

**MINUTES OF THE REGULAR MEETING
OF THE
BUFFALO SEWER AUTHORITY
December 5, 2007**

52182.....52203

BUFFALO SEWER AUTHORITY

December 5, 2007

REGULAR MEETING **9:00 A.M.**
TREATMENT PLANT – ADMINISTRATION BUILDING - 90 WEST FERRY

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CALL OF THE ROLL

Present:	<u>Herbert Bellamy</u>	<u>Chairman</u>
	<u>Christopher Roosevelt</u>	<u>Assistant Vice Chairman</u>
	<u>Eleanor Wilson-DiVincenzo</u>	<u>Secretary</u>
	<u>John Kennedy, Jr.</u>	<u>Assistant Secretary</u>
	<u>David Comerford</u>	<u>General Manager</u>
	<u>Oluwole McFoy</u>	<u>Secretary to the General Manager</u>
	<u>Ronald Brown</u>	<u>Executive Secretary</u>
	<u>Burt Mirti</u>	<u>Intergovernmental Coordinator</u>
	<u>Frank DiMascio, P.E.</u>	<u>Principal Engineer</u>
	<u>James Eagan, P.E.</u>	<u>Senior Sanitary Engineering Supervisor</u>
	<u>James Keller</u>	<u>Treatment Plant Superintendent</u>
	<u>Angel River</u>	<u>Superintendent of Mechanical Maintenance</u>
	<u>Edward Hennessy</u>	<u>Director of Sewer Maintenance</u>
	<u>_____</u>	<u>_____</u>
Absent:	<u>John Kennedy, Sr.</u>	<u>Vice Chairman</u>
	<u>_____</u>	<u>_____</u>

The meeting was called to order at 9:16 A.M. A quorum was present.

ITEM NO. 1

Motion to Adopt the Minutes of the Meeting of November 7, 2007

MOTION TO ADOPT

MADE BY MR. ROOSEVELT

2ND BY MS. WILSON-DIVINCENZO

AYES 4 NOES 0

ITEM NO. 2

INFORMATIVE: TEMPORARY INVESTMENTS (CERTIFICATES OF DEPOSIT AND TREASURY BILLS)

November 26, 2007

ISSUE DATE	MATURITY DATE	TOTAL DAYS	AMOUNT	BANK	RATE	INTEREST AMOUNT
CAPITAL IMPROVEMENT FUND						
15-Apr-02	Money Market		\$500,000.00	Chase	4.25%	High Yield
CONSTRUCTION FUND						
08-Apr-02	Money Market		\$1,333,093.44	Chase	4.25%	High Yield
15-Oct-07	14-Dec-07	60	\$13,400,000.00	Chase	4.80%	\$107,200.00
05-Nov-07	04-Jan-08	60	\$15,000,000.00	Citizens	4.58%	\$114,500.00
			<u>\$29,733,093.44</u>			
LIABILITY AND CASUALTY RESERVE FUND						
22-Apr-02	Money Market		\$136,966.29	Chase	4.25%	High Yield
30-Oct-07	29-Nov-07	30	\$941,539.04	M&T	4.64%	\$3,640.61
			<u>\$1,078,506.13</u>			
OPERATING FUND						
08-Apr-02	Money Market		\$2,924,787.40	Chase	4.25%	High Yield
TRUST & AGENCY FUND						
06-May-02	Money Market		\$30,961.66	Chase	4.25%	High Yield
SURPLUS FUND						
			\$1.13	MTB		
27-Sep-07	31-Dec-07	95	\$5,308,732.02	HSBC	4.75%	\$66,543.48
			<u>\$5,308,733.15</u>			
NET REVENUE FUND						
			\$488.23	MTB		
25-Sep-07	31-Dec-07	97	\$7,800,259.35	M&T	4.90%	\$102,985.09
25-Oct-07	25-Jan-08	92	\$2,700,000.00	Chase	4.69%	\$32,361.00
26-Nov-07	25-Jan-08	60	\$5,699,484.00	M&T	4.65%	\$44,516.00
			<u>\$16,200,231.58</u>			

ISSUE DATE	MATURITY DATE	TOTAL DAYS	AMOUNT	BANK	RATE	INTEREST AMOUNT
DEBT RESERVE FUND						
15-May-07	15-May-08	366	\$1,255,988.58	Series F FNMA	5.00%	
23-Sep-03	15-Aug-08	1788	\$7,350,000.00	Series I M&T Securities	3.25%	
13-Mar-03	15-Apr-32		\$2,825,593.00	Series H SLG	4.35%	
04-Mar-04	15-Nov-33		\$774,061.00	Series J SLG	3.82%	
22-Jul-04	15-Feb-33		\$498,654.00	Series K SLG	4.63%	
27-Jul-06	01-Oct-35		\$952,666.00	Series L SLG	4.52%	
CONSTRUCTION FUND SERIES H						
			\$7,026.62	MTB Funds		
CONSTRUCTION FUND SERIES K						
15-Nov-07	29-Nov-07	14	\$58,751.74	HSBC	4.25%	\$97.10

RECEIVE & FILE

Board Meeting of December 5, 2007

ITEM NO. 3

AUTHORIZATION TO APPLY FOR GRANT FUNDING UNDER THE SHARED MUNICIPAL SERVICES INCENTIVE (SMSI) GRANT PROGRAM

WHEREAS: The Buffalo Sewer Authority has fostered the merger of wastewater services with Erie County Department of Environment and Planning, Division of Sewerage Management and the City of Buffalo; and

WHEREAS: The General Manager and his staff believe it to be in the best interest of the rate payers to explore significant regional efficiency, focusing on a watershed model; and

WHEREAS: The effects and feasibility of this merger must be evaluated by retaining a consultant. Costs will be incurred to complete this study; and

WHEREAS: The New York State Department of State has recognized the benefit of merging such services and has established the Shared Municipal Services Incentive (SMSI) Grant Program to fund up to 90% of the costs associated with merger studies; and

WHEREAS: The Buffalo Sewer Authority must apply for joint grant funding with the City of Buffalo and the Erie County Department of Environment and Planning, Division of Sewerage Management. A contract must be executed through these parties with the Department of State to secure SMSI grant funding.

NOW THEREFORE
BE IT RESOLVED:

That the Board of the Buffalo Sewer Authority hereby authorizes the General Manager to apply for grant funding under the Shared Municipal Services Incentive (SMSI) Grant Program on behalf of the Buffalo Sewer Authority, subject to approval as to form by the City of Buffalo Corporation Counsel. Upon notification of any award, the Board of the Buffalo Sewer Authority further authorizes the General Manager to execute a contract through the City of Buffalo, Erie County Department of Environment and Planning, Division of Sewerage Management, and the Department of State, and to cooperate with these municipalities in order to conduct the feasibility study of this proposed merger.

MOTION TO APPROVE

MADE BY MS. WILSON-DIVINCENZO

2ND BY MR. KENNEDY, JR.

AYES 4 NOES 0

Board Meeting of December 5, 2007

ITEM NO. 4

RESOLUTIONS TO ISSUE A SEQRA NEGATIVE DECLARATION AND TO AMEND THE BUFFALO SEWER AUTHORITY'S SEWER USE REGULATIONS TO IMPLEMENT THE MS4 PROGRAM

WHEREAS: The Buffalo Sewer Authority has filed a Notice of Intent for coverage under a SPDES general permit for storm water discharges from small municipal separate storm sewer systems ("MS4") with the New York State Department of Environmental Conservation ("NYSDEC"); and

WHEREAS: In conjunction with the City of Buffalo, the Buffalo Sewer Authority is developing a program to comply with the State and Federal government requirements for municipal separate storm sewer systems with respect to property located in the City of Buffalo, including but not limited to, the adoption of regulations by the Buffalo Sewer Authority and ordinances by the City of Buffalo with respect to the MS4 requirements; and

WHEREAS: On November 7, 2007, the Board of the Buffalo Sewer Authority resolved to serve as the Lead Agency to carry out and implement the State Environmental Quality Review Act ("SEQRA") process to review, undertake, fund, and/or approve a program to comply with the State and Federal government MS4 requirements; and

WHEREAS: The General Manager has proposed an amendment to the Buffalo Sewer Authority Sewer Use Regulations to incorporate provisions from model laws recommended by the New York State Department of Environmental Conservation to assist the Buffalo Sewer Authority to comply with State and Federal MS4 requirements and the Clean Water Act; and

WHEREAS: As Lead Agency, the Board has determined that amendment of Buffalo Sewer Authority Sewer Use Regulations and adoption of MS4 provisions is an Unlisted Action (the "Action") pursuant to SEQRA with regard to implementation of its MS4 storm water management program in furtherance of the above-referenced Notice of Intent.

NOW THEREFORE
BE IT RESOLVED: That the Board of the Buffalo Sewer Authority makes the following findings based upon a consideration of the Action, an examination of the completed Short Environmental Assessment Form, a review and discussion of each and every criterion for making a Determination of Significance set out in Part 617.7 of the SEQRA Regulations, and such further investigation of the Action and its environmental effects, if any, as the Board has deemed appropriate:

1. No potentially large impacts on the environment from the Action are identified in the Short Environmental Assessment Form.

2. The Action is not expected to trigger any significant adverse impacts, including those examples of impacts listed in Part 617.7 of the SEQRA Regulations; and

BE IT FURTHER
RESOLVED:

That the Board of the Buffalo Sewer Authority hereby determines based upon the foregoing investigation of the potential environmental impacts of the Action, and considering both the magnitude and importance of each potential environmental impact:

1. The Action will not have a significant adverse impact on the environment and an environmental impact statement will not be prepared with respect to the Action; and

BE IT FURTHER
RESOLVED:

That the Board of the Buffalo Sewer Authority hereby authorizes and directs the General Manager to prepare a Notice of Determination of Non-Significance (“Negative Declaration”) and to file such Notice in accordance with the requirements of SEQRA and the SEQRA Regulations; and

BE IT FURTHER
RESOLVED:

That the Board of the Buffalo Sewer Authority hereby amends the Buffalo Sewer Authority Sewer Use Regulations in the form and substance as presented to the Board this date and a copy of which is attached and made a part hereof; and

BE IT FINALLY
RESOLVED:

That the Board of the Buffalo Sewer Authority hereby authorizes the General Manager to publish and file such Regulations in accordance with applicable law.

MOTION TO APPROVE

MADE BY MR. ROOSEVELT

2ND BY MS WILSON-DIVINCENZO

AYES 4 NOES 0

Board Meeting of December 5, 2007

CERTIFICATION

The undersigned, being the Secretary of the Board of the Buffalo Sewer Authority, in the County of Erie, State of New York, does hereby certify that the foregoing resolution, entitled "Resolutions to Issue a SEQRA Negative Declaration and to Amend the Buffalo Sewer Authority's Sewer Use Regulations to Implement the MS4 Program," was duly adopted by the Board of the Buffalo Sewer Authority and the members thereof at a meeting duly called and held on December 5, 2007, at which a quorum was present and acting throughout, and that the foregoing resolution has been compared by me with the original thereof, as recorded in my office in the records of the said Buffalo Sewer Authority, and is a true, complete and correct copy thereof and of the whole of said original, and that said resolution has not otherwise been amended or repealed, but is in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Board this 5th day of December, 2007.

(SEAL)

Name: Eleanor Wilson-DiVincenzo
Title: Secretary

ITEM NO. 5

ADOPTION OF STORMWATER MANAGEMENT PLAN FOR MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)

WHEREAS: Under New York State's MS4 SPDES Permit, Part IV, Section B: Requirements, the Buffalo Sewer Authority (BSA) must adopt a Stormwater Management Plan for Municipal Separate Storm Sewer Systems, MS4's; and

WHEREAS: Under the Engineering Services Term Agreement authorized by the Board on September 5, 2007, Wendel Duchscherer, P.C., was retained to assist in the finalization of this stormwater plan; and

WHEREAS: The General Manager and his committee have reviewed the finalized Stormwater Management Plan for Municipal Separate Storm Sewer Systems and recommend its adoption and implementation.

NOW THEREFORE
BE IT RESOLVED:

That the Board of the Buffalo Sewer Authority hereby approves the adoption and implementation of the finalized Stormwater Management Plan for Municipal Separate Storm Sewer Systems.

MOTION TO APPROVE

MADE BY MS. WILSON-DIVINCENZO

2ND BY MR. KENNEDY, JR.

AYES 4 NOES 0

Board Meeting of December 5, 2007

ITEM NO. 6

APPOINTMENT OF STORMWATER MANAGEMENT OFFICER

WHEREAS: New York State’s MS4 SPDES Permit, Section 2d: Public Involvement/Participation requires that the Buffalo Sewer Authority (BSA) identify a local point of contact for public concerns regarding stormwater management and compliance with this permit; and

WHEREAS: The General Manager and his committee have deemed that Leslie Sedita, Industrial Waste Administrator, is qualified to serve as Stormwater Management Officer.

