

**ORDER ON CONSENT (NYSDEC CASE NO. CO 3-20080730-65)
QUARTERLY REPORT NO. 1 – JANUARY 1, 2009 to MARCH 31, 2009**

The following is the Quarterly Report No. 1 of the County of Westchester (“the Respondent”) as required under Article VI of the Consent Order, Case No. 3-20080730-65 (“2008 Order on Consent”), which is being presented to the New York State Department of Environmental Conservation (the “NYSDEC”). Quarterly Report No. 1 includes statements as to compliance with the provisions of the 2008 Order on Consent from January 1, 2009 through March 31, 2009.

The 2008 Order on Consent took effect on December 30, 2008 and by its terms “supersedes all terms of December 24, 2004 Order [on Consent]”, Case No. CO 3-20040603-130 (“2004 Order on Consent”). Quarterly Report No. 1 is the first quarterly report submitted under the 2008 Order on Consent.

Executive Summary

Respondent has continued the projects contemplated by the 2008 Order on Consent during the reporting period. These consist of the following:

The Engineering Plan, which outlines Westchester County’s Long Island Sound Wastewater Treatment Plant Improvement Program, was submitted timely to NYSDEC on December 21, 2006. The Engineering Plan was approved by NYSDEC on April 5, 2007.

The approved Engineering Plan indicated Design Report dates as follows: Phase 1, due June 30, 2008; Phase 2, due February 28, 2009; and Phase 3, due December 31, 2009. As described below, these requirements have been modified by the 2008 Order on Consent.

The Phase 1 Design Report – Demolition and Removal of Obsolete Equipment, New Rochelle Wastewater Treatment Plant was submitted timely to NYSDEC on June 30, 2008 and was approved by NYSDEC on July 23, 2008. Respondent executed an Agreement with Mace Contracting Corporation for the project and issued a Notice to Proceed to Mace on December 12, 2008. On December 24, 2008 Respondent notified NYSDEC that it had complied with its obligation under the Order on Consent to commence work by January 1, 2009 under the New Rochelle Demolition Contract. Work under the contract has proceeded during the reporting period and is on schedule for completion by the contract end date of December 31, 2009.

Respondent submitted a request to NYSDEC to modify the 2004 Order on Consent on November 9, 2007 to suspend all milestones and requirements related to nitrogen removal. This request was not granted, but continued discussions resulted in the 2008 Order on Consent. On December 9, 2008, the Westchester County Board of Legislators approved Act 240-2008, an act authorizing the Respondent to enter into the 2008 Order

on Consent and determined that all of the properties in the Respondent's four Long Island Sound Sanitary Sewer Districts (SSD), namely the New Rochelle SSD, the Mamaroneck Valley SSD, the Blind Brook SSD and the Port Chester SSD, would be benefited by the proposed measures to comply with the nitrogen reduction obligations to be undertaken by Respondent pursuant to the 2008 Order on Consent.

On December 9, 2008 the Westchester County Board of Legislators approved Act 238-2008, an act amending the Respondent's Capital Budget, in the amount of two hundred and thirty four million, seven hundred thousand (\$234,700,000) dollars, Act 239-2008, a Bond Act authorizing the issuance of two hundred and thirty four million, seven hundred thousand (\$234,700,000) dollars in bonds, necessary to fund the cost of the construction of improvements to the Mamaroneck WWTP and the New Rochelle WWTP to reduce or control nitrogen discharge into the Long Island Sound for the benefit of each of the Respondent's four Long Island Sound SSDs and that the costs of said improvements shall be allocated among the Respondent's four Long Island Sound SSDs according to the method described in Section 237.211 of the Westchester County Administrative Code. These Acts were approved by the Westchester County Executive on December 11, 2008.

The 2008 Order on Consent was signed by Thomas J. Lauro, P.E., Commissioner of the Westchester County Department of Environmental Facilities, on behalf of Respondent on December 19, 2008, and submitted to NYSDEC, together with the payment required by the 2008 Order on Consent. The 2008 Order on Consent was signed by NYSDEC on December 30, 2008.

The principal changes under the 2008 Order on Consent are:

- Respondent is permitted to do nitrogen removal work at only two of its four wastewater treatment plants that discharge to Long Island Sound – New Rochelle WWTP and Mamaroneck WWTP- to achieve the mandatory nitrogen limit;
- Respondent must develop a Second Engineering Plan to identify actions it will take should the work at its New Rochelle WWTP and Mamaroneck WWTP not achieve the nitrogen limit.
- Respondent's date for compliance with the nitrogen limit is extended by 3 years, to December 31, 2017.

