

Appendix H

Agreements between NYSDEC and NYCDEP

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
NEW YORK STATE DEPARTMENT
OF ENVIRONMENTAL CONSERVATION
AND THE
NEW YORK CITY DEPARTMENT
OF ENVIRONMENTAL PROTECTION

WITNESSETH:

WHEREAS, the New York State Department of Environmental Conservation ("DEC") operates, on behalf of the State of New York (the "State"), the Belleayre Mountain Ski Center (Belleayre"), including appurtenant wastewater treatment systems discharging to surface waters within the watershed of the New York City Water supply system (the "Watershed").

WHEREAS, the New York City Department of Environmental Protection ("DEP") operates and maintains a wastewater treatment facility and sewer system (collectively the "Pine Hill WWTF") serving certain users within the former corporate limits of the Village of Pine Hill, Town of Shandaken.

WHEREAS, it is to the mutual benefit of DEP and DEC to consolidate or eliminate treated wastewater discharges to surface waters within the Watershed, so as to protect or enhance water quality.

NOW, THEREFORE, in consideration of the covenants and agreements herein set forth, the parties agree as follows:

1. Definitions. As used herein, the following terms shall have the respective meanings set forth below:

"City" shall mean The City of New York.

"Effluent" shall mean untreated sanitary waste or other waste as may be approved by the DEP.

"MOA" shall mean the New York City Watershed Memorandum, dated as of January 21, 1997, by and among the United States Environmental Protection Agency, the State of New York, The City of New York, the Coalition of Watershed Towns, the Catskill Watershed Corporation, Westchester County, Putnam County, various municipalities in the Watershed, and certain environmental organizations.

"Septage" shall mean the sludge produced and collected from the septic tanks and

grease traps in the individual onsite wastewater systems located at Belleayre.

"State" shall mean the State of New York.

"Watershed Regulations" shall mean the Rules and Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and its Sources, approved by the New York State Department of Health on April 15, 1997, effective on May 1, 1997 and codified at 15 RCNY Sections 18-11, et seq.

2. Design, Construction and Operation of Project.

(a) DEC agrees, at its sole cost and expense and subject to the terms of this Memorandum of Understanding, to design, construct, operate and maintain a gravity sewer and/or force main and all other necessary equipment and facilities to transport effluent from Belleayre to the Pine Hill WWTF, for treatment and discharge at such WWTF (such gravity sewer and/or force main, together with all such other necessary equipment and facilities, being hereinafter collectively referred to as the "Project"). The Project shall also include: 1) the installation of a meter to monitor effluent flow; 2) the installation of a grease trap at Belleayre (the "GreaseTrap") to prevent the entry of grease into the gravity sewer and/or forcemain transporting effluent to the Pine Hill WWTF and, 3) the installation of an approved oil/water separator on all floor drains.

(b) The Project shall be designed and sized so as to convey a maximum daily flow of effluent not to exceed 35,000 gallons per day. DEC shall provide DEP with a schedule of events to take place at Belleayre during the period between April 16 and November 14 each year that may cause an increase in flow above normal off-season levels.

(c) DEC shall submit detailed plans, including erosion and sediment control during construction, and specifications and a construction schedule for the Project to DEP for approval, prior to commencement of any construction. The construction schedule shall include milestones to ensure that the hookup is complete no later than November 15, 1999. DEC and DEP agree that the construction schedule may be modified to account for delays in DEC's procurement of necessary easements, rights of way and/or other interests in real property, where such delays are not attributable solely to an act or omission of DEC. DEP shall review such plans and specifications and construction schedule and provide any comments thereon to DEC within thirty (30) days after receipt. DEP approval shall not be unreasonably withheld.

(d) Upon approval of the plans and specifications and construction schedule by DEP, DEC shall cause the Project to be constructed by its own forces and/or contractors of its choosing, and shall report to DEP on the progress of construction at least once every month.

(e) The Project shall be constructed in compliance with the approved plans and specifications, all applicable laws, and relevant provisions of the Watershed Regulations

pertaining to sewerage systems and connection thereto. DEC agrees to allow authorized DEP personnel to inspect the work under construction at all reasonable times, upon reasonable advance notice.

(f) DEC shall be responsible for procuring all easements, rights of way and other interests in real property necessary for construction, operation and maintenance of the Project. DEP shall have no obligation to procure same, nor shall it be required to assume any liabilities thereunder.

(g) Upon completion of construction of the Project DEC shall notify DEP in writing of such completion and shall provide DEP with one full set of "as built" drawings covering all equipment and facilities comprising part of the Project.

(h) DEC shall construct and operate the Project in compliance with all applicable laws, and shall maintain all Project facilities in good operating condition, including the making of any necessary repairs and replacements.

