

STATE OF CONNECTICUT  
V.  
NORWICH PUBLIC UTILITIES

CONSENT ORDER

- A. The Commissioner of Energy and Environmental Protection ("the Commissioner") finds:
1. The City of Norwich ("Respondent") owns and operates sewerage collection and treatment systems, including a water pollution control facility ("WPCF"), and discharges treated sanitary sewage under the terms and conditions of NPDES Wastewater Discharge Permit No. CT0100412.
  2. The Respondent's sewerage collection system was partially separated between 1972 and 1980. Projects removed public stormwater inflow (catch basins) from combined lines and reduced the number of combined sewer overflow (CSO) discharge locations from 43 to 27.
  3. United States Environmental Protection Agency (EPA) published the Combined Sewer Overflow Control Policy, April 1994 which requires compliance with the implementation of the "Nine Minimum Controls" and development of a "Long-Term Combined Sewer Overflow Control Plan". The obligation to comply with this policy was codified into federal law in Section 402Q of the Clean Water Act.
  4. On August 11, 1988, the Respondent was issued Order No. WC 4729 to address combined sewer overflows in Norwich. This order was modified on August 27, 1990, October 19, 1992 and August 1, 1994. The Respondent has not fully implemented all of the steps of the modified order dated August 1, 1994.
  5. The Respondent submitted to the Commissioner the report entitled Norwich, CT CSO Modified Facilities Plan, by Black & Veatch, dated August 1994.
  6. The Respondent's sewerage collection system was partially separated between 1995 and 2005. These projects resulted in the further reduction of the number of CSO discharge locations from 27 to 14. Currently, the Respondent has 14 active combined sewer overflow locations within their collection system.
  7. In 2002, the Respondent installed a flow monitoring station at CSO 17 at the Rose Alley pump station. Two instruments at the location transmit level measurements to the Norwich's Supervisory Control and Data Acquisition (SCADA) system.

8. During the time period from December 2, 2002 to August 22, 2003, it is estimated that over 21 million gallons of combined sewage was discharged into the Shetucket River from the Rose Alley pumping station, likely causing violations of the State of Connecticut Water Quality Standards.
9. On November 28, 2006, the Respondent retained the engineering firm of Black & Veatch to update the sewer collection system hydraulic model, which is a component of a Long Term CSO Control Plan ("LTCP").
10. On or about July 10, 2007, the Respondent agreed to and the Connecticut Department of Environmental Protection ("DEP") issued Consent Order No. WC 5445 ("Consent Order").
11. The Connecticut Department of Environmental Protection has subsequently been renamed the Department of Energy and Environmental Protection ("DEEP"). Any and all references to DEP within the Consent Order are considered to be DEEP.
12. On October 17, 2012, Respondent submitted a report entitled "CSO Long Term Control Plan, Norwich Public Utilities" ("2012 LTCP") by Black and Veatch.
13. On May 26, 2016, the Commissioner approved the 2012 LTCP report referenced in paragraph A.12.above.
14. The 2012 LTCP referenced in Paragraphs A.12 and A.13 recommends sewer separation in certain areas. The 2012 LTCP also recommends leaving at least one CSO discharge (CSO-17) open to protect public health during wet weather events greater than a 2-year return frequency. The 2012 LTCP breaks the City of Norwich into five separation work areas to be completed over a 20-year period. These areas include:
  - a. Eastside (area east of the Eighth Street Bridge) Area Separation
  - b. Laurel Hill Area Separation
  - c. Thamesville Area Separation
  - d. Greenville Area Separation
  - e. Downtown Norwich Area Separation
15. In the time since the 2012 LTCP was submitted, a number of conditions have changed, and these include:
  - Construction of CSO reduction projects in similar communities in Connecticut and across the New England region has shown that removal of private stormwater inflow is more expensive than previously factored.
  - Construction of CSO reduction projects in similar communities in Connecticut and across the New England region has shown that the cost of the recommended plan from the 2012 LTCP is much higher than originally anticipated.