NOW THEREFORE
BE IT RESOLVED: That the Board of the Buffalo Sewer Authority hereby authorizes the appointment of Leslie Sedita, Industrial Waste Administrator, as Stormwater Management Officer for the Buffalo Sewer Authority.

MOTION TO APPROVE

MADE BY MR. ROOSEVELT

2ND BY MS. WILSON-DIVINCENZO

AYES 4 NOES 0

Board Meeting of December 5, 2007

ITEM NO. 7

AUTHORIZATION FOR EMERGENCY PURCHASE OF REPLACEMENT PARTS FOR GATE NO. 18 (OUTFALL 001)

WHEREAS: On July 18, 2007, the Board of the Buffalo Sewer Authority designated EIM Controls, the original equipment manufacturer, and/or their authorized local representative, as a sole source for all EIM valve actuators and controls located throughout the Treatment Plant; and

WHEREAS: On November 13, 2007, it was discovered that Gate No. 18, which services Outfall 001, had failed. The operation of this gate is essential for regulatory compliance; and

WHEREAS: Upon request Nibsc Automation, the authorized local representative, submitted a quote in the amount of \$7,120.00, plus expedited freight charges of \$500.00, for the needed replacement parts; and

WHEREAS: Due to the necessity to expedite this order, the Board was polled and verbally authorized this purchase on November 15, 2007; and

WHEREAS: It is now necessary to formally ratify that authorization.

NOW THEREFORE
BE IT RESOLVED:

That the Board of the Buffalo Sewer Authority hereby formally authorizes the General Manager to purchase the needed replacement parts for Gate No. 18 from Nibsc Automation at a total cost of \$7,620.00. This purchase will be charged to account no. 00240105-466107.

MOTION TO _____ APPROVE _____

MADE BY _____ MR. KENNEDY, SR. _____

2ND BY _____ MR. ROOSEVELT _____

AYES _____ 4 _____ NOES _____ 0 _____

Board Meeting of December 5, 2007

ITEM NO. 8

AUTHORIZATION FOR REPAIR AND REPLACEMENT PARTS FOR GATE NO. 19 (OUTFALL 001)

WHEREAS: On July 18, 2007, the Board of the Buffalo Sewer Authority designated EIM Controls, the original equipment manufacturer, and/or their authorized local representative, as a sole source for all EIM valve actuators and controls located throughout the Treatment Plant; and

WHEREAS: Due to the recent failure of Gate No. 18, a Buffalo Sewer Authority inspection of Gate No. 19 was performed. Upon inspection, apparent signs of wear were discovered requiring immediate repair for this backup gate for Outfall 001; and

WHEREAS: The operation of this gate is essential for regulatory compliance; and

WHEREAS: Upon request, Nibsco Automation, the authorized local representative, submitted a quote in the amount of \$1,788.00, plus any incurred freight charges, for the necessary replacement parts for immediate repair of this gate; and

WHEREAS: A quote was also requested and received from Nibsco Automation for a new EIM actuator for this aging Gate No. 19 in the amount of \$5,495.00, plus any incurred freight charges; and

WHEREAS: The Treatment Plant Superintendent, Superintendent of Mechanical Maintenance, and staff reviewed the quotes received and recommend the purchase of these repair and replacement parts from Nibsco Automation in the total amount of \$7,283.00, plus any incurred freight charges.

NOW THEREFORE
BE IT RESOLVED: That the Board of the Buffalo Sewer Authority hereby authorizes the General Manager to purchase the needed repair and replacement parts for Gate No. 19 from Nibsco Automation at a total cost of \$7,283.00, plus any incurred freight charges. These purchases will be charged to account no. 00240105-466107.

MOTION TO APPROVE

MADE BY MS. WILSON-DIVINCENZO

2ND BY MR. KENNEDY, JR.

AYES 4 NOES 0

Board Meeting of December 5, 2007

ITEM NO. 9

AUTHORIZATION TO PURCHASE REPLACEMENT PARTS FOR FAIRBANKS MORSE PUMPS AT KELLY ISLAND "X" STATION

WHEREAS: On July 18, 2007, the Board of the Buffalo Sewer Authority designated Fairbanks Morse, the original equipment manufacturer, and/or their authorized local representative, as a sole source for all Fairbanks Morse pumps and components located at the Treatment Plant and outlying stations; and

WHEREAS: The Superintendent of Mechanical Maintenance has determined a need to purchase Fairbanks Morse replacement parts for Kelly Island "X" Station; and

WHEREAS: Fluid Kinetics, Inc., the authorized local representative, has submitted a quote in the amount of \$9,440.89 for these necessary replacement parts; and

WHEREAS: The total monies payable to Fluid Kinetics, Inc., for fiscal year 2007-2008 is over \$10,000.00; and

WHEREAS: Board approval is required on purchases over \$10,000.00; and

WHEREAS: The Treatment Plant Superintendent, Superintendent of Mechanical Maintenance, and staff recommend the purchase of these necessary replacement parts from Fluid Kinetics, Inc., at a total cost of \$9,440.89.

NOW THEREFORE
BE IT RESOLVED:

That the Board of the Buffalo Sewer Authority hereby authorizes the General Manager to purchase the necessary replacement parts for the Fairbanks Morse pumps located at Kelly Island "X" Station from Fluid Kinetics, Inc., at a total cost of \$9,440.89. This purchase will be charged to account no. 00460105-466107.

MOTION TO APPROVE

MADE BY MR. ROOSEVELT

2ND BY MS. WILSON-DIVINCENZO

AYES 4 NOES 0

Board Meeting of December 5, 2007

ITEM NO. 10

AUTHORIZATION TO PURCHASE VAREC BIOGAS REPLACEMENT PARTS

WHEREAS: On July 18, 2007, the Board of the Buffalo Sewer Authority designated Varec Biogas, the original equipment manufacturer, and/or their authorized local representative, as a sole source for all Varec Biogas equipment located at the Treatment Plant; and

WHEREAS: The Superintendent of Mechanical Maintenance has determined a need to purchase Varec Biogas replacement parts; and

WHEREAS: Upon request, G. A. Fleet Associates, the authorized local representative, submitted a quote for the needed Varec Biogas replacement parts at a total cost of \$15,700.00; and

WHEREAS: The Treatment Plant Superintendent, Superintendent of Mechanical Maintenance, and staff recommend this purchase from G. A. Fleet Associates; and

WHEREAS: Board approval is required for purchases over \$10,000.00.

NOW THEREFORE
BE IT RESOLVED: That the Board of the Buffalo Sewer Authority hereby authorizes the General Manager to purchase the necessary Varec Biogas replacement parts from G. A. Fleet Associates, the authorized local representative for Varec Biogas, at a total cost of \$15,700.00. This purchase will be charged to account no. 00250105-466107.

MOTION TO APPROVE

MADE BY MR. KENNEDY, JR.

2ND BY MR. ROOSEVELT

AYES 4 NOES 0

Board Meeting of December 5, 2007

ITEM NO. 11

AUTHORIZATION TO PURCHASE RESTOCK OF PARTS FOR VAUGHAN CHOPPER PUMPS

WHEREAS: On July 18, 2007, the Board of the Buffalo Sewer Authority designated Vaughan Company, Inc., the original equipment manufacturer, and/or their authorized local service representative, as a sole source for replacement parts, supplies, and service for the Vaughan chopper pumps located at the Treatment Plant; and

WHEREAS: The Superintendent of Mechanical Maintenance has determined that additional restock of miscellaneous replacement parts for these Vaughan chopper pumps is needed; and

WHEREAS: Pioneer Pump Systems, the authorized local representative for Vaughan Company, Inc., has submitted a quote in the amount of \$2,672.50, plus freight charges estimated not to exceed \$150.00, for these necessary replacement parts; and

WHEREAS: The total monies payable to Pioneer Pump Systems for fiscal year 2007-2008 is over \$10,000.00; and

WHEREAS: Board approval is required on purchases over \$10,000.00; and

WHEREAS: The Treatment Plant Superintendent, Superintendent of Mechanical Maintenance, and staff recommend the purchase of these necessary replacement parts for the Vaughan chopper pumps from Pioneer Pump Systems at a cost of \$2,672.50, plus freight charges estimated not to exceed \$150.00.

NOW THEREFORE
BE IT RESOLVED: That the Board of the Buffalo Sewer Authority hereby authorizes the General Manager to purchase the necessary replacement parts for the Vaughan chopper pumps from Pioneer Pump Systems at a cost of \$2,672.50, plus freight charges estimated not to exceed \$150.00. This purchase will be charged to account no. 00260105-466107.

MOTION TO APPROVE

MADE BY MS. WILSON-DIVINCENZO

2ND BY MR. KENNEDY, JR.

AYES 4 NOES 0

Board Meeting of December 5, 2007

ITEM NO. 12

CONTRACT NO. 84700013

CERTIFICATE OF ACCEPTANCE AND OCCUPANCY

WORK: Inspection of Digester Gas Storage Sphere at the Bird Island Sewage Treatment Plant

BID: \$37,920.00

CONTRACTOR: Quality Inspection Services, Inc.
37 Franklin Street, Suite 400
Buffalo, New York 14202

WHEREAS: The Superintendent of Mechanical Maintenance and staff have certified that the Contractor completed the work in accordance with the plans and specifications on October 19, 2007.

NOW THEREFORE
BE IT RESOLVED: That the Board of the Buffalo Sewer Authority hereby finds and determines that:

- a. The work to be performed under the terms of the Contract has been complete and is accepted;
- b. The date of entrance and occupancy be fixed as of October 19, 2007;
- c. The maintenance period commence on October 19, 2007;
- d. Final payment be made to the Contractor in the amount of \$4,498.15, an increase of \$52,043.07 by change orders, making the final cost of the Contract \$89,963.07.

MOTION TO APPROVE

MADE BY MS. WILSON-DIVINCENZO

2ND BY MR. ROOSEVELT

AYES 4 NOES 0

Board Meeting of December 5, 2007

ITEM NO. 13

REPORT ON BIDS RECEIVED - ROOF AND MASONRY REPAIRS/REPLACEMENT

WHEREAS: Formal bids were advertised and solicited for roof and masonry repairs/replacement for thirteen separate buildings. The following bids were received and opened by the Buffalo Sewer Authority on November 13, 2007:

Weaver Metal & Roofing, Inc.	\$906,480.00
Jameson Roofing Company	\$945,800.00
Grove Roofing	\$1,055,200.00
Jos. A. Sanders & Sons, Inc.	\$1,075,331.00
Progressive Roofing, Inc.	\$1,160,800.00
; and	

WHEREAS: The proposals were received and the contract will be awarded on the basis of unit bid and lump sum prices. The bids reflect the true amount of the contract; and

WHEREAS: The Principal Sanitary Engineer and staff reviewed the bids and recommend awarding the contract to the lowest responsible bidder, Weaver Metal & Roofing, Inc., at a cost not to exceed \$906,480.00.

NOW THEREFORE
BE IT RESOLVED:

That the Board of the Buffalo Sewer Authority hereby authorizes the General Manager to enter into and execute a contract with Weaver Metal & Roofing, Inc., at a cost not to exceed \$906,480.00. Expenses for this contract will be charged to account no. 02000274-490740.

MOTION TO	_____ APPROVE		
MADE BY	_____ MR. KENNEDY, JR.		
2 ND BY	_____ MR. ROOSEVELT		
AYES	_____ 5	NOES	_____ 0

Board Meeting of December 5, 2007

ITEM NO. 14

CHANGE ORDER NO. 1 – CONTRACT NO. 84800005

CONTRACTOR:	ORIGINAL CONTRACT COST	\$30,000.00
Ferguson Electric Service Company	THIS CHANGE ORDER	<u>\$250,000.00</u>
333 Ellicott Street	ADJUSTED CONTRACT COST	\$280,000.00
Buffalo, New York 14203		

WORK: In-Plant Electrical Maintenance Service

WHEREAS: Formal bids were received and opened for the Bird Island In-Plant Electrical Maintenance Service Contract on May 17, 2007; and

WHEREAS: The low responsible bidder was determined to be Ferguson Electric Service Company, Inc.; and

WHEREAS: The Board of the Buffalo Sewer Authority accepted the proposal made by Ferguson Electric Service Company, Inc., on May 23, 2007; and

WHEREAS: We have now been advised by National Grid that our two (2) joslyn fault interrupter switches which protects our two (2) main transformers at the Bird Island Sewage Treatment Plant, require replacement; and

WHEREAS: The fault interrupter switches also provide protection to the National Grid facilities; and

WHEREAS: In order to comply with National Grid’s mandate, it is necessary to fast track the replacement of the joslyn fault interrupter switches through the purchase and installation by Ferguson Electric Service Company, Inc.

