

DW07-105

THE STATE OF NEW HAMPSHIRE



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PUBLIC UTILITIES COMMISSION
21 S. Fruit Street, Suite 10
Concord, N.H. 03301-2429

September 19, 2007



Debra A. Howland
Executive Director & Secretary
N.H. Public Utilities Commission
21 S. Fruit St., Suite 10
Concord, NH 03301

Re: Lakes Region Water Company, Inc.

Dear Ms. Howland:

The purpose of this letter is to apprise the Commission of the results of Staff's investigation into certain recent events regarding Lakes Region Water Company, Inc. (Lakes Region) and to recommend that the Commission open a proceeding to determine whether Lakes Region is providing safe and adequate service to its customers in accordance with RSA 374:1, and whether the Commission should invoke its authority under RSA 374:47-a and place this utility in receivership.

By way of background, Lakes Region is a public water utility pursuant to RSA 362:2 and RSA 362:4. It provides water service to a total of some 1,939 customers in New Hampshire in 17 separate systems as follows: Far Echo Harbor (86 customers), Paradise Shores (375 customers and an additional 343 at neighboring Suissevale to which wholesale water is supplied) and West Point (42) in the Town of Moultonborough; Waterville Valley Gateway (83) and 175 Estates (46) in the Town of Thornton; Hidden Valley Shores (116) in Tuftonboro and Wolfeboro; Wentworth Cove (52) and Pendleton Cove (68) in the City of Laconia; Brake Hill Acres (36) and Gunstock Glen (56) in the Town of Gilford; Deer Run (57) in the Town of Campton; Woodland Grove (73) and Echo Lake Woods (43) in the Town of Conway; Tamworth Water Works (102) in the Town of Tamworth; Deer Cove (51) and Indian Mound (89) in the Town of Ossipee; and Lake Ossipee Village (221) in the Town of Freedom. Lakes Region is headquartered in Moultonborough and is owned and operated by Thomas and Barbara Mason, who are the sole stockholders of the company.

Letter to Debra Howland
September 19, 2009

Over the last several months, Staff has experienced an increase in customer calls regarding service. In particular, we have received numerous calls and e-mails from customers at the Hidden Valley system in Tuftonboro and Wolfeboro regarding frequent water outages. This water system has had supply capacity problems for several years. The New Hampshire Department of Environmental Services (DES) issued a Letter of Deficiency (LOD) regarding this system on October 31, 2006. Following a meeting between Lakes Region and DES Staff, certain action items were identified and deadlines were set for their completion. A follow-up letter from DES to Lakes Region was sent February 7, 2007, indicating that none of the action items had been completed by the agreed deadlines. This summer, DES requested the company implement a discretionary water use ban, and there remains a moratorium on new connections to the system. Staff is aware that Lakes Region has engaged the services of Lewis Engineering, PLLC to evaluate the Hidden Valley system and make recommendations regarding the LOD for that system. Lakes Region has taken some steps to improve the output of its existing wells, including the process of hydrofracking which, if successful, would open new or existing water veins. Unfortunately, this process has not been successful. Lakes Region has also been required by DES to conduct a comprehensive leak detection survey, and we understand the company has submitted a plan for doing so. However, according to DES, Lakes Region has not fully complied with the LOD.

In July, Lakes Region requested that the Commission order Hidden Valley customers to replace their customer services lines, asserting that these lines are of substandard materials and are the source of numerous leaks and, therefore, system outages. The Commission assigned docket number DW 07-078 to this request. On July 27, Staff submitted data requests to Lakes Region on the matter to which Lakes Region has not responded.

At this point, the Hidden Valley system continues to experience service outages, and we continue to receive calls from customers. The homeowners association at Hidden Valley is extremely frustrated that the water system problems are not being resolved. It is Staff's opinion that, although the company has taken some steps to comply with the DES requirements emanating from the October 31, 2006 LOD, the company may no longer have the managerial and financial capabilities to operate water systems. The Hidden Valley homeowners association has offered the use of some land it owns for exploration for new water sources, but to date the company has not acted on this offer. Staff believes that the company may not have the financial means to do so. In phone conversations and meetings with the company this year, we understand that the company's cash flow is very tight, in spite of the fact that its most recent rate case (DW 05-137) was concluded less than one year ago. Staff is also aware from other sources that in the past year Lakes Region has reduced its staff. Demands for capital improvements in other systems, particularly at Paradise Shores and 175 Estates, may very well be leaving Lakes Region unable to secure the capital it needs for vital system needs at Hidden Valley.

