

STATE OF NEW HAMPSHIRE

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PUBLIC UTILITIES COMMISSION
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Concord, N.H. 03301-2429

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July 13, 2020

Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301-2429

Re: DW 08-095 Warner Village Water District
Request to Discontinue Water Service Outside of Village Precinct
Boundaries and Modify Franchise Boundaries

Dear Ms. Howland:

On July 23, 2008 and September 24, 2009, the Warner Village Water District (District) filed requests with the Commission for authority to discontinue service to four customers who reside outside of the District's boundaries and to modify its franchise area by eliminating the lots occupied by those four customers. Staff recommends the Commission approve the District's requests.

Background (DW 06-001)

The District is a body corporate and politic governed and established as a village district pursuant to RSA 52 within the Town of Warner, New Hampshire. Dating back to the late 1800's, the District's source of supply was Silver Lake from which it transported water via a main. That main ran past four residences on and near North Village Road in Warner, which, even though located outside of the District's boundaries, received service via connections to that supply main. Subsequently, the District abandoned Silver Lake as its source of supply, utilizing, instead, wells located inside of its municipal boundaries. For a period thereafter, the four residences continued to receive water service from the District, utilizing the former Silver Lake supply main. To do so, however, required that water in the main flow in an opposite direction for 2,000 feet to reach the four customers. As a result, the District wasted large volumes of water and incurred significant expense to provide a potable water supply to the four customers. In 2005, the District notified the occupants of the four properties that it would be terminating their water service and they would need to install private wells at their own expense to continue receiving water.

In January 2006, three of the four affected residents filed a petition with the Commission seeking relief from the District's actions. The Commission assigned the petition Docket No. DW 06-001. On July 18, 2006, the Commission issued Order No.

24,649 wherein it determined that it has jurisdiction over the District with regard to the provision of water service to the four affected residents. As such, the Commission further prohibited the District from discontinuing the provision of water service to the four residents without first obtaining Commission authorization to do so.

Procedural History

On July 23, 2008, the District filed a request to discontinue service to the four customers outside its municipal boundaries, thereby initiating the instant docket. The customers for which the District requested discontinuation of service are as follows:

Kenneth and Connie Benward
3 Waldron Hill Road
Warner, NH 03278
(Map 10 / Lot 3-1)

Deborah Buckley / James VonVett
92 North Village Road
Warner, NH 03278
(Map 10 / Lot 7)

Richard Fisher
84 North Village Road
Warner, NH 03278
(Map 10 / Lot 6)

Peter and Rhonda St. James
69 North Village Road
Warner, NH 03278
(Map 10 / Lot 3)

In its letter, the District proposed installing private wells at each residence at its own expense. The letter further requested the Commission's disposition on the request so that the District could plan accordingly. By secretarial letter dated September 3, 2008, the Commission stated it would approve the discontinuation of service to the four customers provided 1) the customers accept the wells upon completion, and 2) the wells comply with RSA 485-A:29 and RSA 485-A:30-b¹. The letter further directed the District to make a subsequent filing with the Commission to request modification of its franchise boundaries at such time that the wells were completed, accepted by the customers, and met statutory compliance standards.

On September 24, 2009, the District filed a letter with the Commission stating that the four affected parties had accepted the respective wells and that these wells were in compliance with RSAs 485-A:29 and 485-A:30b. The District reiterated its previous request for approval to discontinue water service to the four parties, and requested modification of its franchise boundaries to reflect the elimination of the four properties occupied by the affected customers. As an attachment to its filing, the District provided copies of signed statements from each of the four customers stating acceptance of the

¹ In accordance with RSA 362:4, IV, a customer or water utility has the right to terminate water service and secure water from an alternate source, if the customer can demonstrate the ability to comply with the requirements of these two statutes, as well as the administrative rules adopted to implement them, i.e., Chapter Env-Wq 1000. RSA 485-A:29 concerns submission and approval of plans for sewage disposal systems and RSA 485-A:30-b concerns standards relative to adequate protective well radii. The NH Department of Environmental Services is primarily responsible for administering these statutes through its rules.

respective wells constructed by the District and acknowledging the relinquishment of all further claims upon the District.

