



STATE OF DELAWARE

**DEPARTMENT OF NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL**

DIVISION OF WATER

RICHARDSON & ROBBINS BUILDING

89 KINGS HIGHWAY

DOVER, DELAWARE 19901

COMMERCIAL &  
GOVERNMENT SERVICES:  
WASTEWATER,  
STORMWATER, &  
BIOSOLIDS  
MANAGEMENT

PHONE  
(302) 739-9946

November 22, 2024

**SENT VIA EMAIL**

Daniel Stewart  
Vice President of Land Development  
Winchelsea, LLC  
1285 Drummers Lane, Suite 100  
Wayne, PA 19087

Shawn P. Tucker  
Partner  
Barnes & Thornburg LLP  
222 Delaware Avenue, Suite 1200  
Wilmington, DE 19801

**RE: Temporary Emergency Variance Authorization Letter for Temporary Wastewater Storage, Winchelsea Subdivision**

Dear Mr. Stewart and Mr. Tucker:

On November 19, 2024, the Division of Water, Delaware Department of Natural Resources and Environmental Control (the Department) received Winchelsea LLC's (Winchelsea's) application for a temporary emergency variance under 7 *Del. C.* § 6012 from limitations set forth in 7 *Del. Admin. C.* §7101 *Regulations Governing the Design, Installation and Operation of On-site Wastewater Treatment and Disposal Systems* (Regulations). Specifically, Winchelsea is requesting the ability to immediately operate and maintain a temporary holding tank system that would utilize four manholes and 443 LF of 8" sanitary sewer collection system pipe at the Winchelsea Subdivision for storage of domestic wastewater generated by ten (10) dwellings. Winchelsea is requesting the immediate temporary operation due to a delay in the Winchelsea Subdivision connection to the central sewer collection system caused by an off-site sewer conflict that was recently discovered during a utility location survey. Because of the sewer connection delay, New Castle County will not issue certificates of occupancies for the dwellings unless septage can be accommodated via temporary holding tank until the sewer connection is completed. The delay has also caused one home buyer to require temporary residence until a certificate of occupancy is issued and an additional 9 closings were scheduled before November 28, 2024. A permit must be issued by the Department prior to the operation of a temporary holding tank in accordance with 7 *DE Admin. Code* § 7101-6.10, (Delaware's *Regulations Governing the Design, Installation, and Operation of On-Site Wastewater Treatment and Disposal Systems*).

Winchelsea was not aware of the sewer conflict during the design and approval of the sewer connection and, therefore, did not anticipate the schedule delay when future occupants were scheduling settlement and real estate closings to occupy these ten (10) dwellings. The issue was not identified until the off-site utility location survey was performed for the sewer connection. The connection location was revised, and the amended design was submitted to New Castle County for approval. Winchelsea has also submitted an application to the Department for the Construction of Wastewater Collection and Conveyance System for the Winchelsea Subdivision and the proposed connection to central sewer. Winchelsea anticipates that the connection to central sewer will be completed no later than December 20, 2024, and expressed efforts to expedite the necessary work required to complete the connection. The Temporary Holding Tank application is under public advertisement until December 5, 2024, and the permit has not been issued. Therefore, Winchelsea is seeking a temporary emergency variance to operate a temporary holding tank system prior to the issuance of an Operating Permit for a temporary holding tank to accommodate the ten (10) homes impacted by this unanticipated delay.

Winchelsea has contracted a Delaware Licensed Class F waste hauler to pump wastewater from the temporary holding tank system and has indicated the system will be equipped with an alarm system that will notify the waste hauler when a pump out is required. Winchelsea has also stated that it does not intend to operate the temporary holding tank system without the Department's approval or any longer than is necessary until the connection to central sewer is made.

As detailed in the attached Authorization Memorandum and Delegation, Winchelsea's request satisfies the requirements of 7 *Del. C.* § 6012, and the Secretary, in his discretion, has authorized the Division of Water to issue this Temporary Emergency Variation Authorization Letter approving Winchelsea's November 18, 2024, Temporary Emergency Variance Request and Temporary Holding Tank application, subject to the following conditions:

1. Winchelsea will respond to comments and revise plans if necessary to obtain the Construction Permit for the wastewater collection and conveyance system and the temporary holding tank for the Winchelsea Subdivision.
2. Winchelsea will immediately notify the Department in writing of any delays in completing the connection to central sewer. The notification shall identify the reason for the delay and include a revised timeline for sewer connection completion.
3. The average flow to the temporary holding tank system shall not exceed 2,400 gallons per day generated by no more than ten (10) dwellings.
4. Winchelsea shall assure that the holding tank system is pumped as to prevent overflow by a DNREC licensed waste hauler. A contract with a Delaware Licensed Class F waste hauler shall be maintained. In the event any overflow or discharge of wastewater were to occur from the holding tank system, Winchelsea shall report such discharge to the Division of Water immediately.

5. Winchelsea shall submit up to date hauling contracts to the Division of Water. Any changes to the waste hauling contracts shall be reported to the Division of Water with a copy of revised hauling contracts.
6. The temporary holding tank system shall be equipped with a visual and/or audible alarm system that indicates when the tank is 75% full. An alarm which utilizes off-site notification may be used in lieu of the visual and audible alarm system.
7. Winchelsea shall notify the Class F waste hauler when the temporary holding tank system is at 75% capacity so that a pump-out can be scheduled.
8. Winchelsea shall notify the Division of Water upon completion of the connection to the New Castle County's central sewer system.
9. Pursuant to 7 *Del. C.* § 6012, this Temporary Emergency Variance shall be valid for 60 days from the effective date of this Authorization.
10. A Temporary Emergency Variance may be revoked at any time at the discretion of the Secretary. Furthermore, Winchelsea's failure to comply with these conditions shall result in immediate revocation of this Variance as of the date of the non-compliance. Violation of any condition of this Temporary Emergency Variance is enforceable pursuant to Chapter 60 of Title 7 of the Delaware Code.

If you have questions regarding this matter, please feel free to contact John Rebar at (302) 739-9948 or via email at [John.Rebar@delaware.gov](mailto:John.Rebar@delaware.gov).

Sincerely,

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Steve Smailer  
Division Director  
Division of Water

CC: Jennifer Roushey, DNREC  
John Rebar, DNREC  
Derrick Caruthers, DNREC