

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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In the Matter of the Application of:

NEW YORK CITY DEPARTMENT OF  
ENVIRONMENTAL PROTECTION; CARTER H.  
STRICKLAND, AS COMMISSIONER OF THE NEW  
YORK CITY DEPARTMENT OF ENVIRONMENTAL  
PROTECTION; and THE CITY OF NEW YORK,

Petitioners,

For a Judgment Pursuant to CPLR Article 78 and CPLR  
Section 3001

-against-

JOSEPH J. MARTENS, AS COMMISSIONER OF THE  
NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION and the NEW  
YORK STATE DEPARTMENT OF ENVIRONMENTAL  
CONSERVATION,

Respondents.

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**NOTICE OF AMENDED  
VERIFIED PETITION**

Index No.: 400236/14

**PLEASE TAKE NOTICE** that upon the Amended Verified Petition, dated March 24, 2014, and Exhibits 1 through 9, the undersigned will move this Court at an IAS Part to be assigned, located within the Courthouse at 60 Centre Street, Room 130, on the 28th day of April, 2014, at 9:30 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, for an order and judgment pursuant to Article 78 of the Civil Practice Law and Rules and CPLR Section 3001:

(1) annulling Respondents' determination, dated December 12, 2013, that the Alley Creek Long Term Control Plan is not approvable, on the basis that it was made in violation

of lawful procedure, was affected by an error of law and was irrational, arbitrary and capricious and an abuse of discretion;

(2) directing Respondents to review Petitioners' Alley Creek Long Term Control Plan rationally, and to apply the governing legal requirements for an approvable LTCP;

(3) issuing a declaratory judgment that DEP's Alley Creek Long Term Control Plan is not required to select and implement CSO control measures that will achieve the "Highest Attainable Use" for Alley Creek and Little Neck Bay; and

(4) granting fees, costs, and such further relief as it deems just and proper.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to CPLR § 7804(c), answering papers shall be served upon the undersigned at least five (5) days before the return date herein and reply papers will be served at least one (1) day before that date.

Dated: New York, New York  
March 24, 2014

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By: 

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Environmental Law Division

To: Eric Schneiderman  
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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

NEW YORK CITY DEPARTMENT OF  
ENVIRONMENTAL PROTECTION, et al.,

Petitioners,

- against -

JOSEPH J. MARTENS, as Commissioner of the New York  
State Department of Environmental Conservation, et al,

Respondents.

**NOTICE OF AMENDED VERIFIED PETITION**

*ZACHARY W. CARTER*  
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*New York, NY 10007*

*Of Counsel: William Plache*  
*Devon Goodrich*  
*Tel: (212) 356-2077*  
*LM No. 03EL030503*

*Due and timely service is hereby admitted.*

*New York, N.Y. ...., 2014.*

*..... Esq.*

*Attorney for.....*