines, manholes, and lateral connections could be cost-effectively removed.
17. The Town has also provided to EPA a copy of a draft “Agreement between the Town of Rockland, Massachusetts and Wright-Pierce for Comprehensive Wastewater Management Plan (“CWMP”)” which includes as Exhibit B a “Scope of Services (SOS)/Plan of Study (POS)” (“CWMP Scope of Services”).

ORDER

Accordingly, pursuant to Sections 308 and 309(a)(3) of the Act, it is hereby ordered that:

18. By August 1, 2022, the Town shall submit a plan and schedule to EPA and Massachusetts Department of Environmental Protection (“MassDEP”) to implement either the work described in the “Summary” section of the 2021 SSES or an alternative plan designed to remove at least the quantity of I/I identified in the “Summary” section of the 2021 SSES (“I/I Removal Plan”). The Town shall implement the I/I Removal Plan upon submission to EPA, subject to modifications pursuant to any comments provided by EPA.
19. By September 1, 2022, the Town shall develop and submit to EPA and MassDEP an updated CWMP Scope of Services which includes an evaluation of alternatives to ensure its compliance with the monthly flow limit of the NPDES Permit. At a minimum, the CWMP Scope of Services shall include consideration of the following:
 - a) Additional studies to identify sources of I/I from the Collection System not addressed under the 2021 SSES described in paragraph 15, above.
 - b) Identification of opportunities to utilize inline storage within the Collection System to reduce peak flows to the treatment plant during wet weather.
 - c) Identification of opportunities to utilize offline storage to reduce peak flows to the treatment plant during wet weather.
 - d) Investigation of opportunities for inground injection.
 - e) Additional connection restrictions beyond those included in the May 2021 New Connection Moratorium.
 - f) Other means to address flow violations at the treatment plant.
20. By September 30, 2025, the Town shall develop and submit to EPA and MassDEP a Report which includes an evaluation of additional alternatives to ensure its compliance

with the monthly flow limit of the NPDES Permit (the “Additional Alternatives Report”).

At a minimum, the Additional Alternatives Report shall include consideration of the following:

- a) Investigation of diversion of all or partial flows from the Collection System to another municipal collection system, including regionalization, or to that of the Massachusetts Water Resources Authority collection system.
 - b) Investigation of moving the discharge point of the wastewater treatment plant to an alternative receiving waterbody.
21. The Additional Alternatives Report shall include at a minimum a description of the options considered, costs associated with each option and time frames associated with implementing such options. The Report shall include recommendations of which options should be implemented by the Town. The Report shall also include an explanation of, and the reasoning supporting, which options were not being adopted. The Town shall update its CWMP to reflect any recommendations from the Additional Alternatives Report that it will implement related to flow.
 22. By April 30, 2023, the Town shall submit to EPA and MassDEP the final CWMP.
 23. By September 30, 2023, the Town shall develop and submit a plan and schedule to EPA and MassDEP describing what measures from the CWMP it plans on implementing. The Town shall implement such plan and schedule upon submission to EPA, subject to modifications pursuant to any comments provided by EPA and any modifications adopted based on the Additional Alternatives Report.
 24. By July 1, 2023, the Town shall submit a rate study to EPA evaluating a full range of alternative spending scenarios on projects related to improvements to the Collection

System and wastewater treatment plant, and the projected impacts to sewer rates in the Town.

25. Total Phosphorus Compliance Schedule: To allow the Town adequate time to determine how to meet its phosphorus limit of 0.1mg/L (April 1-Oct 31) EPA is providing the Town an additional 11 months to comply with its obligation under Part I.G.2.a of the Permit as follows:

Within 23 months of the effective date of the permit (i.e., by January 1, 2024), the Permittee shall submit to EPA and MassDEP a status report evaluating the potential treatment process changes (such as chemical addition) necessary to achieve the permit limit.

The status report shall include a description of the treatment process change(s) the Town has selected to meet the phosphorus limit and the schedule for implementing such process change(s).

26. Until further notice, beginning November 30, 2022, and every six months thereafter (i.e. each November 30, and May 31 each year), the Town shall submit a Semi-Annual Compliance Report to EPA and MassDEP detailing the actions taken by the Town during the prior six month period and planned during the next six month period to comply with this Order and to address NPDES permit flow violations and any other permit violations that occur associated with elevated flows to the treatment plant. The Semi-Annual Compliance Report shall, at a minimum, include the following:
- a. A summary listing of all monthly flow violations that occurred during the previous six months, including a statement regarding whether wastewater receiving less than secondary treatment was combined with the final effluent during any bypass events.

