

THE STATE OF NEW HAMPSHIRE



PUBLIC UTILITIES COMMISSION
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May 15, 2012



Debra A. Howland, Executive Director
N.H. Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301

Re: DW 12-109 Pennichuck Water Works, Inc.
Beede Waste Oil Site, Plaistow
Request for Franchise and Rates

Dear Ms. Howland:

The purpose of this letter is to review the petition of Pennichuck Water Works, Inc. (PWW) in the above-referenced docket and to offer Staff's recommendation. PWW seeks to extend its water utility franchise to serve customers in the vicinity of the Beede Waste Oil site in the Town of Plaistow, and to charge its currently authorized tariff rates in the new franchise area. PWW asserts it has the requisite managerial, technical and financial abilities to own and operate this water system. Based on Staff's review as detailed below, Staff supports granting of the petition.

On April 27, 2012, PWW filed its petition along with the prefiled testimony of Donald L. Ware, Chief Operating Officer of PWW. The Beede Waste Oil site is an Environmental Protection Agency designated "Superfund" site located in the vicinity of Kelley Road, Shady Lane and Walton Road in Plaistow. The site is owned by 11 Kelley and 42 Old County Road Properties, LLC (Developer), a New Hampshire limited liability company established by the major settling parties in the Superfund case and having a principal business address in Nashua, NH. The Developer is obligated to provide drinking water to the site and initially plans to connect 14 properties, one of which is a 9 unit apartment building, to the water system (response to Staff 1-1; PWW's responses to Staff discovery requests were provided May 11, 2012 and are attached to this letter). The properties are currently serviced by private wells that either have been, or are at risk of being, impacted by contamination from the site. PWW has entered into an agreement (Agreement, Exhibit DLW-1)¹ with the Developer for construction of a water main extension from PWW's adjacent Twin Ridge water system to serve the Beede site. The extension will be paid for by the Developer, constructed to PWW standards and ultimately owned and operated by PWW. An additional 37 residential homes or lots located along the route of the extension could potentially connect over time. A plan showing the location of the proposed new franchise area was provided as Exhibit DLW-2 of the filing. An amended version,

¹ The Agreement is between the Developer and Pennichuck East Utility, Inc. The company's response to Staff 1-6 indicates the Agreement should have been with PWW, and that it is in the process of securing a revised Agreement reflecting the correct entity.

provided May 11, 2012, also includes a listing of the tax map parcels that make up the proposed franchise.

PWW recently installed a new well to serve both Twin Ridge and the interconnected Rolling Hills system owned by PWW's sister utility, Pennichuck East Utility, Inc. (PEU). The well has been approved by the Department of Environmental Services (DES) (see Exhibit DLW-3). PWW indicates in its filing that as a result of the new well there should be ample supply for the two existing systems, which serve 108 total customers, and for the proposed expansion. A May 2, 2012 letter from DES affirms that the requirements of RSA 374:22 III regarding the suitability and availability of water have been met in relation to the expansion (response to Staff 1-2).

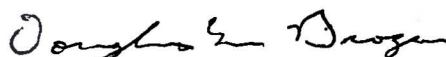
PWW proposes to charge its existing tariff rates in the new area, as it does in Twin Ridge. The Agreement also provides that PWW pay the Developer a one-time amount equal to the estimated annual revenue for each customer connecting to the new system extension in the next five years, in accordance with tariff section 33(B); and that the Developer pay PWW a one-time System Upgrade Fee in the amount of \$20,526 in accordance with tariff section 33(C). The latter fee, calculated in Exhibit DLW-4, is intended to capture the new franchise portion of the cost of the new well on a pro rata basis based on current and potential future buildout within the combined water systems. The filing indicates the fee is applicable because the Beede site could not have been served if the new well had not been installed. The well is expected to eliminate the historic water use restrictions in Twin Ridge and Rolling Hills, in satisfaction of tariff Section 33(C)(2)(b)(v) (response to Staff 1-4(b)).

