

**STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

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In the Matter of the Violations of Articles 17 and 71
of the Environmental Conservation Law and Part 750
et seq., of Title 6 of the Official Compilation of Codes, Rules
and Regulations of the State of New York (6 NYCRR);

-by-

The City of New York, and the New York City Department
of Environmental Protection,
Respondents.

**ORDER ON
CONSENT**
(C S O O r d e r
Modification to CO2-
20000107-8)

DEC Case #
CO2-2007-0101-1

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WHEREAS:

1. The Department of Environmental Conservation (the "Department" or "DEC") is a Department of the State of New York with jurisdiction to enforce the environmental laws of the State, pursuant to the Environmental Conservation Law ("ECL"), Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York ("NYCRR"), and Orders issued thereunder.
2. The Department has jurisdiction over the abatement and prevention of pollution to the waters of the State pursuant to Article 17 of the ECL and 6 NYCRR Part 750, *et seq.* This jurisdiction also authorizes DEC, as a State agency with an approved program per Sections 318, 402 and 405 of the federal Clean Water Act ("CWA"), 33 U.S.C. Section 1251, *et seq.*, to regulate the discharge of pollutants from point sources into the waters of the State in conformity with the CWA.
3. Pursuant to its authority to protect the waters of the State, the Department administers the State Pollutant Discharge Elimination System ("SPDES") permit program, ECL §17-0801, *et seq.* In general, the SPDES program prohibits any discharge of pollutants to the waters of the State without a permit establishing pollutant limitations and treatment requirements. Thus, SPDES permits set certain effluent limitation parameters ("parameters"), determined according to ECL §17-0809 and 6 NYCRR §750-1.11, in order to avoid contravention of mandated water pollution control requirements and water quality standards ("WQS"). Those conditions address not only the allowable range of parameters for discharge of pollutants to the waters of the State, but also the manner in which the permittee is to operate, maintain, monitor, and report on its regulated facilities and activities.
4. Combined sewer overflows ("CSOs") are discharges of untreated domestic sewage, and industrial wastewaters, combined with stormwater. CSOs occur when wet weather flows are in excess of the capacity of combined sewer systems and/or the Water Pollution Control Plants they serve. CSO discharges may contribute to violations of State WQS. CSOs are "point sources" subject to NPDES permit requirements, including both water quality-based and technology-based requirements of the CWA.

5. The New York City Department of Environmental Protection ("DEP"), a municipal agency, and the City of New York ("the City") (collectively referred to herein as "Respondents") own, operate, and are responsible for the City's 14 Municipal Water Pollution Control Plants (collectively referred to as the "WPCPs"), which process most of the sewage generated within the City, as well as the City's combined sanitary sewage system, related pump stations, sewer regulators, CSOs, and other appurtenances related thereto. Respondents discharge wastewater combined with stormwater from approximately 450 CSO outfalls within the City of New York.

6. In 1974, pursuant to Section 208 of the CWA, 33 U.S.C. §1288, Respondent DEP began a program to evaluate abatement of CSOs and improve water quality conditions. The program included development of a water quality model based on monitoring of CSOs and their impacts. The program concluded that the CSOs had a minimal impact on dissolved oxygen in the open waters of the City such as the Hudson and East Rivers. The program further concluded that CSOs had a measurable adverse impact in the confined tributary waters around the City.

7. Previously the Department and Respondents entered into Orders on Consent dated June 26, 1992 (Case No. R2-3351-90-12)(the "1992 CSO Order"), September 19, 1996 (Case No. R2-3351-90-12)(the "1996 CSO Order"), and January 14, 2005 (#CO2-20000107-8) ("the 2005 CSO Order"). The 2005 Order was issued to address numerous violations of the 1992 and 1996 CSO Orders, and to require the implementation of CSO Long Term Control Plans. The 2005 CSO Order superceded the 1992 and 1996 CSO Orders.

