

New York State Department of Environmental Conservation

Division of Water

Bureau of Water Compliance, 4th Floor

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Alexander B. Grannis
Commissioner

July 14, 2009

Mr. Roy Tysvaer, P.E.
Director
Wastewater Treatment and Water Quality
Bureau of Engineering Design and Construction
NYC Department of Environmental Protection
96-05 Horace Harding Expressway
Corona, New York 11368

Dear Mr. Tysvaer:

Re: DEC Case #CO2-20000107-8, 2005 Order on Consent (CSO Order)
Appendix A, III. Inner Harbor CSO, B.1.
Gowanus Canal Waterbody/Watershed Facility Plan Report

The New York State Department of Environmental Conservation (Department) has completed its review of the Final Gowanus Canal Waterbody/ Watershed Facility Plan (WWFP) Report dated August 2008, the New York City Department of Environmental Protection (DEP) responses to Department comments dated December 18, 2008 and the Addendum to the August 2008 Gowanus Canal WWFP Report dated April 2009. All submittals were made in accordance with the above- referenced CSO Order, Appendix A, III.B.1.

The Department acknowledges that a public meeting was held at P.S. 58 in Brooklyn, New York on February 12, 2008, to present the Gowanus Canal WWFP. A Responsiveness Summary was prepared and is appended to the Gowanus Canal WWFP at Appendix H to address public comments and questions. In response to further Department comments, an Addendum was issued for the Gowanus Canal WWFP. The Department hereby approves the Gowanus Canal WWFP including the April 2009 Addendum. Please find enclosed stamped copies of the covers of the approved WWFP and Addendum. All components of the WWFP, including the implementation schedules shown below, are now incorporated by reference and are now an enforceable part of the CSO Order as per Section III.F. Please note that the Post Construction Compliance Monitoring Program (PCMP) specified in Section 8.5 of the approved Gowanus Canal WWFP will be subject to further review as the construction projects progress toward completion and as the Gowanus Canal Long Term Control Plan (LTCP) is developed.

The projects contained in the approved WWFP are incorporated into Appendix A of the CSO Order with the following milestones:

III. Inner Harbor CSO

G. Flushing Tunnel Modernization

- | | |
|--------------------------------------|----------------|
| 1. Notice to Proceed to Construction | February 2010 |
| 2. Construction Completion | September 2014 |

H. Gowanus Pump Station Reconstruction

- | | |
|--------------------------------------|----------------|
| 1. Notice to Proceed to Construction | February 2010 |
| 2. Construction Completion | September 2014 |

I. Dredging of Gowanus Canal*

- | | |
|--|---|
| 1. Submittal of All Dredging Permit Applications | December 2010 |
| 2. Notice to Proceed with Dredging | Within 3 years of final permit issuance |
| 3. Complete Dredging | Within 5 years of final permit issuance |

* The Department and USEPA will evaluate the proposed dredging of Gowanus Canal through their role in the permitting process to ensure that the project is not inconsistent with the Superfund remedial program objectives.

The Gowanus Canal LTCP is scheduled to be submitted to the Department within six months of the date of this approval. The Department will continue to work with the DEP in development of the LTCP and strive to identify regulatory options to ensure compliance with Water Quality Standards and the Clean Water Act. Pursuant to the Memorandum of Understanding between the Department and DEP dated January 14, 2005 and attached to the CSO Order, the Department will commence the regulatory review process for submissions under the long term control planning process no later than 60 days following the date on which the DEP issues the last notice to proceed to construction for the above CSO projects.

The DEP will submit an application to the Department for a SPDES variance pursuant to 6NYCRR Part 702.17 to operate the pump station, CSO facility and flushing tunnel six months prior to the start-up of the new facilities or as a part of the LTCP, whichever comes first. The application shall include operation and maintenance plans for the pump station, CSO facilities, and flushing tunnel. The Department may propose a modification to the SPDES permit for the Red Hook WPCP, which would require monitoring and reporting of measurable operations at the Gowanus Pump Station and flushing tunnel to ensure that the facility operates in accordance with the design approved by the Department. The modified permit would also incorporate the PCMP as previously discussed. The monitoring requirements will become effective upon start-up of the enhanced pump station and flushing tunnel. Monitoring results will be reviewed by the Department to determine whether the WWFP, and ultimately the LTCP, when approved, are achieving a level of water quality that is protective of the highest attainable use of the Gowanus Canal. During each 5-year SPDES permit/ long term control planning cycle, the DEP will continue to review and evaluate any ongoing causes of water quality impairment and the need to take additional action.

If you have any questions concerning the above, please contact Mr. Gary E. Kline, P.E.,
Section Chief, NYC Municipal Compliance Section, at 518-402-9655.

Sincerely,



Joseph DiMura, P.E.
Director
Bureau of Water Compliance

Enclosures
cc w/Encl.:

G. Kline, P.E.
S. McCormick, P.E.
R. Adair, Esq.
R. Schick, P.E., DER
R. Elburn, P.E., Region 2
T. Burns, P.E., NYS EFC
J. Gratz, P.E., USEPA
K. Mahoney, P.E., NYCDEP
K. Clarke, P.E., NYCDEP
D. Chao, P.E., NYCDEP
H. Donnelly, Esq., NYCDEP



City-Wide Long Term CSO Control Planning Project

Gowanus Canal Waterbody/Watershed Facility Plan Report

Addendum

New York State Department of Environmental Conservation
This report for Inner Harbor CSO, Gowanus Canal
Waterbody/Watershed Facility Plan Report.
Appendix A, III, B.1.
is hereby approved subject to the provisions of the
Environmental Conservation Law and Order on consent
(CSO Order) DEC Case # CO2 - 20000107-8.
Date July 14, 2009 . By: Day Epline P.E.
New York State Commissioner of
Environmental Conservation
Designated Representative
Recommended by: Susana McLomick



The City of New York
Department of Environmental Protection
Bureau of Engineering Design and Construction

April 2009

**ADDENDUM TO THE AUGUST 2008 GOWANUS CANAL
WATERBODY/WATERSHED FACILITY PLAN REPORT**

APRIL 2009

The modifications and additions provided in this document supersede the language in the August 2008 Gowanus Canal Waterbody/Watershed Facility Plan. Each item is identified first by document location, then by type (addendum, erratum, clarification).

New York State Department of Environmental Conservation

This report for Inner Harbors CSO, Addendum to
Gowanus Canal Waterbody/Watershed Facility Plan
Report, Appendix A, III. B. 1.

is hereby approved subject to the provisions of the
Environmental Conservation Law and Order on consent
(CSO Order) DEC Case # CO2 - 20000107-8.

Date July 14, 2009 . By: Amy E. Blum P.E.

New York State Commissioner of
Environmental Conservation
Designated Representative

Recommended by: Susand McCormick