PWW has notified the Town of Plaistow of its request in this docket, and company personnel are scheduled to meet with the Board of Selectmen on May 21, 2012. The company has indicated it will update Staff promptly on the results of the meeting. The parties hope to complete construction of the main extension this year. PWW has indicated the proposed expansion does not require the approval of the Pennichuck Board of Directors or the City of Nashua (response to Staff 1-9).

As PWW already owns and operates the adjacent Twin Ridge and Rolling Hills water systems, it is familiar with the water systems and area. PWW and its regulated sister companies, PEU and Pittsfield Aqueduct Company, provide water service to some 34,000 customers in various systems throughout New Hampshire. Staff believes PWW, through its operation of such systems, has demonstrated that it has the technical, managerial, financial and other capabilities to enable it to serve the Beede franchise. For the reasons above, Staff concurs with PWW's proposal to provide service to, and charge its existing rates in, the development. Staff recommends the Commission approve PWW's petition.

If you have any questions regarding this matter, please feel free to contact me.

Sincerely,



Douglas W. Brogan
Utility Engineer

Attachments: Discovery Responses

cc: Docket Related Service List (electronic only)

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THOMAS C. DWYER **
ELIZABETH A. DONOVAN
JOHN T. PENDLETON †

LICENSED TO PRACTICE
NEW HAMPSHIRE
*MAINE
† MASSACHUSETTS

May 10, 2012

VIA ELECTRONIC MAIL ONLY

Marsha A. Thunberg, Staff Attorney
Public Utilities Commission
State of New Hampshire
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

**RE: DW 12-109-Pennichuck Water Works, Inc. Franchise Expansion In Plaistow
Regarding Beede Super Fund Site Petitioner's Response to STAFF DATA
REQUEST-SET 1**

Dear Attorney Thunberg:

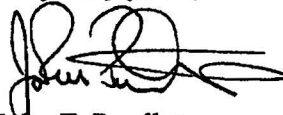
Attached please find Petitioner's response to STAFF DATA REQUEST-SET 1 for the above referenced docket in electronic format, along with an exhibit to Petitioner's Response to STAFF DATA REQUEST 1-2.

Additionally, I attach an Amended DLW-2, in the form of a Plan titled "Exhibit DLW-2 Beede Area Watermain Extension, Plaistow, New Hampshire Conceptual Layout", last revised on May 9, 2012, showing and or defining the Proposed Franchised Area. The Amended DLW-2 lists the impacted lots in the Proposed Franchise Area by tax map and lot number. The references were derived from the Town of Plaistow Tax Map. Five (5) full size copies of amended Exhibit DLW-2 will be provided under separate title for your convenience.

Please feel free to contact me with any questions, concerns regarding these answers and/or the related attachments.

Thank you.

Very truly yours,



John T. Pendleton

JTP:sfp
Enclosure
cc: Service List

DW 12-109
Pennichuck Water Works, Inc.
Responses to Staff Data Requests – Set 1
Petition for Beede Franchise - Plaistow

Date Request Received: 05/2/12
Request No. Staff 1-1

Date of Response: 05/12/11
Witness: Donald L. Ware

REQUEST: The number of potential customers within the proposed franchise appears greater than the 22 homes cited in petition paragraphs 3 and 4 and elsewhere in the filing. On the other hand, Exhibit B, Attachment A of the Agreement (Exhibit DLW-1) indicates 14 connections within the proposed area (see Activity C). Please clarify the numbers of prospective customers involved.

RESPONSE: Beede will be providing service through a total of 14 connections providing service to 22 dwelling units. One connection is to an apartment building with 9 dwelling units in it. There are an additional 37 homes and/or residential lots abutting the route of the water main being installed by Beede that could take service from Pennichuck as part of the new franchise. Please see attached an Amended Plan DLW-2, titled "Exhibit DLW-2 Beede Area Watermain Extension, Plaistow, New Hampshire Conceptual Layout" for reference.

