



Manna Business Enterprises, LLC  
Attn: Clinton Crumb, Manager  
379 Route 106 S  
Loudon, NH 03307

**ADMINISTRATIVE FINE  
No. AF 11-049**

Re: Cascade Campground water system  
Route 106 S, Loudon, New Hampshire  
PWS ID# 1407050

### **MOTION TO ACCEPT SETTLEMENT AGREEMENT**

NOW COME the Department of Environmental Services, Water Division ("Division") and Manna Business Enterprises, LLC ("Manna"), parties to the above-captioned matter, and request the Commissioner to accept the following proposed settlement in this matter. In support of this motion, the parties state as follows:

1. Pursuant to RSA 485, the New Hampshire Department of Environmental Services ("DES") regulates public water supplies. Pursuant to RSA 485:3, the Commissioner of DES has adopted NH CODE ADMIN. RULES Env-Ws 300 ("Drinking Water Rules") to implement this program. Beginning in 2007 the Drinking Water Rules are being redesignated as "Env-Dw," as each chapter is readopted.
2. RSA 485:58, IV authorizes the Commissioner of DES to impose administrative fines of up to \$2,000 per offense for violations of RSA 485 or any rule adopted pursuant thereto.
3. Manna is the owner of a public water system that serves a seasonal campground known as the Cascade Campground which has the capacity to serve over 500 persons during the camping season, located on 379 Route 106 S in Loudon, New Hampshire (the "Water System").
4. On August 29, 2011, the Division issued Notice of Proposed Administrative Fine No. AF 11-049 (the "Notice") to Manna, seeking fines totaling \$20,000 for violations of RSA 485, Env-Dw 709, Env-Dw 711, Env-Dw 801 and NHDES Administrative Order No. 10-004 WD issued to Manna on February 3, 2010 pursuant to RSA 485:58 (the "Order").
5. Specifically, in the Notice, the Division cited Manna for violating Env-Dw 711.19 by failing to monitor the Water System for nitrate in Q2-2010. Pursuant to RSA 485:58, the Division sought a fine of \$2,000 for this violation.
6. In the Notice, the Division also cited Manna for violating Env-Dw 711.25 by failing to monitor the Water System for nitrite in Q2-2010. Pursuant to RSA 485:58, the Division sought a fine of \$2,000 for this violation.

7. In the Notice, the Division also cited Manna for violating Env-Dw 709.10 by failing to submit the four repeat samples from the Water System for the August 2010 positive routine bacteria sample. Pursuant to RSA 485:58, the Division sought a fine of \$2,000 for this violation.
8. In the Notice, the Division also cited Manna for violating Env-Dw 709.11 by failing to submit the five additional routine September 2010 bacteria samples following the August 2010 positive routine bacteria sample. Pursuant to RSA 485:58, the Division sought a fine of \$2,000 for this violation.
9. In the Notice, the Division also cited Manna for violating Env-Dw 801.11 by failing to submit proof of public notice for the August 2010 monitoring violation. Pursuant to RSA 485:58, the Division sought a fine of \$2,000 for this violation.
10. In the Notice, the Division also cited Manna for violating Env-Dw 801.11 by failing to submit proof of public notice for the September 2010 monitoring violation. Pursuant to RSA 485:58, the Division sought a fine of \$2,000 for this violation.
11. In the Notice, the Division also cited Manna for violating Env-Dw 709.07 by failing to monitor the Water System for bacteria during May 2011. Pursuant to RSA 485:58, the Division sought a fine of \$2,000 for this violation.
12. In the Notice, the Division also cited Manna for violating Env-Dw 801.11 by failing to submit proof of public notice for the May 2011 monitoring violation. Pursuant to RSA 485:58, the Division sought a fine of \$2,000 for this violation.
13. In the Notice, the Division also cited Manna for violating Env-Dw 711.19 by failing to monitor the Water System for nitrate in Q2-2011. Pursuant to RSA 485:58, the Division sought a fine of \$2,000 for this violation.
14. Finally, in the Notice, the Division cited Manna for violating the Order by failing to follow the Master Sampling Schedule for the Water System between June 1, 2010 and May 30, 2012. The Master Sampling Schedule was incorporated by reference into the Order and made enforceable thereunder. Pursuant to RSA 485:58, the Division sought a fine of \$2,000 for this violation.
15. In order to settle this matter, the Division and Manna have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.
16. Manna agrees to pay the proposed fine in the amount of \$20,000, subject to the following terms:
  - a. Of the proposed fine in the amount of \$20,000, DES agrees to suspend 50%, in the amount of \$10,000, provided that Manna remains in compliance with this Agreement, RSA 485 and the Drinking Water Rules for a period of two years from the effective date of this Agreement. If Manna fails to maintain compliance during the two-year period, or fails to fully comply with the terms of this Agreement the amount suspended, \$10,000, shall become immediately due and payable in full. If Manna maintains compliance with the