- b. The date of any bypasses of secondary treatment and the quantity of effluent discharged that received less than full secondary treatment.
- c. A detailed description of the actions taken during the previous six months calendar year to address requirements of this Order.
- d. A map or maps of the Collection System along with an overlay showing the location of projects to repair or replace infrastructure causing or contributing to effluent flow violations.
- e. The result of efforts to address I/I issues in the Collection System, including a table identifying and quantifying each source of I/I removed by those actions and the costs of removing the sources, individually and collectively.
- f. A description of the actions taken by the Town to comply with the sewer connection moratorium described in paragraph 13, above.
- g. A table showing any development projects before the Rockland Sewer Commission that have been approved but are waiting for authorization to connect to the Collection System including the revenue paid to the Town for the connection, gallons per day to be connected to the Collection System and the volume of I/I that must be removed associated with the project.
- h. A table showing any development projects before the Rockland Sewer Commission pending approval to connect to the Collection System including the estimate revenue paid to the Town for the connection, gallons per day to be connected to the Collection System and the volume of I/I that must be removed associated with the project.

- i. A spreadsheet showing the specific balance of money available to the Town to use towards I/I projects based on revenue generated from approval of any development projects.
- j. A description of actions taken towards implementation of the Additional Alternatives Report, such as contacts with other municipalities regarding the opportunities for diversion of all or partial flows from the Collection System to another municipal collection system, including regionalization, and a description of any actions taken towards evaluation of moving the discharge point of the wastewater treatment plant to an alternative receiving waterbody.
- k. The actions that will be taken during next reporting period to address requirements of this Order.
- l. A description of revisions to any of the Town's plans to address I/I in response to any new information obtained during the previous six months.

NOTIFICATION PROCEDURES

27. Where this Order requires a specific action to be performed within a certain time frame, the Town shall submit to EPA a written notice of compliance or noncompliance with such action within seven (7) days following the applicable deadline; however, written notice of compliance is not necessary if the action required by the Order includes submission of a document, report, or other written material, and the Town has timely submitted such document, report, or written material to EPA.
28. If noncompliance is reported, the written notice submitted to EPA must include the following information:
 - a. A description of the noncompliance.

- b. A description of any actions taken or proposed by the Town to comply with the required action.
 - c. A description of any factors that tend to explain or mitigate the noncompliance.
 - d. The date by which the Town will perform the required action.¹
29. After a notification of noncompliance has been submitted to EPA, the Town must achieve compliance as expeditiously as possible, but by no later than the date submitted to EPA pursuant to paragraph 23., and submit to EPA the required document, report, or written material, as applicable, or a written notice that compliance with the action has been achieved.
30. Submissions required by this Order shall be in the following format:
- a. Verbal notification to EPA shall be to David Turin at (617) 918-1598.
 - b. Written notification to EPA shall be to David Turin at: turin.david@epa.gov.
 - c. When notification in an electronic format is not appropriate, submissions shall be sent to EPA at the following address:

David Turin
U.S. Environmental Protection Agency
Water Compliance Section - Mail code: 04-3
Enforcement and Compliance Assurance Division
5 Post Office Square - Suite 100
Boston MA 02109 - 3912
31. Submissions to MassDEP required by this Order shall be in writing to David Burns and shall be provided in an electronic format to MassDEP at the following addresses:

david.burns2@mass.gov

¹ Note that this is not an extension to the original deadline.

When notification in an electronic format is not appropriate, submission shall be sent to MassDEP at the following address:

David Burns
Massachusetts Department of Environmental Protection
Southeast Region Main Office
20 Riverside Drive
Lakeville, MA 02347

32. EPA shall notify the Town in writing of any changes to the contact persons or email addresses provided above in paragraphs 27 or 28.

GENERAL PROVISIONS

33. This Order does not constitute a waiver or a modification of the terms and conditions of the NPDES Permit. The NPDES Permit remains in full force and effect.
34. EPA reserves the right to seek any and all remedies available under Section 309 of the Act, 33 U.S.C. § 1319, as amended, for any violation cited in this Order. In addition, EPA reserves its authority under the CWA to request a federal court to impose a moratorium on new sewer hook ups.
35. The Town may seek federal judicial review of this Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
36. This Order shall become effective upon receipt by the Town and will supersede the 2006 AO in its entirety.

Karen McGuire, Director
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region 1