

**RE: DW 17-165 AWC - Rosebrook Step II - NHDES Sanitary Survey and Company response**



Don Vaughan <dvaughan@newenglandservicecompany.com>

Today at 3:49 PM

To: Randal.A.Suozzo@des.nh.gov; Cc: Descoteau, Robyn; Frink, Steve; 'Stephen'; Laflamme, Jayson; 'Jayson'; +7 more

Dear Mr. Suozzo,

I sincerely appreciate your outline.

Abenaki cannot presently commit to the December, January, and March deadlines. The short answer is that the NHPUC holds the purse strings. Abenaki is awaiting reinstatement of the Step II and its ability to file for recovery of the engineering design costs.

As stated earlier in this email string, Abenaki was only given 69 days within which to conduct the engineering design. In July 2019, Abenaki had urged Commission approval post haste in order to meet the December 31<sup>st</sup> deadline but the order defining the scope of the Step was not issued until late October. So, although the Step mechanism was approved in concept in December 2018, the scope of the Step, which was subject to further litigation, was not approved until late October 2019.

The reason the Step II recovery mechanism is needed is that Abenaki has already spent \$80,000 on this project. It cannot spend more without assurance that it can seek recovery because Abenaki has cash covenants it must meet with its lender. This is why Abenaki has requested reinstatement of the Step II.

Abenaki cannot speed this approval along. Even if Abenaki sought financing to cover this engineering design, it would still need Commission approval for the use of the proceeds of the financing. Also, financing approval would take longer than the Step II approval because it would require a whole new petition and NHPUC proceeding. If Abenaki had approval to recover the engineering design costs, we would otherwise be moving forward.

Regarding setting future deadlines to submit 50% of the design, 90% of the design, and bidding of the project, please know that Horizons has stated that it will take at least 8 months to complete the engineering designs. That assumes cooperation from any private landowners should facilities need to be located on such properties. Abenaki can entertain the deadlines only after it receives reinstatement of the Step II recovery ability.

If you have any thoughts otherwise and would like to discuss this further, please do not hesitate to call me.

Regards,

Don Vaughan

Abenaki Water Company

**From:** Suozzo, Randal [<mailto:Randal.A.Suozzo@des.nh.gov>]

**Sent:** Wednesday, September 9, 2020 8:32 AM

**To:** Don Vaughan <dvaughan@newenglandservicecompany.com>

**Cc:** Descoteau, Robyn <[Robyn.J.Descoteau@puc.nh.gov](mailto:Robyn.J.Descoteau@puc.nh.gov)>; Frink, Stephen

<[Stephen.P.Frink@puc.nh.gov](mailto:Stephen.P.Frink@puc.nh.gov)>; Laflamme, Jayson <[Jayson.P.Laflamme@puc.nh.gov](mailto:Jayson.P.Laflamme@puc.nh.gov)>; Vercellotti,

Joseph <[Joseph.M.Vercellotti@puc.nh.gov](mailto:Joseph.M.Vercellotti@puc.nh.gov)>; Tuomala, Christopher

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<[pdoucette@newenglandservicecompany.com](mailto:pdoucette@newenglandservicecompany.com)>; 'Marcia Brown' <[mab@nhbrownlaw.com](mailto:mab@nhbrownlaw.com)>; 'Nicholas  
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<[stephenpstcyr@yahoo.com](mailto:stephenpstcyr@yahoo.com)>; Bourgouin, Kim  
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**Subject:** RE: DW 17-165 AWC - Rosebrook Step II - NHDES Sanitary Survey and Company response

Mr. Vaughn,

DES has stated and will continue to relay that “Demonstrating the most cost effective and efficient design before the engineering was developed and completed”, has no place in the preliminary process. The state certifies and the onus is on the professional engineer to perform this role. We recommend that you offer that design plans stamped by the engineer along with a statement that cost efficiency was included as part of the design process will be provided as part of the \$100,000. At that point, if someone wants to challenge the design as not being the most cost effective solution, another step increase should be evaluated for either redesign or for what is called “value engineering” to reduce cost on items in the design. Horizons Engineering has already provided an alternatives report, which was the preliminary design and cost efficiency effort. If there is anything DES can do to push this forward, please let me know.