DW 12-109
Pennichuck Water Works, Inc.
Responses to Staff Data Requests – Set 1
Petition for Beede Franchise - Plaistow

Date Request Received: 05/2/12
Request No. Staff 1-2

Date of Response: 05/12/11
Witness: Donald L. Ware

REQUEST: Regarding petition paragraphs 6 and 10, Exhibit DLW-3 provides an approval of the new well and partial waiver of the associated Sanitary Protective Area, but lacks any reference to the proposed expansion of the service area. Please provide affirmation that the requirements of RSA 374:22 III (“No water company shall obtain the permission or approval of the commission to operate as a public utility without first satisfying any requirements of the department of environmental services concerning the suitability and availability of water for the applicant's proposed water utility.”) have been met regarding the proposed area.

RESPONSE: Attached please find a letter issued from the NHDES in regards to Pennichuck expanding the Twin Ridge Community Water System to provide service to requested franchise expansion area.

DW 12-109
Pennichuck Water Works, Inc.
Responses to Staff Data Requests – Set 1
Petition for Beede Franchise - Plaistow

Date Request Received: 05/2/12
Request No. Staff 1-3

Date of Response: 05/12/11
Witness: Donald L. Ware

REQUEST: Please provide an update on the town's position regarding the proposed expansion as referenced in paragraph 8 of the petition.

RESPONSE: Pennichuck will be meeting with the Town of Plaistow Selectman to discuss the proposed franchise expansion on May 21, 2012. Pennichuck will provide the NHPUC with the results of this meeting on May 22, 2012.

DW 12-109
Pennichuck Water Works, Inc.
Responses to Staff Data Requests – Set 1
Petition for Beede Franchise - Plaistow

Date Request Received: 05/2/12
Request No. Staff 1-4

Date of Response: 05/12/11
Witness: Donald L. Ware

REQUEST: Regarding petition paragraph 11:

- a) Please confirm that the “New Source Development Charge” referenced elsewhere in the filing (see, for example, Exhibit DLW-4) is the same as the tariffed “System Upgrade Fee” mentioned here.
- b) Please describe the irrigation impacts of the new well in relation to the referenced tariff Section 33(C)(2)(b)(v) language (“The domestic water quantity available for irrigation shall be considered improved if the increased quantity results in a lessening or elimination of irrigation restrictions to existing customers.”).

RESPONSE:

- a) Yes, the “New Source Development Charge” and the “System Upgrade Fee” are one in the same.
- b) The Twin Ridge/Rolling Hills Community Water System has been on a total lawn irrigation ban over the past two years and this CWS has experienced two day a week irrigation limitations and total irrigation bans part of the time during the three years preceding the last two years. PWW does not envision irrigation bans will commonly be necessary now that the new well is on line because of the increase in supply. This is true even when considering the increased potential demand based upon the proposed franchise expansion.

DW 12-109
Pennichuck Water Works, Inc.
Responses to Staff Data Requests – Set 1
Petition for Beede Franchise - Plaistow

Date Request Received: 05/2/12
Request No. Staff 1-5

Date of Response: 05/12/11
Witness: Donald L. Ware

REQUEST: Regarding petition paragraph 13 (iii):

- a) Do PEU rates continue to be charged in Rolling Hills and PWW rates in Twin Ridge? If not, please explain. If so, will the proposed franchise extension have any impact on this arrangement?
- b) Please indicate the basis for requesting PWW rates in the proposed area.