NOW THEREFORE

BE IT RESOLVED: That the Board of the Buffalo Sewer Authority hereby approves Change Order No. 1 to Contract No. 84800005 as written in the above Agenda Item, increasing the contract cost in the amount of \$250,000.00, making the adjusted contract cost \$280,000.00.

MOTION TO TABLE

MADE BY MS. WILSON-DIVINCENZO

2ND BY MR. KENNEDY, JR.

AYES 4 NOES 0

Board Meeting of December 5, 2007

ITEM NO. 15

CHANGE ORDER NO. 1 – CONTRACT NO. 84700012

CONTRACTOR:	ORIGINAL CONTRACT COST	\$536,000.00
Kohl Construction, Inc.	THIS CHANGE ORDER	<u>\$104,535.00</u>
1427 Two Rod Road	ADJUSTED CONTRACT COST	\$640,535.00
Alden, New York 14004		

WORK: Large Pump and Motor Rehabilitation Project

DESCRIPTION OF CHANGE OR EXTRA WORK:

Item #1 Additional repairs to raw wastewater pump #4.

Item #2 Additional repairs to raw wastewater pump #5.

Item #3 Additional repairs to 5000 Hp blower motor.

REASON FOR CHANGE OR EXTRA WORK:

Item #1 Upon inspection of raw wastewater pump #4, additional work items were required to return the pump to useful service.

Item #2 Upon inspection of raw wastewater pump #5, it was determined a new impeller and shaft were required.

Item #3 Upon inspection of the 5000 Hp blower motor it was determined that additional work on the stator, rotor, and shorting ring/cage bar interface were required.

COST OF CHANGE OR EXTRA WORK:

Item #1 \$7,354.00

Item #2 \$70,213.00

Item #3 \$26,968.00

THE TOTAL COST OF THE CHANGE OR EXTRA WORK \$104,535.00

The total INCREASE to the contract as a result of this Change Order is \$104,535.00

CONTRACT SUPPLEMENT CONDITIONS:

- 1. The contract completion date established in the original contract or as modified by previous contract supplements is hereby changed by 90 calendar days, making the final completion date March 20, 2008.
- 2. Any additional work to be performed under this contract supplement shall be carried out in compliance with the specifications included in the preceding description of changes involved with the supplemental contract drawings designated none and under the provisions of the original contract, including compliance with applicable equipment specifications, general specifications, and project specifications for the same type of work.
- 3. This contract supplement unless otherwise provided herein does not relieve the Contractor from strict compliance with the guarantee provisions of the original contract, particularly those pertaining to performance and operation of equipment.
- 4. The Contractor expressly agrees that he will place under coverage of his performance and payment bonds and Contractor’s Insurance all work covered by this contract supplement. The Contractor will furnish to the Owner evidence of increased coverage of his performance and payment bonds for the accrued value of all contract supplements that exceeds the original contract price by twenty percent (20%).
- 5. The costs established under this contract supplement are acknowledged as including any and all costs associated with the work described herein and including any and all costs associated with any and all work performed or to be performed by the Contractor that may be affected in any manner by the work described herein.

NOW THEREFORE
BE IT RESOLVED:

That the Board of the Buffalo Sewer Authority hereby approves Change Order No. 1 to Contract No. 84700012 as written in the above Agenda Item, increasing the contract cost in the amount of \$104,535.00, making the adjusted contract cost \$640,535.00.

MOTION TO APPROVE

MADE BY MR. ROOSEVELT

2ND BY MS. WILSON-DIVINCENZO

AYES 4 NOES 0

Board Meeting of December 5, 2007

ITEM NO. 16

CONFIRMATION OF APPOINTMENTS

LABORER I (PERMANENT)
 SEWER MAINTENANCE DEPARTMENT
 \$14.46 PER HOUR
 EFFECTIVE: NOVEMBER 5, 2007

JOSEPH PARADISI
 44 ARUNDEL
 BUFFALO, NY

LABORER I (SEASONAL)
 SEWAGE TREATMENT PLANT
 \$65.00 PER DAY
 EFFECTIVE: NOVEMBER 26, 2007

MAX JADOCH
 33 PORTLAND
 BUFFALO, NY

WHEREAS: The preceding appointments were made by the General Manager since the last Board Meeting; and

WHEREAS: The General Manager requests confirmation of each appointment.

NOW THEREFORE
 BE IT RESOLVED: That the preceding appointments are hereby confirmed by the Board of the Buffalo Sewer Authority.

MOTION TO APPROVE

MADE BY MS. WILSON-DIVINCENZO

2ND BY MR. KENNEDY, JR.

AYES 4 NOES 0

Board Meeting of December 5, 2007

ITEM NO. 17

TUITION REIMBURSEMENT

WHEREAS: In accordance with the Agreements between the Buffalo Sewer Authority and CSEA Local 815 and the Communications Workers of America, the following Buffalo Sewer Authority employee has applied for Tuition Reimbursement:

<u>EMPLOYEE</u>	<u>SCHOOL</u>	<u>COURSE</u>	<u>TUITION%</u>	<u>REIMBURSEMENT TOTAL</u>
George Giambrone	Buffalo State University of New York	Grade 4 Management	100%	\$549.00

NOW THEREFORE
BE IT RESOLVED: That the Board of the Buffalo Sewer Authority hereby approves the above application for Tuition Reimbursement totaling \$549.00. This Reimbursement will be charged to account no. 00800108-480214.

MOTION TO APPROVE
 MADE BY MR. KENNEDY, JR.
 2ND BY MS. WILSON-DIVINCENZO
 AYES 4 NOES 0

Board Meeting of December 5, 2007

ITEM NO. 18

ADJOURNMENT OF MEETINGMOTION TO APPROVEMADE BY MS. WILSON-DIVINCENZO2ND BY MR. KENNEDY, JR.AYES 4 NOES 0

Board Meeting of December 5, 2007

APPENDIX

**BUFFALO SEWER AUTHORITY
SEWER USE
REGULATIONS**

ADOPTED: December 5, 2007

**BUFFALO SEWER AUTHORITY
ROOM 1038 CITY HALL
BUFFALO, N.Y. 14202**

Chapter LXXXII Buffalo Sewer Authority
Part 10075
(Statutory Authority: Public Authorities Law §1178(3), (8), and (14).)

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10075.1 Definitions.

(a) Abbreviations

The following abbreviations shall have the meanings set forth herein when used in these regulations:

ASTM	American Society for Testing and Materials
AWWA	American Water Works Association
BOD5	Biochemical Oxygen Demand
BPDES	Buffalo Pollution Discharge Elimination System
BSA	Buffalo Sewer Authority
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601, et seq.)
CFR	Code of Federal Regulations
EPA	United States Environmental Protection Agency
gpd	gallons per day
l	liter
mg	milligram
mg/l	milligrams per liter
NPDES	National Pollutant Discharge Elimination System
NYSDEC	New York State Department of Environmental Conservation
NYSDOH	New York State Department of Health
P	Total Phosphorus
psi	pounds per square inch
POTW	Publicly Owned Treatment Works
ppm	parts per million, weight basis
SIC	Standard Industrial Classification
SPDES	State Pollutant Discharge Elimination System
TSS	Total Suspended Solids
USC	United States Code
ug/l	micrograms per liter

(b) Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in these regulations shall be as stated below. Terms not defined in this section, or terms found to be ambiguous shall be defined by the Clean Water Act, or E.P.A. regulations issued pursuant thereto. When not inconsistent with the context, the present tense shall include the future, and words used in the plural shall include the singular and vice versa. A masculine pronoun shall include the feminine.

(1) *40 C.F.R. Part 403* shall mean the General Pretreatment Regulations for existing and new sources of pollution as promulgated by the U.S.E.P.A. and published in the Code of Federal Regulations.

(2) *Abnormal strength sewage* shall mean any waste having a total suspended solid, B.O.D.₅, or total phosphate concentration in excess of that found in normal strength sewage, but which is otherwise acceptable into a public sewer under the terms of these regulations.

(3) *A.S.T.M.* shall mean the American Society for Testing and Materials.

(4) *Approval authority* shall mean the N.Y.S.D.E.C. or the E.P.A.

(5) *Authorized representative of an industrial user* shall mean:

(i) If the user is a corporation or limited liability company:

(a) The president, secretary, treasurer, vice-president, general manager, or executive director of the corporation or company in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation or company; or

(b) The manager of one or more manufacturing, production, or operation facilities, if authority to sign documents binding upon such entity has been assigned or delegated to such manager in accordance with corporate or company procedures.

(ii) If the user is a partnership, a limited liability partnership, a limited partnership, or sole proprietorship, a general partner or proprietor, respectively.

(iii) If the user is a federal, state, municipal or other political subdivision, special district, public authority or agency; the person who is elected, appointed or designated to oversee the operation and performance of the activities of such government or entity and its operations, or his designee.

(iv) If the user is a trust, estate or person under a disability, then the trustee, executor, or other representative duly appointed or authorized by law to act on behalf thereof.

(v) The individuals described in paragraphs (i) through (iv), above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for any discharges or environmental matters for the company, partnership or entity, and the written authorization is submitted to the B.S.A.

(6) *Best management practices* (“BMPs”) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

(7) *B.O.D.₅* (denoting five-day Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C, expressed in milligrams per liter.

(8) *B.P.D.E.S. Permit or Buffalo Pollution Discharge Elimination System Permit* shall mean a permit which authorizes the discharge of industrial waste or, which authorizes the discharge of spills or temporary discharges of industrial waste, including, but not limited to, discharges from property remediation, construction and/or demolition activities into the B.S.A.’s facilities or into any sanitary sewer under jurisdiction of the B.S.A. or, in a contracted service area, under the jurisdiction of the B.S.A. and the contracted service area jurisdiction.

(9) *B.S.A. or the Authority* shall mean the Buffalo Sewer Authority, a public benefit corporation organized and existing pursuant to the New York Public Authorities Law § 1175 et seq., as amended, with its principal office located at 1038 City Hall, Buffalo, New York 14202.

(10) *B.S.A. Schedule of Sewer Rents* shall mean the schedule of sewer rents and other charges, including but not limited to, the amount of sewer rents, fees, charges, surcharges and delinquent charges, established by the Buffalo Sewer Authority pursuant to the New York Public Authorities Law § 1180. A copy of the current edition of such schedule is available at the principal office of the B.S.A.

(11) *Building drain* is that part of the horizontal piping of a building drainage system which receives the discharge of all soil, waste and other drainage from inside the walls of any building and conveys the same to the building service sewer five feet outside the foundation wall of such building.

(12) *Building service sewer* is that part of the horizontal piping of a building drainage system beginning five feet from the foundation wall and terminating at its connection with the main sewer, cesspool, bacterial tank or other disposal terminal.

(13) *City of Buffalo or the city* shall mean the City of Buffalo, a municipal corporation of the State of New York with principal offices at City Hall, 65 Niagara Street, Buffalo, New York 14202.

(14) *Collecting sewer* shall mean a sewer that receives wastewater from a relatively small area and discharges into a main sewer serving more than one collecting sewer.

(15) *Combined sewer* is a public sewer or drain intended or designed to receive and transport domestic sewage, industrial wastes, as well as surface runoff and storm water.

(16) *Commercial establishments* shall mean private establishments such as restaurants, hotels, stores, filling stations, or recreational facilities. Private non-profit entities such as churches, schools, hospitals, or charitable organizations are considered to be commercial establishments.

(17) *Common sewer* shall mean a building service sewer or building drain that receives wastewater from more than one discharger before it empties into a collecting sewer.

(18) *Compatible pollutant* shall mean Bio-chemical Oxygen Demand (B.O.D.), total suspended solids (T.S.S.), pH, fecal or total coliform bacteria, phosphate and phosphorus compounds, fats, oils, and greases of animal or vegetable origin, except as prohibited herein or identified on the Buffalo Sewer Authority's State Pollution Discharge Elimination System Permit.

(19) *Composite sample, Composite* shall mean a combination of individual (or continuously taken) samples obtained at regular intervals over the entire discharge day. The volume of each sample shall be proportional to the discharge flow rate. For a continuous discharge, a minimum of forty-eight individual grab samples (at half hour intervals) shall be collected and combined to constitute a twenty-four hour composite sample. For intermittent discharges of four to eight hours duration, grab samples shall be taken at a minimum of thirty minute intervals. For intermittent discharges of less than four hours duration grab samples shall be taken at a minimum of fifteen minute intervals.

(20) *Connector* shall mean the attachment of the pipeline from the sewer main to the building drain, control manhole or monitoring station.

(21) *Construction activity* means activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

(22) *Contact cooling water* shall mean water used in a process for cooling purposes which has come in direct contact with the process reactants or products.

(23) *Contracted service area* shall mean a geographic area outside the immediate city boundaries (e.g. sewer district) of the B.S.A. which, through contractual agreement, is connected to the B.S.A. sewage collection system in order to have sewage generated in that area treated at the B.S.A. treatment plant.

(24) *Direct contributor* shall mean any user conveying waste from a building service, directly to a B.S.A. public sewer.

