

**COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In the matter of:  
Housatonic Water Works Company

Enforcement Document Number:  
00016953  
Issuing Bureau: BWR  
Issuing Region/Office: WERO  
Issuing Program: DWP  
Primary Program Cited: DWP  
PWS ID Number: 1113003

**ADMINISTRATIVE CONSENT ORDER WITH PENALTY  
AND  
NOTICE OF NONCOMPLIANCE**

**I. THE PARTIES**

1. The Department of Environmental Protection ("Department" or "MassDEP") is a duly constituted agency of the Commonwealth of Massachusetts established pursuant to M.G.L. c. 21A, § 7. MassDEP maintains its principal office at 100 Cambridge Street, Boston, Massachusetts 02114, and its Western Regional Office at 436 Dwight Street, Springfield, Massachusetts 01103.
2. Housatonic Water Works Company ("Respondent" or "HWWC") is a Massachusetts corporation. HWWC owns and operates a community public water system, which is a type of Public Water System (PWS), as defined in 310 CMR 22.02, and therefore is a Supplier of Water, as defined in 310 CMR 22.02. The PWS is located at 80 Maple Avenue Suite 1, Great Barrington, Massachusetts 01230. HWWC's mailing address for purposes of this Order is 80 Maple Street, Great Barrington, Massachusetts 01230.

**II. STATEMENT OF FACTS AND LAW**

3. MassDEP has primary enforcement responsibility for the requirements of the Federal Safe Drinking Water Act, 42 U.S.C. §300f et seq. and the regulations promulgated thereunder. MassDEP implements and enforces statutes and regulations of the Commonwealth of Massachusetts for the protection of the public drinking water supply, including, without limitation, M.G.L. c. 111, §5G and §160, and the Drinking Water Regulations at 310 CMR 22.00; the Cross Connections, Distribution System Protection Regulations at 310 CMR 22.22; and the Underground Injection Control Regulations at 310 CMR 27.00. MassDEP, pursuant to M.G.L. c. 111, §160, may issue such orders as it deems necessary to ensure the delivery of fit and pure drinking water by public water systems to all consumers. MassDEP, pursuant to M.G.L. c. 111, §5G, may require by order the provision and operation of such treatment facilities as it deems necessary to ensure the delivery of a safe water supply to all consumers.

MassDEP's Drinking Water Regulations at 310 CMR 22.02 define a public water system as a system for the provision to the public of water for human consumption, through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days of the year. 310 CMR 22.02 also defines a supplier of water as "any person who owns or operates a public water system."

MassDEP has authority under M.G.L. c. 21A §16, and the Administrative Penalty Regulations at 310 CMR 5.00 to assess civil administrative penalties to persons in noncompliance with the laws and regulations set forth above.

4. Respondent is a Public Water System pursuant to 310 CMR 22.00 et seq.
5. The following facts and allegations have led MassDEP to issue this Consent Order:
  - A. MassDEP issued a Unilateral Administrative Order (UAO) (UAO# 00016912) to Respondent on October 8, 2024. Respondent did not appeal the UAO. The following requirements were established in the UAO and are therefore undisputed.
    - (1) By no later than thirty (30) days from the date of issuance of UAO# 00016912, Respondent was to submit to MassDEP, for review and approval, a complete WS-25 permit application with any associated fees, prepared by a Massachusetts licensed professional engineer, for the design of a manganese treatment system using the treatment methodology approved in MassDEP's March 25, 2024, WS-22 permit approval letter.
    - (2) By no later than thirty (30) days from the date of issuance of UAO# 00016912, Respondent was to submit to MassDEP, for review and approval, a Corrective Action Plan that includes a schedule for the construction, and activation, of a treatment facility as described in the WS-25 permit submittal. Construction shall commence within ninety (90) days of MassDEP's approval.
  - B. On November 27, 2024, Respondent submitted a Corrective Action Plan to MassDEP which included an anticipated schedule for the construction and activation of a treatment facility as described in the WS-25 permit submittal. Being later than thirty (30) days from the issuance of UAO# 00016912, this submittal is in violation of the UAO and 310 CMR 22.03(1)(b).
  - C. On December 11, 2024, Respondent submitted a complete WS-25 permit application for the design of a manganese treatment system, and associated fees, to MassDEP. Being later than thirty (30) days from the issuance of UAO# 00016912, this submittal is in violation of the UAO and 310 CMR 22.03(1)(b).