8. Previously, the Department and Respondents entered an omnibus Order on Consent dated June 18, 1999 (#R2-0045-93-05)("Omni IV Order"). The Omni IV Order addressed numerous violations of Respondent's SPDES Permits, and various Consent Orders. As of the effective date of this Order, the following requirements of the Omni IV Order remain outstanding:

Schedule B- Compliance Schedule

A. Physical Plant and Collection System Upgrades

1. Design Flow Upgrades at STPs: NYCDEP shall complete all construction required to ensure that the Hunts Point, Tallman Island, 26th Ward, Rockaway and Jamaica WPCPs and associated sewer systems are capable of delivering, accepting and treating influent at or above twice the plant's design flow during any storm event:

-Rockaway WPCP - due 12/31/2017

-Tallman Island WPCP - due 12/31/2007

9. In violation of the Omni IV Order milestone date of October 31, 2004, Respondents submitted certification of completion of the Hunts Point Omni IV Order Schedule B milestone as of March 28, 2005, on May 11, 2007. Respondents timely requested a modification of the Tallman Island Omni IV Order Schedule B milestone. The Department and Respondents have agreed to resolve the violation of the Hunts Point Omni IV Order milestone, the request for

modification of the Tallman Island Omni IV Order milestone and the close out of the Omni IV Order by including the Rockaway and Tallman Island Omni IV Order milestones in the 2005 CSO Order as set forth herein.

10. Respondents have violated the terms of Appendix A of the 2005 CSO Order as set forth below:

Appendix A

-Due Date 12/31/04 -V.F.4 Flushing Bay CSO, CS4-4 Mechanical Structures, Construction Completion

-Due Date 10/31/06- VI.E.2 Jamaica Tributaries CSO, Destratification Facility at Shellbank Basin, Final Design Completion Including CPM Analysis

- Due Date 12/31/06- IV.D.4. Paerdegat Basin CSO, Foundations and Substructures, Construction Completion

11. With respect to the violations in paragraph 10, Respondents submitted a timely force majeure claim for milestone V.F.4, Flushing Bay CSO, CS4-4 Mechanical Structures, Construction Completion, to which the Department did not respond. Respondents did not submit a request regarding milestone VI.E.2, Jamaica Tributaries CSO, Destratification Facility at Shellbank Basin, Final Design Completion Including CPM Analysis. Respondents made a timely request for modification of milestone IV.D.4, Paerdegat Basin CSO, Foundations and Substructures, Construction Completion. That request was denied by the Department.

12. The Department has issued Notices of Violation (NOV) DEC Case Number CO2-2000107-8, dated January 26, 2007 and February 5, 2007 respectively for 2005 CSO Order Appendix A milestones: IV. D. 4. Paerdegat Basin CSO, Foundations and Substructures; and VI. E. 2. Jamaica Tributaries CSO, Destratification Facility, Final Design Completion Including CPM Analysis. These NOVs were contested by Respondents.

13. The Department and the Respondents have agreed to resolve those Notices of Violation referenced by DEC Case Number CO2-2000107-8, the requests for modification and force majeure declarations as set forth herein.

14. Respondents have submitted Certification of Completion for Milestone V.F.4 Flushing Bay CSO, CS4-4 Mechanical Structures, Construction Completion.

15. Pursuant to ECL §71-1929, a person who, violates any of the provisions of, or who fails to perform any duty imposed by, ECL Article 17 or the rules or regulations of the Department promulgated pursuant thereto, or the terms of any certificate or permit issued thereunder, shall, *inter alia*, be liable for a penalty not to exceed thirty-seven thousand, five-hundred dollars (\$37,500) per day for each violation, and may also be enjoined from conducting such activity.

16. Whereas, in order to ensure that the site specific LTCPs for all waterbodies are supported by approved Waterbody Watershed Facility Plans, the Department and Respondents

have agreed to modify the following milestone dates for submittal of the site specific LTCPs, as set forth in Revised Appendix A:

1. Coney Island: September 2007
2. Gowanus Canal: January 2008
3. Open Waters: January 2008

17. The Department and the Respondents have each consented to the making of this Order which modifies the 2005 CSO Order and supercedes the Omni IV Order, without further action, litigation, hearing or adjudication of any issues of fact or law, and without this Order constituting an admission by the Respondents of any finding or alleged violation of federal or state law or regulation, and being duly advised, and it being in the public interest;

IT IS HEREBY ORDERED:

I. EFFECT ON PREVIOUS ORDERS

Respondents are bound by, and agree to follow and comply with, the terms, provisions and requirements set forth in this Order, including the revised dates in Revised Appendix A, which is incorporated herein. This Order modifies and replaces only those portions of the 2005 CSO Order set forth in paragraph III below, and Appendix A. All other provisions of the 2005 CSO Order remain in full force and effect. Upon execution by both parties, this Order supercedes the Omni IV Order, and the Omni IV Order is hereby terminated. The requirements set forth in this Order are additional to, and do not affect any requirements set forth in, any Orders on Consent between DEC and Respondents other than the limited provisions of the 2005 CSO Order, as set forth in paragraph III below and Appendix A, and the Omni IV Order.