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A more recent event now leads Staff to request the opening of a proceeding. We became aware this past week that an LOD was issued by DES on September 11, 2007 for conditions at the Tamworth Water Works system owned and operated by Lakes Region. I attach a copy of that LOD to this letter. Staff is very troubled that an unapproved water source appears to have been connected to the Tamworth distribution system. This source had been taken offline in 2004 due to radiological exceedances. An LOD issued in 2004 identified historical results of uranium samples from this bedrock source in the range of 222 ug/L to 319 ug/L when the maximum contaminant level for uranium was 30 ug/L. Lakes Region developed a new source of water, put it online, and indicated to DES that the old source had been disconnected from the distribution system and that pipes and electrical connections to it had been severed. As a result of an August 20, 2007 water sample that revealed the presence of *E. coli* bacteria at the Tamworth system, a Boil Order was issued for the Tamworth system, and DES personnel performed a sanitary survey of the system the next day. It was discovered that the water source thought to have been disconnected in 2004 had been reconnected despite the previous assurance of Lakes Region that it had been disconnected due to the uranium exceedances.

The August 21, 2007 sanitary survey also revealed other problems at the Tamworth Water Works system. I have attached the LOD that resulted from the August 21 survey. Since the Tamworth Boil Order was reported publicly to protect customers, DES Staff has indicated to us that it has now been receiving calls from customers of other Lakes Region systems who have expressed concern about the water in their own systems. As a result, it is Staff's understanding that DES Staff intends to conduct limited sanitary surveys of all systems owned and operated by Lakes Region, as well as any other systems in which Lakes Region may be acting as a certified operator. This field work is expected to be completed by the close of business Wednesday, September 19.

In Staff's view, the problems at the Tamworth system and the apparent actions on the part of Lakes Region with respect to the connection of an unapproved source call into question the company's managerial capability to continue to own and operate water systems pursuant to RSA 374:22.

Additionally, it is our belief that Lakes Region may no longer have the financial capability to operate water utilities. Lakes Region is currently developing a new well on recently purchased property within or nearby to its Paradise Shores system, in response to requirements imposed by DES for additional capacity at that system. Staff understands that the source of the financing for this project is Mr. and Mrs. Mason, not Lakes Region Water Company. Given Staff's ongoing concern regarding the financial capability of the utility, particularly our concern regarding the declining equity in the company's capital structure, Staff inquired as to the company's plans. Staff asked when this source would be approved and put online, and when this new source and the new water storage facility at this system would be put before the Commission for inclusion in rates. Lakes Region has indicated that Mr. and Mrs. Mason have no intention of putting these assets onto the

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books of the utility and treating that transaction as an infusion of equity capital. The reason stated was that the company was not a good investment. Staff would suggest that, if the company's shareholders no longer have confidence in the financial integrity of the utility, the Commission should immediately open a proceeding to investigate this as well as the other issues raised in this letter.

Staff is available to discuss these matters as needed. Staff will continue to stay in contact with DES Staff as the limited sanitary surveys are completed this week at all Lakes Region's systems. In the meantime, Staff recommends the Commission open a docket to determine whether Lakes Region has the managerial and financial capability to provide safe and adequate service to its customers, and to determine whether a receivership under RSA 374:47-a is warranted.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Naylor". The signature is fluid and cursive, with a large initial "M" and "N".

Mark A. Naylor
Director, Gas & Water Division

Cc: Lakes Region Water Company, Inc.
Attachment



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

September 11, 2007

LETTER OF DEFICIENCY #DWGB 07-176
CERTIFIED MAIL #7006 3450 0001 6018 1675

Thomas Mason, Sr.
Lakes Region Water Co.
420 Gov Wentworth Hwy
PO Box 389
Moultonborough, NH 03254-0389

By Fax and US Mail

Subject: Tamworth - Public Water System: Tamworth Water Works (EPA # 2311010)

Dear Mr. Mason:

The records of the Department of Environmental Services ("DES") show that Tamworth Water Works ("TWW") is classified as a public water system ("PWS"), as defined by RSA 485:1-a. A PWS is defined as any water system serving 15 or more services, or 25 or more people for 60 or more days per year. As such, the owner of the water system is required to comply with NH Administrative Rule Env-Ws 300, *New Hampshire Drinking Water Rules*.

On August 20, 2007, in accordance with Env-Ws 325.11, a Boil Order was placed on TWW due to the presence of *E. coli* bacteria in a drinking water sample. The following day, August 21, 2007, personnel from DES conducted a sanitary survey of TWW, accompanied by a Lakes Region Water Company ("LRWC") employee. Pursuant to Env-Ws 306, the purpose of the sanitary survey was to evaluate the adequacy of the source(s), storage facilities, equipment, operation, and maintenance to produce and distribute safe drinking water. A sanitary survey report, dated August 28, 2007, was previously sent to you. The sanitary survey identified the following deficiencies.