terms of this Agreement and with RSA 485 and the Drinking Water Rules for the prescribed two-year period, the suspended portion of the fine shall be waived;

b. Manna may receive credit for up to 50% of the remaining amount of the fine due, \$5,000, by undertaking the Supplemental Environmental Project ("SEP") described as follows:

- i. Manna may contribute up to \$2,500 to support the water resource protection efforts of the Loudon Conservation Commission in a lump sum payment payable within 90 days from the date of this agreement. The funding support may be used to directly implement several tangible short-term efforts of the Loudon Conservation Commission, or other similar efforts;
- ii. The Loudon Conservation Commission has been working for many years to help local pond associations control milfoil by helping to fund their efforts. Rocky Pond and Clough Pond associations have been working hard to avoid and control this invasive plant;
- iii. Rocky Pond is the only infested water resource in Loudon, with variable milfoil infestation for a number of years. Large-scale control activities (herbicide treatment in 2011) resulted in a decrease in milfoil density; however, follow-up dive work is needed to keep the milfoil at bay and prevent it from rebounding to historic densities. Available funds will be used for paying contract divers to hand-remove milfoil as it begins to regrow or expand in the system;
- iv. The Clough Pond Association has been successful in keeping exotic weeds out of the pond by having a person stationed at the boat launch and inspecting trailers and boats as they enter the pond. The Loudon Conservation Commission has also discussed the possibility of helping those involved with Hot Hole Pond in the future if it were able to do so financially. Hot Hole Pond receives significant transient boat traffic associated with recreational fishing (mostly canoes and kayaks) and the development of an invasive plant program could help with the prevention and early detection of weeds in that water resource;
- v. The SEP shall be credited at a 1:2 ratio (i.e., for every one dollar spent on the SEP up to \$2,500, two dollars is credited toward payment of the total fine due, up to a maximum credit of \$5,000.) The SEP is not otherwise required by any local, state, or federal statute, regulation, order, consent decree, permit or other agreement. Any contributions made pursuant to this SEP shall be paid by certified check or money order made payable to "Loudon Conservation Commission" and mailed to: **Julie Robinson, Chairperson, Loudon Conservation Commission, P.O. Box 7837, Loudon, NH 03307;**
- vi. A cover letter and a copy of this agreement must accompany any donation stating that the funds are being donated to satisfy the SEP. A copy of the cover letter and a copy of the check or money order shall be mailed to: **DES Legal Unit, Attn: Compliance Attorney, P.O. Box 95, Concord, NH 03302-0095.**

If the total contribution by Manna within 90 days of the date of this agreement does not reach the \$2,500 commitment, then any remainder of the fine amount due, not paid through SEP credits will be paid to DES in accordance with paragraph #17; and

c. Manna agrees to pay the remaining 50% of the unsuspended portion of the fine, in the amount of \$5,000, in a lump sum payment, due 180 days from the date of this agreement, in accordance with paragraph #17.

17. Any payments due and payable, or that become due and payable, pursuant to the preceding paragraph shall be paid by certified check or money order made payable to "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit  
Attn: Compliance Attorney  
P.O. Box 95  
Concord, NH 03302-0095

18. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

19. By executing this Agreement, Manna waives its right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

20. The effective date of this Agreement will be the date on which it is signed by an authorized representative of Manna, the Director of the Water Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

21. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Respectfully submitted,  
**Manna Business Enterprises, LLC**

6-6-12  
Date

  
By: JoAnn M. Breen, Manager  
Duly Authorized

DES Water Division

**COPY**

Date

6/18/12

Harry T. Stewart, P.E., Director

This Motion to Accept Settlement Agreement is granted this 20th day of June, 2012.

**COPY**

Thomas S. Burack

Thomas S. Burack, Commissioner  
Department of Environmental Services