As far as DES deadlines, EPA requires deadlines for any CAP that addresses an identified significant deficiency. I apologize for any lost communication on this issue. While we understand the difficulties with obtaining funds and approval to complete this work, we cannot forego procedure. With the PUC hearing decision imminent, I would like to proceed with capturing DES deadlines. Instead of the first deadline being one for bidding, we can issue deadlines for providing 50% and 90% design documents to DES for review. The deficiency is over a year old, and this is not looked upon favorably by EPA. Due to the circumstances, please review the below scheduled deadlines and provide any comment prior to finalization. Please keep in mind that after many years of non-compliance, DES is not interested in delaying this project any further, and deadlines must be placed on this work. But also realize that DES enforcement provides you with the opportunity to defend these project improvements and rate increases to your consumers. We would like to get formal enforcement into your hands as soon as possible to help this cause, but the first deadline is being pushed back to have a more realistic opportunity to meet the deadline. Proposal:

Action – Date

Submit 50% design plans to DES – December 1, 2020

Submit 90% design plans to DES – January 31, 2021

Bid the project – March 15, 2021

This gives your six months to get easements. A formal violation will not be sent out unless any of these official deadlines are missed. If you want a formal violation sooner in order to help push for approvals from PUC and consumers, we can always keep the October 1 deadline proposed in my original email below. Please feel free to call and discuss.

Randal A. Suozzo, P.E.

Department of Environmental Services

Drinking Water and Groundwater Bureau

603-271-1746

**From:** Don Vaughan <[dvaughan@newenglandservicecompany.com](mailto:dvaughan@newenglandservicecompany.com)>  
**Sent:** Tuesday, September 1, 2020 12:34 PM  
**To:** Suozzo, Randal <[Randal.A.Suozzo@des.nh.gov](mailto:Randal.A.Suozzo@des.nh.gov)>  
**Cc:** Descoteau, Robyn <[Robyn.J.Descoteau@puc.nh.gov](mailto:Robyn.J.Descoteau@puc.nh.gov)>; Frink, Stephen <[Stephen.P.Frink@puc.nh.gov](mailto:Stephen.P.Frink@puc.nh.gov)>; Laflamme, Jayson <[Jayson.P.Laflamme@puc.nh.gov](mailto:Jayson.P.Laflamme@puc.nh.gov)>; Vercellotti, Joseph <[Joseph.M.Vercellotti@puc.nh.gov](mailto:Joseph.M.Vercellotti@puc.nh.gov)>; Tuomala, Christopher <[Christopher.R.Tuomala@puc.nh.gov](mailto:Christopher.R.Tuomala@puc.nh.gov)>; 'Pauline Doucette' <[pdoucette@newenglandservicecompany.com](mailto:pdoucette@newenglandservicecompany.com)>; 'Marcia Brown' <[mab@nhbrownlaw.com](mailto:mab@nhbrownlaw.com)>; 'Nicholas LaChance - NE Service Email ' <[nlachance@newenglandservicecompany.com](mailto:nlachance@newenglandservicecompany.com)>; 'Steve St Cyr' <[stephenpstcyr@yahoo.com](mailto:stephenpstcyr@yahoo.com)>; Bourgouin, Kim <[Kim.C.Bourgouin@des.nh.gov](mailto:Kim.C.Bourgouin@des.nh.gov)>; [RGallo@newenglandservicecompany.com](mailto:RGallo@newenglandservicecompany.com); [jdavis@newenglandservicecompany.com](mailto:jdavis@newenglandservicecompany.com)  
**Subject:** RE: DW 17-165 AWC - Rosebrook Step II - NHDES Sanitary Survey and Company response

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Dear Mr. Suozzo - With respect to your question regarding dates of the Corrective Action Plans, there were none as they were contingent on pending PUC decisions. The Step 2 provision was part of PUC order no. 26,205, dated December 27<sup>th</sup>, 2018, and allowed for up to \$100,000 for engineered plans and specifications subject to Commission approval. The filing date specified was September 30<sup>th</sup>, 2019 consistent with the Company's claim that it would take from 6-9 months to complete the design and engineering depending on the ability to obtain easements.