Unapproved source online

The sanitary survey report identified two active wells: a gravel pack well ("GPW 1"), and a bedrock well ("BRW 1"). DES records show that BRW 1 (identified in the DES database as "Source 004") has a history of radiological exceedances. On May 14, 2004, Letter of Deficiency #WSEB 04-068 ("2004 LOD") was issued to TWW citing exceedances of the maximum contaminant level ("MCL") for Uranium in samples from BRW 1/Source 004. The 2004 LOD noted that the MCL for Uranium was 30 ug/L, but historical results of Uranium samples from this source ranged from 222 ug/L to 319 ug/L.

In response to the Uranium exceedances, TWW developed GPW 1 (identified in the DES database as "Source 005"). DES records show that DES received a fax, dated July 21, 2004, from LRWC stating, "Lakes Region Water Co. has abandoned well 004 and activated well 005....because of high Uranium..." Based on this information, DES removed source 004 from the system's Master Sampling Schedule and created a sampling schedule solely for GPW 1/Source 005.

Furthermore, a signed fax, dated December 8, 2004, was received by DES from LRWC stating, "The Tamworth Well #004 BRW was shut down on July 21, 2004 because of your request as it detected high Uranium. This well was taken off line and all pipes and electrical connections were severed. The 4th qtr samples taken on Nov 2nd were from Well # 005 as this is the only well in service..." Based on this information, DES sent a Letter of Closure for the 2004 LOD.

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Tarnworth Water Works

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As noted above, during the August 21, 2007, sanitary survey, both BRW 1/Source 004 and GPW 1/Source 005 were on-line and operational. On two subsequent site visits to the system by DES personnel, both sources were again found to be in use. Env-Ws 378.04 requires, among other things, prior approval by DES before an inactive well or a well that has been removed from monitoring responsibilities is connected to a community water system. Since approval for reconnecting BRW 1/Source 004 was never sought from or granted by DES, the water system is in violation of Env-Ws 378.04.

Sanitary seals not maintained

Env-Ws 372.23(e) requires a tight seal to be provided around all entry ports to a well. During the August 21, 2007, sanitary survey, the well caps on both wells were loose and open due to improper assembly and/or installation of the caps. The gaps in the well caps were sufficiently large to allow insects and vermin to enter the wells. On a subsequent site visit on September 7, 2007, the well caps were found to be assembled correctly, tight, and well sealed, with the exception of a slight opening around the well pump electrical conduit pipe. The LRWC employee on scene indicated he would seal/caulk the opening that day.

Water storage tank subject to contamination

Pursuant to Env-Ws 306.02(b), having a water storage tank subject to contamination is a significant facility deficiency. During the August 21, 2007, sanitary survey, the 20,000 gallon atmospheric tank was found to have a port on the top of the tank covered by a rubber cap. The rubber cap had a cross-shaped slit to allow the insertion of water level probes and chemical feed tubes. The slit had created a small opening into the tank. Mouse feces were observed on top of the tank and the rubber cup. This condition potentially allowed the entry of contaminants into the tank. On a subsequent site visit on September 7, 2007, the small opening in the rubber port cap had been sealed with electrician's tape, but mouse feces remained on the top of the tank.

On September 7, 2007, DES phoned LRWC and requested that the atmospheric tank be dewatered and cleaned. On September 8, 2007, DES visited the TWW and observed LRWC staff draining the tank and cleaning it.

Lack of individual source taps

Env-Ws 372.23(f) requires all well sources to be capable of being separately sampled for water quality before entering storage tanks. Neither BRW 1/Source 004 nor GPW 1/Source 005 has a source tap.

Unknown treatment system online

During the August 21, 2007, sanitary survey, a treatment system was observed to be operating and providing treatment to the water. The LRWC employee present at the sanitary survey was unsure what chemicals were in use, what the treatment was for, and when it was installed. DES has no record of approving any treatment system for TWW. The installation of treatment without prior DES approval places the water system in violation of Env-Ws 372.26.

In addition to the deficiencies noted in the August 28, 2007, sanitary survey report, other serious violations exist as listed below.

Uranium Violation

As noted earlier, DES received two faxes from LRWC indicating BRW 1/Source 004 had been taken off-line and abandoned because of high Uranium levels. Upon discovering that this source was online, a Uranium sample was collected by DES personnel on August 31, 2007, at a publicly accessible point in the distribution system and was analyzed at the State laboratory. Results of that sample showed a Uranium level of 121 ug/L. As such, the water system has exceeded the MCL for Uranium, thus placing the water system in violation of Env-Ws 312. Pursuant to a phone call from DES to you on September 7, 2007, BRW 1/Source 004 was to be immediately shut off. You verbally responded that the well would be shut off within 30 minutes. Env-Ws 351.04 requires a community water system that exceeds a chemical MCL to perform public notice of the violation to consumers and submit proof of public notice to DES.