RESPONSE:

- a) Yes. The Company plans to file a petition in the near future to transfer the PEU Rolling Hills Franchise to the PWW as part of the Twin Ridge Franchise resulting in the Rolling Hills customers being charged PWW's tariffed rates.
- b) Pennichuck is requesting that the proposed Beede Franchise Expansion be part of the Twin Ridge PWW franchise for the following reasons:
 1. Twin Ridge, which is PWW franchised system, will be providing the source of supply, treatment and storage of the water from the proposed Beede Franchise expansion.
 2. A portion of PWW's Twin Ridge Franchise water main will be used to deliver water from the Twin Ridge CWS booster to Culver Street where the Beede Main Extension will begin.
 3. Three of the four franchises that Pennichuck Corporation holds in Plaistow are PWW franchise areas.

DW 12-109
Pennichuck Water Works, Inc.
Responses to Staff Data Requests – Set 1
Petition for Beede Franchise - Plaistow

Date Request Received: 05/2/12
Request No. Staff 1-6

Date of Response: 05/12/11
Witness: Donald L. Ware

REQUEST: The Agreement of Exhibit DLW-1 indicates that the Pennichuck entity involved is Pennichuck East Utility, whereas the rest of the filing indicates Pennichuck Water Works. Please clarify.

RESPONSE: The agreement should have been with Pennichuck Water Works, Inc. not Pennichuck East Utility, Inc. Pennichuck is in the process of getting a revised agreement for this project completed with the correct Company.

DW 12-109
Pennichuck Water Works, Inc.
Responses to Staff Data Requests – Set 1
Petition for Beede Franchise - Plaistow

Date Request Received: 05/2/12
Request No. Staff 1-7

Date of Response: 05/12/11
Witness: Donald L. Ware

REQUEST: In paragraph 2.4 of the Agreement, please indicate the basis of the statement that the “current tariff rate is \$350 per meter installed”.

RESPONSE: This statement in the agreement is not worded correctly. Per the PWW tariff in paragraph 22.C.2.b. the customer is responsible for paying for the “piping and fittings in excess of normal requirements”. The \$350 per meter is the cost is an estimate of the fitting necessary to adapt the existing service piping in the house to accept a meter. The fittings include two shut off valves, a residential dual check valve, two pack joint adaptors and a copper horn.

DW 12-109
Pennichuck Water Works, Inc.
Responses to Staff Data Requests – Set 1
Petition for Beede Franchise - Plaistow

Date Request Received: 05/2/12
Request No. Staff 1-8

Date of Response: 05/12/11
Witness: Donald L. Ware

REQUEST: Various places in the filing reference either Kelley Road or Kelly Road.
Please indicate the correct spelling.

RESPONSE: The correct spelling is Kelley Road.

DW 12-109
Pennichuck Water Works, Inc.
Responses to Staff Data Requests – Set 1
Petition for Beede Franchise - Plaistow

Date Request Received: 05/2/12
Request No. Staff 1-9

Date of Response: 05/12/11
Witness: Donald L. Ware

REQUEST: Does the proposed franchise expansion require approval by the Pennichuck Board of Directors or the City of Nashua? If so, please provide.

RESPONSE: The proposed franchise expansion does not require approval of the City of Nashua or the approval of the Pennichuck Board of Directors.

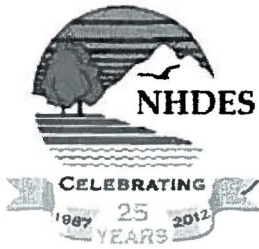
DW 12-109
Pennichuck Water Works, Inc.
Responses to Staff Data Requests – Set 1
Petition for Beede Franchise - Plaistow

Date Request Received: 05/2/12
Request No. Staff 1-10

Date of Response: 05/12/11
Witness: Donald L. Ware

REQUEST: Are there any other water systems nearby that could provide service to the requested area?

RESPONSE: The Hampstead Area Water Company could provide service to the requested area by extending a water main about 5,800 lineal feet from the end of its existing distribution system to the intersection of Culver and Main Street. The distance from PWW's Twin Ridge distribution system to the intersection of Culver and Main Street is about 1,200 lineal feet.



