

# New York State Department of Environmental Conservation

## Division of Water

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Joe Martens  
Commissioner

January 23, 2015

### SENT VIA EMAIL

Mr. Keith Beckmann, P.E.

Program Manager – LTCP

Bureau of Wastewater Treatment

New York City Department of Environmental Protection

96-05 Horace Holding Expressway

Corona, NY 11368

Re: Order on Consent (“CSO Order”), DEC Case #CO2-20110512-25 modification to DEC Case #CO2-20000107-8, Appendix A

- I. Alley Creek CSO, E. Drainage Basin Specific LTCPs, 1. Submit Approvable Drainage Basin Specific LTCP for Alley Creek

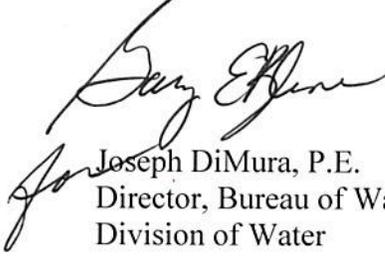
Dear Mr. Beckmann:

The New York State Department of Environmental Conservation (Department) acknowledges receipt of a revised Alley Creek Long-Term Control Plan (LTCP) from the New York City Department of Environmental Protection (City) on June 30, 2014. The Department reviewed the June 2014 Alley Creek LTCP and provides the comments in Attachment A.

These comments on the June 2014 Alley Creek LTCP are provided while the City is litigating the Department’s disapproval of the City’s November 2013 Alley Creek LTCP for the purpose of assisting the City in advancing its LTCP program under the CSO Order while the parties endeavor to finalize a settlement of the litigation. Accordingly, the Department provides these comments as part of those settlement discussions and subject to and without waiver of its positions in that litigation, including but not limited to its position that the June 2014 Alley Creek LTCP was a litigation settlement offer rather than an administrative submission. The Department likewise acknowledges that the City’s submission of the June 2014 Alley Creek LTCP and the City’s follow-up communications regarding that submission are subject to and without waiver of the City’s positions in the litigation.

Please respond to these comments within 45 days of the date of this letter. If you have any questions regarding this letter, please contact Mr. Gary Kline, P.E., Section Chief at 518-402-9655 or [gekline@gw.dec.state.ny.us](mailto:gekline@gw.dec.state.ny.us).

Sincerely,



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

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## Attachment A

1. Remove language that is related to the Article 78 litigation and any other legal qualifiers that create uncertainty about the City's commitments within the LTCP. The Department has highlighted some language in the attached electronic file of the LTCP in yellow that needs to be removed or revised. As noted in the cover letter to this attachment, the Department acknowledges that, pending settlement of the Alley Creek LTCP litigation, the City's submission of the June 2014 Alley Creek LTCP is subject to and without waiver of the City's positions in that litigation. In addition, please be advised that the proposed rule-making for the Class SD and I waters does not propose a reclassification of these waters to Class SC, but rather the regulatory changes will add primary contact recreation as a designated use to the existing classifications. The LTCP should be revised to reflect this proposed change.
2. Figures ES-3, ES-4, 8-15, 8-16, and 8-17: It appears that the location of the seasonal and annual disinfection alternative markers on the graph is reversed.
3. Table 2-19: Provide the monthly rainfall for all months and annual total for years listed.
4. Page 2-64: Incorrect reference to Class SA waters.
5. Section 2.1.c.2: Provide an update on the trackdown of illicit discharges to Alley Creek.
6. Section 8.1.a: The wording in the following sentence is confusing:

The results indicate that although 100 % CSO control (complete removal of bacteria) could result in an incremental increase in attainment, it would not close the bacteria performance gap for Alley Creek when considering existing or WQ criteria.
7. Per the discussion between the City and Department on January 8, 2015, revise the discussion of the chlorination/dechlorination demonstration project to reflect the City's plans to conduct the project at Spring Creek CSO retention facility. The City shall submit a scope of work to the Department for completion of the Spring Creek CSO retention facility chlorination/dechlorination demonstration project within 60 days of the date of this letter.
8. Per the discussion between the Department and City on January 8, 2015, eliminate the site specific standards from the LTCP but include a general discussion on the spatial and temporal extent of non-attainment with water quality standards within the waterbody during period of analysis.
9. In reference to the discussion between the Department and City on January 12, 2015, the Time to Recover analysis should be conducted for the August 15 design storm for the point of compliance of OW2 for the selected alternative using the fecal coliform single sample standard of 1000 cfu/100ml only. Table 8-21 can be deleted from the LTCP.
10. Sections 8.2.b and 8.5: Provide more detailed discussion on how the CSO reduction volumes were calculated for the two GI alternatives 5A and 5B.

11. Table 8-17: Information in the columns entitled Primary Contact WQ Criteria and Future Primary Contact WQ Criteria are identical but the future criteria will be entered only.
12. Table 9-1: The schedule provided in Table 9-1 shall be revised to reflect a construction start for the permanent chlorination facility of no later than year 5. The schedule shall also be revised to include the Spring Creek CSO retention facility chlorination/dechlorination demonstration project.