- D. On December 13, 2024, MassDEP issued a conditional approval to construct a Greensand Plus Treatment System. Certain conditions within that approval required Respondent to provide additional permit-design information within ninety (90) days.
- E. On February 13, 2025, MassDEP issued correspondence that reminded Respondent of the deadlines associated with both the UAO and permit approval and required Respondent to submit routine progress reports on the project pursuant to its authority conferred by 310 CMR 22.03(1).
- F. On March 11, 2025, Respondent submitted a response to MassDEP's December 13, 2024 conditional permit approval, addressing those conditions requiring additional permit-design information.
- G. As of ninety (90) days from MassDEP's December 13, 2024, conditional approval of the WS-25 permit application, Respondent had not yet begun site work at the location of the treatment plant building, in violation of 310 CMR 22.03(1)(c).
- H. On March 13, 2025, MassDEP met with Respondent to discuss the deadlines associated with the construction of the manganese treatment system and actions that could be taken in the short term to mitigate the potential for discoloration issues during the summer of 2025. Respondent indicated that they were committed to the installation of the manganese treatment system, and commencement of operations, by March 1, 2026, provided that financing for the project could be obtained. Respondent indicated that its lender had approved financing for the manganese treatment project, but before funds could be advanced both the Order issued by the Great Barrington Board of Health and associated litigation, as well as litigation associated with utility-rate increases, would need resolution to allow Respondent to obtain the necessary financing. Without financing, Respondent indicated that installation of the manganese treatment system cannot proceed. Respondent also indicated that they were committed to taking short-term actions to mitigate the potential for discoloration issues during the summer of 2025 to the extent feasible. MassDEP acknowledges that the Board of Health Order and associated litigation, as well as the litigation associated with utility-rate increases adversely affect the ability of the Respondent to obtain financing to complete the manganese treatment project.
- I. Within a March 18, 2025 correspondence, MassDEP evaluated the additional permit design information included within Respondent's March 11, 2025 response letter, and included further requirements for Respondent to provide additional permit design information. Respondent has responded on the issues of pump design and manganese treatment system efficiency.

- J. Respondent has offered to install a water-filter/treatment system at the Housatonic Community House, subject to the Town's acceptance of that offer.

**Regulations:**

- K. 310 CMR 22.03(1) states in part: "the Department may establish a schedule for compliance within an administrative consent order or other enforceable document that may include interim measures that the Supplier of Water must take..."
- L. 310 CMR 22.03(1)(b) states: It shall be a violation of 310 CMR 22.00 to fail to comply with "a schedule for compliance, including any interim measures required by the Department in an administrative consent order or other enforceable document."
- M. 310 CMR 22.03(1)(c) states: It shall be a violation of 310 CMR 22.00 to fail to comply with "any term or condition of a permit, written approval, registration, certification or order issued by the Department pursuant to M.G.L. c. 111, § 160 or 310 CMR 22.00."

**III. DISPOSITION AND ORDER**

For the reasons set forth above, MassDEP hereby issues, and Respondent hereby consents to, this Order:

6. The parties have agreed to enter into this Consent Order because they agree that it is in their own interests, and in the public interest, to proceed promptly with the actions called for herein rather than to expend additional time and resources litigating the matters set forth above. Respondent enters into this Consent Order without admitting or denying the facts or allegations set forth herein. However, Respondent agrees not to contest such facts and allegations for purposes of the issuance or enforcement of this Consent Order.
7. MassDEP's authority to issue this Consent Order is conferred by the Statutes and Regulations cited in Part II of this Consent Order.
8. Respondent shall perform the following actions:
- A. By no later than the 15<sup>th</sup> day of each month, Respondent shall submit monthly status reports to MassDEP for the preceding calendar month. Each report shall provide a log of all water-discoloration complaints received; a summary of equipment order status, construction activities completed, and the planned activities for the next calendar month; and a summary of the status of all items identified in the overall projected construction schedule. The initial status report shall be submitted within the first month following the month within which this Consent Order becomes effective. Status

reports shall then be submitted each subsequent month until construction of the project is complete and MassDEP states in writing that the status reports are no longer required.