The State of New Hampshire
Department of Environmental Services

Thomas S. Burack, Commissioner

*Celebrating 25 Years of Protecting
New Hampshire's Environment*



May 2, 2012

Via email

DONALD WARE
PENNICHUCK WATER WORKS, INC.
25 MANCHESTER ST, POB 1947
MERRIMACK NH 03054-1947
donald.ware@pennichuck.com

**Subject: CWS 1932050 Plaistow, Twin Ridge Condominiums
Request for water main extension conformance with NH RSA 372:22 III**

Dear Mr. Ware:

In response to Attorney John Pendleton's letter dated April 24, 2012, we have reviewed our records and are confirming that the subject public water system is currently in compliance with the requirements of the federal and state Safe Drinking Water Acts with respect to water quantity and quality.

Based on this, the Department has determined that this system meets the suitability and availability criteria of NH RSA 374:22 III, relating to the proposed water main extension, subject to the following:

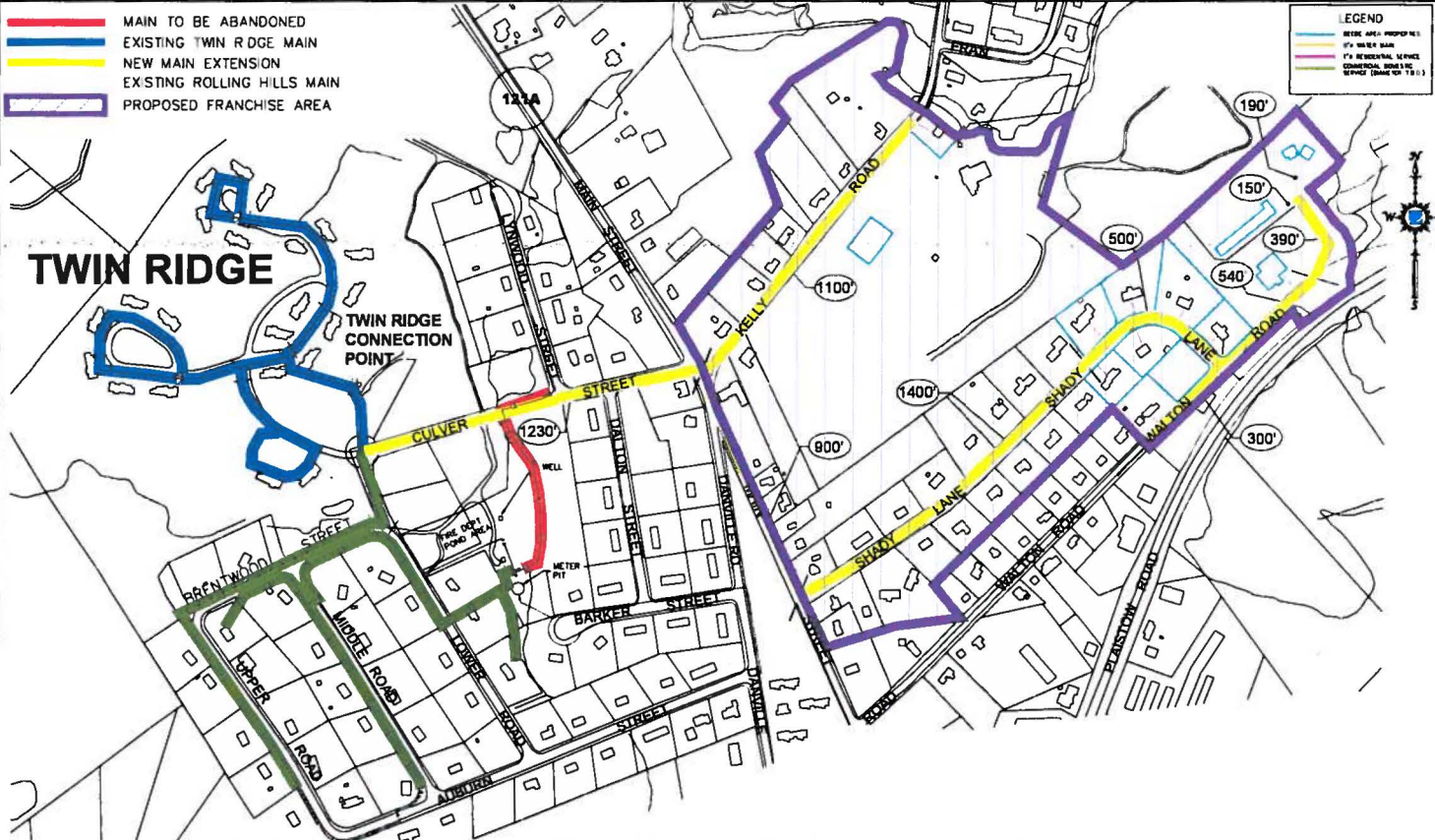
- Compliance with the conditions of approval of new well source BRW 8 / 650' SW OF PH.
- Completion of well permitting and engineering approvals for BRW 8 to supplement water quantity for the overall system.
- Provision of treatment or blending of BRW 8, as needed, to meet all primary water quality standards.
- Continued compliance monitoring and operation in accordance with the community water system requirements.