On October 14, 2009, the Commission responded to the District's filing by secretarial letter, requesting documentary evidence of compliance with RSAs 485-A:29 and 485-A:30-b and a description or map detailing the revised franchise boundaries sought. On November 12, 2009, the District filed copies of Well Completion Reports for the four customers as evidence of compliance with RSA 485-A. The District also provided a map showing the proposed revised franchise boundaries.

Subsequent to the receipt of this information, Staff conducted a number of discussions with the Staff of the New Hampshire Department of Environmental Services (NH DES) concerning the District's compliance with the two specifically required statutes. On January 29, 2010, Staff filed a letter with the Commission stating there was insufficient evidence in the record documenting the four customers' lots comply with RSAs 485-A:29 and 485-A:30-b. Further, and in view of the fact that such evidence was likely to take an inordinate amount of time to obtain, Staff also recommended the Commission deny the District's requests, without prejudice. The District subsequently advised Staff that it was actively working to address the concerns outlined in Staff's January 29 recommendation. On April 10, 2010, Staff filed a docket update with the Commission in which it stated that the District was requesting the Commission not close the proceeding until such time that it was able to address all issues raised by Staff.

On June 22, 2011, Staff sent a letter to the District requesting a further update as to its efforts towards addressing the statute compliance issues. In response, on July 15, 2011, the District filed a letter with the Commission stating that it was actively working with the Staff of NH DES to achieve the necessary compliance approvals. The District also reiterated its request for the Commission to keep the docket open to allow sufficient time for that compliance process to be completed. Between 2011 and 2019, Staff continued to make a number of informal inquiries of the District requesting further updates concerning the status of the required NH DES approvals. The District responded to all such inquiries by indicating that it was continuing to work with the NH DES for those approvals and, therefore, the Commission should continue to keep the docket open.

On July 3, 2019, Staff sent a letter to the District stating that it was prepared to file a recommendation with the Commission to close the docket unless the District directed otherwise within the subsequent ten days. On July 13, the District communicated with Staff indicating its desire for the docket to remain open.

As a result, Staff contacted the Staff of the NH DES directly to discern the specific action steps required by the District to achieve compliance with the necessary statutes regarding the four lots in question. On July 23, 2019, Staff met with personnel of the NH DES and learned that the lots identified as Map 10, Lot 3 (St. James) and Map 10, Lot 3-1 (Benward) met all of the statutory and administrative rule requirements of RSA 485-A and Env-Wq 1000. With regard to the remaining two lots identified as Map 10,

Lot 6 (Fisher) and Map 10, Lot 7 (Buckley / VonVett), however, further information was required from the District before approval could be granted. NH DES summarized these findings in a letter to Staff dated August 2, 2019.

On August 13, 2019, Staff sent a letter to the District informing it of Staff's meeting with NH DES and the information obtained from that meeting. Staff also attached a copy of the NH DES letter dated August 2, 2019 to that correspondence. On November 1, 2019, NH DES and the District informed Staff they had met earlier that day regarding the remaining compliance approvals. On December 2, 2019, NH DES informed Staff of its determination that all four lots in question met the requirements of RSA 485-A and Env-Wq 1000. NH DES subsequently confirmed that determination in a letter to Staff dated December 27, 2019.

Staff Conclusions and Recommendation

In Secretarial Letters dated September 3 and October 14, 2008, the Commission outlined the requirements necessary for the District to obtain approval for the discontinuation of water service to the four properties identified on the Town of Warner's Map 10 as Lots 3, 3-1, 6, and 7, and to remove those lots from its existing franchise. Specifically, the Commission required 1) the customers accept the wells constructed for them by the District upon completion, 2) the wells comply with RSA 485-A:29 and RSA 485-A:30-b, and 3) provide a description or map detailing the revised franchise boundaries sought. Staff believes the District has now satisfied those requirements.

With regard to the first requirement pertaining to acceptance of the constructed wells by each of the four customers, the Company provided signed statements from each of the affected customers acknowledging acceptance of the wells constructed on their behalf. Staff has attached copies of these signed statements to this correspondence.