The 2008 Order on Consent contains a Schedule of Compliance with new milestone dates which supersede certain of the previous milestone dates under the 2004 Order on Consent. Pertinent upcoming milestone dates under the 2008 Order on Consent Submittal Schedule are as follows:

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|---|-------------------|
| • Submit Mamaroneck WWTP BNR Design Report | December 31, 2009 |
| • Submit New Rochelle WWTP BNR & SPDES Improvements Design Report | December 31, 2010 |

The complete Schedule of Compliance is shown in Appendix A of the 2008 Order on Consent.

On March 25, 2008, the Westchester County Board of Legislators approved Act 23-2008, an act amending the Respondent's Capital Budget, in the amount of twenty one (\$21,000,000) million dollars and Act 24-2008, a Bond Act authorizing the issuance of twenty eight (\$28,000,000) million dollars, necessary to fund the cost of the design of improvements to increase the capacity of the New Rochelle WWTP to 20 MGD, and upgrades to secondary treatment processes for the removal of suspended solids and carbonaceous biochemical oxygen demand and replacement of the hypochlorite disinfection system with an ultraviolet disinfection system, as provided in the Engineering Plan.

On April 22, 2008 Respondent executed a First Amendment of its contract with Engineers Consortium, LLC (dated, April 22, 2005) to expand the scope of services to include design, construction and administration services associated with the Composite Performance, Implementation and Plant Expansion, New Rochelle Wastewater Treatment Plant, extend the completion date to December 31, 2014 and to increase the total not-to-exceed amount payable to Engineers Consortium, LLC.

The New Rochelle WWTP improvements design work is now being conducted in two different projects, the SPDES Improvements project and the BNR project. The SPDES improvement project, now formally called the New Rochelle WWTP Composite Performance Implementation and Plant Expansion, consists of secondary treatment upgrades (CBOD and TSS); compliance with a new effluent total residual chlorine (TRC) limit; upgrade of the solids handling, storage and dewatering system; and upgrades required to treat a new SPDES Permit flow limit of 20 mgd. Although the SPDES Improvements project Design Report has the same due date (December 31, 2010) as the BNR Project under the 2008 Order on Consent, the Design Report due date for receipt by Respondent has been revised to October 30, 2009.

The 30% Schematic Design document was submitted to NYSDEC on March 24, 2009. The 60% design documents are scheduled for submission to Respondent at the end of April, 2009.

In addition, the Engineering Plan includes a Flow Reduction Strategy as follows:

- April 1, 2008 Respondent will acquire municipal access rights;
- October 1, 2008 Respondent will begin the flow monitoring period; and
- October 1, 2012 Respondent will develop a "Flow Reduction Strategy Plan".

Respondent has previously reported timely acquisition by April 1, 2008 of permits from all the eleven municipalities for which such permits are needed to conduct the Sewage Flow Metering Program in municipal collection systems in satisfaction of the Engineering Plan schedule for the Flow Reduction Strategy. On August 11, 2008 the Westchester County Board of Legislators approved Act 150-2008, a Bond Act authorizing the issuance of five million seven hundred thousand (\$5,700,000) dollars

necessary to fund the cost of implementation of the Flow Reduction Monitoring Program in the Blind Brook, Port Chester, Mamaroneck, and New Rochelle Sewer Districts.

On September 4, 2008 Respondent executed a Second Amendment of its contract with Engineers Consortium, LLC (dated April 22, 2005) to expand the scope of services to include the flow monitoring services associated with the “Sound Shore Flow Monitoring Program in the Blind Brook, Port Chester, Mamaroneck and New Rochelle Sewer Districts” and to increase the total not-to-exceed amount payable to Engineers Consortium, LLC.

On October 1, 2008 Respondent reported to NYSDEC timely commencement of the flow monitoring period and reported the implementation actions taken.

