



August 18, 2016

Vincent Sapienza
Acting Commissioner

Paul V. Rush, P.E.
Deputy Commissioner
Bureau of Water Supply
prush@dep.nyc.gov

P.O. Box 358
Grahamsville, NY 12740
T: (845) 340-7800
F: (845) 334-7175

Pamela Young, Ph.D.
New York State Department of Health
Bureau of Public Water Supply Protection
Empire State Plaza – Corning Tower 11th Floor
Albany, NY 12237

Katie Lynch
United States Environmental Protection Agency - Region II
290 Broadway - 24th Floor
New York, NY 10007-1866

Dear Dr. Young and Ms. Lynch:

Enclosed is the DEP Response to the NYSDOH/USEPA Comments on Revised 2007 FAD Deliverables submitted through April 2016.

As always, if you have any questions about these comment responses or other aspects of the City's watershed protection efforts, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'David S. Warne', with a long horizontal line extending to the right.

David S. Warne
Assistant Commissioner

**DEP Response to NYSDOH/USEPA Comments on the FAD Deliverable Reports
Submitted April 30, 2016
Response Date August 18, 2016**

6.1 Watershed Rules and Regulations

Two semi-annual reports on project activities and enforcement actions for the period October 1, 2015 through March 31, 2016 have been submitted as required by the Revised 2007 FAD. The reports provide valuable information about the implementation of NYC's Watershed Rules and Regulations, as well as a review of development activities within the watershed.

NYSDOH/EPA note that all previous recommendations for report enhancements were incorporated into these reports. The improved reports, including maps, are easy to read, concise, and informative.

DEP Response:

Comment noted.

The following recommendations are offered and clarifications requested related to the deliverables:

Project Review Activities

Section 3.1 discusses an agreement between DEP and the NYS Environmental Facilities Corporation (EFC) to assist DEP in the management of a non-NYC owned Waste Water Treatment Plant (WWTP) Capital Replacement Program and a WWTP Future Regulatory Program. On page 3, in paragraph 3, the report states: "The Agreement is funded for \$5,340,000 and additional funding will be provided as needed." Further: "Currently, the Agreement is with EFC for signature." What is the status of the agreement, and have any funds been expended?

DEP Response:

The EFC-DEP Capital Replacement Agreement was signed by EFC and DEP in August 2015. The contract is for \$7.34 million not \$5.34 million and commenced on August 8, 2015. One payment has been made for \$134,852.

Regulatory Enforcement Actions

On pages 27-28 (Project 2013-SC-0403), the entry notes that there was a complaint regarding SSTS failure. DEP first went out in August 2014, and noticed a suspicious area but no septic odor. Subsequently, DEP inspected numerous times and while there was never a septic failure observed, a suspicious area was observed on several of the site visits. Will DEP continue to monitor this site, or could the status of a case like this one change from "on-going" to "closed" if no failure is observed for a period of time?

DEP Response:

DEP has been inspecting this site since July 2013. The NOV was issued August 2013 due to a confirmed surface discharge. A dye test was completed September 2013 following pump out of the septic tank, as the owner noted the failure was corrected after pump out. DEP has continued with inspections year round and approximately every two months during the summer since the property is used on weekends and in

the summer. No confirmed discharge has been observed since 2013. DEP plans to inspect through the summer of 2016 and potentially close this out in September 2016, if no additional discharges are discovered. Discharges at homes which are inhabited infrequently are typically inspected for a longer duration of time due to the lack of use.

On pages 54-55 (Project 2001-PE-0806), the description lays out a violation from 2014 that has not been resolved, even with referral to NYC Law Department. The last site inspection noted was 1/15/16, and the issue had not been resolved. What are the next steps for a situation like this one? Has DEP done any additional follow up since 1/15/16?

DEP Response:

DEP staff inspected the site in March 2016 and observed no failure. Per a discussion between DEP regulatory staff, DEP Legal, and NYC Law in April 2016, further enforcement is not required due to lack of a visible discharge to the creek and lack of a positive dye test. The enforcement will be closed. This information will be available for review in the next report.

On pages 55-56 (Project 1998-RO-0131), the text states that a failed septic system at this property is not eligible for the replacement program because CWC had previously funded the replacement in 1998. Is this a potential issue moving forward, as systems replaced in the early years of the program approach an age of twenty years?

DEP Response:

The owner is working to repair this system. Moving forward, DEP will work with homeowners that experience failures of their previously repaired SSTS, reimbursed by CWC, as DEP would with homeowners who have not been eligible for reimbursement.

On page 83, the report states that an illegal dumping site was identified on Carcass Brook Road. NYSDOH/USEPA appreciate the quick and effective investigative actions taken by DEP Police. Please provide an update of the removal and proper disposal of the refuse by the responsible party.

DEP Response:

Follow up investigation of the site revealed that the location was cleaned of all debris by the responsible subject. Subject disposed of material at Delaware County Solid Waste Facility.

On page 86, the report states that a non-traceable dumping was discovered in the Kensico Basin, which, among other items, contained a bucket of rock salt (weighing approximately 50 pounds). The report indicates that dumped material was subsequently removed and properly disposed. Please provide any information on whether there was evidence of soil contamination or stormwater runoff from the site related to the rock salt.

DEP Response:

It was determined that there was no evidence of any soil contamination from the rock salt. Material was contained by the five gallon pail. No evidence of stormwater runoff was noted by responding officers.