

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of General Counsel, Region 4
1130 North Westcott Road, Schenectady, NY 12306-2014
P: (518) 357-2048 | F: (518) 357-2087
www.dec.ny.gov

CONFIRMATION BY EMAIL ORDER RECEIVED

May 24, 2017

Carl Falotico
105 Jay Street, Room 201
Schenectady, NY 12305
cfalotico@schenectadyny.gov

Re: Letter Agreement
Order on Consent
R4-2012-1218-117
City of Schenectady

Dear Mr. Falotico:

Enclosed please find a copy of the fully executed Letter Agreement to Order on Consent referenced above.

Sincerely,



Richard Ostrov
Regional Attorney
Region 4

Enclosure

ec: R. Leone
D. Thorsland
J. Malcolm



Department of
Environmental
Conservation

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Letter Agreement to Order on Consent

File No. R4-2012-1218-117

Whereas the Department and Respondent agree to the following:

I. Respondent is subject the Schedule of Compliance (“Schedule of Compliance”) in Order on Consent, R4-2012-1218-117 (5/15/14) (“Order”).

II. The parties have agree to a modification of Paragraph 7 of the Order on Consent that replaces exempted projects with a specific amount of banked I&I reduction that will be used for credit offsets for any connection to the sanitary sewer collection system up and down stream of the Alco regulator and that is greater than 2,500 gallons per day (gpd). The following language replaces and supersedes existing Paragraph 7 of the Schedule of Compliance. This modification is effective as of the effective date of this Letter Agreement:

Sewer Extensions and Connections to Collection System Serving Outfall 003

7. *The Respondent has documented the removal of infiltration and inflow (I&I) and collection system improvements associated with Outfall No. 003 (Alco Regulator) since January 1, 2008. Based upon documentation submitted by the Respondent to the Department, improvements completed since January 1, 2008 reduced peak wet weather flows to the sanitary sewer collection system by 3.5 million gallons per day (mgd).*

Any new connection to the sanitary sewer collection system or the change in use of an existing connection that meets the following criteria will require the use of offset credits.*

- *Located upstream or downstream of the Alco Regulator; and*
- *Greater than 2,500 gallons per day (gpd)*

**Offset credits after the effective date of the Letter Agreement will be granted at 1 gpd for every 4 gpd of I&I removed from the sanitary sewer collection system. Initial offset credits for the I&I bank have been calculated as follows using the 3.5 mpd figure referenced above along with 80,000 gpd achieved from recent I&I removal (slip-lining work) that was submitted to the Department.*

- *3,500,000 gpd (historical work) + 80,000 gpd (recent work) = 3,580,000 gpd*



Department of
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Conservation

- $3,580,000 \text{ gpd} \div 4 = 895,000 \text{ gpd}$ of offset credit
- Casino (full build-out) = 175,000 gpd to be subtracted from 895,000 gpd
- Initial offset credits = 720,000 gpd for I&I bank

The following conditions shall apply:

1. Additional offset credits can be created by new mitigation projects (I&I removal, collection system improvements, and green infrastructure projects). Requests for additional offset credits must be submitted to the Department for review/approval and must be accompanied by documentation of the work completed and the I&I removed and be prepared/certified by a Professional Engineer licensed to practice in New York State. The offset credits will be granted as defined above.
 2. There are no exempted projects and as such, all new projects that meet the criteria above will require the use of offset credits at a 1:1 ratio (i.e. 1 gpd of new wastewater flow will result in 1 gpd of offset credit being removed from the I&I bank). This includes projects located in the Town of Glenville that are conveyed by the Freemans Bridge Pump Station and downstream of the Alco Regulator and any change in use of the General Electric Energy Storage facility
 3. Vacant lots that are documented as having a structure demolished can be proposed for redevelopment using a 1:1 ratio of past wastewater flow to new wastewater flow assuming the proposed use of the existing connection is the same as the previous use (at discretion of Department).
 4. Respondent shall not issue a permit for, or approve the commencement of construction of, any new project that requires the use offset credit until the appropriate documentation has been submitted and reviewed/approved by the Department.
 5. The documentation necessary for new projects that meet the criteria above shall include the submission to the Department for review/approval an engineering report, engineering plans, and a letter from the Respondent requesting the use of offset credits from the I&I bank.
- III. All terms, conditions or provisions of the Order, its Schedule of Compliance and approved Plans shall remain in full force and effect and enforceable unless expressly modified herein.
- IV. The effective date of this Letter Agreement is the date the Letter Agreement is signed by the Regional Director.

DATED: May 23, 2017
Rotterdam, New York

Basil Seggos
Commissioner
New York State Department of
Environmental Conservation

BY:



Keith Goertz
Regional Director
Region IV

CONSENT BY RESPONDENT

Respondent, City of Schenectady, hereby consents to the issuing and entering of this Letter Agreement to the Order on Consent and waives its right to notice and hearing herein and agrees to be bound by the provisions, terms and conditions contained herein.

BY: Gary R. McCarthy
Mayor of City of Schenectady

DATE: May 16, 2017

STATE OF NEW YORK)

) ss.:

COUNTY OF Schenectady)

On the 16th day of May in the year 2017 before me, the undersigned, a Notary Public in and for the State, personally appeared Gary R. McCarthy, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual executed the instrument.

Phyllis J. Gaumont
Notary Public
Qualified in the County of: Schenectady
My Commission Expires:

PHYLLIS J. GAUMOND
Notary Public, State of New York
No. 01GA4977672
Qualified in Schenectady County
Commission Expires 02/11/2019