On November 10, 2008, in accordance with the requirements of the then pending 2008 Order on Consent, the Respondent submitted an approvable EBP plan to NYSDEC. Thereafter, the list of potential projects was revised by Respondent, in cooperation with NYSDEC staff, to ensure that the proposed EBP projects were located within one of the four Long Island Sound sewer districts. On January 23, 2009 Respondent submitted the revised list of EBP potential projects to NYSDEC for approval. (A copy of this submission is attached.) On March 3, 2009 NYSDEC approved the revised list of EBP projects. (A copy of the NYSDEC approval letter is attached.) The status of the approved environmental benefit projects is as follows:

- Manursing Lake Tidal Wetland and Coastal Buffer Restoration and Re-Establishment Project, Edith G. Read Natural Park and Wildlife Sanctuary. On March 10, 2009 an executed contract was delivered to Woodard & Curran to plan and design the tide gate and habitat restoration components of the project together with sub consultant Creative Habitat Corp. and surveyor Ward Carpenter.
- Mamaroneck River Riparian Buffer Restoration Project, Saxon Woods Park. No action had been taken on this project during the reporting period.

On February 25, 2009, in accordance with Paragraph III (B) (5) of the 2008 Order on Consent, Respondent timely submitted a Scope of Work for a non-point nitrogen source study: *Long Island Sound Watershed Water Quality and Quantity Modeling Study for Subwatersheds located within Westchester County New York*. (A copy of this submission is attached.) On March 24, 2009 NYSDEC acknowledged receipt of the submitted Scope of Work and requested clarification of certain aspects of the submission. (A copy of this NYSDEC letter is attached.) On February 25, 2009 HydroQual Environmental Engineers and Scientists, PC (HydroQual) was selected by Respondent to develop the modeling tool together with sub consultants Biohabitats Inc., Dewberrt-Goodkind Inc., Greater Hudson Valley Engineering & Land Surveying, P.C. and HDR Inc. Respondent issued a proposed contract to HydroQual in March 2009. Execution of this contract is pending.

Respondent under took no initiatives during the reporting period in addition to those previously reported to evaluate other technologies that might aid it in achieving the goals of the Order on Consent.

Article VI.

1. Contractors and/or Consultants are as previously reported.

On April 22, 2008 Respondent executed a First Amendment of its contract with Engineers Consortium, LLC (dated April 22, 2005) to expand the scope of services to include design and construction and administration services associated with the Composite Performance and Implementation and Plant Expansion, New Rochelle Wastewater Treatment Plant, extend the completion date to December 31, 2014 and to increase the total not-to-exceed amount payable to Engineers Consortium, LLC.

On September 4, 2008 Respondent executed a Second Amendment of its contract with Engineers Consortium, LLC (dated April 22, 2005) to expand the scope of services to include the flow monitoring services associated with the “Sound Shore Flow Monitoring Program in the Blind Brook, Port Chester, Mamaroneck and New Rochelle Sewer Districts” and to increase the total not-to-exceed amount payable to Engineers Consortium, LLC.

On December 13, 2008 the Westchester County Board of Acquisition and Contract approved a Third Amendment to Respondent’s contract with Engineers Consortium, LLC to expand the scope of services to include the design and construction supervision for the improvements to the Mamaroneck WWTP and the New Rochelle WWTP to reduce or control nitrogen discharge into the Long Island Sound as required by the 2008 Order on Consent and to increase the total not-to-exceed amount payable to Engineers Consortium, LLC. Respondent executed the authorized amendment to its contract with Engineers Consortium, LLC on January 13, 2009.

Respondent executed an agreement with Mace Contracting Corporation on December 4, 2008 for the Phase 1 Design Report – Demolition and Removal of Obsolete Equipment, New Rochelle Wastewater Treatment Plant project and issued a Notice to Proceed to Mace on December 12, 2008.

On January 29, 2009 the Westchester County Board of Acquisition and Contract approved the contract between Respondent and Woodward & Curran, Inc. 709 Westchester Avenue, White Plains, New York, to plan and design the tide gate and habitat restoration components of the project. On February 12, 2009 Respondent entered into a contract with Woodward & Curran, Inc. to plan and design the tide gate and habitat restoration components of the project, together with sub consultant Creative Habitat Corp., hydrologist and engineer Dr. Franco Montalto, and surveyor Ward Carpenter.

On February 25, 2009 the Westchester County Board of Acquisition and Contract approved the contract between Respondent and HydroQual Environmental Engineers and Scientists, PC, 1200 McArthur Boulevard, Mahwah, New Jersey, 07430, together with

sub consultants Biohabitats Inc., Dewberrt-Goodkind Inc., Greater Hudson Valley Engineering & Land Surveying, P.C. and HDR Inc. to develop the modeling tool and otherwise perform the work set forth in *Long Island Sound Watershed Water Quality and Quantity Modeling Study for Subwatersheds located within Westchester County New York*. Respondent issued a proposed contract to HydroQual in March 2009. Execution of this contract is pending.

