The State of New Hampshire
Department of Environmental Services

Michael P. Nolin
Commissioner

August 9, 2006

City of Rochester
Mr. John Scruton, City Manager
Rochester City Hall
31 Wakefield Street
Rochester, NH 03867

Re: Administrative Order No. WD 06-037

Dear Mr. Scruton:

Enclosed you will find Administrative Order No. WD 06-037 (the "Administrative Order") executed by Harry T. Stewart, P.E., Water Division Director, and Michael P. Nolin, Department of Environmental Services Commissioner. If you have any questions after reviewing the Administrative Order, please contact me at 271-6637.

Sincerely,

COPY

Stergios K. Spanos
Compliance Subsection

CERIFIED MAIL / RRR # 7099 3400 0003 6154 3468

cc: Gretchen R. Hamel, Legal Unit Administrator
Joy Hilton, USEPA, Compliance and Enforcement
James Martin, Public Information Officer, DES PIP Office
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
Melodie Esterberg, Rochester, Director, Department of Public Works
Thomas H. Willis, Jr., Rochester, City Engineer/Technical Services Manager
John Bush, Administrator, Wastewater Engineering Bureau

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P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095
Telephone: (603) 271-3503 • Fax: (603) 271-2982 • TDD Access: Relay NH 1-800-735-2964
DES Web site: **www.des.nh.gov**

The State of New Hampshire
Department of Environmental Services

Michael P. Nolin
Commissioner

City of Rochester
Mr. John Scruton, City Manager
Rochester City Hall
31 Wakefield Street
Rochester, NH 03867

Re: Sanitary Sewer Overflow Reporting Requirements
NPDES Permit No. NH0100668

ADMINISTRATIVE ORDER
NO. WD 06-037

August 9, 2006

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division to the City of Rochester pursuant to RSA 485-A:22. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly-constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, New Hampshire.

2. The City of Rochester ("Rochester") is a duly-constituted municipality of the State of New Hampshire having a mailing address of 31 Wakefield Street, Rochester, New Hampshire 03867.

C. STATEMENTS OF FACTS AND LAW

1. Pursuant to RSA 485-A:13 and related sections, DES regulates the discharge of pollutants to surface waters under a permit system. As part of this program, the Commissioner of DES has adopted Env-Ws 401-405 relating to permits and has adopted Env-Ws 1700 to establish water quality standards for the state's waters.

2. Rochester owns and operates a wastewater treatment facility located at Maple Street in Rochester, New Hampshire (hereinafter "the WWTF").

3. Operation of the WWTF is permitted under the terms of the federal National Pollutant Discharge Elimination System ("NPDES") permit number NH0100668, issued by the United States Environmental Protection Agency ("USEPA") to Rochester, effective on July 23, 1997. This NPDES permit was adopted as a State discharge permit under RSA 485-A:13,I(a). The federal and state permits are collectively referred to hereinafter as the "NPDES Permit".

4. The NPDES Permit authorizes Rochester to discharge treated wastewater from the WWTF to the Cocheco River only through a designated outfall, subject to specified effluent limitations, monitoring requirements, and other conditions.

5. NPDES Permit Part II, Section D.1.e., requires that the permittee report any noncompliance which may endanger health or the environment.

6. Correspondence from Thomas H. Willis, Jr., P.E., Rochester City Engineer/Technical Services Manager, to DES, dated March 20, 2006, provided information on the discharge of raw sewage from a drainage outfall pipe located near the intersection of Front Street and Cocheco Avenue.

7. DES tried to solicit more information from Rochester via phone calls to Thomas H. Willis, Jr. but calls were not returned.

8. DES subsequently sent a Notice to Melodie Esterberg, P.E., Rochester Commissioner of Public Works, dated June 2, 2006, via certified mail, requesting the needed information by June 20, 2006. There was no response to DES by Rochester.

9. DES subsequently sent a Second Notice to Melodie Esterberg, dated June 28, 2006, via certified mail, requesting that she contact DES by July 10, 2006 to schedule a meeting. Again, there was no response to DES by Rochester.

D. DETERMINATION OF VIOLATIONS

1. Rochester has violated their NPDES permit and RSA 485-A by not providing complete information on the unpermitted discharge event.

E. ORDER

Based on the above findings, DES hereby orders Rochester as follows:

1. Within **10 days** of the date of this Order, submit the following information to DES:

   a. A map indicating the specific location of the discharge,
   b. A drawing of the structure that caused the unpermitted discharge,
   c. A detailed description of any similar diversionary structures and location of the diversionary structures in this area and throughout the City's sewer system that were installed to prevent sewage discharges from old combined stormwater and sewers,
   d. A description of preventative measures taken to eliminate future discharges from any of these diversionary structures,
   e. Analytical results of samples collected of the unpermitted discharge and/or the impacted surface water,
   f. A detailed timeline of Rochester's response to this discharge including how the city was notified, when the city was notified (date and time), when the city first investigated the discharge, and when samples of the discharge were collected,

g. The bacterial analysis benchsheets for the discharge samples collected,
h. An estimate of how much sewage was discharged, and
i. A detailed description of what sewer cleaning activities occurred in January 2006 and where these activities occurred.

2. Send correspondence, data, reports, and other submissions made in connection with the Administrative Order, **other than appeals**, to DES as follows:

Margaret Bastien, Supervisor/Compliance
DES Water Division
P.O. Box 95
Concord, NH 03302-0095
Fax: (603) 271-4128
e-mail: mbastien@des.state.nh.us

F. APPEAL

Any person aggrieved by this Order may appeal the Order to the New Hampshire Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at http://www.des.state.nh.us/desadmin.htm. Appealing the Order does not automatically relieve Rochester of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 485-A:22 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Rochester remains obligated to comply with all applicable requirements, in particular RSA 485-A:13,I(a) and their NPDES permit. DES will continue to monitor Rochester's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

COPY

Harry T. Stewart, P.E., Director
Water Division

COPY

Michael P. Nolin, Commissioner
Department of Environmental Services

Certified Mail/RRR: [*insert number*] 7099 3400 0003 6154 3468

cc: Gretchen Hamel, Legal Unit Administrator
Public Information Officer, DES PIP Office
Jennifer Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
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