Treatment equipment subject to contamination

During a follow-up visit to the TWW pumphouse on September 7, 2007, DES staff found an open funnel atop a calibrated column containing a chemical treatment solution that is pumped into the atmospheric tank. Mouse feces and shredded fiberglass insulation material had fallen from a space between ceiling panels located above the funnel into the calibrated column. Staff could visually observe such material floating in the chemical solution. Contamination of the water system could easily occur as the chemical solution is pumped into the water system.

Bulk water delivery from unknown source

While DES staff was present at the TWW system on September 8, 2007, a bulk water tanker from R & TJ's Trucking, LLC arrived to deliver water to the system. The operator of the tanker would only state that the water was "from a well in Meredith." Pursuant to RSA 485:4, DES is empowered to investigate the sanitary conditions and methods pertaining to the source and distribution of water for domestic use. Since the source and water quality of the bulk water was unknown, DES refused to allow the bulk water to be pumped into the storage tank.

Corrective Actions

DES requests the following actions be performed to correct existing violations and prevent future violations:

1. **As soon as possible, but no later than 2 days from the date of this LOD**, sanitize and conduct a thorough cleaning of the pumphouse; and
2. **As soon as possible, but no later than 5 days from the date of this LOD**, provide DES a written plan to rid the pumphouse of vermin. Any use of pesticides or poison for vermin within the pumphouse or sanitary protective radius for GPW 1/Source 005 must receive prior approval from DES; and
3. **As soon as possible, but no later than 10 days from the date of this LOD**, and with DES staff present, disconnect unapproved BRW 1/ Source 004 and pull the well pump out of the well and either maintain or abandon the well in accordance with We 100 through We-1000; and
4. **As soon as possible, but no later than 14 days from the date of this LOD**, provide a written statement to DES containing the date the unapproved BRW 1/ Source 004 was turned on and an explanation as to why; and

5. **As soon as possible, but no later than 14 days from the date of this LOD**, provide this office a draft public notice of the Uranium MCL violation(s) following the guidelines on the enclosed public notice handout. Notice should include all test results representative of BRW 1/ Source 004 since 2004. Once approved by DES, distribute the public notice to all customers of the water system. Continue providing public notice each calendar quarter for as long as the violation occurs; and
6. **Within 10 days of providing public notice** of the Uranium violation(s), submit proof of public notice to DES following the guidelines on the enclosed public notice handout; and
7. **As soon as possible, but no later than 14 days from the date of this LOD**, provide this office with water use records for the past 12 months, including an estimate of Average Daily Demand, based on service/source meter readings at the pumphouse; and
8. **As soon as possible, but no later than 14 days from the date of this LOD**, submit to DES the unapproved treatment design documentation and specifications, including information regarding the date of installation, date of operation, and the treatment objective; and
9. **As soon as possible, but no later than 14 days from the date of this LOD**, seal or otherwise close the opening in the well cap of GPW 1/Source 005 and submit documentation to DES showing this deficiency to be fixed; and
10. **As soon as possible, but no later than 30 days from the date of this LOD**, install a source sampling tap for GPW 1/Source 005; and
11. **Between October 1, 2007, and December 31, 2007**, submit a compliance sample for Uranium in accordance with your master sampling schedule. Continue to submit Uranium samples on a quarterly basis in accordance with your Master Sampling Schedule, a copy of which is enclosed

Note: Should any actions or timeframes contained in this LOD conflict with any actions or deadlines listed in the sanitary survey letter dated August 28, 2007, the actions and deadlines requested in this LOD are controlling.

In the event compliance is not achieved within these time periods, DES may take further enforcement action, including issuing an order requiring the deficiencies to be corrected, initiating an administrative fine proceeding, and/or referring the matter to the NH Department of Justice for imposition of appropriate penalties.

All the above requested information should be addressed as follows:

Steve Roy
Department of Environmental Services
Drinking Water and Groundwater Bureau
29 Hazen Drive, PO Box 95
Concord, NH 03302-0095

Please contact Steve Roy by phone at (603) 271-3918 or by e-mail at sroy@des.state.nh.us if you have any questions regarding this letter.

Letter of Deficiency #DWGB 07-176

Tamworth Water Works

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Sincerely,

A handwritten signature in black ink, appearing to read "Rene Pelletier", is written over a light gray rectangular background. The signature is cursive and somewhat stylized.

Rene Pelletier, Assistant Director
Water Division

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- Encl: Uranium Public Notice Template
Master Sampling Schedule
- cc: Gretchen R. Hamel, DES Legal Unit Administrator
Town of Tamworth Health Officer
Mark Naylor, PUC
Marsha Thunberg, PUC
Doug Brogan, PUC
- ec: EPA, Region 1
Kevin Riel, DES/DWGB
Steve Roy, DES/DWGB