No additional contracts were executed during the reporting period.

2. Project Description

Engineering Plan

The Engineering Plan, which outlines Westchester County's Long Island Sound Wastewater Treatment Plan Improvement Program, was approved by NYSDEC on April 5, 2007. The Engineering Plan was based upon the previously reported pilot system testing of two technologies at Mamaroneck WWTP, the pilot system testing of two technologies and plant evaluation study for the New Rochelle WWTP, the evaluation study for the Blind Brook WWTP and the evaluation study for the Port Chester WWTP. Westchester County has now completed the following:

- (1) Mamaroneck WWTP Pilot Facilities
- (2) New Rochelle WWTP Pilot Facilities
- (3) New Rochelle WWTP Flow Reduction Study
- (4) New Rochelle WWTP Evaluation Study
- (5) Blind Brook WWTP Evaluation Study
- (6) Port Chester WWTP Evaluation Study
- (7) Mamaroneck WWTP Evaluation Study

The NYSDEC letter (April 5, 2007) approving the Engineering Plan provides for the following Design Report due dates:

Phase 1 Design Report is due June 30, 2008;

Phase 2 Design Report is due February 28, 2009; and

Phase 3 Design Report is due December 31, 2009.

These requirements have been modified by the 2008 Order on Consent so that the Phase 2 Design Report is now due December 31, 2009 and is limited to the BNR work for the

Mamaroneck WWTP described in the Engineering Plan, and the Phase 3 Design Report is now due December 31, 2010 and covers the New Rochelle WWTP BNR work as well as the other SPDES Improvements, now formally called the New Rochelle WWTP Composite Performance Implementation and Plant Expansion, and consists of secondary treatment upgrades (CBOD and TSS); compliance with a new effluent total residual chlorine (TRC) limit; upgrade of the solids handling, storage and dewatering system; and upgrades required to treat a new SPDES Permit flow limit of 20 mgd. Although the SPDES Improvements project Design Report has the same due date (December 31, 2010) as the BNR Project under the 2008 Order on Consent, the Design Report due date has been revised so that it will be received by Respondent from its consultants by October 30, 2009.

As previously reported, on March 25, 2008, the Westchester County Board of Legislators approved Act 23-2008, an act amending the Respondent's Capital Budget, in the amount of twenty one (\$21,000,000) million dollars and Act 24-2008, a Bond Act authorizing the issuance of twenty eight (\$28,000,000) million dollars, necessary to fund the cost of the design of improvements to increase the capacity of the New Rochelle WWTP to 20 MGD, and upgrades to secondary treatment processes for the removal of suspended solids and carbonaceous biochemical oxygen demand and replacement of the hypochlorite disinfection system with an ultraviolet disinfection system, as provided in the Engineering Plan.

Phase 1 Design Report

The Phase 1 Design Report – Demolition and Removal of Obsolete Equipment, New Rochelle Wastewater Treatment Plant was submitted to NYSDEC on June 30, 2008 in accordance with the schedule approved by NYSDEC on April 5, 2007. The Phase 1 Design Report was approved by NYSDEC on July 23, 2008. On September 19, 2008 Respondent advertised for bids on the work described in the approved Phase 1 Design Report.

On October 15, 2008 bids were opened. Respondent executed an agreement with Mace Contracting Corporation for the project on December 4, 2008 and issued a Notice to Proceed to Mace on December 12, 2008. On December 24, 2008 Westchester County informed NYSDEC that it had complied with its obligation under the Order-on-Consent to commence construction of the New Rochelle Demolition Contract by January 1, 2009. Work has been ongoing in the first quarter of 2009 and is on schedule for completion by the contract end date of December 31, 2009.

Design Report – New Rochelle Composite Performance and Implementation and Plant Expansion

The project consists of secondary treatment upgrades (CBOD and TSS); compliance with a new effluent total residual chlorine (TRC) limit; upgrade of the

solids handling, storage and dewatering system; and upgrades required to treat a new SPDES Permit flow limit of 20 mgd.

A kick-off meeting for this work was held on May 19, 2008. The schematic design (representing 30% design completion) together with a Basis of Design Report for the project was received by Respondent on October 31, 2008. On November 26, 2008 a meeting was held with Westchester County to review the report. A copy of the 30% Schematic Design document was submitted to NYSDEC on March 24, 2009.

