

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

In the Matter of the Violations of Article 17 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:
York:

-by-

The City of New York and
The New York City Department
of Environmental Protection,

Respondents.

**ORDER ON
CONSENT**
(CSO Order
Modification to
CO2-20000107-8)

DEC Case No.
CO2-20161013-375
(Bergen Basin
Sewer Lateral)

WHEREAS:

1. The Department of Environmental Conservation ("the Department") 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 Codes, Rules and Regulations of the State of New York ("6 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 the Department, 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 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, determined according to ECL §17-0809 and 6 NYCRR Part 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 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 from combined sewer systems, 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 can contribute to violations of state WQS. CSO outfalls are “point sources” subject to SPDES 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 Respondent’s 14 Wastewater Treatment Plants (collectively referred to as the “WWTPs”). Collectively, these WWTPs process approximately 1.4 billion gallons of sewage per day generated within New York City. Jamaica is one of the 14 WWTPs within the City for which Respondents are responsible.

6. To address CSO discharges, the Department and Respondents previously entered into Orders on Consent dated June 26, 1992 (Case No. R2-3351-90-12), September 19, 1996 (Case No. R2-3351-90-12), January 14, 2005 (Case No. CO2-20000107-8) (the “2005 CSO Order”), April 14, 2008 (Case No. CO2-2007-0101-1), September 3, 2009 (Case No. CO2-20090318-30), March 8, 2012 (Case No. CO2-20110512-25) (the “2012 CSO Order”), and March 26, 2015 (Case No. CO2-20140314-01) (the “2015 CSO Order”), all of which are hereinafter referred to collectively as the “CSO Orders”).

7. Respondents are continuing to perform work pursuant to the CSO Orders, including improvements to the sewer collection system for the Jamaica WWTP.

Parallel 48-Inch Siphon / Interceptor

8. On February 28, 2017, Respondents submitted a Certification of Construction Completion for the Parallel 48-Inch Siphon / Interceptor (“Interceptor”) required under the CSO Orders and identified in Appendix A as milestone VI.H.4. (Jamaica Tributaries CSO, Parallel 48-Inch Siphon / Interceptor, Construction Completion). The Interceptor conveys wet weather flow from Regulator JA-14 to the Jamaica WWTP, thereby reducing CSOs to Bergen Basin. During construction of the project in 2016, Respondents determined that placing the Interceptor into full operation increased the potential for flooding downstream of the Interceptor.

9. In its February 28, 2017 Certification of Construction Completion, Respondents proposed to construct a new sanitary sewer lateral to alleviate the increased potential for downstream flooding. As an interim measure during construction of this new sanitary sewer lateral, it will be necessary for Respondents to throttle a newly installed sluice gate at Regulator JA-14 to restrict flows through the Interceptor to mimic pre-

construction conditions. Upon completion of a new sanitary sewer lateral, Respondents will be able to open the sluice gate fully at Regulator JA-14, sending more wet weather flow to the Jamaica WWTP and thereby significantly reducing CSO discharges into Bergen Basin.

10. The Department agrees that it is in the long-term interests of the public and environment to construct a new sanitary sewer lateral for Bergen Basin to meet the design intent of the Interceptor.

11. The Department and Respondents have each consented to the making of this Order, which modifies the CSO Orders, without further action, litigation, hearing or adjudication of any issues of law or fact, being duly advised, and it being in the public interest and advantageous to the State.

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 modified and new milestone dates in Revised Appendix A and the interim flow requirements set forth in Article V of the 2015 CSO Order (Case No. CO2-20140314-01). This Order modifies and replaces only so much of the CSO Orders as is set forth herein and in Revised Appendix A. All other provisions of the CSO Orders shall remain in full force and effect. The requirements set forth in this Order are in addition to, and do not affect any requirements set forth in, any other Orders on Consent between the Department and Respondents.