- B. The constructed manganese treatment system shall consistently meet the manufacturer warranted treatment level of 0.030 mg/L manganese with a stated treatment goal of 0.015 mg/L manganese.
- C. By no later than March 1, 2026, Respondent shall complete all construction of the manganese treatment plant and shall provide written notification to MassDEP that the facility is ready for operation and final inspection. Respondent shall also meet the following interim deadlines.
  - 1. Respondent shall commence construction of the manganese treatment plant building by no later than July 31, 2025.
  - 2. Respondent shall complete the construction of the manganese treatment plant building structure by no later than December 1, 2025.
  - 3. Respondent shall complete the construction of the internal components (walls, electrical, lighting, HVAC, etc.) of the manganese treatment building construction by no later than January 15, 2026.
  - 4. Respondent shall accept physical delivery of all manganese treatment process components by no later than January 1, 2026.
  - 5. Respondent shall complete installation of all of treatment plant components (inclusive of electrical service, plumbing, controls, standby generator delivery/installation, etc.) by no later than February 1, 2026.
  - 6. Respondent shall have the manganese treatment plant ready for use and operational by no later than March 1, 2026.
- D. Respondent shall, by no later than August 15, 2025, install a water blow-off valve at the end of Wright Lane (a private way), provided that those owners grant access; if such permission is denied, this installation shall not be required. Respondent shall also, by August 15, 2025, identify to both the Great Barrington Board of Health and MassDEP any other sections of the water distribution network that currently lack flushing capability.
- E. Respondent shall offer to install a water-filter/treatment system at the Housatonic Community House or other municipal facility, subject to the Town's acceptance of that offer. If the Town accepts, Respondent shall provide and maintain that system at no cost to customers experiencing discolored water until such time as the manganese treatment plant is complete and operational, thereby ensuring access to water free of discoloration.

- F. Respondent shall conduct special water sampling for those parameters, at a frequency, and at locations as directed by MassDEP. Until such time as the manganese treatment plant is complete and operational, Respondent shall within 5 days of receipt post all water quality results in a tabular form with the respective water quality standards on the Respondent's website. Concurrently, Respondent shall provide an electronic copy of the same results in tabular form to the Great Barrington Board of Health so that they may be posted on the Town's website if the Board of Health so chooses. For privacy reasons, Respondent shall not include any personally identifiable information about customers in any such reports or postings.
- G. Respondent shall maintain a log of all water-discoloration complaints and both provide the log to, and confer with, both MassDEP and the Great Barrington Board of Health on a weekly basis to ensure that the log is complete. The log shall identify the nature/details of the complaint, the date/time the discoloration was observed, and the address at which the discoloration was observed. Respondent shall also include a copy of the complete complaint log in the monthly reports submitted pursuant to Paragraph 8.A above. For privacy reasons, Respondent shall not include any personally identifiable information about customers in any such reports or postings.
- H. Respondent shall by no later than August 1, 2025 submit to MassDEP for review and approval a scope of work providing for the representative sampling of tap water at residential locations from which water discoloration complaints have been received. The intent of this scope of work is to correlate manganese values at complaint locations within the distribution system to values observed at Long Pond and within the treatment plant in a representative manner. The scope of work does not need to provide for sampling in response to all complaints received.
- I. In the event that the ongoing litigation is the sole reason that Respondent is unable to obtain financing necessary to meet the deadlines contained in Paragraph 8.C above, should Respondent make a reasonable request for an extension of said deadlines, MassDEP will consider said request, provided that Respondent makes such request at least fifteen (15) days prior to the expiration of said deadline and demonstrates to MassDEP's satisfaction that financing has been denied solely for reasons outside of Respondent's fault or control and that it has pursued all reasonable and available avenues for obtaining financing, including, but not limited to, outreach to multiple potential lenders. Respondent acknowledges that lack of financing does not relieve its obligation to comply with all applicable statutory, regulatory, and permit obligations.

J. Respondent agrees that any penalties assessed under this Consent Order will not be passed along to, or in any way covered by, its ratepayers.

9. Unless submitted via eDEP or except as otherwise provided, all notices, submittals and other communications required by this Consent Order shall be directed to:

MassDEP - Douglas Paine  
436 Dwight Street  
Springfield, MA 01103  
Douglas.Paine@mass.gov

Such notices, submittals and other communications shall be considered delivered by Respondent upon receipt by MassDEP.

10. Actions required by this Consent Order shall be taken in accordance with all applicable federal, state, and local laws, regulations and approvals. This Consent Order shall not be construed as, nor operate as, relieving Respondent or any other person of the necessity of complying with all applicable federal, state, and local laws, regulations and approvals.

11. For purposes of M.G.L. c. 21A, §16 and 310 CMR 5.00, this Consent Order shall also serve as a Notice of Noncompliance for Respondent's noncompliance with the requirements cited in Part II, 5.B, C, and G above. MassDEP hereby determines, and Respondent hereby agrees, that any deadlines set forth in this Consent Order constitute reasonable periods of time for Respondent to take the actions described.

