STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  

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  

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.


8. Previously, the Department and Respondents entered an omnibus Order on Consent dated June 18, 1999 (#R2-0045-93-05)("Omini IV Order"). The Omini 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 Omniv 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 Omini IV Order milestone date of October 31, 2004, Respondents submitted certification of completion of the Hunts Point Omini IV Order Schedule B milestone as of March 28, 2005, on May 11, 2007. Respondents timely requested a modification of the Tallman Island Omini IV Order Schedule B milestone. The Department and Respondents have agreed to resolve the violation of the Hunts Point Omini 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 thereeto, 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 commit\(^2\) 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:

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

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

\(^2\)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

DATE

01/07/08

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 Pecunius
Commissioner of Deeds,
New York City
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:  
Title: ASSISTANT CORPORATION COUNSEL

Date: December 21, 2007

ACKNOWLEDGMENT

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

On this day of December, 2007, before me personally came, 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.

Notary Public

CHRISTOPHER G. KING
Notary Public, State of New York
No. 02K10069551
Qualified in New York County
Commission Expires Feb. 4, 2040

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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

### II. Outer Harbor CSO

<table>
<thead>
<tr>
<th>Task Description</th>
<th>Milestone Date</th>
<th>Revised/Added Milestone Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Facility Plan Development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Submit Modified Facility Plan Report</td>
<td>Completed</td>
<td></td>
</tr>
<tr>
<td>2. Submit Additional Modified Facility Plan Report</td>
<td>February 2004</td>
<td></td>
</tr>
<tr>
<td>B. Comprehensive Watershed Planning</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C. Regulator Improvements - Fixed Offices</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Initiate Final Design</td>
<td>January 2004</td>
<td></td>
</tr>
<tr>
<td>2. Final Design Completion Including CPM Analysis</td>
<td>April 2005</td>
<td></td>
</tr>
<tr>
<td>3. Notice to Proceed to Construction</td>
<td>February 2006</td>
<td></td>
</tr>
<tr>
<td>4. Construction Completion</td>
<td>July 2008</td>
<td></td>
</tr>
<tr>
<td>D. Regulator Improvements - Automation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Initiate Final Design</td>
<td>February 2005</td>
<td></td>
</tr>
<tr>
<td>2. Final Design Completion Including CPM Analysis</td>
<td>November 2006</td>
<td></td>
</tr>
<tr>
<td>3. Notice to Proceed to Construction</td>
<td>November 2007</td>
<td></td>
</tr>
<tr>
<td>4. Construction Completion</td>
<td>June 2010</td>
<td></td>
</tr>
<tr>
<td>E. Port Richmond Throttling Facility</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Initiate Final Design</td>
<td>June 2004</td>
<td></td>
</tr>
<tr>
<td>2. Final Design Completion Including CPM Analysis</td>
<td>August 2005</td>
<td></td>
</tr>
<tr>
<td>3. Notice to Proceed to Construction</td>
<td>June 2006</td>
<td></td>
</tr>
<tr>
<td>4. Construction Completion</td>
<td>December 2008</td>
<td></td>
</tr>
<tr>
<td>F. In-Line Storage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Initiate Final Design</td>
<td>July 2005</td>
<td>DELETE</td>
</tr>
<tr>
<td>2. Final Design Completion Including CPM Analysis</td>
<td>November 2006</td>
<td>DELETE</td>
</tr>
<tr>
<td>3. Notice to Proceed to Construction</td>
<td>August 2007</td>
<td>DELETE</td>
</tr>
<tr>
<td>4. Construction Completion</td>
<td>August 2010</td>
<td>DELETE</td>
</tr>
<tr>
<td>G. Submit Approvable Drainage Basin Specific LTCP for Open Waters</td>
<td>January 2008</td>
<td>6 months after approval of II.B.1.</td>
</tr>
</tbody>
</table>
III. Inner Harbor CSO

A. Facility Plan Development
   1. Submit Modified Facility Plan Report
   2. Submit Additional Modified Facility Plan Report  
      Completed
      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 Storage³
   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
   1. Submit Modified Facility Plan Report        Completed February 2004
   2. Submit Additional Modified Facility Plan Report
   3. Submit Form 2A SPDES Application            July 2002

B. Comprehensive Watershed Planning

C. Influent Channel
   1. Initiate Final Design                     October 1994
   2. Final Design Completion Including CPM Analysis March 1997
   3. Notice to Proceed to Construction          February 1999
   4. Construction Completion                   February 2002