Design Report – New Rochelle WWTP BNR

Design work on the New Rochelle BNR began in the first quarter of 2009. The design Kick off Meeting was held on March 2, 2009 with Respondent and Respondent’s engineering consultant, Engineers Consortium, LLC. Work has begun on the pre-purchase documents for the BNR equipment, including a “boiler plate” section which will be utilized for both New Rochelle and Mamaroneck pre-purchases.

Design Report – Mamaroneck WWTP BNR

Design work on the Mamaroneck WWTP BNR project began in the first quarter of 2009. A design Kick off Meeting was held on March 2, 2009 with Respondent and Respondent’s engineering consultant, Engineers Consortium, LLC. A Basis of Design Report representing 20% design completion was submitted to NYSDEC on March 24, 2009. A detailed design schedule has been completed and work has begun on the pre-purchase procurement documents for the BNR equipment. The Design Report is scheduled for submission on October 30, 2009, two months ahead of the required date required by the 2008 Order on Consent.

Flow Reduction Strategy

In addition, the Engineering Plan includes a Flow Reduction Strategy with an implementation schedule as follows:

- April 1, 2008 Respondent will acquire municipal access rights;
- October 1, 2008 Respondent will begin the flow monitoring period; and
- October 1, 2012 Respondent will develop a “Flow Reduction Strategy Plan”.

Respondent previously reported timely receipt of permits from all of the eleven (11) municipalities from which permits are needed to conduct the Sewage Flow Metering Program in municipal collection systems: City of New Rochelle, City of Rye, City of White Plains, Town/Village of Harrison, Town of Mamaroneck, Village of Scarsdale, Village of Mamaroneck, Village of Rye Brook, Village of Port Chester, Village of

Larchmont, and Village of Pelham Manor. (No permit is required from North Castle to implement the program.)

On August 11, 2008, the Westchester County Board of Legislators approved Act 150-2008, a Bond Act authorizing the issuance of five million seven hundred thousand (\$5,700,000) dollars necessary to fund the cost of implementation of the Flow Reduction Monitoring Program in the Blind Brook, Port Chester, Mamaroneck, and New Rochelle Sewer Districts.

On September 4, 2008 Respondent executed a Second Amendment of its contract with Engineers Consortium, LLC (dated April 22, 2005) to expand the scope of services to include the flow monitoring services associated with the “Sound Shore Flow Monitoring Program in the Blind Brook, Port Chester, Mamaroneck and New Rochelle Sewer Districts” and to increase the total not-to-exceed amount payable to Engineers Consortium, LLC.

On October 1, 2008 Respondent reported to NYSDEC timely commencement of the flow monitoring period. During the reporting period the following implementation actions were taken:

- Flow Monitors – All 82 monitors are now installed and taking depth and velocity measurements.
- Telemetry System – All 82 modems for the flow monitors have been installed and the 12 modems for the rain gages have been installed.
- Rain Gages – All 12 rain gages are now installed and operating.
- Population Analysis – The field data collection consists of determining the number and type of housing facilities and other occupied establishments in each tributary area in the sewer district. Field data collection for the Blind Brook Sewer District is complete and the data has been entered into a spreadsheet. Data collection in the New Rochelle District began in February is continuing. Approximately 25% of the New Rochelle District is complete.

Non-Point Source Study

On February 25, 2009, in accordance with Paragraph III (B) (5) of the 2008 Order on Consent, Respondent timely submitted a Scope of Work for a non-point nitrogen source study: *Long Island Sound Watershed Water Quality and Quantity Modeling Study for Subwatersheds located within Westchester County New York*. (A copy of this submission is attached.) On March 24, 2009 NYSDEC acknowledged receipt of the submitted Scope of Work and requested clarification of certain aspects of the submission. (A copy of this NYSDEC letter is attached.) On February 25, 2009 HydroQual Environmental Engineers and Scientists, PC (HydroQual) was selected by Respondent to develop the modeling tool together with sub consultants Biohabitats Inc., Dewberrt-Goodkind Inc., Greater Hudson Valley Engineering & Land Surveying, P.C. and HDR Inc. Respondent issued a proposed contract to HydroQual in March 2009. Execution of this contract is pending.

Environmental Benefit Projects under the 2008 Order on Consent

The 2008 Order on Consent, Paragraph VII, Subparagraph B. requires Respondent to expend an amount not less than Seven Hundred and Eighty Thousand (\$780,000) Dollars to perform Environmental Benefit Projects (EBPs) “described in and subject to the terms and conditions set forth in Paragraph VII subparagraph B and Appendix C hereto”. Those provisions set forth the procedure whereby Respondent shall propose and NYSDEC shall approve EBPs that meet the requirements. Respondent is required to spend at least one half of the required amount in the period 2009 to 2011 and one half in the period 2012 to 2014, unless a different allocation is approved by NYSDEC.