Please contact Steve Roy at 271-3918, or me at Cynthia.Klevens@des.nh.gov, 271-3108 with any questions regarding this letter.

Sincerely,

Cynthia Klevens, PE
Small Systems Engineering & Technical Assistance
Drinking Water and Groundwater Bureau
H:\ESS\ \Design Review\PWS 1a\1932050 Plaistow Twin Ridge PUC suitability

cc. J. Pendleton, Dwyer, Donovan & Pendleton, JPendleton@granitestatelawyers.com
J. Boivert, Pennichuck Water Works, John.Boivert@pennichuck.com
R. Pease, NHDES Hazardous Waste, Richard.Pease@des.nh.gov
S. Roy, NHDES DWGB, Stephen.Roy@des.nh.gov

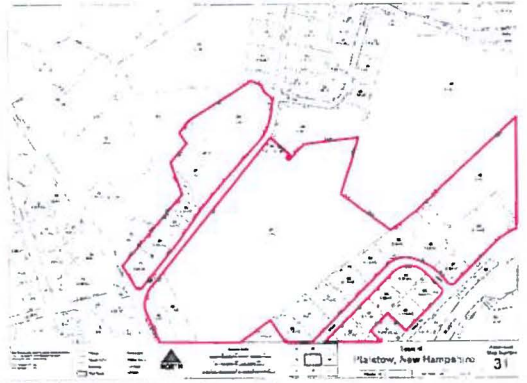


TAX MAP 30

- LOT 25
- LOT 26
- LOT 27
- LOT 28
- LOT 29
- LOT 30
- LOT 31
- LOT 32
- LOT 33
- LOT 34
- LOT 35
- LOT 36
- LOT 37
- LOT 38
- LOT 39

TAX MAP 31

- LOT 23
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- LOT 63
- LOT 64
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- LOT 66
- LOT 67
- LOT 70



TOWN OF PLAISTOW



REVISION	DATE	DESCRIPTION
3		
2	5/9/12	ADDED TAX MAPS
1	3/3/12	REVISED PROPOSED FRANCHISE AREA

 27 Massachusetts Street Manchester, NH 03104-1047 Tel: 603-251-1200 Fax: 603-251-1202 www.pennichuk.com	EXHIBIT DLW-2 BEEDE AREA WATERMAIN EXTENSION PLAISTOW, NEW HAMPSHIRE CONCEPTUAL LAYOUT	
	DRAWN BY M. PEPRU	DRAWDN DATE APRIL 6, 2012
DESIGNED BY J. SCHWERT	SUPERVISOR	SCALE 1" = 200'
		SHEET NO. 1 OF 1