Subsequently, the Commission issued Order 26,300 which was intended to clarify its prior ruling regarding Step 2 after objections by Omni. As a result, the Company awaited this next decision before having the assurance to proceed with engaging a consulting engineering to address Step 2. This time, the Order, issued on October 23<sup>rd</sup>, 2019, gave the Company approximately 69 days or until December 31<sup>st</sup>, 2019 to complete the engineering and specifications for filing on behalf of Step 2. The Company found this impossible to comply.

As recently as August 5<sup>th</sup>, the Company participated in a virtual hearing to extend the step 2 filing date from December 31<sup>st</sup>, 2019 as ordered in 26,300. It awaits the decision.

After multiple initiatives including revising procedural schedules, discovery, technical sessions, discussions and meetings with intervenors, and correspondence extending into July the aforementioned Order No. 26,300, released in October as mentioned, revised the Step 2 filing date from September 30<sup>th</sup> to December 31<sup>st</sup>, 2019. Much of the pertinent discussion related to these initiatives had to do with the perception of demonstrating the most cost effective and efficient design before the engineering was developed and completed. This was a problematic position for the Company – very similar to prescribing a cure without performing an examination. Going forward the Company would plan periodic reviews with DES to comment on the efficacy of the design as it evolved from the consulting engineer. The Significant Deficiency (extreme pressure) has existed on the Rosebrook system for decades since the advent of the 650,000 gallon storage tank and its location which is at the root of the problem. Seemingly, mitigating this condition has been ignored by previous ownership and managements but is a concern to operators, the Fire Department, and others. Abenaki Water Company, a small water utility of only 700 customers, has been the first to make a bona fide effort to solve the deficiency. However, this is an enormous project for Abenaki to handle, without the assistance of its regulators, assuming that the

initiative is prudent in the first place. Financial risk is high and that is a deep concern of Abenaki given its concurrent open dockets with significant capital at stake.

In conclusion, Abenaki asks to respond with dates for the CAP shortly after the latest hearing decision is released which should be imminent. As earlier said, there are multiple parts to the project including financing, site studies, engineering, obtaining easements, meetings, and considerable communication. Therefore we respectfully ask for your understanding of the depth, width and scope of this project as well as a mutually agreed action plan based around the decision or as coordinated with your office.

Don Vaughan

Abenaki Water Company

**From:** Suozzo, Randal [<mailto:Randal.A.Suozzo@des.nh.gov>]

**Sent:** Wednesday, August 26, 2020 9:57 AM

**To:** Don Vaughan <[dvaughan@newenglandservicecompany.com](mailto:dvaughan@newenglandservicecompany.com)>

**Cc:** Descoteau, Robyn <[Robyn.J.Descoteau@puc.nh.gov](mailto:Robyn.J.Descoteau@puc.nh.gov)>; Frink, Stephen <[Stephen.P.Frink@puc.nh.gov](mailto:Stephen.P.Frink@puc.nh.gov)>; Laflamme, Jayson <[Jayson.P.Laflamme@puc.nh.gov](mailto:Jayson.P.Laflamme@puc.nh.gov)>; Vercellotti, Joseph <[Joseph.M.Vercellotti@puc.nh.gov](mailto:Joseph.M.Vercellotti@puc.nh.gov)>; Tuomala, Christopher <[Christopher.R.Tuomala@puc.nh.gov](mailto:Christopher.R.Tuomala@puc.nh.gov)>; 'Pauline Doucette' <[pdoucette@newenglandservicecompany.com](mailto:pdoucette@newenglandservicecompany.com)>; 'Marcia Brown' <[mab@nhbrownlaw.com](mailto:mab@nhbrownlaw.com)>; 'Nicholas LaChance - NE Service Email ' <[nlachance@newenglandservicecompany.com](mailto:nlachance@newenglandservicecompany.com)>; 'Steve St Cyr' <[stephenpstcyr@yahoo.com](mailto:stephenpstcyr@yahoo.com)>; Bourgouin, Kim <[Kim.C.Bourgouin@des.nh.gov](mailto:Kim.C.Bourgouin@des.nh.gov)>