(25) *Direct discharge* is the discharge of treated or untreated wastewater directly to the waters of the State of New York.

(26) *Domestic sewage* shall mean a combination of the water-carried normal strength sewage from residences, business buildings, institutions and industrial establishments.

(27) *Domestic user* shall mean any user not covered under the definition of industrial user.

(28) *Environment* shall mean any water, water vapor, any land, including land surface or subsurface, air, fish, wildlife, biota, and all other natural resources.

(29) *E.P.A.* or *U.S.E.P.A.* shall mean the United States Environmental Protection Agency. This agency name may also refer to the administrator or other duly authorized official of the E.P.A., as the context may indicate.

(30) *Fine* shall mean a sum of money imposed as a penalty for violation of these regulations.

(31) *Garbage* shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

(32) *General manager* shall mean the Chief Executive Officer of the Buffalo Sewer Authority or his designated deputy, agent or representative.

(33) *Grab sample* shall mean an individual sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(34) *Groundwater* shall mean water within the earth.

(35) *Hazardous materials* means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

(36) *Illicit connection* means any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:

- (a) Any conveyances which allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether such drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- (b) Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

(37) *Illicit discharge* shall mean any direct or indirect non-stormwater discharge to the MS4, except as exempted in this regulation.

(38) *Incompatible pollutant* shall mean any pollutant which is not a compatible pollutant.

(39) *Indirect contributor* shall mean any person who contributes waste to a public B.S.A. sewer by any means other than that defined in section 10075.1(r) herein.

(40) *Indirect discharge* shall mean the introduction of pollutants into a POTW from any source.

(41) *Industrial user* shall mean an industrial source of indirect discharge.

(42) *Industrial waste* means the liquid, solid, and gaseous waste, including suspended solids resulting from the processes employed in industrial or commercial establishments.

(43) *Industrial waste surcharge* shall mean a charge, as specified in the latest edition of the B.S.A. Schedule of Sewer Rents, levied on industrial users of the sewerage treatment works for the additional cost of treating waste discharges of abnormal strength sewage. This charge may include capital, as well as operating and maintenance costs.

(44) *Infiltration* shall mean the water entering a sewer system from the ground through such means as, but not limited to, defective pipes, pipe joints, [connections] Connections, or manhole walls. Infiltration does not include, and is distinguished from, [inflow] Inflow.

(45) *Infiltration/Inflow* shall mean the total quantity of water from both infiltration and inflow without distinguishing the source.

(46) *Inflow* shall mean the water discharged into a sewer system and service connections from such sources as, but not limited to, roof leaders, cellar, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers and combined sewers, catch basins, stormwater, surface run-off, street wash water, or drainage. It does not include, and is distinguished from, infiltration.

(47) *Interference* shall mean an inhibition or disruption of the authority's facilities, its treatment processes or operations, or its sludge processes, use or disposal.

(48) *Land development activity* shall mean construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

(49) *Lateral sewer* shall mean a sewer that discharges into a collecting sewer or other sewers and has no other common sewer tributary to it.

(50) *Main sewer* shall mean a sewer that receives wastewater from the collecting sewer.

(51) *mg/l* shall mean milligrams per liter. For purposes of this regulation, mg/l and ppm are equivalent.

(52) *MS4 or Municipal separate storm sewer system* shall mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned or operated by the B.S.A., designed or used for collecting or conveying stormwater, which is not a combined sewer, and which is not part of a publicly owned treatment works (POTW).

(53) *National Pretreatment Standard or Federal Categorical Standard* shall mean any regulation containing pollutant discharge limits promulgated by EPA in accordance with section 307 (b) and (c) of the Clean Water Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR Section 403.5.

(54) *Natural outlet* shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

(55) *Non-contact cooling water* shall mean water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product or finished product.

(56) *Non-significant industrial user* shall mean an industrial user that does not come under any of the provision of section 10075.1(bo) herein.

(57) *Non-stormwater discharge* means any discharge to the MS4 that is not composed entirely of stormwater.

(58) *Normal strength sewage* shall mean sewage having a concentration of not greater than 250 parts per million BOD₅, 250 parts per million TSS, and 5.0 parts per million of total phosphorous, and which is otherwise acceptable into a public sewer under the terms of these regulations.

(59) *NPDES (National Pollutant Discharge Elimination System)* shall mean the federal system through which permits are issued to regulate discharge into navigable waters from all point sources of pollution including industries and municipal wastewater treatment plants.

(60) *N.Y.S.D.E.C. or D.E.C.* shall mean the New York State Department of Environmental Conservation. This department name may also refer to the commissioner or other duly authorized official of the N.Y.S.D.E.C., as the context may indicate.

(61) *Objectionable waste* shall mean any wastes that can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or otherwise endanger life, health, or property, or constitutes a nuisance.

(62) *Occupied building* means and refers to any structure erected and intended for habitation, occupancy or use by human beings or animals and from which structure wastewater is or may be discharged.

(63) *Other wastes* shall mean garbage (shredded or unshredded), refuse, wood, egg shells, coffee grounds, sawdust, shavings, bark, sand, lime, ashes, and all other discharged matter not normally present in sewage or industrial wastes which may cause or might be reasonably expected to cause pollution.

(64) *Outfall* shall mean the discrete point or location where sewage, wastewater or other wastes are discharged from a users facility to the public sewer.

(65) *ppb* shall mean parts per billion. For purposes of this regulation, ppb and ug/l are equivalent.

(66) *P* (Total Phosphorus) shall mean the total quantity of phosphorus contained in a particular waste as determined by acceptable laboratory procedures, as set forth in section 10075.9(b) herein.

(67) *pH* shall mean the logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of solution as determined by acceptable laboratory procedures as set forth in section 10075.9(b) herein.

(68) *Point of discharge* shall mean any discernible, confined and discrete conveyance or vessel from which pollutants are or may discharge into a public waterway or public sewer system.

(69) *Pollutant* means dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, and agricultural waste or ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the State in contravention of the standards.

(70) *Polluted water or waste* shall mean any water, liquid or gaseous waste containing any of the following: soluble or insoluble substances of organic or inorganic nature which may deplete the dissolved oxygen content of the receiving stream; settleable solids that may form sludge deposits; grease and oils; floating solids which may cause unsightly appearance; color; phenols and other substances to an extent which would impart any taste or odor to the receiving stream; and toxic or poisonous substances in suspension, colloidal state, solution or gases.

(71) *Pollution prevention* shall mean any method, action or activity that eliminates or reduces pollution prior to its creation. Pollution prevention does not include recycling wastes or by-products.

(72) *POTW* shall mean Publicly Owned Treatment Works.

(73) *POTW treatment plant, Authority treatment plant* is that portion of the POTW designed to provide treatment to wastewater.

(74) *ppm* shall mean parts per million. For purposes of this regulation ppm and mg/l are equivalent.

(75) *Premises* means any building, lot, parcel of land, or portion of land whether improved or unimproved adjacent sidewalks and parking strips.

(76) *Pretreatment or Treatment* is the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes, or other means except as prohibited by 40 CFR Section 403.6(d).

(77) *Pretreatment requirements* shall mean any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

(78) *Properly shredded garbage* shall mean the wastes from the preparation, cooking, and dispensing of foods that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

(79) *Publicly Owned Treatment Works (POTW), Authority Facilities* are treatment works as defined by Section 212 of the Clean Water Act, (33 U.S.C. 1292) which are owned in this instance by the authority. This definition includes any sewers that convey wastewater to the POTW treatment plant. For the purposes of this regulation, POTW shall also include any sewers that convey wastewaters to the POTW from persons outside the authority's boundaries who are, by contract or agreement with the authority, users of the authority's POTW.

(80) *Public sewer* means a publicly-owned sewer, storm sewer, sanitary sewer or combined sewer.

(81) *Receiving waters* shall mean a natural water course or body of water into which treated or untreated sewage is discharged.

(82) *Records* shall include, but not be limited to, any printed, typewritten, handwritten or otherwise recorded matter of whatever character (including paper or electronic media), including but not limited to, letters, files, memoranda, directives, notes and notebooks, correspondence, descriptions, telephone call slips, photographs, permits, applications, reports, compilations, films, graphs and inspection reports. For purposes of these regulations, records

shall mean records of and relating to waste generation, reuse and disposal, and shall include records of usage of raw materials.

(83) *Regulation(s)* shall mean the regulations of the Buffalo Sewer Authority as adopted and from time to time amended, by its Board and published in the New York Code of Rules and Regulations, and currently designated as Chapter LXXXII of Title 21.

(84) *Release* shall mean any pumping, pouring, emitting, emptying, or leaching, directly or indirectly, of sewage or wastewater so that the sewage or wastewater or any related constituent thereof, or any degradation product thereof, or of a related constituent thereof, may enter the environment, or the B.S.A.'s facilities.

(85) *Sanitary sewer* shall mean a sewer intended to receive domestic sewage and admissible industrial waste, but to which storm, surface and groundwaters are not intentionally admitted.

(86) *Sewage* shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, and stormwater as may be present.

(87) *Sewer* shall mean a pipe or conduit for carrying sewage.

(88) *Shall* is mandatory. *May* is permissive.

(89) *Significant industrial user* shall mean an industrial user of the publicly owned treatment works that (1) is subject to EPA Categorical Pretreatment Standards, (2) uses or stores substances that may inadvertently be spilled into the B.S.A. sewer system and which may potentially have an adverse impact on the sewer system and/or the B.S.A. treatment plant, (3) is Industrial Chemical Survey + (e.g. Industries which annually use more than 1000 gallons or 1000 pounds of a Buffalo Sewer Authority substance of concern, (4) discharges greater than 25,000 gallons per day, (5) has previously been issued a B.S.A. BPDES permit, (6) is surchargeable, and/or (7) is a major discharger of any pollutant which could potentially have an adverse impact on the B.S.A. treatment plant and/or sewage conveyance system.

(90) *Significant violator* shall mean a violation which remains uncorrected forty-five days after notification of noncompliance and which involves a failure to accurately report noncompliance; or which resulted in the treatment plant exercising its emergency authority to immediately and effectively halt or prevent any discharge of pollutants which appears to present an imminent endangerment to human health, the environment or which threatens to interfere with the operation of the plant.

(91) *Slug* shall mean (1) any discharge of water, sewage or industrial waste which contains pollutant concentrations greater than those listed in section 10075.7(d) of these rules and regulations, and (2) for flow and any pollutant not listed in section 10075.7(d), any discharge which exceeds more than five times the discharger's average flow or concentration during normal operating hours.

(92) *SPDES (State Pollution Discharge Elimination System)* shall mean the state system through which permits are issued to regulate discharge into navigable waters from all point sources of pollution including industries and municipal wastewater treatment plants.

(93) *Standard Methods* shall mean “Standard Methods for the Examination of Water and Wastewater” prepared and published jointly by the American Public Health Association, American Waterworks Association and the Water Pollution Control Federation, latest edition.

(94) *State* shall mean the State of New York.

(95) *Storm sewer* (sometimes termed storm drain) shall mean a public sewer which is intended or designed to carry storm and surface waters and drainage, but is not intended to carry sewage and industrial wastes other than unpolluted cooling water.

(96) *Stormwater* or storm water shall mean excess water which is derived from precipitation including rain, snow, hail, sleet, drainage, snowmelt and surface runoff.

(97) *Stormwater Management Officer* or SMO shall mean an employee or other public official(s) designated by the B.S.A. to enforce this regulation.

(98) *Surchargeable user* shall mean any user of the B.S.A.’s facilities whose discharge contains in excess of 250 mg/l of five-day biochemical oxygen demand (BOD₅), 250 mg/l total suspended solids, and/or 5.0 mg/l total phosphorous (15.35 mg/l total phosphate).

(99) *Surface runoff* shall mean the source of water which occurs when the rate of precipitation exceeds the rate at which water may infiltrate into the soil.

(100) *Suspended solids* shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are measured by acceptable laboratory procedures as set forth in section 10075.9(b) herein.

(101) *The act* shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.

(102) *TMDL or total maximum daily load* shall mean the maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.

(103) *Toxic pollutant* shall mean those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, are known to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring. Toxic pollutants shall include, but not be limited to, any pollutant identified pursuant to Section 307 (a) of the Clean Water Act.

(104) *Trunk sewer* shall mean a sewer constructed, maintained and operated by the authority that conveys wastewater to the authority's treatment facilities and into which lateral and collecting sewers discharge.

(105) *ug/l* shall mean micrograms per liter. For purposes of this regulation, ug/l and ppb are equivalent.

(106) *Unpolluted water* shall mean water which is free of any polluted water or waste as described in section 10075.1(az) herein.

(107) *User* shall mean any person, premises or effluent source that directly or indirectly contributes, causes or permits the contribution of waste stormwater into or through the authority's public sewer, P.O.T.W. or the MS4.