II. CIVIL PENALTY AND EBP

A. In settlement of all violations and modification requests described in paragraphs 8-12 above, including those set forth in Notices of Violations CO2-2000107-8, Respondents shall pay a civil penalty in the sum of one-million dollars (\$1,000,000). The civil penalty shall be paid within 45 days of DEC's execution of this Order, by check made payable to the order of the "New York State Department of Environmental Conservation," which shall be forwarded to the Department of Environmental Conservation, 625 Broadway, 14th Floor, Division of Environmental Enforcement, Albany, NY 12233-5500, attention: Elissa Armater, with a copy to Scott Crisafulli, Esq., at the same address.

B. ENVIRONMENTAL BENEFIT PROJECT

1. In addition to the civil penalty cited in Paragraph II.A. above, Respondents agree to expend an amount that shall not be less than four million dollars (\$4,000,000) to perform Environmental Benefit Projects ("the EBPs"). The parties agree that the EBPs are intended to secure significant environmental improvements, in accordance with DEC's EBP Policy. The

general purpose of the EBPs shall be to abate CSOs and/or address wet weather water quality impacts of CSOs, and to benefit the waters in and around New York City.

2. a. Within 60 days of the execution of this Order, Respondents shall pay four million dollars (\$4,000,000) to the New York State Environmental Facilities Corporation ("EFC"), to fund EBPs. These funds shall be held in escrow ("the CSO EBP Fund") by EFC to fund the EBP(s) required by this Order. Upon receiving a bill for services from Respondents for reimbursement for funds paid to a consultant and/or contractor retained by Respondents to perform these EBPs or from Respondents for performance of these EBPs by Respondents,¹ and written approval by the Department, EFC shall issue payment to Respondents for reimbursement to the consultant and/or contractor or to Respondents for its eligible costs from this escrow fund.

b. EFC shall make payments, in the form of check or warrant payable to Respondents or the consultant and/or contractor, as applicable, performing the EBPs under this Order, no later than 10 days following receipt of the Department's written approval for reimbursement.

c. EFC shall retain an amount of the accrued interest equal to its administrative expenses for administering the CSO EBP Fund, which expenses shall not exceed \$6,000 annually. Upon the withdrawal of these funds EFC shall provide a written statement of its costs to the Department and Respondents. Any interest not kept by EFC to pay the administrative expenses set forth herein shall be placed into the CSO EBP Fund and used to perform the EBP projects set forth in the Department approved CSO EBP Plan.

3. Respondents shall submit an approvable CSO EBP Plan to the Department no later than January 1, 2008, and upon approval by the Department the CSO EBP Plan will be incorporated into this Order as Appendix B.² The CSO EBP Plan shall identify proposed EBPs, set forth how the EBPs will be conducted, and shall contain a schedule for the implementation of the EBPs. The EBPs shall be implemented pursuant to the terms of Appendix B. Nothing herein shall prevent the Respondent from submitting proposed EBPs to the Department for approval prior to January 1, 2008. Any such EBP(s) approved by the Department shall be incorporated into Appendix B. The Department shall not unreasonably withhold approval of the CSO EBP Plan. Unless otherwise notified by the Department, the CSO EBP Plan shall be deemed approved within 120 days of submission.

4. Any time before January 1, 2010, Respondents may submit, in writing, alternative EBP(s) and proposed time frames for the completion of any alternative EBP(s) for approval by

¹ Costs reimbursable out of EBP funds for performance of EBP projects by the Respondent shall not include ordinary employee salaries. Salaries for temporary or seasonal employees or interns and non-salary project costs incurred by Respondents in implementing approved EBP projects shall be eligible for reimbursement from EBP funds.

² Examples of the type of EBPs contemplated herein are included in Appendix B. However, while Respondents may propose these example projects in its CSO EBP Plan, they are included in Appendix B now for illustrative purposes only and will be replaced by the CSO EBP Plan when approved by the Department and incorporated into Appendix B.

the Department. Upon approval by the Department, any such alternative EBP(s) shall be incorporated into or modify Appendix B. Approval of any such alternative EBP may also modify the end date for spending the full EBP allocation amount set forth in Paragraph II.B.6. below. It shall be in the Department's sole discretion whether to approve an alternative EBP proposal.

