



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**
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OFFICE OF THE
SECRETARY

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Secretary's Order No.: 2021-W-0002

RE: Wastewater Facilities Construction Permit Application of Artesian Wastewater Management, Inc., to Construct an Effluent Force Main to Spray Fields "D" and "E" at Artesian's Sussex Regional Recharge Facility ("SRRF") located north of Milton, Delaware

Date of Issuance: January 07, 2021

Effective Date: January 07, 2021

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC"), pursuant to 7 *Del.C.* §§6003, 6004, 6006, Delaware's *Regulations Governing the Control of Water Pollution*, (7 DE Admin. Code 7201), and all other relevant statutory authority, the Department of Natural Resources and Environmental Control ("Department" or "DNREC") issues this Order, approving the Wastewater Facilities Construction Permit Application of Artesian Wastewater Management, Inc. ("Artesian" or "Applicant") to construct an effluent force main to spray fields "D" and "E" at Artesian's Sussex Regional Recharge Facility ("SRRF") located north of Milton, Sussex County, Delaware ("Application"). It should be noted that SRRF was formerly known as the Artesian Northern Sussex Regional Water Recharge Facility ("ANSRWRF") in prior permitting actions.

The construction proposed in the Application is subject to various state and federal regulatory requirements, including, but not limited to, Delaware's *Regulations Governing the Control of Water Pollution*, as set forth in 7 DE Admin. Code 7201, and as provided for under Delaware law in 7 *Del.C.* Ch. 60.

Background, Procedural History and Findings of Fact

On February 13, 2019, the Department's Division of Water, Surface Water Discharges Section ("SWDS"), received an application for a State of Delaware Wastewater Facilities Construction Permit from Artesian, pursuant to the requirements of Section 4 of 7 DE Admin. Code 7201, seeking permission to construct approximately five thousand, five hundred and eighty nine linear feet of sixteen inch (5,589 LF of 16) PVC C900 force main from the SRRF, located north of Milton, Sussex County, Delaware, and run northwards to two wastewater spray fields (identified as Spray Fields "D" and "E") that are permitted for treated effluent disposal under State Permit DEN No.: 359288-02 for onsite wastewater disposal via spray irrigation. Once constructed, the force main will not be utilized to transport treated effluent to Fields "D" and "E" at SRRF until all items of Part I.F.1 under State Permit DEN No. 359288-02 (On-Site Wastewater Treatment and Disposal Operations Permit for SRRF) have been completed to the satisfaction of the Department and written authorization has been granted to place Fields "D" and "E" into service.

The Department published legal notices in both the *Sunday News Journal* and the *Delaware State News* on February 20, 2019, advertising that Artesian's Wastewater Facility Construction Permit Application for the above-described construction project had been received. A request for a public hearing was received from Mr. Keith Steck on March 6, 2019. Accordingly, the Department published legal notices, once again in both the *Sunday News Journal* and the *Delaware State News*, on May 22, 2019, advertising that a public hearing would be held concerning this matter at Mariner Middle School, located at 16391 Harbeson Road, Milton, Delaware, on June 13, 2019. Additionally, the Department notified Mr. Steck of the hearing date, time and location via email.

Department staff, representatives of Artesian, and several members of the public attended the June 13, 2019 public hearing. During the public hearing, three individual members of the public provided comments related to the pending Artesian Application. Additionally, the Department received supplemental written comment from Mr. Steck during the post-hearing phase of this matter. Proper notice of the hearing was provided as required by law.

At the request of Hearing Officer Lisa A. Vest, the technical experts in the Department's SWDS prepared its TRM to (1) specifically address the verbal and written concerns raised by the public; and (2) offer conclusions and recommendations with regard to Artesian's pending Application for the benefit of the Record generated in this matter. The Department's TRM, dated October 23, 2020, provided a summary of the public comments received by the Department in this matter, and offered responses to those comments specifically associated with the Application pending before the Secretary at this time. It does not, however, address those comments that pertain to matters outside the permitting authority of the SWDS, nor is it responsive to any comments not specifically related to the Application, which was the subject matter of the public hearing held by the Department on June 13, 2019.

Reasons and Conclusions

The Wastewater Facilities Construction Permit Application submitted to the Department by Artesian seeks permission to construct an effluent force main to spray fields "D" and "E" at Artesian's SRRF located in Milton, Delaware. I find that the proposed project requires the Applicant to obtain a Wastewater Facilities Construction Permit, as noted above. I further find that Artesian's proposed project is subject to various state and federal regulatory requirements, including, but not limited to, Delaware's *Regulations Governing the Control of Water Pollution*, as set forth in 7 DE Admin. Code 7201, and as provided for under Delaware law in 7 *Del.C.* Ch. 60.

In reviewing the applicable statutes and regulations, as well as weighing public benefits of this project against potential detriments, the Department's experts in the SWDS have concluded that the pending Application submitted by Artesian is complete, and that it complies with all applicable federal and state laws and regulations. Given this, the SWDS recommends approval of the Wastewater Facilities Construction Permit necessary for the same.

The permit to be issued by the Department will be reflective of the Application submitted by Artesian. Once constructed, the force main will not be utilized to transport treated effluent to Fields "D" and "E" at SRRF until all items of Part I.F.1 under State Permit DEN No. 359288-02 (On-Site Wastewater Treatment and Disposal Operations Permit for SRRF) have been completed to the satisfaction of the Department and written authorization has been granted to place Fields "D" and "E" into service.

The Record developed in this matter indicates that the Department's SWDS experts have considered all applicable statutes and regulations that govern projects such as the Applicant's above proposed activities and have recommended approval of the Wastewater Facilities Construction Permit necessary for the same.

I find and conclude that the Applicant has adequately demonstrated compliance with all requirements of the statutes and regulations, as noted herein, and that the Record supports approval of the Application as submitted by Artesian in this matter. Accordingly, this Order approves the Application of Artesian for the Wastewater Facilities Construction Permit for an effluent force main to spray fields "D" and "E" at Artesian's SRRF located in Milton, Delaware, in the customary form, consistent with the Record developed in this matter and with appropriate conditions.

Further, the Department concludes and specifically directs the following:

1. The Department has jurisdiction under *7 Del. C. §§6003, 6004, 6006(4)*, Delaware's *Regulations Governing the Control of Water Pollution (7 DE Admin. Code 7201)*, and all other relevant statutory authority, to make a final determination on the Application after holding a public hearing, considering the public comments, and all information contained in the Record generated in this matter;
2. The Department provided proper public notice of the Application submitted by Artesian, and of the public hearing held on June 13, 2019, and held said hearing to consider any public comment that may be offered on the Application, in a manner required by the law and regulations;
3. The Department considered all timely and relevant public comments in the Record, as established in the TRM provided by the Department's SWDS, which has now been expressly incorporated into the Record generated in this matter;
4. The Department has carefully considered the factors required to be weighed in issuing the permit required by the Application, and finds that the Record supports approval of the same;
5. The Department shall issue to Artesian the Wastewater Facilities Construction Permit to construct an effluent force main to spray fields "D" and "E" at Artesian's SRRF located in Milton, Delaware, consistent with the Record developed in this matter. Furthermore, said permit shall include all conditions as set forth in the Department's Draft Permit for Artesian, to ensure that Delaware's environment and public health will be protected from harm;
6. The Department adopts the Report and its attachments as further support for this decision;

7. The Department has an adequate Record for its decision, and no further public hearing is appropriate or necessary; and
8. The Department shall serve and publish its Order on its internet site.



Shawn M. Garvin
Secretary