(108) *User charge* shall mean a charge levied on users of the authority's facilities for the capital cost, as well as the operation and maintenance of such works as specified in the latest edition of the Buffalo Sewer Authority Sewer Rent Schedule.

(109) *Violation* shall mean any intentional or unintentional disregard or infraction of any provision of these regulations.

(110) *Waste* shall mean any liquid, solid or gaseous substance that may be discharged into a public sewer.

(111) *Wastewater* shall mean the liquid and water-carried industrial or domestic wastewaters from dwellings, commercial establishments, industrial facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the P.O.T.W.

(112) *Watercourse* shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(113) *Waters of the State* shall mean all streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(114) *Water quality standards* shall mean any federal, state, or local rule authoritatively establishing, for regulatory purposes, the limit of some unnatural alterations of water quality that is to be permitted or accepted as being compatible with some particular intended use or uses of water.

(115) *W.P.C.F.* shall mean the Water Pollution Control Federation.

10075.2 General Provisions

(a) Purpose.

The purpose of these regulations is to provide for the maximum possible beneficial public use of the Buffalo Sewer Authority facilities through regulation of sewer construction, sewer use, and industrial wastewater discharges. These regulations further provide for equitable distribution of the authority's costs, and to define procedures for complying with the requirements contained herein. These regulations also enable the authority to comply with all applicable State and Federal laws. In addition, it is the explicit purpose of this regulation to:

- (1) Protect the operation of the publicly owned treatment works;
- (2) Prevent inadequately treated pollutants from passing through such works;
- (3) Prevent the concentration of industrial pollutants in the treatment plant sludge to levels which might adversely impact on sludge disposal;
- (4) Prevent illicit connections and illicit discharges;
- (5) Comply with the requirements of the SPDES General Permit for MS4 stormwater discharges; and
- (6) Comply with the requirements of the NPDES/ SPDES Permit issued to the B.S.A.

(b) Scope.

These regulations shall be interpreted in accordance with the definitions set forth in section 10075.1 hereof. The provisions of these regulations shall apply to all direct or indirect contributors of wastes discharged into the facilities of the authority and discharge of stormwater to the MS4. These regulations provide for approval of plans for sewer construction, the regulation of sewer construction in areas within the jurisdiction of the B.S.A., the regulation of the quantity and quality of wastes discharged by users and the degree of waste pretreatment required, the setting of waste discharge fees to provide for equitable distribution of costs, the issuance of permits for industrial wastewater discharge and of other miscellaneous permits, the requirement for user reporting, the authorization for monitoring and enforcement activities by the authority, and the levying of surcharges and the establishment of fines and other procedures in cases of violation of these regulations.

(c) Applicability.

These regulations shall apply to all users within the City of Buffalo and those users outside the City who are by contract or agreements with the Buffalo Sewer Authority, users of the authority's facilities, and all premises and persons who discharge or otherwise use the MS4. In addition, these regulations shall apply to all water entering the MS4 generated on any developed and undeveloped land, unless exempted by the N.Y.S.D.E.C. or the B.S.A.

(d) Administration.

Except as otherwise provided herein, the general manager of the Buffalo Sewer Authority shall administer, implement and enforce the provisions of these regulations. The general manager or the Board of the Buffalo Sewer Authority may delegate any such duties to any Buffalo Sewer Authority employee. Until revoked, such person shall be an authorized representative or designee of the Buffalo Sewer Authority or the general manager with authority to perform such duties as delegated or assigned. All references to general manager herein shall include any person to whom such duty has been duly delegated or otherwise authorized. The provisions of these regulations shall be interpreted and applied in accordance with purposes set forth in subsection (a) herein and the definitions set forth in section 10075.1 hereof, and in accordance with applicable laws, regulations, permits and orders of the state or federal government. In the event of any ambiguity or conflict in these regulations or where application of these regulations would cause a violation of the B.S.A.'s S.P.D.E.S. permit, or cause harm to or interference with the publicly owned treatment works, or harm to persons or the environment, the general manager is authorized to interpret and/or apply these regulations in accordance with the purposes set forth in subsection (a) herein to resolve such ambiguity or conflict, or to avoid or mitigate such violation, harm or interference.

(e) Time limits.

Any time limit provided in any written notice or in any provision of these regulations may be extended only by a written directive of the general manager.

(f) Approval of plans, issuance of BPDES permit and certification of final inspection.

(1) The general manager, may approve plans for collection and/or treatment facility construction, issue a BPDES permit or any other permit under these regulations only if the facility construction, sewer connection, MS4 connection, industrial wastewater discharge, stormwater discharge or other procedure conforms to the requirements of these regulations, and other applicable codes, ordinances, laws or regulations.

(2) The approval of plans, waste pretreatment process or the issuance of a permit by the general manager, shall not relieve the person or user of his responsibility to maintain such facilities, including pretreatment facilities so that its discharge meets all effluent requirements contained in these regulations.

(3) The general manager reserves the right to inspect and to enter upon any premises, any vehicle or existing building, service sewer and/or drain, lateral or connection that discharges wastewater or stormwater directly or indirectly to the authority's facilities, or to inspect all work being constructed, construction activity, otherwise in progress or as may be completed, to determine compliance with these regulations.

(g) Effective date of regulations.

These regulations will take effect upon filing with the New York Secretary of State .

(h) Superseding previous regulations.

These regulations governing sewer construction, sewer use, stormwater discharges and industrial wastewater discharges shall supersede all previous regulations of the Buffalo Sewer Authority.

10075.3 Fees

(a) Fees and charges.

All fees, charges and surcharges payable under the provisions of these regulations shall be paid to the Buffalo Sewer Authority. These charges shall be as specified in the latest edition of the Buffalo Sewer Authority Schedule of Sewer Rents.

(b) Estimated quantities and values.

Unless otherwise provided herein, whenever the fees, charges and surcharges required by these regulations are based on estimated quantities, the general manager shall make such determinations in accordance with estimating practices heretofore used by the B.S.A. or as he deems appropriate in the best interest of the B.S.A.

(c) Payment of charges and delinquent charges.

All fees, charges and surcharges imposed under the provisions of these regulations as well as delinquent charges will be as specified in the latest edition of the B.S.A. Schedule of Sewer Rents. Copies of the Schedule are available at the B.S.A. General Office, 1038 City Hall, Buffalo, New York 14202.

10075.4 Sanitary facilities required.

(a) Connections.

Sanitary facilities for all structures in the City of Buffalo shall be provided in accordance with Chapter XI of the Ordinances of the City of Buffalo: Buffalo Housing and Property Code, Chapter XII of the Ordinances of the City of Buffalo: Buffalo Building Code and Chapter XXV of the Ordinances of the City of Buffalo: Buffalo Health Ordinance and shall be connected with the facilities of the authority.

(b) Building or house connections.

Building service sewers to residential, commercial or industrial buildings shall be required in accordance with applicable ordinances and with the Plumbing Code of the City of Buffalo adopted by the Examining Board of Plumbers on February 4, 1957 and approved by the Erie County Health Department on April 2, 1957, as the same may be amended from time to time, and all other sewer construction shall be governed by such Code and other Ordinances of the city.

(c) Private disposal system.

Where a public sanitary or combined sewer is not available, a private sewage disposal system shall be required, and shall be installed in accordance with all laws of the State of New York, Code of the City of Buffalo and regulations of the State Department of Health. This installation shall be subject to the approval of the Commissioner of Health of the County of Erie, and shall be maintained and operated in a sanitary manner.

(d) Existing connections.

(1) Existing connections to the combined sewer system will be allowed to function in their present form until such time that separate sanitary and storm water sewers are constructed to service such premises. At such time, all sanitary sewer outlets shall be required to be connected only to the sanitary sewers and stormwater discharges to the MS4.

(2) Among others, a purpose of this regulation is to deter, prevent and eliminate, as far as possible, the introduction of storm waters into the B.S.A. combined or trunk sewer system and all public sewers tributary thereto. However, it is recognized that in certain areas the immediate and strict application and enforcement of these regulations against existing and established connections would not be feasible.

(3) This statement shall not be construed to mitigate in any way the application and enforcement of these regulations against the construction of any new combined sewers and against any new connections discharging storm water to the B.S.A. combined or trunk sewer system and public sewers tributary thereto. Nor shall this statement of policy be construed to be used as a defense against any changes which may be ordered by State or Federal regulatory agencies.

(e) Other laws, rules and regulations.

These regulations are in addition to the applicable Charter and Code of the City of Buffalo, and the laws, rules and regulations of the State of New York and the United States. Where such laws, codes, rules and regulations contain provisions more restrictive than those contained in these regulations, the former shall apply.

10075.5 Construction of sewers and connections.

(a) Permits.

No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City of Buffalo, Division of Engineering, with the approval of B.S.A. endorsed thereon, for such connection and, if required, pay either a permit fee or connection charge.

(b) Permit charges.

A permit and inspection fee for residential or commercial building sewer permits and for industrial building sewer permits shall be paid to the B.S.A. at the time the application for the permit is filed. These charges are intended to cover the administrative costs of processing the application. These charges and fees are outlined in the latest edition of B.S.A.'s Schedule of Sewer Rents and Other Charges.

(c) Notification of completion.

The applicant for the building sewer permit shall notify the B.S.A. Principal Engineer when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Buffalo Sewer Authority.

(d) Joints.

Every joint in the connection to a sanitary sewer or storm sewer shall conform to the N.Y.S.D.E.C. requirements and be made water tight so that no leakage into or out of such connections shall occur.

(e) Inspection.

No sewer facility, other than building service sewers, shall be constructed in the City of Buffalo except by the Buffalo Sewer Authority, or by others in accordance with plans and specifications approved by the Buffalo Sewer Authority, and subject to inspection during construction by engineers and employees of the Buffalo Sewer Authority. No sanitary or storm sewer shall be considered to be a part of the public sewer system of the Buffalo Sewer Authority or City of Buffalo unless the Board of the Buffalo Sewer Authority duly adopts a resolution of completion and acceptance thereof.

(f) Expiration of plans.

An approval of plans for construction of sewer facilities shall expire one year after the date of approval, unless construction has been initiated and completed within a reasonable time thereafter.

(g) Special drains.

Drains receiving acid waste shall be constructed of acid-resisting material. Such drains located outside of a building shall be constructed of vitrified clay or earthenware pipe or other approved acid-resisting material. Joints shall be constructed by caulking with asbestos rope wicking and by pouring a heated sulphur and carbon compound or a heated bituminous compound in such a manner as to secure tight joints.

(h) Classes of connection permits.

There shall be two classes of connection permits: (1) for service to domestic users, and (2) for service to commercial and industrial users. In either case, the owner or his agent shall make application on a special form furnished by the Buffalo Sewer Authority. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the general manager.

(i) Connection costs.

All costs and expenses incident to the installation and connection of the building service sewer shall be borne by the owner. The owner shall indemnify and hold harmless the City of Buffalo and the Buffalo Sewer Authority from any loss or damage that may directly or indirectly be occasioned by the installation of the building service sewer or any connection to the public sewer.

(j) Separate connections.

A separate and independent building service sewer shall be provided for every building in residential and commercial areas, except that where one building stands at the rear of another on an interior lot, and no private sewer is available, or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building service sewer from the front building may be extended to the rear building and the whole considered as one building service sewer.

(k) Use of existing sewers.

Old or existing building service sewers may be used in connection with new buildings only when they are found, on examination by the B.S.A. to meet all requirements of these regulations and the Code of the City of Buffalo for property located in the City of Buffalo.

(l) Specifications.

The size, slope, alignment, materials of construction of a building service sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City of Buffalo. In the absence of code provisions or in amplifications thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 (Design and Construction of Sanitary and Storm Sewers) or other comparable manual or organization designated by the general manager shall apply.

(m) Elevation of sewers.

Whenever possible, the building service sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which below floor building drains are

too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drains shall be lifted by means established in standard engineering practice to a suitable level and then discharged to the building service sewer, or the building drain may be hung on the cellar wall and shall not be less than four inches in diameter.

(n) Connection of roof and foundation drains.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or any other sources of surface runoff or groundwater to a building service sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(o) Public safety.

All excavations for building service sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored by the permittee in a manner satisfactory to the City of Buffalo.

(p) Prohibition of illicit connections.

The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this regulation if the person connects a line conveying sewage to the municipality's MS4, or allows a connection to continue.

(q) Stormwater pollution prevention plans.

Except with the approval of the general manager, or as otherwise provided in these regulations, no application for a BPDES permit, or for connection to the public sewer system shall be reviewed or approved by the B.S.A., until the B.S.A. has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this regulation.