5. The Quarterly Reports required by Section IV of the 2005 CSO Order shall include a report on the status of the EBPs and funds expended on the EBPs during the prior quarter. The Quarterly Report shall include a detailed EBP status and cost accounting of all funds expended, and general estimates of the costs expected to be incurred during the following quarter.

6. The EBPs set forth in Appendix B shall be commenced in accordance with the schedule set forth in the CSO EBP Plan. Should Respondents not expend or commit³ the full four million dollars (\$4,000,000) allocation for the EBP(s) by January 1, 2013, or such later date pursuant to Paragraph II.B.3 and 4. above, then the remaining EBP funds shall be paid by EFC to the Department as a payable civil penalty, by check made payable to the order of the "New York State Department of Environmental Conservation," and sent to the address set forth in Paragraph II.A. above. Such payable civil penalty shall be paid within 30 days of EFC receiving written notice from the Department.

7. Appendix B is hereby exempted from the Stipulated Penalty provisions set forth in Section V of the 2005 CSO Order and Section V.C is modified (to so state, and to correct a typographical error in the 2005 CSO Order mistakenly referring to paragraph VI.A or B.) to read as follows:

V.C. For all events of non-compliance with any terms of this Order or its Appendices, except for any milestones set forth in the approved CSO EBP Plan implementation schedule to be incorporated into Appendix B and other than those violations addressed in paragraphs V.A or B above, the Department shall have Judgment against Respondents, and Respondents consent to entry of a Judgment, for a stipulated penalty in the amounts set forth below, for each day of violation:

<u>PERIOD OF NON-COMPLIANCE</u>	<u>PENALTY PER-DAY</u>
1 st day through 30 th day	\$1,000
31 st day through 40 th day	2,500
41 st day through the 50 th day	3,500
51 st day through the 60 th day	7,500
Each day beyond the 60 th day	15,000

8. Any written or formal public oral statement, made by Respondents making reference to the EBP shall include the following language: "This project was undertaken

³ To "commit" the EBP funds, Respondents shall encumber such funds through the issuance of a Notice, or Notices, to Proceed to Construction for a contract, or contracts, to commence all of the EBPs set forth in Appendix B.

in connection with the settlement of an enforcement action taken by New York State and DEC for violations of New York State law and DEC regulations.”

9. With respect to the EBPs described in Appendix B of this Order Respondents hereby certify that:

- a.. Respondents are not required to perform or develop the listed EBPs by any law regulation or other legally binding obligation;
- b. Respondents are not required to perform or develop the listed EBPs as injunctive relief in this or any other case;
- c. Respondents have not received, are not presently negotiating to receive, and will not seek in the future to receive, credit in any other enforcement action or legal proceeding based upon undertaking the listed EBPs;
- d. Respondent has not obtained and will not obtain any grant funds based upon performance of the EBPs; and
- e. Respondents have not planned to perform the listed EBPs, or any element thereof, at the time the violations were detected;

III. COMPLIANCE SCHEDULE

A. Respondents are permanently enjoined and directed to complete and/or implement the construction projects set forth in Revised Appendix A of the 2005 CSO Order, in accordance with the specified project descriptions and schedules set forth therein.

B. Regarding the former 2005 CSO Order milestones as set forth in Appendix A, other than the modification to the dates of those milestones in accordance with Revised Appendix A, there shall be no other changes to the activities required by those milestones pursuant to the 2005 CSO Order. The activities required to comply with those milestones, and the enforcement of those milestones shall be addressed by the terms of the 2005 CSO Order.

C. Respondent's shall strictly comply with all the milestones set forth in Revised Appendix A. The implementation and enforcement of the activities required by these milestones shall be governed by the terms of the 2005 CSO Order.

D. Upon the effective date of this Order modification, Appendix A of the 2005 CSO Order shall be modified by the pages set forth in Revised Appendix A of this Order. The pages of revised Appendix A shall be substituted for the corresponding pages of Appendix A of the 2005 CSO Order.

IV. EFFECTIVE DATE

The effective date of this Order modification is the date it is signed by the DEC Commissioner or his/her designee.

DATED: April 14, 2008
ALBANY, NEW YORK

New York State Department of
Environmental Conservation by:

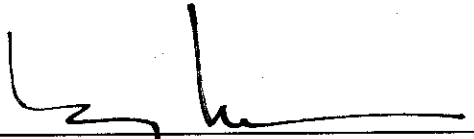


JAMES M. TIERNEY,
ASSISTANT COMMISSIONER FOR
WATER RESOURCES

EDMS#257706

CONSENT BY RESPONDENTS

The New York City Department of Environmental Protection hereby consents to the issuance and entry of the foregoing Order, waives its right to a hearing herein as provided by law, and agrees to be bound by the provisions, terms and conditions contained herein.



