

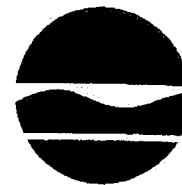
**New York State Department of Environmental Conservation**

**Office of General Counsel, Region 5**

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Alexander B. Grannis  
Commissioner

April 15, 2009

Ernest W. Martin  
Mayor, Village of Stillwater  
1 School Street  
P.O. Box 507  
Stillwater, New York 12170

James R. Peluso, Esq.  
Dreyer Boyajian, LLP  
75 Colombia Street  
Albany, New York 12203

**Re: Village of Stillwater  
Case No. R5-20030722-362**

Dear Mayor Martin and Mr. Peluso;

This letter is in response to your letter dated April 10, 2009. In your three page letter, you provided a response to the Department's letters dated April 1, 2009 and April 9, 2009.

In your letter, you make reference to the Order's force majeure clause protecting the Village against any liability for the collection of suspended penalties or stipulated penalties. It is the Department's position that the force majeure clause set forth in paragraph XIV of the Order on Consent is not applicable with respect to the Village's obligation to terminate its illegal point source or address its inflow and infiltration issues in its wastewater collection system.

Furthermore, in your letter at page 2 (last paragraph), you maintain the Village has complied with Schedule "B," Item No.1 subparagraphs 2 and 3. It is the Department's position that the Village did not comply with all of the requirements set forth in Item No. 1 by the June 30, 2008-deadline date. This requirement required the submission of a final engineering report by the June 30, 2008. While the Village did make some submissions, they are incomplete or untimely. As a result, the Village is in violation of Schedule "A" of the Order. The Department sent the Village a letter on the incompleteness of this submission on November 6, 2008. A copy of this letter is enclosed.

In addition, in your letter at page 3 (first paragraph), you indicate that the Village complied with Schedule "B," item #2. It is the Department position that the Village has not complied with this requirement. First, the Village has not provided a commitment letter from Saratoga County Sewer District No. 1. In fact, the letter attached to your March 30, 2009 letter constitutes "preliminary comments" by Saratoga County Sewer District No. 1 rather than any commitment. Second, the engineering report submitted by the Village was not approvable thus Schedule "B," Item 2 subparagraph 2 has not been complied with.

Ernest W. Martin  
James R. Peluso, Esq.  
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In your letter, you address a number of other issues which the Department will not address in this letter. Please note that the Department failure to address the issue in this letter does not imply that the Department agrees with the Village's assertions.

Finally, in your letter on page 1 (first paragraph), the Village requests a meeting with the State to discuss the Notices of Noncompliance. The State proposes that a meeting be held on **Thursday, April 30, 2009 at 11:00 a.m. in the Department's Central Office.**

Sincerely,



Christopher A. Lacombe  
Regional Attorney-Region 5

CAL/slq  
attachment

ec: Scott Crisafulli  
William Wasilauski  
Al Matrose  
Randy Galusha  
Rob Streeter  
Joseph Kowalczyk, AAG