(1) All Stormwater Pollution Prevention Plans shall provide the following information and erosion and sediment controls:

- (i) Background information about the scope of the project, including location, type and size of project;
- (ii) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent offsite surface water(s); wetlands and drainage patterns that could

be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s). *Site map should be at a scale no smaller than 1"=100' (e.g. 1"=500" is smaller than 1"=100")*;

- (iii) Description of the soil(s) present at the site;
- (iv) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP;
- (v) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
- (vi) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill-prevention and response;
- (vii) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
- (viii) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
- (ix) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
- (x) Temporary practices that will be converted to permanent control measures;
- (xi) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;

- (xii) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
- (xiii) Name(s) of the receiving water(s);
- (xiv) Delineation of SWPPP implementation responsibilities for each part of the site;
- (xv) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
- (xvi) Any existing data that describes the stormwater runoff at the site.

(2) Land development activities and meeting Condition “A”, “B” or “C” below shall also include water quantity and water quality controls (and post-construction stormwater runoff controls) below as applicable:

Condition A - Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the N.Y.S.D.E.C.’s 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

Condition B - Stormwater runoff from land development activities disturbing five (5) or more acres.

Condition C - Stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.

- (3) SWPPP Requirements for Condition A, B and C shall include:
 - (i) All information in part 10075.5(p)(1) of these regulations;
 - (ii) Description of each post-construction stormwater management practice;
 - (iii) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;

- (iv) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms; and
- (v) Comparison of post-development stormwater runoff conditions with pre-development conditions.

(4) *Technical Standards.* For the purpose of these regulations, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by these regulations:

- (i) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual).
- (ii) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).
- (iii) *Equivalence to Technical Standards.* Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in Article 2, Section 3.1 and the SWPPP shall be prepared by a licensed professional.

(5) *Contractor Certification.*

- (i) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity : “I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards.”
- (ii) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

(iii) The certification statement(s) shall become part of the SWPPP for the land development activity.

(6) A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

10075.6 Wastewater discharge permits.

(a) B.P.D.E.S. permit.

(1) No industrial user shall discharge, or cause to be discharged, any industrial wastewaters directly or indirectly to sewerage facilities owned by the Buffalo Sewer Authority without first applying for a B.P.D.E.S. permit for industrial wastewater discharge. After review and evaluation of the application, the B.S.A. may issue that person a B.P.D.E.S. permit or require him to enter into an industrial waste agreement with the authority. As a condition for issuance of a permit, the B.S.A. may require that any user of the authority's facilities shall enter into a contractual agreement for a period of one year with provisions for renewal of such agreements as may be required by the general manager. At a minimum, all significant industrial users shall be issued permits.

(2) The authority may deny or condition any new or increased discharge to its system or discharges which have changed with respect to their physical or chemical character if, in the opinion of the general manager, such discharge would not be in compliance with applicable federal or state or local pretreatment standards and requirements or where such discharge would cause the authority to violate its SPDES permit, inhibit or interfere with the operation and maintenance of the authority's collection and treatment facilities, or concentrate in the sludge and interfere with its disposal by approved methods.

(3) If the volume or character of the waste to be treated is determined by the B.S.A. to be in compliance with all pertinent federal, state and local regulations and, not to cause overloading of the sewage collection, treatment, or disposal facilities of the B.S.A., then prior to approval, the general manager and the person making the discharge shall enter into an agreement which provides that the discharger pay a sewer rent and/or industrial waste surcharge, as outlined in the latest edition of the B.S.A. Schedule of Sewer Rents and Other Charges.

(4) If the volume or character of the waste to be treated by the B.S.A. requires that wastewater collection, treatment, or other disposal facilities of the authority be improved, expanded, or enlarged in order to treat or convey the waste, then prior to approval, the B.S.A. and the person making the discharge shall enter into an agreement which provides that the discharger pay in full all added costs the authority may incur due to acceptance of the waste.

(5) A B.P.D.E.S. permit may require pretreatment of industrial wastewaters before discharge, restriction of peak flow discharges, discharge of certain wastewater only to specified sewers, relocation of points of discharge, prohibition of discharge of certain wastewater components, restriction of discharge to certain hours of the day, payment of additional charges to

defray increased costs of the authority created by the wastewater discharges and such other conditions as may be required to effectuate the purpose of these regulations.

(6) No B.P.D.E.S. permit is transferable without the prior written consent of the general manager.

(7) No person shall discharge industrial wastewaters in excess of the quantity or quality limitations set by his B.P.D.E.S. permit. Any person desiring to discharge wastewaters or use facilities which are not in conformance with his B.P.D.E.S. permit must apply to the general manager for an amended permit. Such amended permit shall be granted provided that its terms shall comply with these regulations.

(b) Existing industrial wastewater discharges.

(1) All persons discharging industrial wastewater directly or indirectly to the Buffalo Sewer Authority sewerage system prior to the effective date of these regulations and who have obtained prior approval for that industrial wastewater discharge are hereby granted a temporary permit to continue that discharge. This temporary permit shall expire 180 days after the industrial discharger has been notified by the general manager that a B.P.D.E.S. permit must be applied for. All B.P.D.E.S. permit applications must be submitted to the B.S.A. Industrial Waste Administrator at least ninety days prior to expiration of the temporary permit.

(2) Within fourteen days of receipt of the application, the B.S.A. general manager will acknowledge receipt and will indicate the acceptability and completeness of information contained in the application. Within ninety days of receiving an acceptable application the industrial waste administrator will issue a B.P.D.E.S. permit or will notify a non-significant industrial user applicant that a permit will not be required for discharge.

(c) Procedure for obtaining a B.P.D.E.S. permit.

Applicants for a B.P.D.E.S. permit shall complete a Buffalo Sewer Authority application form. Blank application forms may be obtained at the following address:

Buffalo Sewer Authority Treatment Plant
c/o Industrial Waste Section
Foot of West Ferry Street
Buffalo, New York 14213

All completed applications shall also be submitted to the above address. If, after review, the B.S.A. determines the applicant to be a significant industrial user a BPDES permit may be issued after a check for regulation compliance is complete.

(d) B.P.D.E.S. permit conditions.

The conditions of any permit issued by the B.S.A. to an industrial user will be subject to the provisions and requirements of these regulations and all applicable federal and state pretreatment standards and requirements.

(e) B.P.D.E.S. permit duration.

Permits issued by the authority shall be valid for a period of three years. Users shall apply for permit renewal at a minimum of one hundred eighty days prior to their permit expiration date.

(f) Modification of B.P.D.E.S. permit restrictions.

(1) As E.P.A. adds or amends specific pretreatment and effluent guidelines, or as the Buffalo Sewer Authority deems necessary, the restrictions or conditions of any B.P.D.E.S. permit may require the introduction of changes or amendment, as circumstances dictate. When necessary the Buffalo Sewer Authority shall require an industrial user to develop a time schedule for the installation of technology to comply with all applicable federal, state and local pretreatment standards and requirements as set forth in section 10075.8(c) herein.

(2) In addition, a users' permit may be changed or modified at any time as the limitations or requirements as identified in section 10075.7 of these regulations are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(3) In the event that an existing user, becomes subject to a newly promulgated national categorical pretreatment standard, that user shall submit a report to the B.S.A. within one hundred eighty days of promulgation of any applicable federal categorical pretreatment standard, describing the nature and concentration of any and all substances contained in the existing discharge which are impacted by the federal categorical standard. This report shall further specify whether the existing discharge complies with the federal categorical standard and, if not, shall provide a schedule for incorporation of additional pretreatment necessary to comply.

(g) Truckers discharge permit.

(1) All persons owning vacuum or cesspool pump trucks, or other transport trucks, and desiring to discharge septic tank, seepage pit, interceptor or cesspool contents, or industrial wastes to sewerage facilities of the authority, or to facilities that discharge directly or indirectly to such sewerage facilities, shall first have a valid sewer authority trucker's discharge permit. All applicants for a trucker's discharge permit shall complete an application form; pay the appropriate permit fee as specified in the latest edition of the B.S.A. Schedule of Sewer Rents and Other Charges; receive a copy of the B.S.A. regulations governing discharge to B.S.A. facilities of wastes from trucks and shall agree in writing, to abide by these regulations.

(2) Discharge of septic tank, seepage pit, interceptor or cesspool contents or industrial wastes shall be made by truckers holding a permit only at the locations specified by the

general manager for the specific waste. The B.S.A. shall require payment for treatment and disposal costs of the waste, or may refuse permission to discharge prohibited wastes.

(3) The trucker's discharge permit shall be valid for one year from date of issuance subject to receipt of the permit fee.

(4) Any person violating the authority's requirements for liquid waste discharges from trucks may have his permit revoked by the general manager.

10075.7 Wastewater and stormwater discharge regulations.

(a) Prohibited discharges.

No user shall discharge or cause to be discharged, either directly or indirectly to any public sewers, any substance or wastewater which could interfere with the operation or performance of the authority's facilities. These general prohibitions also apply to all non-domestic users of the authority's facilities whether or not the user is subject to national pretreatment standards or any other national, state or local pretreatment requirements. The following substances and wastewaters are specifically prohibited from discharge into the authority's facilities:

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time, shall two successive days readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), be more than ten percent nor any single reading be twenty percent or more of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to: gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the B.S.A., City, State or EPA has notified the user is a fire hazard or a hazard to the system.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(3) Any water or wastes having any corrosive property capable of causing damage or hazard to structure, equipment of the sewer system, or personnel employed in its operation.

(4) Any water or wastes containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater

treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the sewage treatment plant effluent, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307 (a) of the Clean Water Act.

(5) Any water or wastes containing any chemical or biological constituent or having physical characteristics which could cause interference with any POTW wastewater treatment process.

(6) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(7) Any garbage containing particles greater than one-half inch in any dimension. The installation and operation of any garbage grinder equipped with a motor of three-fourths horse power (0.76 hp metric) or greater shall be subject to the review and approval of the general manager.

(8) Materials which exert or cause discolorations, such as, but not limited to, dye waters and vegetable tanning solution.

(9) In no case, shall a substance discharged to the authority's facilities cause the authority to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Clean Water Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to federal, state or local laws and regulations.

(10) Any substance which will cause the authority to violate its N.P.D.E.S./S.P.D.E.S. permit or the receiving water quality standards.

(11) Any substance or wastewater which causes a hazard to human life or creates a public nuisance.

(b) Discharge of stormwater.

(1) No person shall cause or contribute to an illicit discharge, either directly or indirectly, to any storm sewers. These general prohibitions also apply to all industrial users of the authority's facilities whether or not the user is subject to national pretreatment standards or any other national, state or local pretreatment requirements. The following activities are exempt from the requirements of this section:

(i) water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising groundwater, uncontaminated groundwater infiltration into storm drains, uncontaminated pumped groundwater, foundation or footing drains, crawl space or basement sump pumps, air

conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire fighting activities, and any other water source not containing pollutants, and unless the N.Y.S.D.E.C. has determined such discharges to be substantial contributors of pollutants;

- (ii) Discharges approved in writing by the general manager to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the general manager may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this regulation; and
- (iii) Dye testing in compliance with applicable State and local laws is an allowable discharge, but requires a notification to the general manager prior to the time of the test.

(2) The above prohibition shall not apply to any discharge permitted under a SPDES permit, waiver, or waste discharge order issued to the user and administered under the authority of the N.Y.S.D.E.C., provided that the user is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

(3) Except with the approval of the general manager, or as otherwise provided in these regulations, no storm water connection from any building or yard, nor any drain from any catch basin, lake, swamp, pond, or swimming pool, nor any outlet for surface runoff, storm water or ground water of any kind shall be connected to public sanitary sewer or to any private sanitary sewer connected to any such public sanitary sewer.

(4) Within any area served by a sanitary sewer and a separate storm sewer, no storm water shall be allowed to enter waste or vent pipes from any building. Within any such area no down spout, roof leaders, gutters, other pipes, or drains such as channels which may at any time carry storm water surface drainage derived from hydraulic pressure or from well points, cooling water or lake water shall be connected with any sanitary sewer, but must be connected to said storm sewer.

(5) Upon notification to a person that he is engaged in activities that cause or contribute to violations of the B.S.A. or city's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he no longer causes or contributes to violations of the B.S.A. or city's MS4 SPDES permit authorization.

(6) No person shall engage in any activities that cause or contribute to a violation of the authority's SPDES Stormwater Discharge Permit or the authority being subject to the following special conditions:

- (i) Discharge Compliance with Water Quality Standards. The condition that applies where the B.S.A. or the city has been notified that the discharge of stormwater authorized under its MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the B.S.A. or city must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.
- (ii) 303(d) Listed Waters. The condition in the B.S.A. or city's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.
- (iii) Total Maximum Daily Load (TMDL) Strategy. The condition in the B.S.A. or city's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by E.P.A. for a waterbody or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the B.S.A. or city was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
- (iv) The condition in the B.S.A. or city's MS4 permit that applies if a TMDL is approved in the future by E.P.A. for any waterbody or watershed into which an MS4 discharges. Under this condition the B.S.A. or city must review the applicable TMDL to see if it includes requirements for control of Stormwater discharges. If an MS4 is not meeting the TMDL Stormwater allocations, the municipality must, within six (6) months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

(7) Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the authority's SPDES Stormwater Discharge permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the authority's SPDES Stormwater Discharge permit authorization.