- In November 2014, EPA modified / refined its affordability criteria, which allow consideration of stormwater management costs. Application of such considerations may alter the affordability scenario previously developed for the 2012 LTCP.
  - The City of Norwich has been classified as a “distressed community” indicating that the ability to pay of the general rate payer has diminished.
16. In consideration of the factors described in Paragraph A.15, the Respondent has requested to develop a revised LTCP report while simultaneously working towards a significant reduction in CSO discharges by implementing a sewer separation project in the Eastside area as described in the 2012 LTCP referenced in Paragraphs A.12 and A.13. CSO reduction projects in the Thamesville area will follow completion of the Eastside area, unless the revised LTCP establishes a different construction sequence.
- B. With the agreement of Respondent, the Commissioner, acting under Section 22a-6, 22a-424, 22a-425, 22a-427 and 22a-428 of the Connecticut General Statutes, orders the Respondent as follows:
1. Respondent shall implement sewer separation of the Eastside area of Norwich as follows:
    - a. Within one week of issuance of this Consent Order, Respondent shall submit to DEEP an engineering agreement for the design and bidding services for a sewer separation project for the Eastside area of Norwich, to control CSO discharges from CSO-25. This engineering agreement shall include provisions for a public outreach and information session after preliminary design.
    - b. Within 360 calendar days of authorization of the design engineering agreement referenced in Paragraph B.1.a by DEEP, Respondent shall submit construction bid documents for the Eastside sewer separation project for DEEP review and approval.
    - c. On or before December 31, 2020, the Eastside sewer separation project shall be substantially completed.
  2. Respondent shall implement projects to control CSO discharges from CSO-40, CSO-4, and CSO-5 to a 2-year level of control in the Thamesville area of Norwich as follows, unless the revised LTCP (developed pursuant to Paragraph B.3 below) establishes a different construction sequence:
    - a. Within 30 days of substantial completion of the Eastside sewer separation project, Respondent shall submit to DEEP an engineering agreement for the design and bidding services for CSO reduction projects in the Thamesville area, to control CSO discharges from CSO-40, CSO-4, and CSO-5 to a 2-year level of control. This engineering agreement shall include provisions for a public outreach and information session after preliminary design.

- b. Within 360 calendar days of authorization of the design engineering agreement referenced in Paragraph B.2.a by DEEP, Respondent shall submit construction bid documents for the Thamesville area project(s) for DEEP review and approval.
    - c. On or before December 31, 2025, the Thamesville area project(s) shall be substantially completed.
  3. Respondent shall develop a revised LTCP as follows:
    - a. Within 30 calendar days of issuance of this consent order, Respondent shall develop and implement a system wide flow metering program.
    - b. Within 30 calendar days of issuance of this consent order, Respondent shall submit to DEEP for approval a Scope of Work for a revised LTCP. The Respondent shall revise the revised LTCP Scope of Work in a timely manner as may be necessary to address any DEEP comments. The revised LTCP Scope of Work shall include, but not be limited to, the following:
      - i. Development of a revised Baseline Conditions Report, using the most up-to-date rainfall data at that time to determine (the appropriate characteristics of) the 2-year control storm;
      - ii. Re-evaluation of alternatives to achieve the 2-year level of CSO control;
      - iii. Development of a refined affordability analysis;
      - iv. Development of additional alternatives as may be necessary or desirable;
      - v. A plan for ongoing public outreach throughout implementation of the revised LTCP; and
      - vi. A recommended list of projects and an implementation schedule for those projects.
    - c. Within 500 calendar days of approval of the revised LTCP Scope of Work referenced in Paragraph B.3.b, Respondent shall submit the revised LTCP to DEEP for approval.
    - d. Respondent shall also provide public outreach and information prior to submission of the revised LTCP to DEEP.
  4. The Respondent shall submit a LTCP Update to DEEP on a 5-year recurring schedule thereafter to demonstrate the Respondent's progress to date and a plan for meeting the approved level of CSO control. The Respondent shall reply to DEEP comments and make appropriate revisions to such LTCP Update as necessary to obtain DEEP approval in a timely fashion. Furthermore,

