



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Northeast Regional Office • 150 Presidential Way Woburn, MA 01801 • 978-694-3200

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August 14, 2023

Robert Murchison
Fenix Partners Farm Road, LLC
177 Lake Street
Sherborn, MA 01770

RE: Sherborn
Request for Determination of Applicability
310 CMR 22.02(1)
55-65 Farm Road, Sherborn
Preliminary Approval of Request

Dear Mr. Murchison:

Please find attached the following information:

Preliminary approval for a determination pursuant to 310 CMR 22.02(1) that proposed drinking water systems to be located at 55-65 Farm Road in Sherborn should not be regulated as a Public Water System subject to the Massachusetts Drinking Water Regulations, 310 CMR 22.00.

If you have any questions regarding this letter, please contact James Persky at (781) 223-4827.

Sincerely,

James H. Persky
Environmental Analyst
Drinking Water Program

Kristin L. Divris
Deputy Regional Director
Bureau of Water Resources

cc: DWP/Boston Office (no attachment)
Stephen W. Smith, GeoHydroCycle, Inc., 5 Madison Avenue, Newton, MA 02460
Sherborn Board of Health, 19 Washington Street, Sherborn, MA 01770

File Name: MassDEP BWR SharePoint\DWPArchive\NERO\Sherborn-FarmRd-PWS Det-PrelimApproval-2023-08-14

This information is available in alternate format. Please contact Melixza Esenye at 617-626-1282.
TTY# MassRelay Service 1-800-439-2370
MassDEP Website: www.mass.gov/dep

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On October 1, 2022, Fenix Partners Farm Road, LLC (“Fenix”), of the above-listed address submitted to the Massachusetts Department of Environmental Protection (“MassDEP”) a request for a determination pursuant to 310 CMR 22.02(1) that one or more proposed drinking water systems to be located at 55-65 Farm Road in Sherborn, Massachusetts, (the “Drinking Water System”) should not be regulated as a Public Water System (“PWS”) subject to the Massachusetts Drinking Water Regulations, 310 CMR 22.00 (“the Regulations”). Additional documentation was submitted to MassDEP on April 24, 2023 and May 26, 2023. MassDEP issues this letter in response to your request.

You have made an Information Submittal¹ to MassDEP, as more particularly described below in Section I. Based upon your Information Submittal, MassDEP has evaluated your request.

For the reasons set forth in Section II, MassDEP has made a preliminary determination that the Drinking Water Systems should be exempt from regulation as a PWS, taking into account the risk to public health.

I. INFORMATION SUBMITTED FOR REVIEW. You submitted the following information and supporting documentation² to MassDEP for review in support of your request.

- A project plan
 - “Final Seven Private Well Groups Submittal,” dated May 25, 2023. This revision of an earlier plan moved two wells farther upgradient from septic-disposal systems and one well farther from a stormwater basin
- A listing of the units, with number of bedrooms, that will be served by each Drinking Water System
 - “Farm Road Homes PWS Applicability Review Request Information Figures and Data Tables,” dated October 1, 2022
- Ownership or control evidence/Source Protection Measures
 - “Farm Road Homes Draft Language Well Ownership and Control,” dated October 1, 2022
 - Conservation Restriction on the lot identified as Lot 3B as is Recorded at the Middlesex South Registry of Deeds at Book 144, Page 441
- Certification
 - “Fenix Partners Farm Road PWS Applicability Review Request Certification,” dated October 1, 2022

¹ Capitalized terms used in this letter are defined in MassDEP’s “Key to Terms,” a copy of which is attached.

² MassDEP has provided you with a copy of its “Minimum Recommendation Information List,” a copy of which is attached, and the Key to Terms to assist you in providing information needed for review of your request.

II. CONCLUSION.

MassDEP has made a **Preliminary Determination** that the Drinking Water Systems for the proposed development at 55-65 Farm Road in Sherborn should not be regulated as a PWS, taking into account the risk to public health. This determination is preliminary because finalized deeds and documentation indicating the ownership and control of each Drinking Water System and its associated Zone I equivalent area are not yet available.

This Preliminary Determination has been made in reliance upon and subject to the truth, accuracy and completeness of the information contained in the Information Submittal, except to the extent that the plans and documents listed in Section I. above are modified as a result of the local planning board or other local approving authority's approval process. The Preliminary Determination is based upon the condition that there will be no material changes to the plans and documents listed in Section I. above when made final.

Each Drinking Water System may be subject to other State or local regulation, including without limitation Title 5 (State septic-disposal regulations, 310 CMR 15.000).

MassDEP, upon written notice to the Applicant or its successor, reserves the right to withdraw the Preliminary Determination that each Drinking Water System (or a subset of such Drinking Water Systems) is not required to be regulated as a PWS, in the event that:

- A material fact upon which the Preliminary Determination is based is not as described in the Information Submittal;
- A Source Protection Masure which the Applicant has identified in the Informational Submittal and the Department has determined is necessary has not been properly maintained and operated, or is otherwise inadequate; or
- MassDEP finds that continuing to exempt each Drinking Water System (or a subset of the Drinking Water Systems) from regulation as a PWS would pose a risk to public health.

The Preliminary Determination shall be valid for one year from its date of issuance. It may be extended for a period of one year upon advance written notice to MassDEP, that shall be submitted no less than thirty (30) days prior to its expiration. It shall only be extended beyond two years for satisfactory cause explained in an advance written request submitted to MassDEP no less than thirty (30) days prior to the expiration of the Preliminary Determination (satisfactory cause, for example, being an unavoidable delay in a planning board or other local approval authority issuance of a final decision or in the event of an appeal of such a decision). Any such extension shall be in writing and shall provide a date certain for its expiration.

Prior to the expiration of the Preliminary Determination, the Applicant must submit to MassDEP a request for a final Determination with the final, approved, executed and/or filed version of the plans and documents listed in Section I. above, with a letter explaining any substantive changes

to such plans and documents, including any appropriate supporting documentation, which shall be subject to further MassDEP review for a final Determination. Depending on the nature of such substantive changes, MassDEP could withdraw its Preliminary Determination.

The Preliminary Determination shall remain valid pending MassDEP's review of a timely submitted request for a final Determination and issuance of such final Determination approving or denying the Applicant's request. Any action taken under or reliant upon the Preliminary Determination shall be solely at the Applicant's risk and expense.