**Subject:** RE: DW 17-165 AWC - Rosebrook Step II - NHDES Sanitary Survey and Company response

Mr. Vaughan,

As DES attempted to draft a letter of deficiency for missing the deadline on bidding this project, I could not locate any correspondence from this office to you that confirmed that deadline. If you have a copy of confirmation from DES on the deadlines you proposed below, I would ask that you please forward that to me.

If you do not have such confirmation, please consider this email notification that a deficiency letter will be sent if we do not receive final design plans and specifications by October 1, 2020.

This is considered an interim deadline as part of your Corrective Action Plan (CAP) for addressing the significant deficiencies listed in last year's sanitary survey.

Please let me know if you have any questions.

Randal A. Suozzo, P.E.

Department of Environmental Services

Drinking Water and Groundwater Bureau

603-271-1746

**From:** Don Vaughan <[dvaughan@newenglandservicecompany.com](mailto:dvaughan@newenglandservicecompany.com)>

**Sent:** Sunday, June 23, 2019 1:21 PM

**To:** Suozzo, Randal <[Randal.Suozzo@des.nh.gov](mailto:Randal.Suozzo@des.nh.gov)>

**Cc:** Descoteau, Robyn <[Robyn.Descoteau@puc.nh.gov](mailto:Robyn.Descoteau@puc.nh.gov)>; Frink, Stephen <[Steve.Frink@puc.nh.gov](mailto:Steve.Frink@puc.nh.gov)>; Laflamme, Jayson <[Jayson.Laflamme@puc.nh.gov](mailto:Jayson.Laflamme@puc.nh.gov)>; Vercellotti, Joseph <[Joseph.Vercellotti@puc.nh.gov](mailto:Joseph.Vercellotti@puc.nh.gov)>; Tuomala, Christopher <[Christopher.Tuomala@puc.nh.gov](mailto:Christopher.Tuomala@puc.nh.gov)>; 'Pauline Doucette' <[pdoucette@newenglandservicecompany.com](mailto:pdoucette@newenglandservicecompany.com)>; 'Marcia Brown' <[mab@nhbrownlaw.com](mailto:mab@nhbrownlaw.com)>;

'Nicholas LaChance - NE Service Email ' <[nlachance@newenglandservicecompany.com](mailto:nlachance@newenglandservicecompany.com)>; 'Steve St Cyr' <[stephenpstcyr@yahoo.com](mailto:stephenpstcyr@yahoo.com)>

**Subject:** RE: DW 17-165 AWC - Rosebrook Step II - NHDES Sanitary Survey and Company response

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Dear Mr. Suozzo,

Thank you for your timely response to my letter with regard to the most recent DES Sanitary Survey.

I am pleased to report that the field inspection of Rosebrook's storage tank was completed this past Friday. We will forward the results and remedies to any issues, if detected, in short order.

Relative to the remaining significant deficiencies, we have been ready, willing and able to commence the engineering aspect of the project for some time, but for regulatory approvals. As you know, a substantial amount of capital funding is necessary to put this project in motion. Abenaki Water Company ( The Company or Rosebrook) is unwilling to finance this project on a unilateral basis due to the risk involved related to the recovery of those funds. Unless the step II engineering effort is approved ( and it appears that a Docket specified September 30<sup>th</sup> completion date is doomed) any effort to submit a financing filing becomes moot.