Emily Lloyd, Commissioner
New York City Department of
Environmental Protection

01/07/08
DATE

ACKNOWLEDGMENT

State of New York)
County of) ss.:

On the 7 day of Jan, 2008 before me personally came Emily Lloyd to me known, who being by me duly sworn did depose and say that he maintains an office at 59-17 Junction Blvd. in the County of Queens and that he was duly authorized to execute the foregoing instrument and did so on behalf of the Respondents of New York.



Notary Public

Russell Pecunies
Commissioner of Deeds,
New York City
4-6227
Term Expires 1/1, 2010

CONSENT BY NEW YORK CITY CORPORATION COUNSEL

The New York City Corporation Counsel hereby consents to the issuance and entry of the foregoing Order without further notice, waives its right to a hearing herein, and agrees to be bound by the terms, conditions and provisions hereof.

Michael A. Cardozo,
Corporation Counsel of the
City of New York

BY: Wm S Placke
Title: ASSISTANT CORPORATION COUNSEL

Date: December 21, 2007

ACKNOWLEDGMENT

State of New York)
County of New York) ss. :

On this 21st day of December, 2007, before me personally came William Placke to me known, who being duly sworn, deposed and stated that (s)he maintains an office at 100 Church Street, NY, NY that (s)he is an Assistant Corporation Counsel, Environmental Law Section of The New York City Corporation Counsel, and that (s)he was authorized by said Department to execute the foregoing instrument.

Christopher G. King
Notary Public

CHRISTOPHER G. KING
Notary Public, State of New York
No. 02KI6069551
Qualified in New York County
Commission Expires Feb. 4, 2010

REVISED APPENDIX A

1. The milestones set forth in this Appendix replace the milestones for the corresponding activities set forth in the 2005 CSO Order and the milestones for those activities set forth in the former Omni IV Order.
2. The pages set forth herein shall replace the corresponding pages of the 2005 CSO Order upon the effective date of this Order.

APPENDIX A

Revised December 2007

Revised/Added Milestone

II. Outer Harbor CSO

Milestone Date

Date

A. Facility Plan Development		
1. Submit Modified Facility Plan Report	Completed	
2. Submit Additional Modified Facility Plan Report	February 2004	
B. Comprehensive Watershed Planning		
1. Submit Approvable Open Waters Waterbody/Watershed Facility Plan Report	June 2007	
C. Regulator Improvements - Fixed Orifices		
1. Initiate Final Design	January 2004	
2. Final Design Completion Including CPM Analysis	April 2005	
3. Notice to Proceed to Construction	February 2006	
4. Construction Completion	July 2008	
D. Regulator Improvements - Automation		
1. Initiate Final Design	February 2005	
2. Final Design Completion Including CPM Analysis	November 2006	
3. Notice to Proceed to Construction	November 2007	
4. Construction Completion	June 2010	
E. Port Richmond Throttling Facility		
1. Initiate Final Design	June 2004	
2. Final Design Completion Including CPM Analysis	August 2005	
3. Notice to Proceed to Construction	June 2006	
4. Construction Completion	December 2008	
F. In-Line Storage ²		
1. Initiate Final Design	July 2005	DELETED
2. Final Design Completion Including CPM Analysis	November 2006	DELETED
3. Notice to Proceed to Construction	August 2007	DELETED
4. Construction Completion	August 2010	DELETED
G. Submit Approvable Drainage Basin Specific LTCP for Open Waters	January 2008	6 months after approval of II.B.1.

III. Inner Harbor CSO

A. Facility Plan Development		
1. Submit Modified Facility Plan Report	Completed	
2. Submit Additional Modified Facility Plan Report	February 2004	
B. Comprehensive Watershed Planning		
1. Submit Approvable Gowanus Canal Waterbody/Watershed Facility Plan Report	June 2007	
C. Regulator Improvements - Fixed Orifices		
1. Initiate Final Design	March 2000	
2. Final Design Completion Including CPM Analysis	September 2002	
3. Notice to Proceed to Construction	February 2003	
4. Construction Completion	April 2006	
D. Regulator Improvements - Automation		
1. Initiate Final Design	February 2005	
2. Final Design Completion Including CPM Analysis	November 2006	
3. Notice to Proceed to Construction	November 2007	
4. Construction Completion	June 2010	
E. In-Line Storage ³		
1. Initiate Final Design	July 2005	
2. Final Design Completion Including CPM Analysis	November 2006	
3. Notice to Proceed to Construction	August 2007	
4. Construction Completion	August 2010	
F. Submit Approvable Drainage Basin Specific LTCP for Gowanus Canal	January 2008	6 months after approval of III.B.1.