On November 10, 2008, in accordance with these requirements of the then pending 2008 Order on Consent, the Respondent submitted an approvable EBP plan to NYSDEC. Thereafter, the list of potential projects was revised by Respondent, in cooperation with NYSDEC staff, to ensure that the proposed EBP projects were located within one of the four Long Island Sound sewer districts. On January 23, 2009 Respondent submitted the revised list of EBP potential projects to NYSDEC for approval. (A copy of this submission is attached.) On March 3, 2009 NYSDEC approved the revised list of EBP projects. (A copy of the NYSDEC approval letter is attached.) The status of the approved environmental benefit projects is as follows:

- Manursing Lake Tidal Wetland and Coastal Buffer Restoration and Re-Establishment Project, Edith G. Read Natural Park and Wildlife Sanctuary. On March 10, 2009 an executed contract was delivered to Woodard & Curran to plan and design the tide gate and habitat restoration components of the project together with sub consultant Creative Habitat Corp., hydrologist and engineer Dr. Franco Montalto, and surveyor Ward Carpenter. Respondent and its consultants on this project Woodward & Curran have met to discuss the project scope.
- Mamaroneck River Riparian Buffer Restoration Project, Saxon Woods Park. No action had been taken on this project during the reporting period.

Anticipated Work in the Next Quarter

On December 9, 2008, the Westchester County Board of Legislators approved Act 240-2008, an act authorizing the Respondent to enter into the 2008 Order on Consent and determined that all of the properties in the Respondent’s four Long Island Sound Sanitary Sewer Districts (SSD), namely the New Rochelle SSD, the Mamaroneck Valley SSD, the Blind Brook SSD and the Port Chest SSD, would be benefited by the proposed measures to comply with the nitrogen reduction obligations to be undertaken by Respondent pursuant to the 2008 Order on Consent.

On December 9, 2008 the Westchester County Board of Legislators approved Act 238-2008, an act amending the Respondent’s Capital Budget, in the amount of two hundred

and thirty four million, seven hundred thousand (\$234,700,000) dollars, Act 239-2008, a Bond Act authorizing the issuance of two hundred and thirty four million, seven hundred thousand (\$234,700,000) dollars in bonds, necessary to fund the cost of the construction of improvements to the Mamaroneck WWTP and the New Rochelle WWTP to reduce or control nitrogen discharge into the Long Island Sound for the benefit of each of the Respondent's four Long Island Sound SSDs in accordance with the 2008 Order on Consent and that the costs of said improvements shall be allocated among the Respondent's four Long Island Sound SSDs according to the method described in Section 237.211 of the Westchester County Administrative Code. These Acts were approved by the Westchester County Executive on December 11, 2008.

The 2008 Order on Consent was signed by Thomas J. Lauro, P.E., Commissioner of the Westchester County Department of Environmental Facilities on behalf of Respondent, on December 19, 2008 and submitted to NYSDEC, together with the payment required by the 2008 Order on Consent. The 2008 Order on Consent was signed by NYSDEC on December 30, 2008.

It is anticipated that Respondent will perform the program described in 2008 Order on Consent in accordance with its implementation schedule.

3. Continuing and Anticipated Delays

Respondent has not experienced any continuing delays during the reporting period. Respondent anticipates that it may not be able to meet one target date in the EBP Plan approved by NYSDEC on March 3, 2009. The schedule for the Manursing Lake Tidal Gate and Coastal Buffer Restoration and Re-Establishment Project is that the Tide Gate *Planning and Design* will be done from January to June 2009 and Tide Gate *Construction* from September to October 2009. Due to a delay identification of the EDPs as reported and thus in the commencement of design (the design contract was not executed until March 10, 2009), it is anticipated that design may not be completed until August 2009 and construction completed by January 2010. The habitat restoration portion of the project will not be affected.

4. Project Management

On January 7, 2009, Thomas J. Lauro, P.E., Commissioner of the Westchester County Department of Environmental Conservation, designated Robert Funicello, Environmental Project Director in that department, Program Manager for the Respondent under the 2008 Order on Consent, in accordance with Paragraph VI, subparagraph C.1. Of the 2008 Order on Consent. (A copy of the designation is attached.)