II. COMPLIANCE SCHEDULE

Bergen Basin Sanitary Sewer Lateral

A. Respondents are permanently enjoined and directed to complete the tasks and meet the milestones set forth in Revised Appendix A of this Order, which is incorporated herein and attached hereto.

B. This Order modifies the CSO Orders solely to the extent stated herein and reflected in Revised Appendix A of this Order. Respondents shall comply strictly with all milestones set forth in Revised Appendix A. Implementation and enforcement of the activities required by these milestones shall be governed by the terms of the 2005 CSO Order.

C. Upon the effective date of this Order modification, the Department deems accepted the City's Certification of Construction Completion for the Parallel 48-Inch

Siphon / Interceptor as required by the CSO Orders and as identified in Appendix A as milestone VI.H.4.

D. Upon the effective date of this Order, Appendix A of the CSO Orders shall be modified by the pages set forth in the Revised Appendix A of this Order to incorporate new milestones VI.K.1-4 (Bergen Basin Sanitary Sewer Lateral). The pages of Revised Appendix A shall be substituted for the corresponding pages of any other Appendices A of the CSO Orders, as appropriate.

III. EFFECTIVE DATE

The effective date of this Order shall be the date it is executed by the Department's Commissioner or his designee.

DATED: December 7, 2017
Albany, New York

Basil Seggos, Commissioner
New York State Department of
Environmental Conservation

By:

James M. Tierney
James M. Tierney
Deputy Commissioner, Office of
Water Resources

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.

[Signature]
Vincent Sapienza, Acting Commissioner
New York City Department of
Environmental Protection

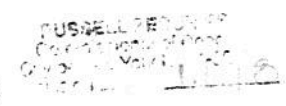
8/3/17
Date

ACKNOWLEDGMENT

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

On the 3 day of August, 2017 before me personally came [Signature] to me known, who being by me duly sworn did depose and say that s/he was duly authorized to execute the foregoing instrument and did so on behalf of the Respondents of New York.

[Signature]
Notary Public



CONSENT BY RESPONDENTS

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.

Zachary W. Carter
Corporation Counsel of the
City of New York

By: W. Carter
Title: ASSISTANT CORPORATION COUNSEL

8/17/17
Date

ACKNOWLEDGMENT

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

On this 17th day of August, 2017, before me personally came WILLIAM PLACHE, to me known, who being duly sworn, deposed and stated that s/he maintains an office at 100 Church Street, New York, New York, 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.

[Signature]
Notary Public

HILARY MELTZER
Notary Public, State of New York
No. 02ME5010465
Qualified in New York County
Commission Expires June 5, 20

March 29, 2019

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

| VI. Jamaica Tributaries CSO | Milestone Date | Revised/Added Milestone Date |
|--|--|---|
| G. Regulator Automation <ol style="list-style-type: none"> 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 December 2010 | |
| H. Parallel 48-Inch Siphon / Interceptor <ol style="list-style-type: none"> 1. Initiate Final Design 2. Final Design Completion Including CPM Analysis 3. Notice to Proceed to Construction 4. Construction Completion | June 2009 August 2013 August 2014 February 2017 | |
| I. Bending Weirs <ol style="list-style-type: none"> 1. Initiate Final Design 2. Final Design Completion Including CPM Analysis 3. Notice to Proceed to Construction 4. Construction Completion | June 2011 December 2013 December 2014 June 2016 | |
| J. Drainage Basin Specific LTCPs <ol style="list-style-type: none"> 1. Submit Approvable Drainage Basin Specific LTCP for Bergen Basin 2. Submit Approvable Drainage Basin Specific LTCP for Thurston Basin | Combined with XII.L.1 Combined with XII.L.1 | |
| K. Bergen Basin Sanitary Sewer Lateral <ol style="list-style-type: none"> 1. Initiate Final Design 2. Final Design Completion Including CPM Analysis 3. Notice to Proceed to Construction 4. Construction Completion | | July 2017 October 2018 October 2019 October 2021 |