With regard to the second requirement pertaining to the construction and placement of the wells conforming with RSAs 485-A:29 and 485-A:30-b, these statutes are primarily enforced by NH DES via its administrative rules found in Chapter Env-Wq 1000. As such, Staff relied on the personnel of the NH DES relative to a determination of compliance in this regard. As such, and after a lengthy review process, the NH DES made a determination that the wells contained on the four lots met all the requirements of RSA 485-A as well as the underlying administrative rules found in Chapter Env-Wq 1000. Staff has attached a copy of the NHDES letter dated December 27, 2019 stating that determination.

With regard to the third requirement pertaining to the provision of a description or map detailing the revised franchise boundaries sought by the District, Staff has attached a map provided by the District showing the District's boundaries as well as the locations of the four outlying customer lots. The District provided the map to the Commission on November 12, 2009.

As such, Staff recommends the Commission approve, by Secretarial Letter, the District's requests to discontinue water service to the four identified residences lying

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outside of the District's boundaries and to modify its existing franchise area via the elimination of the lots occupied by the four customers. Staff further recommends that the Commission close the docket upon issuance of the Secretarial Letter.

Staff would like to thank the Staff of the New Hampshire Department of Environmental Services and specifically, Kevin Kaveny, Robert Tardif, and Dawn Buker, for their invaluable assistance in resolving this docket. If you have any further questions regarding this matter, please do not hesitate to contact me.

Sincerely,

/s/ Jayson P. Laflamme

Jayson P. Laflamme
Assistant Director, Gas-Water Division

Attachments: Customer Acknowledgements of Acceptance of Constructed Wells
12/27/19 Letter from NH DES
Map of Warner Village Water District

cc: Service List
Kevin Kaveny, NH DES
Robert Tardif, NH DES
Dawn Buker, NH DES

Warner Village Water District

P.O. Box 252
55 West Joppa Rd.
Warner, NH 03278

Office of Commissioners

August 10, 2009

Tel. (603) 456-3890
Fax (603) 456-2271

Kenneth & Connie Benward
3 Waldron Hill Road
Warner NH 03278

Map & Lot #10/3-1

RE: Acceptance of wells and discontinuance of water service to North Village Road customers

Dear Kenneth & Connie:

In May 2009, the Warner Village Water District, through its contractor, the Contoocook Artesian Well Company, successfully completed installation of individual wells on four properties on North Village Road in Warner. The water yielded by these wells has been tested and found to be acceptable in terms of the water quality standards of the State of New Hampshire. The cost of installation of these wells was borne entirely by the District.

Before the District can discontinue water service to the North Village Road area, the Public Utilities Commission order DW 08-095 requires that each of the affected customers accept the individual well installed by the District on their property and indicate this fact in writing.

The District Commissioners request that you sign under the statement below, indicating your acceptance of your well. Please return the signed copy to the District in the enclosed envelope. Once it has received all four of the signed statements, the District will proceed with the application to the PUC requesting authorization to discontinue water service to the North Village Road area. Please be advised that the District intends to file a copy of this letter with the Merrimack County Registry of Deeds, as a permanent record of this accomplishment in connection with your property.

If you have any questions regarding this letter, please contact one of the Commissioners.

Sincerely,

COMMISSIONERS:

Peter Newman, Chairman
Lynn C. Perkins
Peter Savlen

Peter E Newman
L C Perkins

I accept the well installed on my property (Map 10 Lot 3-1) in May 2009 by the Warner Village Water District for purposes of providing domestic water and hereby relinquish any and all further claims upon the District. (It is important that the District receive your signed statement before August 31, 2009.)

[Signature]
(Signature of Customer)

8/11/09
Date

Enc.: Copy of letter for your records
Stamped self-addressed return envelope
Warranty on Well and Pump System
Well Completion Report

Warner Village Water District

P.O. Box 252
55 West Joppa Rd.
Warner, NH 03278

Office of Commissioners

August 10, 2009

Tel. (603) 456-3890
Fax (603) 456-2271

Debra Buckley/James VonVett
92 North Village Road
Warner NH 03278

Map & Lot #10/7

RE: Acceptance of wells and discontinuance of water service to North Village Road customers

Dear Debra and James:

In May 2009, the Warner Village Water District, through its contractor, the Contoocook Artesian Well Company, successfully completed installation of individual wells on four properties on North Village Road in Warner. The water yielded by these wells has been tested and found to be acceptable in terms of the water quality standards of the State of New Hampshire. The cost of installation of these wells was borne entirely by the District.

