

SUPER LAW GROUP, LLC

November 21, 2025

Honorable Cathy Seibel
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, NY 10601
via ECF

RE: *Save the Sound et al. v. Westchester County et al.*, No. 7:15-cv-06323-CS –
Request for Pre-Motion Conference: Motion to Enforce as to City of Rye

Dear Judge Seibel:

Pursuant to Your Honor’s Individual Practice Rule 2.A, Plaintiffs respectfully request a pre-motion conference and herein provide the basis for an anticipated motion to enforce the Stipulated Order as to Defendant City of Rye, ECF 192 (“SO-I”), as amended, ECF 268 (“SO-II”), and supplemented, ECF 298 (“Supp.”) (together, the “Orders”).

As the Court is already aware, Rye has consistently struggled to comply with the Court’s Orders. *See, e.g.*, ECF 214 (Apr. 13, 2022) (pre-motion request letter under SO-I); ECF 267-2 at 19 (Aug. 14, 2023) (amending the Order, Appx. A.4, to order representatives of Rye’s City Manager and City Engineer to attend biannual status meetings); ECF 287 at 3–4 (Apr. 2, 2024) (describing Rye’s ongoing violations, which led to the Supplement); ECF 303 at 2–3 (June 30, 2025) (describing Rye’s ongoing violations, which led to this letter).

This dispute centers on Rye’s failure to produce adequate plans for sewer infrastructure management, under terms the Court has ordered and to which Rye has agreed. This Clean Water Act citizen suit foundationally alleged that Rye failed to care for their sewage infrastructure, and that this lack of maintenance caused or contributed to sanitary sewer overflows and chronic violations of the Clean Water Act. Thus, the Court’s Orders are principally concerned with (a) sewer infrastructure repairs and (b) management measures to prevent disrepair and sewage overflows from reoccurring. Although Rye completed its repairs (late, triggering suspended EBPs, *see infra* Part III), Rye has failed to implement the management measures plainly required by the Court’s Orders (*infra*, Parts I–II).

I. Failure to Implement Electronic Recordkeeping

The Orders required Rye to complete its migration to electronic recordkeeping within its Computerized Maintenance Management System (“CMMS”) on or before May 1, 2023. SO-II, Appx. B.1. This migration remains incomplete. The missing information broadly affects Rye’s ability to comply with the Orders, which require Rye to calculate its maintenance obligations based on the date of last maintenance and conditions observed at that time. Since that information is missing from the CMMS, Rye is unable to determine when to next inspect or clean a pipe or manhole from the CMMS.

Furthermore, information available to Plaintiffs indicates that Rye is, in fact, calculating its maintenance deadlines incorrectly and in violation of the Orders. Since February 24, 2021, the Orders, ¶ 20, have required that “Rye shall fully implement the Operational and Management Measures set forth in Appendix B.” Rye is violating this in two key ways.

First, Rye must calculate the date of next inspection based on two factors: (1) the date of the last inspection (or the date of the SSES, 2017–18) and (2) the condition observed during that inspection (or the nature of any repairs made since the last inspection). Appx. B.2.b–c. Pipes in good repair (categories S1 and S2) must be reinspected within fifteen years, while pipes in moderate condition (category S3) must be reinspected within ten years. Appx. B.2.b. Accordingly, pipes categorized in the SSES as S1 and S2 are due to be reinspected by 2032–33, and S3 pipes are due to be reinspected by 2027–28. Yet the CMMS and CMOM (*see infra*, Part II) indicate that Rye intends to complete inspections of these pipes by 2035 and/or 2040—ten to fifteen years from *now*—regardless of the actual last date of inspection. That schedule violates the Court’s Orders, ¶ 20 & Appx. B.2.b.

Second, the Court’s Orders require Rye to clean “each individual gravity sewer pipe in the collection system no less than once every 5 years.” Appx. B.2.d. Since the SSES, Rye should have conducted routine cleaning of the entire system by 2022–23, and the entire system is due to be cleaned again by 2027–28. Yet the CMMS and CMOM indicate that Rye intends to complete the *first* round of cleanings by 2030—five years from *now*—regardless of the actual last date of cleaning.¹ The failure to conduct routine cleaning is a violation of the Court’s Orders, ¶ 20 & Appx. B.2.d.