IV. Paerdegat Basin CSO

A. Facility Plan Development	Completed
1. Submit Modified Facility Plan Report	February 2004
2. Submit Additional Modified Facility Plan Report	July 2002
3. Submit Form 2A SPDES Application	
B. Comprehensive Watershed Planning	March 2003
1. Submit Approvable Paerdegat Basin Waterbody/Watershed Facility Plan Report	
C. Influent Channel	October 1994
1. Initiate Final Design	March 1997
2. Final Design Completion Including CPM Analysis	February 1999
3. Notice to Proceed to Construction	February 2002
4. Construction Completion	
D. Foundations and Substructures	October 1994
1. Initiate Final Design	August 2001
2. Final Design Completion Including CPM Analysis	June 2002
3. Notice to Proceed to Construction	December 2006
4. Construction Completion*	February 2009*
E. Structures and Equipment	October 1994
1. Initiate Final Design	November 2004
2. Final Design Completion Including CPM Analysis	September 2005
3. Notice to Proceed to Construction	August 2011
4. Construction Completion	May 2011
F. Submit Approvable Drainage Basin Specific LTCP for Paerdegat Basin	November 2005

* This is a minor milestone per Section V.B. of the 2005 CSO Order. In the event this minor milestone is not met, any money placed into escrow will be recovered if milestone IV.E.4 is achieved.

V. Flushing Bay CSO

A. Facility Plan Development	Completed
1. Submit Modified Facility Plan Report	February 2004
2. Submit Additional Modified Facility Plan Report	June 2003
3. Submit Form 2A SPDES Application	
B. Comprehensive Watershed Planning	June 2007
1. Submit Approvable Flushing Bay Waterbody/Watershed Facility Plan Report	June 2007
2. Submit Approvable Flushing Creek Waterbody/Watershed Facility Plan Report	
C. CS4-1 Reroute and Construct Effluent Channel	October 1992
1. Initiate Final Design	September 1994
2. Final Design Completion Including CPM Analysis	June 1995
3. Notice to Proceed to Construction	June 1996
4. Construction Completion	
D. CS4-2 Relocate Ballfields	October 1992
1. Initiate Final Design	September 1994
2. Final Design Completion Including CPM Analysis	April 1995
3. Notice to Proceed to Construction	August 1995
4. Construction Completion	
E. CS4-3 Storage Tank	December 1993
1. Initiate Final Design	September 1996
2. Final Design Completion Including CPM Analysis	July 1997
3. Notice to Proceed to Construction	August 2001
4. Construction Completion	
F. CS4-4 Mechanical Structures	December 1993
1. Initiate Final Design	February 2000
2. Final Design Completion Including CPM Analysis	March 2002
3. Notice to Proceed to Construction	December 2004
4. Construction Completion	May 2007

G. CS4-5 Tide Gates

1. Initiate Final Design
2. Final Design Completion Including CPM Analysis
3. Notice to Proceed to Construction
4. Construction Completion

August 1998
November 1999
December 2000
April 2002

H. CD-8 Manual Sluice Gates

1. Final Design Completion Including CPM Analysis
2. Notice to Proceed to Construction
3. Construction Completion

May 2003
February 2004
June 2005

I. Drainage Basin Specific LTCPs

1. Submit Approvable Drainage Basin Specific LTCP for Flushing Bay
2. Submit Approvable Drainage Basin Specific LTCP for Flushing Creek

6 months after approval of V.B.1.
6 months after approval of V.B.2.