Before the District can discontinue water service to the North Village Road area, the Public Utilities Commission order DW 08-095 requires that each of the affected customers accept the individual well installed by the District on their property and indicate this fact in writing.

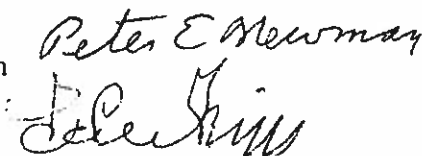
The District Commissioners request that you sign under the statement below, indicating your acceptance of your well. Please return the signed copy to the District in the enclosed envelope. Once it has received all four of the signed statements, the District will proceed with the application to the PUC requesting authorization to discontinue water service to the North Village Road area. Please be advised that the District intends to file a copy of this letter with the Merrimack County Registry of Deeds, as a permanent record of this accomplishment in connection with your property.

If you have any questions regarding this letter, please contact one of the Commissioners.

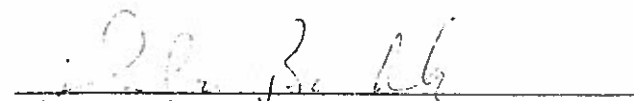
Sincerely,

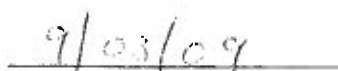
COMMISSIONERS:

Peter Newman, Chairman
Lynn C. Perkins
Peter Savlen



I accept the well installed on my property (Map 10 Lot 7) in May 2009 by the Warner Village Water District for purposes of providing domestic water and hereby relinquish any and all further claims upon the District. (It is important that the District receive your signed statement before August 31, 2009.)


(Signature of Customer)


Date

Enc.: Copy of letter for your records
Stamped self-addressed return envelope
Warranty on Well and PumpSystem
Well Completion Report

Warner Village Water District

P.O. Box 252
55 West Joppa Rd.
Warner, NH 03278

Office of Commissioners

August 10, 2009

Tel. (603) 456-3890
Fax (603) 456-2271

Richard Fisher
84 North Village Road
Warner NH 03278

Map & Lot #10/6

RE: Acceptance of wells and discontinuance of water service to North Village Road customers

Dear Richard:

In May 2009, the Warner Village Water District, through its contractor, the Contoocook Artesian Well Company, successfully completed installation of individual wells on four properties on North Village Road in Warner. The water yielded by these wells has been tested and found to be acceptable in terms of the water quality standards of the State of New Hampshire. The cost of installation of these wells was borne entirely by the District.

Before the District can discontinue water service to the North Village Road area, the Public Utilities Commission order DW 08-095 requires that each of the affected customers accept the individual well installed by the District on their property and indicate this fact in writing.

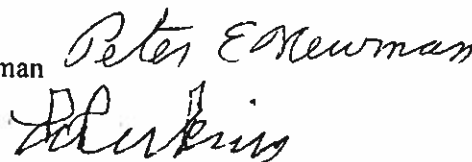
The District Commissioners request that you sign under the statement below, indicating your acceptance of your well. Please return the signed copy to the District in the enclosed envelope. Once it has received all four of the signed statements, the District will proceed with the application to the PUC requesting authorization to discontinue water service to the North Village Road area. Please be advised that the District intends to file a copy of this letter with the Merrimack County Registry of Deeds, as a permanent record of this accomplishment in connection with your property.

If you have any questions regarding this letter, please contact one of the Commissioners.


Sincerely,

COMMISSIONERS:

Peter Newman, Chairman
Lynn C. Perkins
Peter Savlen



I accept the well installed on my property (Map 10 Lot 6) in May 2009 by the Warner Village Water District for purposes of providing domestic water and hereby relinquish any and all further claims upon the District. (It is important that the District receive your signed statement before August 31, 2009.)


