



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

FEB 28 2006

Dear Interested Party:

The U.S. Environmental Protection Agency (EPA), in cooperation with the New York State Department of Health, has completed a modification of the Filtration Avoidance Determination (FAD) which provides an extension to the Ultraviolet (UV) Light Disinfection Facility schedule and some new commitments for the Community Wastewater Management Program (CWMP). A copy of the FAD modification is enclosed for your information and use.

Public notice and opportunity to comment were provided for this action. Two comment letters were provided. EPA has prepared a Response to Comments document which is enclosed. The UV schedule and the CWMP commitments which were proposed in the draft FAD modification are unchanged in the final FAD modification.

The draft FAD modification included a short description of the status of the UV project, explained that the site preparation contract was proceeding, and noted that final project design was expected. While the final project design was provided as expected, construction under the site preparation contract did not begin in the fall of 2005 as planned. Subsequent to the draft modification, and following the close of the comment period, the New York City Department of Environmental Protection wrote to EPA regarding delay in issuance of the U.S. Army Corps of Engineers Section 404 permit and the potential adverse impact on the UV schedule which could result from this delay. Although the Section 404 permit was issued on December 23, 2005, delay in permit issuance prevented the City from issuing a Notice to Proceed to the site preparation contractor, and the contractor withdrew its bid. The City is now evaluating options and is seeking to minimize any possible project delays that could result from these events. EPA will closely monitor the City's progress. If any adjustments to the schedule prove necessary, they will be addressed in the 2007 FAD.

If you have any questions, please contact the EPA NYC Watershed Team by calling (212) 637-3554 or (212) 637-4012.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip Sweeney".

Philip Sweeney
Director, NYC Watershed Oversight Program

Enclosures

Modification of the 2002 Filtration Avoidance Determination Response to Comments

Public notice of a draft modification of the FAD was provided in newspapers of general circulation in late October, 2005. In addition, EPA mailed the draft modification to various interested parties. Comments were due to EPA no later than November 30, 2005. Two comment letters were provided during the public comment period.

The Town of Ashland provided a short comment letter dated November 28, 2005. The Town indicated its interest in receiving further information regarding the sixth project in the Community Wastewater Management Program. In response, EPA recommends that the Town contact the Catskill Watershed Corporation, which is administering this program. In addition, EPA is available to assist the Town as needed.

The Delaware County Department of Watershed Affairs provided a comment letter dated November 25, 2005. While expressing general support for the FAD modification, the Department of Watershed Affairs recommended some additional language for the FAD that would highlight the availability of a guidance manual recently developed to assist municipal officials with development of wastewater management projects. EPA is familiar with this guidance manual and wholeheartedly supports its use. However, EPA has chosen not to include specific reference to the manual in the FAD modification. In general, the FAD includes summary information and does not include references to guidance documents.

**Final Modification of the
New York City
Filtration Avoidance
Determination**

USEPA –February 2006

Surface Water Treatment Rule Determination for
New York City's Catskill/Delaware Water Supply System

Final Modification of the 2002 Filtration Avoidance Determination

General

This determination is effective upon signature by the U.S. Environmental Protection Agency (EPA) and the New York State Department of Health (NYSDOH).

In cooperation with the NYSDOH, EPA has developed a final modification of the 2002 Filtration Avoidance Determination (FAD). This modification provides an extension to the construction schedule for the City's Ultraviolet (UV) Light Disinfection Facilities and provides for additional investments in wastewater programs to mitigate the delay.

UV Project

Subsequent to the issuance of the 2002 FAD, NYCDEP revised the UV Disinfection Facility project, including selection of a new plant location (Eastview). In addition, NYCDEP chose to conduct full scale testing of prototype UV treatment units to validate treatment effectiveness. NYSDOH, which has the responsibility for the review and approval of the final design for this facility, is expected to issue its approval in February 2006.

As a result of the relocation and validation testing, the project schedule has been revised. The commence operation date of 8/31/09 included in the 2002 FAD is being changed to reflect a phased start-up schedule beginning on 8/31/10 with full operation on 11/30/10.

Community Wastewater Management Program

As mitigation for the UV Plant schedule extension, the City of New York has agreed to provide additional funding for the Community Wastewater Management Program. Specifically, the City is providing \$6.0 million of supplemental funding that is being targeted at specific projects, as more fully described below.

Public Comment Period

Public notice of a draft modification of the FAD was provided in newspapers of general circulation in October, 2005. In addition, EPA mailed the draft modification to various interested parties. Two comment letters were provided during the public comment period. EPA has prepared a Response to Comments document.

NYSDOH Consultation Certification

NYSDOH, which has extensive responsibilities for the design approval of the UV facility, has been involved in the preparation of this modification and supports this action.

2/1/06
Date

Ronald Tramontano
Ronald Tramontano
Director
Center for Environmental Health
New York State Department of Health

EPA Issuance of Modification

This modification supplements two sections of the 2002 FAD: Section 3.3, Community Wastewater Management Program, and Section 7, Catskill/Delaware Filtration/UV Disinfection Facilities. All other provisions of the 2002 FAD are unchanged. Consistent with the certification issued by EPA in the 2002 FAD, the filtration waiver is conditional upon NYCDEP complying, in a manner acceptable to EPA and NYSDOH, with all provisions of the FAD.