J. Tallman Island WPCP and associated sewer system are capable of delivering, accepting and treating influent at or above twice the plant's design flow during any storm event

1. Initiate Final Design
2. Final Design Completion Including CPM Analysis
3. Notice to Proceed to Construction
4. Construction Completion

December 2007
December 2010
December 2011
July 2015

VI. Jamaica Tributaries CSO

A. Facility Plan Development	April 2003 February 2004
1. Submit Modified Facility Plan Report	
2. Submit Additional Modified Facility Plan Report	
B. Comprehensive Watershed Planning	June 2007 June 2007
1. Submit Approvable Bergen Basin Waterbody/Watershed Facility Plan Report	
2. Submit Approvable Thurston Basin Waterbody/Watershed Facility Plan Report	
C. Meadowmere & Warnerville DWO Abatement	January 2004 May 2005 March 2006 March 2009
1. Initiate Final Design	
2. Final Design Completion Including CPM Analysis	June 2006
3. Notice to Proceed to Construction	
4. Construction Completion	
D. Expansion of Wet Weather Capacity of Jamaica WPCP	June 2009
1. Initiate Final Design	
2. Submit Form 2A SPDES Application	June 2010
3. Final Design Completion Including CPM Analysis	June 2011
4. Notice to Proceed to Construction	June 2012
5. Construction Completion	June 2015
E. Destratification Facility	December 2007 October 2006 April 2009 November 2010
1. Initiate Final Design	
2. Final Design Completion Including CPM Analysis	
3. Notice to Proceed to Construction	
4. Construction Completion	December 2008
F. Laurelton and Springfield Blvd.	January 2008
1. Submit Drainage Plan for Storm Sewer Buildout	

G. Regulator Automation

1. Initiate Final Design
2. Final Design Completion Including CPM Analysis
3. Notice to Proceed to Construction
4. Construction Completion

February 2005
November 2006
November 2007
June 2010

H. Drainage Basin Specific LTCPs

1. Submit Approvable Drainage Basin Specific LTCP for Bergen Basin
2. Submit Approvable Drainage Basin Specific LTCP for Thurston Basin

August 2012
August 2012

VII. Coney Island Creek CSO

- A. Facility Plan Development
 - 1. Submit Modified Facility Plan Report April 2003
 - B. Comprehensive Watershed Planning
 - 1. Submit Approvable Coney Island Creek Waterbody/Watershed Facility Plan Report June 2007
 - C. Avenue V Pumping Station Upgrade
 - 1. Initiate Final Design April 1998
 - 2. Final Design Completion Including CPM Analysis January 2005
 - 3. Notice to Proceed to Construction November 2005
 - 4. Construction Completion April 2011
 - D. Avenue V Force Main
 - 1. Initiate Final Design April 1998
 - 2. Final Design Completion Including CPM Analysis September 2006
 - 3. Notice to Proceed to Construction July 2007
 - 4. Construction Completion June 2012
 - E. Submit Approvable Drainage Basin Specific LTCP for Coney Island Creek September 2007
- 6 months after approval of VII.B.1.

X. Bronx River CSO

- A. Facility Plan Development
 - 1. Submit Modified Facility Plan Report September 2003
 - 2. Submit Additional Modified Facility Plan Report March 2004
 - 3. Submit Form 2A SPDES Application July 2007

DELETED

- B. Comprehensive Watershed Planning
 - 1. Submit Approvable Bronx River Waterbody/Watershed Facility Plan Report June 2007

- C. Floatables Control
 - 1. Initiate Final Design January 2006
 - 2. Final Design Completion Including CPM Analysis July 2008
 - 3. Notice to Proceed to Construction June 2009
 - 4. Construction Completion June 2012

- D. Submit Approvable Drainage Basin Specific LTCP for Bronx River August 2009

XII. Jamaica Bay CSO

- A. Facility Plan Development
 - 1. Submit Modified Facility Plan Report
December 2003

- B. Comprehensive Watershed Planning
 - 1. Submit Approvable Jamaica Bay Waterbody/Watershed Facility Plan Report
June 2007
 - 2. Submit Approvable Spring Creek Waterbody/Watershed Facility Plan Report
June 2007
 - 3. Submit Approvable Fresh Creek Waterbody/Watershed Facility Plan Report
June 2007
 - 4. Submit Approvable Hendrix Creek Waterbody/Watershed Facility Plan Report
June 2007

- C. Spring Creek AWP/CP Upgrade
 - 1. Initiate Final Design
April 1998
 - 2. Final Design Completion Including CPM Analysis
February 2002
 - 3. Submit Form 2A SPDES Application
June 2003
 - 4. Notice to Proceed to Construction
March 2003
 - 5. Construction Completion
April 2007

- D. 26th Ward Drainage Area Sewer Cleaning and Evaluation
 - 1. Initiate Final Design
January 2007
 - 2. Final Design Completion Including CPM Analysis
June 2007
 - 3. Notice to Proceed to Construction
June 2008
 - 4. Construction Completion
June 2010