(Signature of Customer)

Date

Enc.: Copy of letter for your records
Stamped self-addressed return envelope
Warranty on Well and Pump System
Well Completion Report

RECEIVED SEP 17 2009

Warner Village Water District

P.O. Box 252
55 West Joppa Rd.
Warner, NH 03278

Office of Commissioners

August 10, 2009

Tel. (603) 456-3890

Fax (603) 456-2271

Peter & Rhonda St. James
69 North Village Road
Warner NH 03278

Map & Lot #10/3

RE: Acceptance of wells and discontinuance of water service to North Village Road customers

Dear Peter & Rhonda:

In May 2009, the Warner Village Water District, through its contractor, the Contoocook Artesian Well Company, successfully completed installation of individual wells on four properties on North Village Road in Warner. The water yielded by these wells has been tested and found to be acceptable in terms of the water quality standards of the State of New Hampshire. The cost of installation of these wells was borne entirely by the District.

Before the District can discontinue water service to the North Village Road area, the Public Utilities Commission order DW 08-095 requires that each of the affected customers accept the individual well installed by the District on their property and indicate this fact in writing.

The District Commissioners request that you sign under the statement below, indicating your acceptance of your well. Please return the signed copy to the District in the enclosed envelope. Once it has received all four of the signed statements, the District will proceed with the application to the PUC requesting authorization to discontinue water service to the North Village Road area. Please be advised that the District intends to file a copy of this letter with the Merrimack County Registry of Deeds, as a permanent record of this accomplishment in connection with your property.

If you have any questions regarding this letter, please contact one of the Commissioners.

Sincerely,

COMMISSIONERS:

Peter Newman, Chairman
Lynn C. Perkins
Peter Savlen

Peter E Newman

Lynn C Perkins

I accept the well installed on my property (Map 10 Lot 3) in May 2009 by the Warner Village Water District for purposes of providing domestic water and hereby relinquish any and all further claims upon the District. (It is important that the District receive your signed statement before August 31, 2009.)

Rhonda St. James

[Signature]
(Signature of Customer)

8-17-09
Date

Enc.: Copy of letter for your records
Stamped self-addressed return envelope
Warranty on Well and Pump System
Well Completion Report

*PLEASE HAVE THE ANNUAL FEE
TAKEN OFF OUR TAX BILL PLEASE.*

[Signature]



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



December 27, 2019

JAYSON P LAFLAMME
ASSISTANT DIRECTOR GAS-WATER DIVISION
STATE OF NH PUBLIC UTILITIES COMMISSION
21 S FRUIT ST, SUITE 10
CONCORD NH 03301 2429

NHPLC 2JAN'20PH2:05

**RE: Request for Compliance Status
Warner Village Water District
Parcel ID's: Map 10 / Lots 3, 3-1, 6 & 7, Warner, NH**

Dear Mr. LaFlamme:

At your request, the New Hampshire Department of Environmental Services (NHDES) Subsurface Systems Bureau (SSB) has prepared this letter to inform you that the Warner Village Water District's (WVWD) request to disconnect the four above-mentioned parcels from the District's community water service is now administratively complete with NHDES. NHDES's involvement with this project was to determine whether these four parcels, upon community water termination, would be in compliance with State Statute at RSA 485-A and its implementing regulations, the Subdivision and Individual Sewage Disposal System Design Rules at Env-Wq 1000 ("the Rules"). Our SSB files now reflect that all of the required septic system construction and operational approvals and/or amended subdivision approvals have been achieved. Based on the information we have to date, all four parcels are now **in compliance** with RSA 485-A and Env-Wq 1000 should community water service be discontinued.

Sincerely,

Kevin J. Kaveny
Compliance Supervisor
Subsurface Systems Bureau
Land Resources Management

cc: Warner Village Water District, PO Box 252, Warner, NH 03278
Warner Health Office
ec: Dawn Buker, NHDES SSB Design Review Supervisor

Warner Village Water District



MAP 10, LOT 3

MAP 10, LOT 3-1

MAP 10, LOT 3-2

MAP 10, LOT 7

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