



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Western Regional Office • 436 Dwight Street, Springfield MA 01103 • 413-784-1100

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Issued Electronically:

Mr. Jay Jones  
JMJ Holdings  
1865 Washington Street, 9<sup>th</sup> Floor  
Boston, MA 02109

April 14, 2023

Re: Lanesborough-DWP  
Berkshire Mall  
PWS ID#: 1148011  
Sanitary Survey

Dear Mr. Jones,

On April 4, 2023, Douglas Paine of the Massachusetts Department of Environmental Protection (MassDEP), Drinking Water Program (DWP) conducted a Sanitary Survey of the Berkshire Mall (“The Mall”) public water system. A sanitary survey is an on-site review of the water sources, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the system’s ability to produce and distribute safe drinking water. The enclosed report includes the system description, findings and compliance plan.

During the course of the survey, MassDEP identified areas in which improvements in the administration, and operation and maintenance of the system could be made. MassDEP’s evaluation of the water system, and the specific required and recommended actions, were discussed during the inspection with you, representatives of the Lanesborough Fire and Water District, a representative of the City of Pittsfield’s Municipal Water Department, and representatives of the Lanesborough Building Department and Board of Health. This report contains time sensitive requirements, which are summarized in the Compliance Plan Tables. Please review the items noted in the report and Compliance Plan Tables A and B and return the signature page to MassDEP by **May 14, 2023**. Specifically, MassDEP requires the following actions to remedy items noted in the inspection:

An assessment of this public water system’s capacity was conducted by MassDEP for the last sanitary survey report, dated **May 8, 2018**. There has been a property ownership change since the 2018 inspection, and numerous violations were identified during this most recent inspection. MassDEP has therefore determined that this system’s Capacity Rating should be changed from **Adequate to Inadequate**.

The Mall’s public water system must be overseen by an appropriately certified water operator, in accordance with the Massachusetts Drinking Water Regulations at 310 CMR 22.11B, who must conduct

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MassDEP Website: [www.mass.gov/dep](http://www.mass.gov/dep)

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and document (at a minimum) monthly inspections of the water system. The Mall's public water system has not been overseen by a certified water operator since November 2021, when its certified operator at the time terminated service. **Although MassDEP will address this noncompliance separately, the Mall must secure an appropriately certified individual to serve as its water operator and must submit a completed *Certified Operator Compliance Notice and System Staffing and Comprehensive Operations Plan* to MassDEP.**

Within its May 8, 2018 sanitary survey inspection report, MassDEP noted the requirements for routine visual and structural inspections of large water storage tanks such as the 250,000 gallon atmospheric tank serving the Mall. Specifically, MassDEP required that the tank be structurally inspected by a qualified and experienced third party contractor every 3-5 years; that the roof-top of the tank be inspected yearly; and that the Mall's certified water operator document a ground-level visual inspection of the tank each month. In 2020, a penetration through the tank sidewall resulted in a substantial loss of water over a period of weeks. The Mall's tank has not been structurally inspected within the last 5-years and although the side-wall hole from 2020 has been patched with a steel plate, the structural integrity of the tank remains questionable. Further, no annual roof-top inspections have occurred, and without a certified operator overseeing the water system, the tank has not been visually inspected each month. **Although MassDEP will address the tank-inspection-related noncompliance separately, the tank should be inspected by a qualified third-party contractor as soon as possible with a report of that inspection provided to MassDEP.**

Consecutive Public Water Systems such as the Mall are required to routinely monitor the water that it provides customers for water quality parameters including total coliform bacteria, lead, copper, and disinfection byproducts. **The Mall has failed to monitor for any of the referenced water quality parameters in 2022 or 2023, and the associated noncompliance will be addressed separately by MassDEP. A copy of the Mall's 2023-25 Water Quality Sampling Schedule is attached to this report to help you identify required water quality monitoring.**

The Mall's most recently submitted Annual Statistical Report, covering the 2020 calendar year, indicates that the water system is equipped with six double check valve devices (DCVD) and eight reduced pressure backflow prevention (RPBP) devices. Cumulatively, the fourteen devices help to protect the potable water system from non-potable sources of contamination. Each DCVD is required to be tested once annually, while each RPBP is required to be tested twice annually. Only two of the DCVD and two of the RPBP devices were reported to have been tested during 2020, and none of the devices were tested in 2021. Although many of these backflow prevention devices may be associated with the Mall's inoperable fire suppression system, it remains the public water system owner's responsibility to either test the devices appropriately or to provide notice to MassDEP that the devices have either been removed from service or are inoperable. **The Mall's failure to test its backflow prevention devices is a violation of 310 CMR 22.22. Although the noncompliance will be addressed separately, the Mall must annually test all active backflow prevention devices in accordance with the testing requirements or provide notification to MassDEP that the devices are inactive.**

The Mall has failed to submit public water system Annual Statistical Reports to MassDEP for calendar years 2021 and 2022, in violation of 310 CMR 22.15(5). **MassDEP will address these violations separately.**

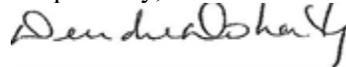
The Mall's Water Supply Emergency Response (ER) and Operation and Maintenance (O/M) Plans include information which is specific to the Public Water System owner as well as its water operator. With the new ownership, both of these Plans must be updated to reflect the recent change. **By June 30, 2023, provide a new Emergency Response Compliance Checklist and a new O/M Plan which incorporate new ownership and operator information.**

The Target retail store, located adjacent to the Mall on a separately owned property, had been provided potable water, as well as water for fire suppression, through the Mall's public water system until the fall of 2022, at which time it completed a direct service line connection to the Pittsfield Municipal Water system for its potable water supply only. Although the potable system serving Target bypasses the Mall's public water system, its fire suppression system continues to be supplied through the Mall. **Because Target and its new water service main falls within the Lanesborough Fire and Water District boundaries some or all of water main and related water supply appurtenances may be owned by the District, and the installation of the new main may have created a new consecutive Public Water System serving Target only. The District and the ownership of the Target retail store have not negotiated a written agreement detailing responsibilities. MassDEP will address these issues directly with Target and the Lanesborough Fire and Water District.**

As part of its implementation of the revised Total Coliform Rule, MassDEP will be developing new Coliform Bacteria Sampling Plans. **A new Plan will be provided to the Mall to be signed and returned to MassDEP within 30-days of receipt and the Mall will begin sampling according to the new Plan.**

Questions regarding this document, or other drinking water issues, should be directed to Douglas Paine at (413) 755 2281.

Respectfully,



Deirdre Doherty, Section Chief  
Drinking Water Program  
Bureau of Water Resources

Attachments: Sanitary Survey Report

cc: Board of Health – Lanesborough, Boston – DWP, Douglas Paine, MassDEP WERO

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