- E. Hendrix Creek Dredging
 - 1. Initiate Final Design
January 2007
 - 2. Final Design Completion Including CPM Analysis
June 2007
 - 3. Notice to Proceed to Construction
June 2008
 - 4. Construction Completion
June 2010

- F. 26th Ward Wet Weather Expansion
 - 1. Initiate Final Design
June 2006
 - 2. Final Design Completion Including CPM Analysis
June 2010
 - 3. Submit Form 2A SPDES Application
June 2009
 - 4. Notice to Proceed to Construction
June 2011
 - 5. Construction Completion
December 2015

- G. Drainage Basin Specific Long Term Control Plans
 - 1. Submit Approvable Drainage Basin Specific LTCP for Jamaica Bay
 - 2. Submit Approvable Drainage Basin Specific LTCP for Spring Creek
 - 3. Submit Approvable Drainage Basin Specific LTCP for Fresh Creek
 - 4. Submit Approvable Drainage Basin Specific LTCP for Hendrix Creek

- H. Rockaway WPCP and associated sewer system are capable of delivering, accepting and treating influent at or above twice the plant's design flow during any storm event
 - 1. Construction Completion

August 2012
August 2012
August 2012
August 2012

December 2017

APPENDIX B

ENVIRONMENTAL BENEFIT PROJECT PLAN

To be submitted.

Pursuant to Paragraph II.B., the DEP shall propose a CSO EBP Plan, which shall be incorporated herein as Appendix B. For illustrative purposes only, examples of the types of EBP projects contemplated herein are set forth below. While the DEP may in fact propose some or all of these types of projects or other projects when it submits its CSO EBP Plan for State approval, the DEP is not bound to implement them (or any other EBP project) until formally submitted and approved by the State, nor is the State obligated to approve them. The Department recommends that the selected EBP projects be of multiple technologies and in multiple locations.

EXAMPLES OF TYPES OF CONTEMPLATED EBP PROJECTS

CITYWIDE STORMWATER BMP AND LID EVALUATIONS

DEP recognizes the substantial interest stakeholders at public participation meetings have expressed in the incorporation of Low Impact Development (LID) and Best Management Practices (BMPs) for stormwater control and source reduction. Therefore, the DEP will solicit grant proposals from the public, community groups and other organizations for implementation of specific BMP and LID projects which must include a monitoring plan. To be awarded a grant from the CSO EBP Fund, the proposals must be approved by both the DEP and DEC. DEP may seek projects that provide for matching funds, including in-kind services. Additionally, the environmental benefit projects may include specific projects recommended by the public and implemented by the DEP. DEP will solicit public input prior to implementation. Where appropriate, the DEP will collaborate on the planning and implementation of any pilot projects with other government agencies and non-government organizations, including community groups.

A number of BMP Pilot Studies are currently planned for the Jamaica Bay Watershed Protection Plan Initiative. In addition, Respondents seek to conduct similar pilot studies in other watersheds around New York City that may have different topography, permeable area, soil characteristics, etc. The DEP will attempt to conduct some of the work in minority and low-income communities. Best efforts will be made to systematically concentrate projects in Tier 1 CSO drainage basins, such as Outfall HP-009 in the Bronx. Although there are numerous published studies of conventional stormwater BMPs from various public agencies and private environmental groups, there is a critical data gap of specific information related to the effectiveness and appropriateness of the use of these technologies within New York City. DEP would use EBP funds to fill that data gap by evaluating implementation of new and innovative pilot stormwater treatment technologies and volume reduction stormwater BMPs for potential application City-wide. Pilot projects may include, but are not limited to: stormwater bio-retention basins, green roofs, swales, rain gardens, porous pavements, storm water tree pits, curb cuts, trench drains, underground storm water retention ponds, rainwater harvesting, street trees with storm chambers, greywater reuse systems, etc.

In addition, DEC and DEP have discussed expediting the implementation of efforts under this Order's EBP program. To that end, in addition to the EBP plan that will be submitted on or before January 1, 2008 as set forth in paragraph II.B.3 above, DEP has identified a specific proposal that it intends to prepare and submit for Departmental review and approval in advance of the other proposals, with the goal of beginning implementation prior to submittal of the January 1 report. The EBP will propose the construction of certain stormwater BMPs in the area served by outfall HP009 in the Hunts Point watershed, to assess the validity of modeling that is being performed by Bronx River Alliance pursuant to a National Fish and Wildlife Foundation grant.