D. Foundations and Substructures
   1. Initiate Final Design                     October 1994
   2. Final Design Completion Including CPM Analysis August 2001
   3. Notice to Proceed to Construction          June 2002
   4. Construction Completion*                  December 2006
                                                   February 2009*

E. Structures and Equipment
   1. Initiate Final Design                     October 1994
   2. Final Design Completion Including CPM Analysis November 2004
   3. Notice to Proceed to Construction          September 2005
   4. Construction Completion                   August 2011
                                                   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
   1. Submit Modified Facility Plan Report
   2. Submit Additional Modified Facility Plan Report
   3. Submit Form 2A SPDES Application
      Completed February 2004
      June 2003

B. Comprehensive Watershed Planning
   1. Submit Approvable Flushing Bay Waterbody/Watershed Facility Plan Report
      June 2007
   2. Submit Approvable Flushing Creek Waterbody/Watershed Facility Plan Report
      June 2007

C. CS4-1 Reroute and Construct Effluent Channel
   1. Initiate Final Design
      October 1992
   2. Final Design Completion Including CPM Analysis
      September 1994
   3. Notice to Proceed to Construction
      June 1995
   4. Construction Completion
      June 1996

D. CS4-2 Relocate Ballfields
   1. Initiate Final Design
      October 1992
   2. Final Design Completion Including CPM Analysis
      September 1994
   3. Notice to Proceed to Construction
      April 1995
   4. Construction Completion
      August 1995

E. CS4-3 Storage Tank
   1. Initiate Final Design
      December 1993
   2. Final Design Completion Including CPM Analysis
      September 1996
   3. Notice to Proceed to Construction
      July 1997
   4. Construction Completion
      August 2001

F. CS4-4 Mechanical Structures
   1. Initiate Final Design
      December 1993
   2. Final Design Completion Including CPM Analysis
      February 2000
   3. Notice to Proceed to Construction
      March 2002
   4. Construction Completion
      December 2004
      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. Taltman 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
   1. Submit Modified Facility Plan Report
   2. Submit Additional Modified Facility Plan Report
      
      April 2003
      February 2004

B. Comprehensive Watershed Planning
   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
      March 2006
      March 2009
      June 2006

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
      
      June 2007
      June 2010
      June 2011
      June 2012
      June 2015
      June 2009

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
      October 2006
      August 2007
      December 2008
      December 2007
      April 2009
      November 2010

F. Laurelton and Springfield Blvd.
   1. Submit Drainage Plan for Storm Sewer Buildout
      
      January 2008
E. Stormwater Management Basin Specified LTCF for Conney Island Creek

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

D. Avenue V Force Main

C. Avenue V Pumping Station Upgrade

B. Comprehensive Watershed Planning

VI. Conney Island Creek CSO Plan Report
August 2008
June 2012
June 2009
July 2009
January 2006

DELETED

June 2007
July 2007
March 2004
September 2003

D. Submit Approvable Drainage Basin Specific LTCP for Bronx River

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

C. Feasibility Control

B. Comprehensive Wastewater Plan

A. Comprehensive Wastewater Plan

3. Submit Form 2A SPODES Application
2. Submit Additional Modified Facility Plan Report
1. Submit Modified Facility Plan Report

A. Facility Plan Development

X. Bronx River CSOs
1. Initial Final Design
2. Final Design Completion including CPM Analyses
3. Not to Proceed to Construction
4. Notice to Proceed to Construction
5. Construction Completion

D. 20th Ward Drainage Area Sewer Cleansing and Evaluation
E. Hendon Creek Draining
F. 28th Ward Wester Ways Extension

C. Spring Creek AWCDP Update
B. Comprehensive Watershed Planning
A. Facility Plan Development

XII. Jamaica Bay CSO
1. Construction Completion

   and receiving influent at or above twice the plant's design flow during any storm event

H. Rockaway WPCP and associated sewer system are capable of delivering a sufficient

August 2012
August 2012
August 2012

4. Submit Approved Drainage Basin Specific LTCP for Hendrix Creek
3. Submit Approved Drainage Basin Specific LTCP for Fresh Creek
2. Submit Approved Drainage Basin Specific LTCP for Spring Creek
1. Submit Approved Drainage Basin Specific LTCP for Jamaica Bay

c. Drainage Basin Specific Long Term Control Plans
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.