



June 29, 2015

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Dear Dr. Young and Mr. Sweeney:

Enclosed is the DEP Response to the NYSDOH/EPA Comments on Revised 2007 FAD Deliverables submitted through April 2015.

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,

David S. Warne
Assistant Commissioner

DEP Response to NYSDOH/EPA Comments on FAD Deliverable Reports
Submitted April 30, 2015
Response Date June 29, 2015

3.3 Community Wastewater Management Program

The Revised 2007 FAD required DEP to execute contract changes with the Catskill Watershed Corporation (CWC) in support of the Community Wastewater Management Program that included providing sufficient funding to complete projects for Shandaken, West Conesville, Claryville, Halcottsville, and New Kingston. The due date for this activity was May 2015. DEP states that this contract was executed with CWC on January 13, 2014.

DEP Response:

Comment noted.

4.4 Watershed Agricultural Program

The Revised 2007 FAD required DEP to meet with NYSDOH/USEPA and NYSDEC by April 30, 2015, to discuss the program status and review the adequacy of current metrics. This meeting was held on April 27, 2015.

DEP Response:

Comment noted.

6.1 Watershed Rules and Regulations

The semiannual reports (*Project Activities and Enforcement Actions*) were submitted as required by the Revised 2007 FAD.

DEP Response:

Comment noted.

Project Review Activities

The report provides valuable information regarding the proposed and on-going development projects within the watershed. The content and quality of the report satisfies the requirement of the Revised 2007 FAD. We recommend the following enhancements:

The reader would benefit from the inclusion of brief definitions for the SEQRA projects types (in Tables 3.2.1 and 3.2.2 “Type I” and “Unlisted”), or a link to those definitions (such as: <http://www.dec.ny.gov/permits/43711.html>).

DEP Response:

DEP will add the above referenced link to the opening paragraph of section 3.2 *SEQRA Project Summary*. This link will navigate the reader to DEC’s web based SEQR Handbook. This SEQR handbook provides the definition for both Type I and Unlisted actions.

A brief description of the projects listed in Tables 3.4.1 and 3.4.2 would enhance the usefulness of the report.

DEP Response:

For future reporting, DEP will add a brief description of each new project listed in Tables 3.4.1 and 3.4.2.

Regulatory Enforcement Actions

The report is well-designed and presents concise information on the WR&R enforcement necessitated for the purpose of source water protection. The report would benefit from the inclusion of a list of the acronyms used in the report.

DEP Response:

For future reporting, DEP will include a reference page of all the acronyms used in the report.

NYSDOH requests the following clarifications:

Project Name: 465 Bull Hill Road, Log # 2003-SC-0917, Conesville (page 11). DEP is commended for numerous site visits to address a failed onsite wastewater system on this property, which was originally discovered in 2005. An NOV was issued in 2013, and the DEP Law Department and DEP Police have been made aware of this case. More recently, effluent was discovered on the ground surface due to the owner apparently pumping the contents of the septic tank into the adjacent woods. Does DEP have sufficient evidence in this case to escalate its enforcement actions? What are DEP's options for addressing this violation?

DEP Response:

This project was referred to the New York City Law Department (Law Department) in 2014 to pursue further enforcement action, as referenced in the report. The owner has completed pump outs of the septic tank, which serves as a holding tank as the septic field was never completed. In June 2015, the Law Department completed and filed papers against the owner requiring correction of the problem. The owner has contacted DEP and has made attempts to correct the situation. DEP will continue to monitor the site until the situation is resolved.

Project Name: 466-479 Oliverea Rd Log # 2014-AS-0719, Shandaken (pages 28-30). Effluent was observed above the top of a cesspool on 12/29/14. This is a rental property with a low capacity cesspool with a thick sludge layer and a cave in the surrounding soils. The owner has commented that CWC cannot fund the SSTS replacement under existing rules. Though the owner has had the cesspool pumped, surfacing of effluent continues to occur. What are the next likely steps that will be taken regarding this property, in light of the open investigation (see page 62-63) by DEP Police?

DEP Response:

On May 5, 2015, a hearing was held at Ulster County Supreme Court regarding the Notice of Violation DEP issued for an overflowing cesspool. NYC Corporation Counsel and REP staff represented DEP at the hearing. The court ruled in favor of DEP and ordered that the owner install a replacement septic system within 120 days. The court also required that interim measures be taken to prevent the cesspool from overflowing until the full repair is complete.

Project Name: Lawrence, Peter D. Log # 2013-CN-0565, Cannonsville (pages 47-48). An alleged illegal SSTS was installed on the property where a cabin was being constructed. DEP initiated an Enforcement Action on 10/25/13. On 5/23/14, the owner stated that he/she lost ownership of the property. A new owner was contacted by DEP on 11/14/14 and informed that the wastewater system must be pumped and decommissioned. As of 3/6/15, the engineer that is supposed to design a new SSTS has not been hired by the current owner. What are the next likely steps that will be taken regarding this property?

DEP Response:

The site is currently vacant; the Engineer has been hired and has contacted DEP to initiate the review and approval process to install a compliant septic system. The owner is cooperating and working towards a resolution.

Site: 21521 State Hwy #30, CB-135-14, SJS 47586, Colchester (p.63-64). This case refers to a diesel oil sheen discovered on Pepacton Reservoir in the vicinity of the East Delaware Intake Chamber. The text states: "Last year, investigation of a similar complaint in the same location resulted in the discovery and removal of a leaking, buried fuel tank." The report from October 2014 contains the same sentence. Briefly describe the actions DEP has taken at this location related to oil sheens. Clarify how many tanks have been removed from this location, as well as each assigned case number (if different), and whether this is related to the May 2012 sheen on Pepacton.

DEP Response:

To clarify, no tank was actually removed from beneath the reservoir bottom in 2012. Over the course of those remedial activities, a total of three tanks were evacuated of their contents: two contained diesel and the third contained gasoline. Nearly 4,500 gallons of a diesel-water mixture was removed, estimated to contain 2,600 gallons of diesel and nearly 3,000 gallons of gasoline-water mixture was removed which contained an estimated 600 gallons of gasoline. BWS conducted a visual monitoring and periodic sampling program to verify that drinking water was never impacted by the release. A source of the additional visual sheen was not positively identified, although we believe it to be a residual from the 2012 discovery. There are no on-going spill operations at the Pepacton Reservoir and all remedial activities have been completed.

Site: 16 Samantha Lane, CCE-2355-14, SJS 51149, Carmel (p. 68). The report states that no threat to the water supply was identified, but the list of the dumped items in close proximity to Croton Falls reservoir sounds alarming (i.e., paint cans, anti-freeze containers, self-contained fire suppression devices containing chemical material). Please clarify how the assessment of "no threat to the water supply" was conducted? Were any measures taken to prevent future dumping in this boating area (e.g., posting of "No Dumping" signage)?

DEP Response:

All dumped materials were inspected and found to have no leakage from the items. "Fire Suppression Systems" were noted to be dry Chemical Fire Extinguishers. Area was cleaned of all debris by DEP Operations and signage was replaced at the area.