3. Operation of Existing Facility.

(a) Until the Project is complete, DEC shall operate and maintain the wastewater treatment plant at Belleayre in accordance with generally accepted professional standards and the terms of its State Pollutant Discharge Elimination System ("SPDES") permit, the operation and maintenance manual for such plant, and the manufacturers' specifications. DEC shall cooperate with DEP in devising and implementing appropriate operational changes at such plant to ensure that SPDES permit limits will be met.

(b) In the event that the Project is not complete by November 15, 1999, DEC shall meet with DEP to discuss possible equipment changes at such plant to ensure that SPDES permit limits will be met once the ski season begins. DEC shall implement expeditiously all changes reasonably recommended by DEP.

4. Acceptance of Effluent:

(a) Upon completion of construction of the Project in accordance with Section 1 above, DEC agrees to discontinue operation of its existing wastewater treatment plant at Belleayre (the "Existing Facility") and instead to convey all effluent and oil/water separator effluent from Belleayre to the Pine Hill WWTF via the Project, subject to the limitations on flow set out in Section 2 above. DEC agrees that wastes other than effluent and wastewater separated through the oil/water separator shall not be discharged from Belleayre to the Pine Hill WWTF.

(b) Upon completion of construction of the Project in accordance with Section 2 above, DEP agrees to accept effluent from Belleayre subject to the limitation on flow set out in Section 2, and the provisions of Section 4(a).

(c) Provided that DEC observes the terms and provisions of this Memorandum of Understanding, DEP shall not charge DEC for treatment of effluent conveyed from Belleayre to the Pine Hill WWTF in accordance herewith. Additionally, the City agrees to accept septage generated at Belleayre for disposal at the Pine Hill WWTP at no charge on an accepted schedule and in consideration of the ability of the plant to accept the septage. The foregoing notwithstanding, all Project facilities shall remain the property of DEC and DEC shall, at its sole cost and expense, be responsible for maintenance of and repairs to such facilities, including the Grease Trap and annual calibration of the flow meter. DEC agrees to pump out the Grease Trap at such intervals as DEP shall reasonably require.

5. Other Connections.

No other connections to the Project, for users other than the State, shall be allowed by DEC without the prior written consent of DEP. DEP shall be under no obligation to consent to any such other connections.

6. Upgrade Obligations.

In consideration of DEP entering into this Memorandum of Understanding, DEC hereby relieves the City and DEP of any obligation, under the MOA or otherwise, to pay for the costs of any upgrades at the Existing Facility so as to enable such Facility to comply with the terms of the Watershed Regulations.

7. SPDES Permit: Plant Operation.

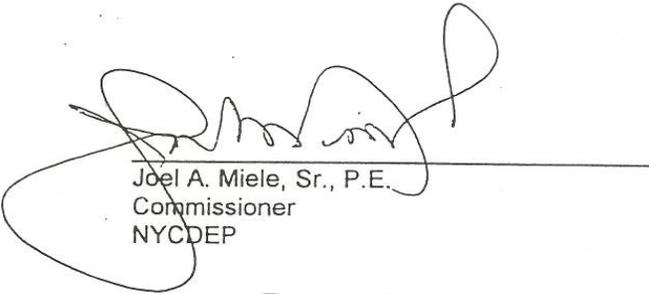
DEP agrees to operate and maintain the Pine Hill WWTF in accordance with its State Pollutant Discharge Elimination System ("SPDES") permit and all applicable laws, including the Watershed Regulations. In consideration for DEP accepting effluent at the Pine Hill WWTF in accordance with Section 4 above, DEC agrees to indemnify and hold DEP and the City harmless from and against any claim, cause of action, loss, cost, penalty or expense arising out of damage to the Pine Hill WWTF or failure of such WWTF to operate in accordance with its SPDES permit or other applicable laws to the extent that such damage or failure is directly attributable to DEC's failure to observe the terms and provisions of this Memorandum of Understanding.

8. Miscellaneous.

This Memorandum of Understanding contains the entire understanding of that parties with respect to the subject matter hereof and supersedes all prior agreements on such subject matter, whether written or oral. This Memorandum of Understanding may not be amended or assigned except by written instrument signed by both parties, and shall be governed by and construed in accordance with the laws of the State of New York.

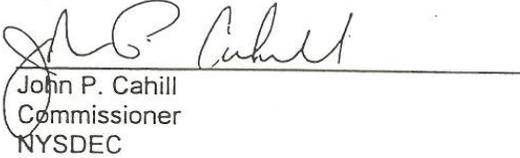
IN WITNESS WHEREOF, the DEP has authorized this instrument to be executed by Joel A. Miele, Sr., P.E., Commissioner of Environmental Protection of the City of New York, and the DEC has authorized this agreement to be executed by John P. Cahill, Commissioner of Environmental Conservation of the State of New York.