- a. Each LTCP Update shall be a stand-alone document and shall build upon the previous LTCPs;
  - b. Each LTCP Update shall include a public information process and provide an opportunity for receiving and responding to public comments;
  - c. Each LTCP Update shall demonstrate to the Commissioner's satisfaction the Respondent's plans for meeting the level of CSO control determined in the revised LTCP referenced in Paragraph B.3, in the timeframe dictated by affordability, consistent with EPA guidelines; and
  - d. Each LTCP Update shall include a new 5 year CSO abatement construction schedule, which upon approval by DEEP, shall be incorporated into this Consent Order.
5. On or before December 31, 2037, the Respondent shall have constructed all the improvements necessary to comply with the level of control determined in the revised LTCP referenced in Paragraph B.3.
  6. Both the Commissioner and the Respondent recognize that the rate of new construction contracts will vary each year depending on the availability of Clean Water Funds, funds from others sources, and the long-term borrowing rates of the Respondent. In the event that state or federal grants are not available for such projects, the Respondent may request that DEEP approve an extension of any proposed schedule for capital expenditures.
  7. Progress reports. On or before the last day of March, June, September, and December of each year after issuance of this consent order, and continuing until all actions required by this consent order have been completed as approved and to the Commissioner's satisfaction, Respondent shall submit a progress report to the Commissioner describing the actions which Respondent has taken to date to comply with this consent order.
  8. Full compliance. Respondent shall not be considered in full compliance with this consent order until all actions required by this consent order have been completed as approved and to the Commissioner's satisfaction.
  9. Approvals. Respondent shall use best efforts to submit to the Commissioner all documents required by this consent order in a complete and approvable form. If the Commissioner notifies Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within 30 days of the Commissioner's notice of deficiencies. In approving any document or other action under this consent order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the

Commissioner deems necessary to carry out the purposes of this consent order. Nothing in this paragraph shall excuse noncompliance or delay.

10. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
11. Dates. The date of "issuance" of this consent order is the date the consent order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this consent order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this consent order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this consent order, the word "day" as used in this consent order means calendar day. Any document or action which is required by this consent order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.
12. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this consent order shall be signed by Respondent or, if Respondent is not an individual, by Respondent's chief executive officer or a duly authorized representative of such officer, as those terms are defined in §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and each such individual shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."
13. Noncompliance. This consent order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this consent order may subject Respondent to an injunction and penalties.
14. False statements. Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
15. Notice of transfer; liability of Respondent. Until Respondent has fully complied with this consent order, Respondent shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this consent order or after obtaining a new mailing or

location address. Respondent's obligations under this consent order shall not be affected by the passage of title to any property to any other person or municipality.

16. Commissioner's powers. Nothing in this consent order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this consent order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate violations or pollution.
17. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
18. No assurance by Commissioner. No provision of this consent order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this consent order will result in compliance or prevent or abate pollution.
19. Access to site. Any representative of the Department of Energy and Environmental Protection may enter any CSO facilities without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.
20. No effect on rights of other persons. This consent order neither creates nor affects any rights of persons or municipalities that are not parties to this consent order.
21. Notice to Commissioner of changes. Within 15 days of the date Respondent becomes aware of a change in any information submitted to the Commissioner under this consent order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.
22. Submission of documents. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in this consent order or in writing by the Commissioner, be directed to:

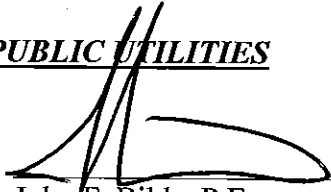
Ivonne Hall, P.E., Sanitary Engineer 3  
Department of Energy and Environmental Protection  
Bureau of Water Protection and Land Reuse  
Water Planning & Management Division  
79 Elm Street  
Hartford, Connecticut 06106-5127

23. With the entry of this Order, the Orders numbered WC 4729 and WC 5445 are hereby revoked.

Respondent consents to the issuance of this consent order without further notice.  
"The undersigned certifies that he/she is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order."


**NORWICH PUBLIC UTILITIES**

BY:

  
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John F. Bilda, P.E.  
General Manager

6-7-17  
Date

Issued as a final order of the Commissioner of Energy and Environmental Protection.

  
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Robert J. Klee  
Commissioner

Date

6/29/2017

CONSENT ORDER NO. WRMU17001  
DEEP/WPC NO. 104-001  
DISCHARGE CODE M  
CITY OF NORWICH