Failure to adequately maintain Rye’s sewer system is the underlying cause of this lawsuit. The failure to complete the CMMS—and the associated failures to conduct required routine maintenance on the Court-ordered schedule—constitute significant violations of the Orders.

II. Failure to Implement an Adequate CMOM

Rye’s Capacity, Management, Operation, and Maintenance (“CMOM”) program does not comply with the Court’s Orders, Appendix B.2, in two critical ways. There are additional CMOM violations that will be raised in full briefing on a motion to enforce.

First, Rye’s CMOM does not define the routine inspection schedule for all sewer infrastructure. Yet the Court’s Orders, Appx. B.2.b–c, clearly state the formula by which routine inspections shall be scheduled. *See supra*, Part I (describing inspection schedule factors). The failure to include this formula (or otherwise establish a compliant inspection schedule) in Rye’s CMOM is a plain violation of the Court’s Orders.

Second, Rye’s CMOM does not establish a protocol for cleaning hot spot locations. “Hot spots” are locations that are known to have maintenance issues that require more frequent cleaning than the standard five-year cleaning rotation. *See supra*, Part I (describing routine

¹ Even if the Order were interpreted to require cleaning of all pipes once every five years starting from the date that the Order was entered in February 2021, re-cleaning of all pipes would still be required by February 2026. Rye’s plan to complete the first round of routine cleaning by 2030 would violate the Order under either interpretation.

cleaning schedule). The Court's Orders, Appx. B.2.f, thus require Rye to "[i]dentify the cleaning frequency for each hot spot segment" in the CMOM (or incorporate such a schedule by reference, e.g. from the CMMS). The failure to identify the cleaning frequency for each hot spot segment is a clear violation of the Court's Orders.

Rye's fundamental failures to define the schedules for routine maintenance of Rye's sewer infrastructure constitute critical violations of the Orders.

III. Stipulated Additional Environmental Benefit Payments

The Orders set forth two categories of stipulated additional environmental benefit payments ("EBPs"): daily EBPs that accrue each day that Rye fails to provide a Deliverable required by the Orders, SO-II ¶ 35, and suspended EBPs that are immediately due and payable upon a triggering violation, Supp. ¶ D.

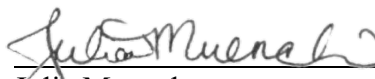
The City of Rye has unambiguously missed its deadlines to complete its CMMS and CMOM as required by the Orders; other violations will be explained in briefing on the motion. Plaintiffs agreed to waive any EBPs accrued prior to October 24, 2024, Supp. ¶ D.iii. From that date through November 21, 2025, Rye has accrued well over \$1.2 million in daily EBPs and is continuing to accrue daily EBPs at a rate of at least \$8,000 per day for outstanding Deliverables. In addition, Rye has accrued \$90,000 in suspended EBPs (payable to Rye Nature Center), triggered by Rye's ongoing failures to follow the Orders.

In sum, the City of Rye has accrued EBPs of at least \$1.3 million and is continuing to accrue daily EBPs at a rate of at least \$8,000 per day.

As noted in Plaintiffs' 2022 pre-motion letter to enforce the terms of the Orders, Plaintiffs do not view the stipulated EBPs as an end in themselves; they are intended to dissuade Rye from violating its commitments. Plaintiffs' primary interest remains in ensuring that Rye implements adequate sewer management practices, per the terms of the Orders and as Rye agreed. In light of that goal, Plaintiffs again offered to substantially reduce stipulated EBPs if Rye corrected the above deficiencies. Despite repeated, year-long efforts to clarify, narrow, and/or reduce the consequences of Rye's noncompliance, including several extensions and further correspondence with counsel, the City of Rye has not responded to Plaintiffs' offer.

Accordingly, pursuant to Your Honor's Individual Rule 2.A, Plaintiffs respectfully request that the Court set this matter on for a pre-motion conference in anticipation of a motion to enforce the Orders and order the City of Rye to respond to this letter a week prior.

Respectfully submitted,



Julia Muench

Attorney for Plaintiffs