Dated: 1/5/99



Joel A. Miele, Sr., P.E.
Commissioner
NYCDEP

Dated: 3/5/99



John P. Cahill
Commissioner
NYSDEC

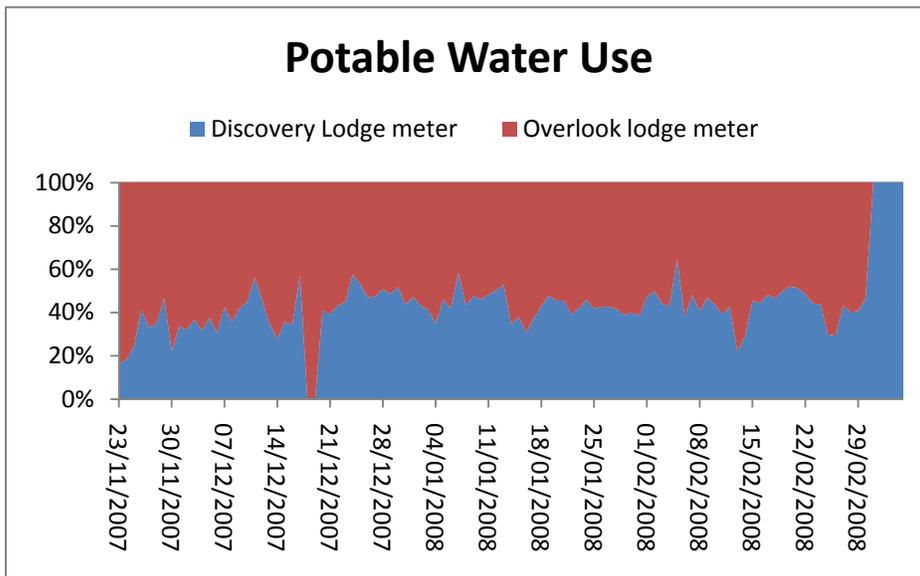
Appendix I
Calculations
Overlook Lodge, Prorating Sunset Lodge, and Infiltration

CALCULATION: Overlook Lodge (water supply meter)

Note: It was observed that during ski season approximately 55% of the potable water was supplied to the Overlook lodge and adjacent buildings.

The current peak water use at the Overlook lodge is approximately **20196 gpd**.

$$6.12\text{gpd/skier} \times 6000\text{skier} \times 0.55 = 20196 \text{ gpd}$$



CALCULATION: Prorating Sunset Lodge

| Building | Current Area (square feet) |
|-----------------|-----------------------------------|
| Overlook | 20829 |
| Longhouse Lodge | 6108 |
| Nursery | 1120 |
| Discovery Lodge | 23114 |
| Sunset Lodge | 1760 (unmetered) |

Total square feet of the metered buildings: 51171 sq. ft.

Peak (metered) water use: 6000 skiers x 6.12 gpd/skier = 36720 gpd

$$\frac{\text{Peak (metered) water use}}{\text{Total area of metered buildings}} = \frac{\text{Water use at Sunset Lodge}}{\text{Sunset Lodge Area}}$$

$$\frac{36720 \text{ gpd}}{51,171 \text{ sq. ft.}} = \frac{\text{Water use at Sunset Lodge}}{1760 \text{ sq. ft.}}$$

$$\text{Water use at Sunset Lodge} = 1263 \text{ gpd}$$

$$\begin{aligned} \text{Total water use} &= \text{Metered water use} + \text{Unmetered (Sunset Lodge) water use} \\ &= 36720 + 1263 \\ &= 37983 \text{ gpd} \end{aligned}$$

$$\begin{aligned} \text{Prorated water use} &= \text{Total water use} / \text{Peak attendance} \\ &= 37983 / 6000 \\ &= \underline{\underline{6.33 \text{ gpd/skier}}} \end{aligned}$$

CALCULATION: Infiltration

Basis:

100 gallons per inch of pipe diameter per mile per day (10 States Standards Section 33.94)

Gravity line: 6 in. diameter pipe, 8345 ft long

Forcemain line: 4 in. diameter pipe, 3015 ft long

Infiltration (gravity line): $100 \times 6 \times 8345/5280 = 948 \text{ gpd}$

Infiltration (forcemain line): $100 \times 4 \times 3015/5280 = 228 \text{ gpd}$

Total Infiltration: $948 + 228 = 1176 \text{ gpd}$