12. The Commonwealth assesses a civil administrative penalty in the amount twelve thousand three hundred sixty dollars (\$12,360.00) for the violations identified in Part II above. MassDEP hereby agrees to suspend payment of the entire penalty amount; provided, however, that if Respondent violates any provision of this Consent Order, Respondent shall pay to the Commonwealth the full amount of twelve thousand three hundred sixty dollars (\$12,360.00) within thirty (30) days of the date MassDEP issues Respondent a written demand for payment. This paragraph shall not be construed or operate to bar, diminish, adjudicate, or in any way affect, any legal or equitable right of MassDEP to assess Respondent additional civil administrative penalties, or to seek any other relief, with respect to any future violation of any provision of this Consent Order or any law or regulation.

13. Respondent understands, and hereby waives, its right to an adjudicatory hearing before MassDEP on, and judicial review of, the issuance and terms of this Consent Order and to notice of any such rights of review. This waiver does not extend to any other order issued by the MassDEP.

14. MassDEP hereby determines, and Respondent hereby agrees, that any deadlines set forth in this Consent Order constitute reasonable periods of time for Respondent to take the actions described.

15. This Consent Order may be modified only by written agreement of the parties hereto.

16. The provisions of this Consent Order are severable, and if any provision of this Consent Order or the application thereof is held invalid, such invalidity shall not affect the validity of other provisions of this Consent Order, or the application of such other provisions, which can be given effect without the invalid provision or application, provided however, that MassDEP shall have the discretion to void this Consent Order in the event of any such invalidity.

17. Nothing in this Consent Order shall be construed or operate as barring, diminishing, adjudicating or in any way affecting (i) any legal or equitable right of MassDEP to issue any additional order or to seek any other relief with respect to the subject matter covered by this Consent Order, or (ii) any legal or equitable right of MassDEP to pursue any other claim, action, suit, cause of action, or demand which MassDEP may have with respect to the subject matter covered by this Consent Order, including, without limitation, any action to enforce this Consent Order in an administrative or judicial proceeding.

18. This Consent Order shall not be construed or operate as barring, diminishing, adjudicating, or in any way affecting, any legal or equitable right of MassDEP or Respondent with respect to any subject matter not covered by this Consent Order.

19. This Consent Order shall be binding upon Respondent and upon Respondent's successors and assigns. Respondent shall not violate this Consent Order and shall not allow or suffer Respondent's directors, officers, employees, agents, contractors or consultants to violate this Consent Order. Until Respondent has fully complied with this Consent Order, Respondent shall provide a copy of this Consent Order to each successor or assignee at such time that any succession or assignment occurs.

20. In addition to the penalty set forth in this Consent Order, if any (including any suspended penalty), if Respondent violates any provision of the Consent Order, Respondent shall pay stipulated civil administrative penalties to the Commonwealth in the amount of \$500 per day for each day, or portion thereof, each such violation continues.

Stipulated civil administrative penalties shall begin to accrue on the day a violation occurs and shall continue to accrue until the day Respondent corrects the violation or completes performance, whichever is applicable. Stipulated civil administrative penalties shall accrue regardless of whether MassDEP has notified Respondent of a violation or act of noncompliance. All stipulated civil administrative penalties accruing under this Consent Order shall be paid within thirty (30) days of the date MassDEP issues Respondent a written demand for payment. If simultaneous violations occur, separate penalties shall accrue for separate violations of this Consent Order. The payment of stipulated civil administrative penalties shall not alter in any way Respondent's obligation to complete performance as required by this Consent Order. MassDEP reserves its right to elect to pursue alternative remedies and alternative civil and criminal penalties which may be available by reason of Respondent's failure to comply with the requirements of this Consent Order. In the event MassDEP collects alternative civil administrative penalties, Respondent shall not be



required to pay stipulated civil administrative penalties pursuant to this Consent Order for the same violations.

Respondent reserves whatever rights it may have to contest MassDEP's determination that Respondent failed to comply with the Consent Order and/or to contest the accuracy of MassDEP's calculation of the amount of the stipulated civil administrative penalty. Upon exhaustion of such rights, if any, Respondent agrees to assent to the entry of a court judgment if such court judgment is necessary to execute a claim for stipulated penalties under this Consent Order.