(c) Cooling water discharge.

The discharge of non-contact cooling water, uncontaminated contact cooling water or unpolluted process waters to a storm sewer or combined sewer without the approval of the general manager is prohibited.

(d) Limited discharges.

(1) No person shall discharge or cause to be discharged into the public sewerage system any substance or wastes which exceed the limits established below:

- (i) Any water or wastes having a pH lower than 5.0 or higher than 12.0.
- (ii) Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150°F) (65°C), but in no case heat in such quantities that the temperature at the B.S.A. treatment plant exceeds one hundred four degrees Fahrenheit (104°F) (40°C). If in the opinion of the general manager, lower temperatures of such wastes could harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or could otherwise endanger life, health or property, or constitute a nuisance, the general manager may prohibit such discharges.
- (iii) Any water or waste containing substances which may precipitate, solidify or become viscous at temperatures between 0°C (32°F) and 40°C (104°F).
- (iv) Any waters or wastes exceeding the mass discharge limits issued to any industrial user under the BPDES permit system. These mass limits shall be issued in conformance with the methods presented in the B.S.A. Mass Allocation Manual. These mass allocations may be amended from time to time as such amendment is deemed necessary by the general manager to protect the B.S.A. sewage conveyance and treatment facilities, human life or health. In addition, mass allocations for other pollutants may be established when, in the opinion of the general manager, such mass allocations are necessary to protect collection facilities and treatment plant processes or equipment, to diminish or eliminate adverse effects on

the receiving stream quality, to protect life, health and property, or to prevent nuisance conditions.

- (v) Any radioactive wastes or isotopes of such half-life or concentrations as may exceed limits established by applicable federal, state, or other public agencies having jurisdiction.
- (vi) Quantities of flow, concentrations, or both, which constitute a slug as defined herein.
- (vii) Any water or wastes which contain oil and grease/hydrocarbon (also referred to as total extractable petroleum hydrocarbons) in excess of 100 mg/l as determined on the basis of a single composite sample.
- (viii) Any water or wastes which contain total phenol in excess of 8 mg/l as determined on the basis of a single composite sample.

POLLUTANT	Maximum Instantaneous Limits (MAID)*	Allowable Discharge
Chloroform	8.5	mg/l
1,2,4 trichlorobenzene	0.8	mg/l
Fluoranthene	0.1	mg/l
Pyrene	0.1	mg/l
Endosulfan	1.6	mg/l
4,4' - DDD	0.68	mg/l
BHC		1.9
mg/l		
PCBs		0.002
mg/l		
Phenol (Total)	20.0	mg/l
Selenium		2.4
mg/l		
Silver	2.2	mg/l
Cadmium		40.0
mg/l		
Chromium, Total	40.0	mg/l
Chromium, Hexavalent	9.2	mg/l
Copper	16.0	mg/l
Mercury		7.0
mg/l		
Nickel	14.0	mg/l

Lead		65.0
mg/l		
Zinc		25.0
mg/l		
Cyanide, Total	66.0	mg/l
Cyanide, Amenable	6.2	mg/l

*Compliance determined on the basis of a grab sample.

(2) For facilities with multiple outfalls to the public sewer, the limits established above shall apply to each individual outfall. The exceptions to this are mass limits and total phenol. Mass discharge limits issued to any facility under the BPDES permit system shall apply to the total discharge from all outfalls at that facility. The phenol limit shall also apply to the composite of all discharges from a facility.

(e) Notification of slug discharge.

The industrial user shall immediately telephone and notify the B.S.A. treatment plant in the event of any slug discharge. For facilities with multiple outfalls to the sewer, the slug restriction applies to each individual outfall. The 24-hour B.S.A. telephone number is (716) 883-1820 or, if busy, call (716) 853-2459.

(f) Discharge of abnormal (surchargeable) strength sewage.

No person shall discharge or cause to be discharged into the public sewerage system wastes having BOD₅, TSS, or total phosphate concentrations in excess of 250 mg/l, 250 mg/l and 15.35 mg/l., respectively except and until the prior approval of the general manager determines the volume and character of such wastes to otherwise be in compliance with all pertinent federal, state, and local regulations, all other provisions of these regulations, and not to cause overloading of the authority's facilities then approval for such discharge will be granted subject to payment of a surcharge determined as set forth in the B.S.A. Schedule of Sewer Rents and Other Charges.

(g) Dilution of discharges.

(1) No industrial user shall ever increase the use of process water or, in any other way, attempt to dilute a discharge as a means for obtaining compliance with any prohibited or limited discharge requirement of these regulations or any federal or state pretreatment requirement.

(2) The authority may impose mass limitations on industrial users which are using dilution to meet any requirement of these regulations or in other cases where the imposition of mass limitations is appropriate.

(h) Federal categorical pretreatment standards.

As federal categorical pretreatment standards are promulgated, the federal standard, if more stringent than limitations imposed under these regulations, shall immediately supersede the limitations imposed under these regulations.

(i) Right of revision.

The Buffalo Sewer Authority recognizes that in some cases federal and state pretreatment standards may not be sufficient to protect the operation of its treatment works, or make it unable to comply with the terms of its S.P.D.E.S. permit. In such cases, the Buffalo Sewer Authority reserves the right to impose more stringent pretreatment standards than those specified in the EPA regulations.

(j) Modification of federal categorical pretreatment standards.

The B.S.A. may apply for modification of and subsequently may modify specific discharge limits in any federal pretreatment standard, in accordance with procedures set forth in 40 CFR section 403.7: General Pretreatment Regulations for Existing and New Sources of Pollution.

(k) Accidental and spill discharges.

(1) In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the B.S.A. treatment plant of the incident. (The 24-hour B.S.A. telephone No. is 716-883-1820 or, if first number is busy, call 716-853-2459). The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions being taken. Within five days following an accidental discharge, the user shall submit to the general manager a written report describing the cause of discharge and the measures which will be taken by the user to prevent recurrence of the noncompliance.

(2) Notwithstanding other requirements of these regulations, as soon as any person responsible for a building, facility or operation, or responsible for emergency response for a building, facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into the MS4, that person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release of hazardous materials, emergency response agencies of the occurrence via emergency dispatch services shall be notified immediately by the owner or operator. In the event of a release of non-hazardous materials, the B.S.A. shall be notified in person or by telephone or facsimile no later than the next business day by the owner or operator. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the B.S.A. within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or

operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(3) Compliance with this section of these regulations shall not relieve the user of other liability or expense for damage to the authority's facilities or other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(1) Best management practices.

(1) Where the general manager has identified illicit discharges or activities contaminating stormwater, the B.S.A. may require implementation of Best Management Practices (BMPs) to control those illicit discharges and activities.

(2) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and non-structural BMPs.

(3) Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge or an activity contaminating stormwater, may be required to implement, at such person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.

(4) Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

10075.8 Pretreatment and control facilities.

(a) Pretreatment of industrial wastewaters.

The general manager may require an industrial user to install and operate an industrial wastewater pretreatment system to treat industrial flows prior to discharge to the B.S.A. system when it is necessary to measure, sample, restrict or prevent the discharge to the sewer of certain waste constituents, to more equally distribute peak discharges of industrial wastewater, or to accomplish any pretreatment results required by the general manager. All pretreatment systems shall be subject to the approval of the Sewer Authority, but such approval shall not relieve the industrial dischargers of the responsibility of meeting any required industrial effluent limitations. All pretreatment systems shall be adequately engineered and designed to the satisfaction of the general manager and all design reports and plans shall have been prepared, certified and signed by a professional engineer licensed to practice in the State of New York. Any construction for this purpose shall comply with all applicable city and state codes. Approval by the general manager does not constitute a waiver of compliance with these regulations or other appropriate regulations, ordinances and codes.

(b) Spill control and prevention.

Each user shall incorporate measures to prevent or control accidental discharges of substances and wastewater prohibited or limited by the requirements of these regulations. These measures shall include facilities and operating procedures as necessary to prevent the entrance of accidental spills into the authority's facilities. When required by the authority, detailed plans describing these facilities and procedures shall be submitted to the authority for review, and shall be approved by the general manager before construction of these facilities. No user who commences contribution to the POTW after the effective date of this regulation shall be permitted to discharge into the system until accidental discharge procedures have been approved by the general manager.

(c) Compliance schedule.

If an industrial user is required to install and operate a pretreatment or control, system for the purposes identified in section 10075.8 (a) and (b) above, the industrial user shall develop and submit a compliance schedule to define the shortest schedule by which the user will provide such pretreatment or operation and maintenance.

(d) The following conditions shall apply to this schedule:

(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of the pretreatment system required for the user to comply with the objectives stated in subsection (a) above. These shall include hiring an engineer, completing preliminary plans, completing final plans, executing contract(s) for major components, commencing construction, completing construction, etc.

(2) No increment referred to in item 1 shall exceed 9 months.

(3) Not later than 14 days following each milestone date in the schedule and the final date for compliance, the user shall submit a progress report to the general manager including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to bring the construction back into compliance with the schedule. In no event shall more than 9 months elapse between such progress reports.

10075.9 Discharge monitoring, reporting and inspections.

(a) Control manhole.

When required as a condition of a BPDES permit or by the general manager, the owner of any property serviced by a building service sewer, carrying wastewater shall install and maintain in proper working order a suitable control manhole or other appropriate station together with such flow meters, automatic flow proportional sampling equipment and/or automatic analysis and recording equipment deemed necessary by the general manager to adequately sample and measure the waste passing through the control manhole or monitoring station. This control manhole shall be located so as to permit unrestricted access by representatives of the authority.

(b) Industrial wastewater sampling, analysis, and flow measurements.

(1) Each industrial user, unless specifically relieved of such obligation by the authority, will be required, as deemed necessary to submit periodic discharge monitoring reports to the B.S.A. These reports shall contain measurements of daily flow rates, daily flow volumes, B.O.D.₅, total phosphate and total suspended solids for use in determining the annual industrial wastewater treatment charges and such measurements of other constituents deemed necessary by the general manager. All sampling, analysis, and flow measurements of industrial wastewaters shall be performed in conformance with the latest edition of the B.S.A. Sampling Measurement and Analytical Guideline Sheet and shall be performed by a laboratory approved by the general manager. In the case of a recalcitrant industry not performing the required analyses, the B.S.A. may elect to perform these analyses, bill the discharger for all associated costs of these analyses.

(2) For industrial users on which mass limitations have been imposed, the periodic monitoring reports will be subject to the requirements stated above with the additional requirement that the mass of substances discharged and limited either by these regulations or by categorical pretreatment standards will be indicated.

(3) All wastewater analyses shall be conducted in conformance with procedures referenced in the latest edition of B.S.A.'s Sampling and Measurement and Analytical Guideline Sheet. If no appropriate procedure is specified for a particular substance, other procedures may be used subject to the approval of the general manager. Any independent laboratory or discharger performing these analyses shall clearly and concisely report the analytical results, their units of measurements, the test method for each analysis and, if appropriate, the equipment used.

(4) All users making periodic measurements may be required to furnish and install at the control manhole, or other appropriate location, a calibrated flume, weir, flow meter or similar device approved by the general manager, and suitable to measure the industrial wastewater flow rate and total volume. A flow indicating, recording, and totalizing register may also be required by the general manager. In lieu of wastewater flow measurement, the general

manager may accept records of water usage and adjust the flow volumes by suitable factors to determine peak and average flow rates for the specific industrial wastewater discharge.

(5) The periodic monitoring reports will contain all the information and data set forth in the most recent edition of the B.S.A. Sampling Measurement and Analytical Guideline Sheet. The frequency of monitoring required will be specified either by the general manager or in the appropriate pretreatment standard.

(6) The periodic monitoring reports will be signed by an authorized representative of the industrial user. The user will also maintain records of all information resulting from monitoring activities required by this section for a period of three years.

(7) The sampling, analysis and flow measurement procedures equipment and monitoring records shall be subject at any time to inspection by the authority.

(c) Inspections.

The general manager, other B.S.A. representatives, EPA, and/or NYSDEC personnel bearing proper credentials and identification shall be permitted to enter upon all premises or properties, including those in contracted service areas, for the purpose of inspection of stormwater or pretreatment facilities and monitoring records, flow measurements, sampling and testing of discharges, review and copying of all file records and data pertaining to wastewater and stormwater discharge monitoring, investigation of suspected or reported violations, and enforcement in accordance with the provisions of these regulations. All inspections and related activities, as described above, will be conducted by the personnel identified in accordance with the provisions of New York Law.

(d) Access and monitoring of discharges to the MS4.