2/27/06
Date

Alan J. Steinberg
Alan Steinberg
Regional Administrator, Region 2
United States Environmental Protection Agency

Final Modification of the 2002 FAD
Section 3.3, Community Wastewater Management Program

The Community Wastewater Management Program (CWMP) described in the 2002 FAD is proceeding. Program rules were adopted, and five projects are under construction or development (Bloomville, Boiceville, Hamden, Delancey, Bovina). The Program is administered by the Catskill Watershed Corporation (CWC).

In order to mitigate the extension of the UV Disinfection Facility schedule, NYCDEP is making additional investments in the FAD CWMP Program.

This FAD modification focuses on the Boiceville project and an additional project from the list of communities included in paragraph 122(c) of the New York City Watershed Memorandum of Agreement (MOA) (sixth project funded under the CWMP section of the 2002 FAD). NYCDEP is providing additional funding¹ to enable the implementation of an enhanced Boiceville project and an additional community wastewater project. For Boiceville, NYCDEP, in consultation with CWC and the community, shall determine the appropriate wastewater solution by January 31, 2006. The schedule provided below for Boiceville is based on a tentative determination that a community wastewater project with a subsurface discharge is not feasible and that a wastewater treatment plant (WWTP) with a surface water discharge is needed. NYCDEP will work with communities to ensure milestones are met, in accordance with the schedules below:

Boiceville

- | | |
|--|----------|
| • If appropriate wastewater solution is deemed a WWTP surface water discharge plant, alone or in combination with any other solution, NYCDEP and the community make a commitment to proceed with the project | 2/28/06 |
| • If commitment is not obtained, funds earmarked for Boiceville WWTP will be re-directed for additional CWMP project(s) for communities included in paragraph 122(c) of the Watershed MOA, pursuant to the schedule set forth below under the heading "Potential Additional Projects Using Funds Redirected from Boiceville" | 3/31/06 |
| • 65% Design Report Complete | 11/30/06 |
| • Final Design Complete | 12/31/07 |
| • Construction Bids Complete | 6/30/08 |
| • Engineer's Certification of Functional Completion | 6/30/10 |

¹ \$6.0 million supplemental funding

Sixth Project

- Solicit Community Interest 2/28/06
- CWC enters into Participating Community Agreement 2/28/07
- Study Phase Complete 2/28/08
- CWC completes pre-construction (or design) phase (final engineering plan w/NYCDEP approval, adoption of sewer use law, & final O & M plan) 8/31/08
- NYCDEP enters into O & M Agreement 8/31/08
- Construction Complete 8/31/09

Potential Additional Project(s) Using Funds Redirected From Boiceville

If commitment is not obtained from NYCDEP and Boiceville to construct a WWTP, funds earmarked for that project will be re-directed for additional CWMP project(s) for communities included in paragraph 122(c) of the Watershed MOA, pursuant to the following schedule:

- Solicit Community Interest 6/30/06
- CWC enters into Participating Community Agreement 6/30/07
- Study Phase Complete 6/30/08
- CWC completes pre-construction (or design) phase (final engineering plan w/NYCDEP approval, adoption of sewer use law, & final O & M plan) 12/31/08
- NYCDEP enters into O & M Agreement 12/31/08
- Construction Complete 12/31/09

In the event that technical studies demonstrate that the Boiceville project can be completed as a community wastewater project with a subsurface discharge, or as a clustered septic project, then the original provisions of the 2002 FAD will apply to the project (or such other schedule that EPA may approve) and the schedule provided herein for Boiceville is not applicable.

Final Modification of the 2002 FAD
Section 7, Catskill/Delaware Filtration/UV Disinfection Facilities

Subsequent to the issuance of the 2002 FAD, NYCDEP revised the UV Disinfection Facility project, including selection of a new plant location (Eastview). In addition, NYCDEP chose to conduct full scale testing of prototype UV treatment units to validate treatment effectiveness. As a result, the project schedule has been revised.

The two EIS milestones included in the 2002 FAD have been completed. The final two project milestones in the 2002 FAD – final design, and commence UV operation – are being revised by this FAD modification. In addition, interim milestones are being established.

The revised schedule is provided below. Meeting these milestones continues to be a condition of relief from the filtration plant design requirements for the Cat/Del water supply.

- | | |
|---|----------|
| • Complete and Submit Final Design | 11/30/05 |
| • Advertise UV Structures Contract | 3/31/06 |
| • Issue Notice to Proceed for UV Structures Contract | 11/30/06 |
| • Complete Excavation for UV Building | 1/31/08 |
| • Complete UV base slab | 7/31/08 |
| • Enclose UV Building | 7/31/09 |
| • Commence operation of 1st quadrant of UV disinfection capability | 8/31/10 |
| • Commence operation of 2nd quadrant of UV disinfection capability | 9/30/10 |
| • Commence operation of full UV facility and treat all Cat/Del supply | 11/30/10 |

In order to mitigate the extension of the UV Disinfection Facility schedule, NYCDEP is making additional investments in the FAD wastewater program. Reference is made to the FAD modification of Section 3.3, Community Wastewater Management Program.