21. The Respondent shall pay all civil administrative penalties due under this Consent Order, including suspended; or stipulated penalties and/or any associated fees, as provided in "Respondent Payment Options," attached hereto and incorporated by reference herein. In the event Respondent fails to pay in full any civil administrative penalty as required by this Consent Order, then pursuant to M.G.L. c. 21A, § 16, Respondent shall be liable to the Commonwealth for up to three (3) times the amount of the civil administrative penalty, together with costs, plus interest on the balance due from the time such penalty became due and attorneys' fees, including all costs and attorneys' fees incurred in the collection thereof. The rate of interest shall be the rate set forth in M.G.L. c. 231, § 6C.

#### Respondent Payment Options

#### **The Respondent has five options for payment;**

**Option 1:** certified check;

**Option 2:** cashier's check;

**Option 3:** company/corporate check;

**Option 4:** on-line payment using a credit card (not available for payment plan) or

**Option 5:** electronic transfer.

#### **Options 1, 2, and 3:**

Certified, cashier's, company/corporate checks must be made payable to the Commonwealth of Massachusetts and paid as provided in the Consent Order.

If payment is made by certified check, cashier's, company/corporate check, the Respondent shall clearly print on the face of its payment Respondent's full name, the enforcement document number appearing on the first page of this Consent Order, and Respondent's Federal Employer Identification Number, and shall mail it to:

Commonwealth of Massachusetts  
Department of Environmental Protection  
Commonwealth Master Lockbox

P.O. Box 3982  
Boston, Massachusetts 02241-3982

**(IMPORTANT NOTE: DO NOT INCLUDE THE SIGNED ACOP WITH PAYMENT BY CHECK)**

**Option 4:**

On-line Payment Using Credit Card (not available for payment plan)

Once you receive the Consent Order, if you wish to make your on-line payment, please contact the Revenue Department at [dep.admp@mass.gov](mailto:dep.admp@mass.gov) or 800-248-1645 for assistance. After contacting the Revenue Department, you will receive information needed to use the below link to pay.

LOG ONTO THE MassDEP e-PAYMENT WEB SITE AT:

[HTTPS://WWW.MASSPAYS.COM/dep](https://www.masspays.com/dep)

On-line payment using credit card is due as provided in the Consent Order.

Contact the Revenue Department at [dep.admp@mass.gov](mailto:dep.admp@mass.gov) or **800-248-1645** if you have questions about paying on-line.

**Option 5:**

Electronic Funds Transfer

Respondent must complete the Administrative Penalty Notification Form found at <https://massgov.formstack.com/forms/apn> to request payment by Electronic Funds Transfer. The form can also be used to correct any information on the invoice, including billing name, address, etc. MassDEP will respond by email with all the information needed to set up the EFT payments. EFT payment is due as provided in the Consent Order.

In the event Respondent fails to pay in full any civil administrative penalty as required by this Consent Order, then pursuant to M.G.L. c. 21A, § 16, Respondent shall be liable to the Commonwealth for up to three (3) times the amount of the civil administrative penalty, together with costs, plus interest on the balance due from the time such penalty became due and attorneys' fees, including all costs and attorneys' fees incurred in the collection thereof. The rate of interest shall be the rate set forth in M.G.L. c. 231, § 6C.

22. Failure on the part of MassDEP to complain of any action or inaction on the part of Respondent shall not constitute a waiver by MassDEP of any of its rights under this Consent Order. Further, no waiver by MassDEP of any provision of this Consent Order shall be construed as a waiver of any other provision of this Consent Order.

23. To the extent authorized by the current owner, Respondent agrees to provide MassDEP, and MassDEP's employees, representatives and contractors, access at all reasonable times to the Public Water Supply, water treatment locations and distribution equipment locations as well as all


related infrastructure for purposes of conducting any activity related to its oversight of this Consent Order. Notwithstanding any provision of this Consent Order, MassDEP retains all of its access authorities and rights under applicable state and federal law.

24. This Consent Order may be executed in one or more counterpart originals, all of which when executed shall constitute a single Consent Order.

25. The undersigned certify that they are fully authorized to enter into the terms and conditions of this Consent Order and to legally bind the party on whose behalf they are signing this Consent Order.

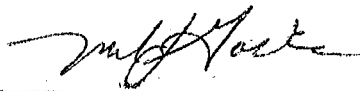
26. This Consent Order shall become effective on the date that it is executed by MassDEP.

**Consented To:**  
**HOUSATONIC WATER WORKS COMPANY**

By:   
James Mercer  
Treasurer

Date: July 14, 2025

**Issued By:**  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

By:   
Michael Gorski  
Regional Director  
MassDEP

Date: July 14, 2025