(1) The general manager shall be permitted to enter and inspect facilities subject to this regulation as often as may be necessary to determine compliance with the B.S.A. regulations. If a user has security measures that require proper identification and clearance before entry into its premises, the user shall make the necessary arrangements to allow access to the general manager.

(2) Facility operators shall allow the general manager ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement these regulations.

(3) The B.S.A. shall have the right to set up on any premises or facility subject to this regulation such devices as are necessary in the opinion of the general manager to conduct monitoring and/or sampling of the premises' or facility's stormwater discharge.

(4) The B.S.A. has the right to require the premises or facilities subject to these regulations to install monitoring equipment as is reasonably necessary to determine compliance with these regulations. The premises or facility's sampling and monitoring

equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Unreasonable delays in allowing the B.S.A. access to a premises or facility shall be a violation of these regulations. A person who is the operator of a premises or facility subject to this regulation commits an offense if the person denies the B.S.A. reasonable access to the premises or facility for the purpose of conducting any activity authorized or required by these regulations.

10075.10 Administration and Enforcement.

(a) Powers of the general manager.

(1) The general manager is authorized to issue permits in accordance with this part allowing discharge of wastes and stormwater to the B.S.A. POTW or MS4, as the case may be, to validate and issue connection permits, and to prevent illicit connections, activities, and discharges to the MS4.

(2) Notwithstanding any other provisions herein, the general manager or his authorized representative is authorized by this part to take any of the following actions, through a notice of violation or otherwise, with respect to users whenever, in his sole discretion, any section of this part is violated:

- (i) Reject the waste.
- (ii) Require pretreatment.
- (iii) Require a control over quantities and rate of discharge.
- (iv) Require a payment of a surcharge to be determined by the general manager based on reasonable assessment of the degree of violation and/or additional costs of treatment resulting from the violation.
- (v) Require surveillance and/or monitoring of discharges and attendant reporting.
- (vi) Require the development of compliance schedules and submission of attendant reports necessary to assure compliance.
- (vii) Modify or revoke the B.P.D.E.S. or any other permit.
- (viii) Terminate sewer service.
- (ix) Require implementation of best management practices to control illicit discharges and activities.
- (x) Require the elimination of illicit connections or illicit discharges.
- (xi) Require cessation of violating discharges, practices or operations.
- (xii) Require abatement or remediation of stormwater pollution or hazardous materials and the restoration of any affected property.
- (xiii) Require the performance of monitoring, analyses and reporting.
- (xiv) Require payment of a fine.
- (xv) Seek injunctive relief.

(3) The owner or operator of a commercial or industrial establishment shall provide, at his own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and non-structural BMPs.

(4) Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge or an activity contaminating stormwater, may be required to implement, at such person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.

(5) Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(6) If refused access to private property, the general manager, or his or her authorized representative, may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation of B.S.A.'s regulations has occurred. Upon determination that a violation has occurred, the general manager or authorized representative may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the person responsible for the property or discharge or violation.

(7) Except in the event of an emergency, reasonable advance notice of the action to be taken shall be given by the general manager but, unless negotiated upon initiation by the user, shall in no case exceed thirty (30) calendar days. Once notice of action is given, the user shall have ten (10) business days to respond to the charges contained therein or submit a response contesting the action.

(8) The general manager reserves the right to terminate or prevent a discharge after informal notice to the discharger to immediately halt a discharge which reasonably appears to present imminent endangerment to the health or welfare of persons, property of the B.S.A. POTW, MS4 or to the environment. Informal notice shall be followed as soon as practicable by action as provided by this section.

(9) Actions to be taken by the general manager shall be documented in the form of a letter, an administrative order, or other document as the general manager may reasonably determine.

(10) The general manager may promulgate administrative procedures, technical specifications or guidances to implement any and all sections of this part. These procedures, specifications and guidances shall have the same force and effect as if they were fully set forth in this part.

(b) Illicit discharges in emergency situations.

(1) The general manager may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The general manager shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the general manager may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons or the environment.

(2) Any person discharging to the MS4 in violation of this regulation may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The general manager will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefor. The violator may petition the general manager for a reconsideration and hearing. Access may be granted by the general manager if he finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the general manager determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits a violation if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the general manager.

(c) Suspension of a BPDES permit.

(1) The general manager may suspend a BPDES permit when such suspension is necessary in the opinion of the general manager, in order to stop a discharge which presents a hazard to the public health, safety or welfare, to the environment or to the authority's sewerage system, or causes the authority to violate any condition of its N.P.D.E.S./ S.P.D.E.S. permit.

(2) Any person notified of a suspension of his BPDES permit shall immediately stop the discharge of all industrial wastewater to the B.S.A. system. The general manager shall reinstate the BPDES permit upon written proof of satisfactory compliance with all discharge requirements of these regulations.

(d) Revocation of a BPDES permit.

(1) The general manager may revoke a BPDES permit upon a finding that the user has violated any provision of his permit or of these regulations or applicable federal or state regulations, including, but not limited to:

- (i) failure of the industrial user to report accurately the wastewater constituents and characteristics of his discharge,
- (ii) failure of the industrial user to report significant changes in operation, or wastewater constituents and characteristics, and/or

(iii) refusal of reasonable access to the industrial user's premises for the purpose of inspection or monitoring.

(2) Any person whose BPDES permit has been revoked shall immediately stop all discharge of any wastes covered by the permit to any public sewer that is tributary to a sewer or sewer system of the authority. The general manager may disconnect or permanently block from such public sewer the industrial connection of any user whose permit has been revoked, if such action is necessary to insure compliance with the order of revocation.

(3) Before any further discharge of industrial wastewater may be made by the user, he must apply for a new BPDES permit and pay all charges that would be required upon initial application together with all delinquent fees, charges and such other sums as the discharger may owe to the authority. Costs incurred by the authority in revoking the permit and disconnecting the industrial sewer shall be paid for by the discharger before issuance of a new permit.

(e) Violations and civil liability.

(1) When the general manager finds that a person has violated, or continues to violate, any provision of these regulations, a B.P.D.E.S. permit or other discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the general manager may impose upon such person a penalty in an amount not to exceed ten thousand (\$10,000), which shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, such penalty shall be assessed for each day during the period of violation. Each violation shall be a separate and distinct violation.

(2) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of eighteen percent (18%) per year. A lien against the person's property is hereby imposed for all unpaid charges, fines, and penalties.

(3) Persons desiring to dispute such penalties must file a written request with the general manager for a hearing to present evidence why such penalty should not be imposed. Where a request has merit, the general manager may convene a hearing on the matter. The general manager may add the costs of preparing administrative enforcement actions, such as notices and orders, to the penalty.

(4) Issuance of an administrative penalty shall not be a bar against, or a prerequisite for, taking any other action against the person.

(5) In determining the amount of the above fines, the general manager may consider factors such as, but not limited to, the nature of the violation; the magnitude of impact on human health, the environment, and/or the B.S.A. treatment plant operation caused by the violation, the users past violation record, and other relevant factors.

(6) Each day on which a violation is found to occur or continue shall be deemed a separate and distinct offense. A day shall consist of a twenty-four hour period beginning at 12:01 AM and ending the following 12:01 AM.

(7) When, in the opinion of the general manager, or the governmental agencies having jurisdiction in the matter, a violation of these regulations is of such a nature as to be likely to cause damage to sewer systems or P.O.T.W. of the Buffalo Sewer Authority, or a threat to the health or safety of the inhabitants of any areas served, the Buffalo Sewer Authority may forthwith discontinue and sever any connections with its sewer system without any liability for prosecution or damages.

(f) Falsification of data.

User representatives providing information and data as required for any application, record, report, plan, or other document required by these regulations shall be subject to the provisions of section 309 (c) (2) of the Clean Water Act governing false statements, representations, or certifications.

(g) Notifications.

(1) Any person found in violation of these regulations or of any limitation or requirement of a permit issued hereunder, shall be served, by the general manager, with a written notice (except in the case of an emergency situation) stating the nature of the violation and identifying the enforcement actions which will or may be taken. Within thirty days of the date of notice, the person in violation shall submit a plan for corrective actions to be taken to prevent continuance or reoccurrence of the violation.

(2) In the event of an emergency situation (as determined by the general manager), the general manager is required only to give an informal notice in order to immediately and effectively halt a discharge which presents an imminent endangerment to the authority's facilities, the environment, or the health and welfare of persons.

(h) Show cause hearing.

(1) In the event of violation of any provision of the regulations by a user, either the authority or the user may request a hearing to show cause why enforcement action should not be taken. A notice shall be served on the user designating the time and place of the hearing to be held regarding the violations, the reasons why the action is to be taken, the proposed enforcement action, and requesting the user to show cause why the proposed enforcement action should not be taken.

(2) The authority may issue notice of such hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings. Testimony will be taken under oath, recorded, and kept on file for inspection by the public or any interested party.

(3) Enforcement actions, if any, taken by the authority subsequent to the hearing shall be based upon the evidence presented. If the person in violation has failed to show cause why enforcement action should not be taken, the authority shall issue a directive to the user responsible for the violation specifying the remedial action to be taken and a schedule for completion of this action. Further orders and directives relative to the assessment of a fine(s), enforcement actions to be carried out, and/or other corrective actions required may also be issued.

(i) Legal action.

If any user discharges into the authority's facilities in a manner which violates any provision of these regulations, federal or state pretreatment requirements, or any orders of the authority, the B.S.A. may initiate an action to seek injunctive relief.

(j) Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this regulation is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(k) Improper use of sewers.

(1) The Buffalo Sewer Authority hereby reserves the right to inspect any existing building service sewer and drain, lateral or collecting sewers that discharge wastewater directly or indirectly to the authority's facilities. If it is found that such laterals or collecting sewers are used or maintained in such a way as to cause discharge of septic wastewater or ground water and debris which exceeds the design criteria of said sewer, or any other substance deemed objectionable by the general manager, the general manager will give notice of the unsatisfactory condition to the offending discharger and shall direct that the condition be corrected.

(2) In cases of continued noncompliance with the general manager's directive, the Buffalo Sewer Authority may disconnect the said sewer from the authority's sewerage system without any liability for prosecution or damages.

(l) Excessive sewer maintenance expense.

(1) Sewer or sewerage maintenance expenses which result from a user violation of any of the prohibited or limited discharge requirements in these regulations will be charged to the user in violation. Such maintenance may include but not be limited to stoppage, plugging, breakage, any reduction in sewer capacity or any other damage to sewers or sewerage facilities of the authority. The costs charged to the user in violation may include the costs and expenses for complete restoration of the impaired facilities to a functional condition.

(2) Refusal of the user in violation to pay the necessary maintenance expenses resulting from such violation shall constitute further violation of these regulations subject to a fine as defined in subsection (c) in this section.

(m) Damage caused by prohibited waste discharge.

Any industrial wastewater discharger who discharges, or causes the discharge, of prohibited wastewaters which cause damage to the authority's facilities, detrimental effects on treatment processes or any other damages resulting in costs to the Sewer Authority, shall be liable for all damage occasioned thereby.

(n) Discrepancies between actual and reported surchargeable waste quantities.

(1) When inspection or verification monitoring or other investigation by B.S.A. reveals a user's surchargeable waste constituents and/or waste volume to be substantially greater (20 percent greater) than reported in that user's most recent discharge monitoring report submitted and approved by B.S.A. for purpose of surcharge calculation, then the user may be required to resample for purpose of amending the surcharge calculation. At least three, twenty four hour composite samples and flow measurements shall be obtained and analyzed in accordance with the B.S.A. Sampling and Analytical Guidelines Sheet, either by the authority or by another independent laboratory acceptable to both parties, with all costs of sampling and analysis to be paid by the user. This new sample data along with any other relevant information or data obtained by the authority or submitted by the user shall be used to calculate a corrected surcharge according to the formula set forth in the B.S.A. Schedule of Sewer Rents and Other Charges.

(2) Surcharges corrected on the basis of substantially greater surchargeable waste constituents shall be applicable to the period following the time when inspection, verification or other investigation revealed the discrepancy. Surcharges for periods preceding any surcharge amendment shall be based on the last set of data submitted by the user and approved by the B.S.A. for purpose of surcharge calculation.

(o) Annual publication of violators.

At least annually, the Buffalo Sewer Authority shall publish a listing of all significant violators of the pretreatment standards and requirements.

10075.11 Confidentiality.

The confidentiality of user information and data submitted as necessary for any application, record, report, plan, or other document required by these regulations shall be governed by the New York State Freedom of Information Law (Sections 84 through 90 of the Public Officers Law of the State of New York) and by other applicable state or federal statutes and regulations. Any requests by a user to keep specific data and information confidential must be made in writing at the time of submission.

10075.12 Severability.

If any provision, paragraph, word, section or article of these regulations is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

Appendices

- 1) B.S.A. Schedule of Sewer Rents and Other Charges
- 2) B.S.A. Sampling and Analytical Guidelines Sheet
- 3) B.S.A. Mass Allocation Manual