All the above said, and to your point, the Company had hoped for a 2020 construction bid date, with completion of the Phase I portion of the project by 12/31/20. Due to the size of the capital investment required, completion of Phase 1 would be followed by a general rate increase to moderate rate impacts, which process would consume the better part of a year. Subsequent to the anticipated PUC rate approval expected at the end of 2021, The Company would solicit bids for Phase II ( and possibly III depending on rate implications ) in 2022. Contingent on combining Phases II and III, the project could be completed by 2023. Whether or not the 2023 date could be achieved, the fact remains that progress would be taking place to solve an operating condition(s) existing at least back to the 1980's.

A significant X-factor and speed bump to forecasting/scheduling construction is negotiating necessary easements with various home owners associations and entities required for facilities such as pump stations (the Company owns no real estate ). This portion of the project has high potential for causing schedule delays. There are many moving parts and factors with which to deal.

I hope this gives you an overview of the task at hand. Finally to get to your request, and in the hope that we receive necessary approvals in the next week, and easements in the next 6 months, bids could be received by February 2020, and all construction, punctuated by PUC rate filings, could conceivably be completed by 2023.

At this juncture the Company has spent a considerable amount of resources given its size, and continues to wait for the next prescribed step.

Please do not hesitate to contact me with questions and comments.

Regards,

Donald Vaughan, P.E., Chairman

**From:** Suozzo, Randal [<mailto:Randal.Suozzo@des.nh.gov>]

**Sent:** Friday, June 21, 2019 3:09 PM

**To:** Don Vaughan

**Cc:** Descoteau, Robyn ; Frink, Stephen ; Laflamme, Jayson ; Vercellotti, Joseph ; Tuomala, Christopher ; Pauline Doucette  
**Subject:** RE: DW 17-165 AWC - Rosebrook Step II - NHDES Sanitary Survey and Company response

Mr. Vaughan,

I have reviewed your response letter to the sanitary survey. The letter is considered a partial response towards a NHDES approved CAP. I realize that PUC approval is required for you to proceed with addressing several deficiencies listed, however, our rules require an approved date of completion for any CAP. Please provide a date for completion of the referenced work listed in PUC docket DW 17-165. Although this date can be somewhat flexible if unforeseen (or foreseen) circumstances require it to change, please provide dates for our files. We will use this date to check in on project status moving forward.

Since this work can take a fair amount of time, I would like to see a stepped process:

Bid the work for construction by \_\_\_\_\_?

Complete construction by \_\_\_\_\_?

Upon getting closer to the dates, if the first date needed to move, they could both move. If completion of scope by the first date is nowhere in sight, we would probably begin enforcement action with new dates followed by possible fines. We plan to work with you to get these deficiencies addressed by supporting efforts to gain PUC approval.

Thank you in advance for your response.

Randal A. Suozzo, P.E.  
Drinking Water & Groundwater Bureau  
NH Department of Environmental Services  
Phone: 603.271.1746

**From:** Steve St Cyr [<mailto:stephenpstcyr@yahoo.com>]

**Sent:** Friday, June 14, 2019 3:01 PM

**To:** PUC: Executive.Director; Brennan, James J; Marcia Brown; Stacey Burgess; Chattopadhyay, Pradip K; Descoteau, Robyn; Larry DiVito; Pauline Doucette; Chris Ellms; Viggo Fish; Frink, Steve; Tom Getz; Kreis, Donald; Laflamme, Jayson; Leone, Anthony; [pluongo@plymouthrock.com](mailto:pluongo@plymouthrock.com); Paul Mueller; Noonan, Amanda; PUC - OCA

Litigation; Ross, F. Anne; Tuomala, Christopher; Vercellotti, Joseph; Suozzo, Randal

**Subject:** DW 17-165 AWC - Rosebrook Step II - NHDES Sanitary Survey and Company response

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Ms. Howland:

Today, the Company placed the original and six copies of the NHDES Sanitary Survey 2019 for Rosebrook Water and the Company's response in the U. S. mail for delivery to the PUC (probably Monday, 6/17). Please accept the attached as the electronic filing. A copy has been emailed to the service list. If you have any questions or comment, please let me know.

Thanks,  
Steve