

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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SAVE THE SOUND and ATLANTIC CLAM	:	
FARMS of CONNECTICUT, INC.,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
WESTCHESTER COUNTY, NEW YORK;	:	
TOWN/VILLAGE OF HARRISON; VILLAGE OF	:	Case No. 7:15-cv-06323-CS
LARCHMONT; TOWN OF MAMARONECK;	:	
CITY OF NEW ROCHELLE; VILLAGE OF	:	
PELHAM MANOR; CITY OF RYE; VILLAGE	:	
OF RYE BROOK; and VILLAGE OF	:	
SCARSDALE,	:	
	:	
Defendants.	:	
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**STIPULATED ORDER WITH RESPECT TO
DEFENDANT VILLAGE OF SCARSDALE**

Plaintiffs Save the Sound and Atlantic Clam Farms of Connecticut, Inc. (“Plaintiffs”) and Defendant Village of Scarsdale (“Scarsdale”) (collectively, the “Parties”) hereby enter into this stipulated order (“Stipulated Order”) in settlement of this action.

WHEREAS, Plaintiffs commenced this action asserting, *inter alia*, claims that Scarsdale was in violation of provisions of the Clean Water Act (33 U.S.C. § 1365 *et seq.*) (“CWA”), was in violation of provisions of the County Environmental Facilities Sewer Act (Charter and Administrative Code of Westchester County, Article 824) (“County Sewer Act”), and was contributing to a public nuisance; and,

WHEREAS, prior to the commencement of this litigation, Scarsdale managed the inspection, maintenance, and repair of its sanitary sewer system, which includes, among other actions, the establishment of a Sewer Rent to defray the cost of maintaining and improving the Village’s sanitary sewer system, and the replacement and relining of sanitary sewer lines and smoke testing of private sewer laterals; and

WHEREAS, in addition, Scarsdale has prepared a Sanitary Sewer Evaluation Survey (SSES) dated March 28, 2018 (Appendix C); a Remediation Plan based on the SSES dated March 2018 that has been updated repeatedly, most recently in October 2022 (Appendix D); a

Capacity Management, Operation and Maintenance Manual (“CMOM Manual”) dated May 2020 (Appendix E); and enacted a Private Sewer Lateral Ordinance (Appendix F);

NOW, THEREFORE, without the trial of any issue of fact or law, without the admission by Defendant of any of the facts or violations alleged in the Complaint, upon consent of the Parties, and upon consideration of the mutual promises contained herein,

IT IS HEREBY STIPULATED BETWEEN THE PARTIES AND ORDERED, ADJUDGED, AND DECREED BY THE COURT AS FOLLOWS:

I. JURISDICTION AND VENUE

1. **Jurisdiction.** Jurisdiction over this action is conferred by 28 U.S.C. § 1331 (federal question), and 33 U.S.C. § 1365(a) (Clean Water Act jurisdiction). Plaintiffs have standing and have complied with the statutory notice requirements under the CWA, 33 U.S.C. § 1365(a)(1), and the corresponding regulations at 40 C.F.R. § 135.2. An actual, justiciable controversy exists between the Parties. The requested relief is proper under 28 U.S.C. §§ 2201, 2202, and 33 U.S.C. § 1365(a).
2. **Venue.** Venue is properly vested in this Court pursuant to 33 U.S.C. § 1365(c)(1), because the Village of Scarsdale is located, and the events giving rise to this action occurred, within this judicial district.
3. **Consent.** For purposes of this Stipulated Order, or any action to enforce the Stipulated Order, the Parties consent to the Court’s jurisdiction over this Stipulated Order.

II. APPLICABILITY

4. The provisions of this Stipulated Order shall apply to and be binding upon the Parties, and their officers, directors, agents, employees acting in their official capacities, successors, and assigns.
5. No transfer of any ownership interest in or any interest in the operation of Scarsdale’s Sanitary Sewer System, whether in compliance with this Paragraph or otherwise shall relieve Scarsdale and its successors and assigns of their obligation to ensure that the terms of this Stipulated Order are implemented. During the term of this Stipulated Order, any transfer of ownership or operation of the Sanitary Sewer System, or any portion thereof, to any other person or entity must be conditioned upon the transferee’s agreement to be added as a party to this Stipulated Order and to be jointly and severally liable with Scarsdale to undertake the obligations required by all provisions of this Stipulated Order. At least thirty (30) days prior to such transfer, Scarsdale shall provide a copy of this Stipulated Order to the proposed transferee and shall simultaneously provide written notice of the prospective transfer, together with a copy of the above-referenced proposed written agreement, to Plaintiffs, in accordance with Section XIV (Notices). Any noncompliance with this Paragraph constitutes a violation of this Stipulated Order.

6. Scarsdale shall provide a copy of this Stipulated Order to all officers, employees, and agents whose duties might reasonably include compliance with any provisions of this Stipulated Order.

III. DEFINITIONS

7. Unless otherwise expressly provided herein, terms used in this Stipulated Order which are defined in the CWA or in regulations promulgated under the CWA shall have the meaning ascribed to them in the CWA or in the regulations promulgated thereunder. Whenever the terms listed below are used in this Stipulated Order, the following definitions shall apply:
 - a. Agencies: the United States Environmental Protection Agency and the United States Department of Justice.
 - b. Date of Lodging: the day Plaintiffs submit this Stipulated Order to the Agencies for the forty-five (45) day review period required by 33 U.S.C. § 1365(c)(3).
 - c. Effective Date: the day the Court enters this Stipulated Order, as described in Section XV.
 - d. Term of Order: the period beginning on the Effective Date and ending when Scarsdale has completed its performance or payment obligations under Sections IV, VI, and VII (the "Termination Date"), except that, if Scarsdale does not comply with its obligations under this Stipulated Order by the dates set forth, whether because of a Force Majeure Event or for any other reason, then the term of this Order – and the Court's jurisdiction – shall be extended for an appropriate period of time to be agreed between the parties through the Dispute Resolution Procedure.

IV. PAYMENTS

8. **Environmental Benefit Payment ("EBP").** In lieu of any payment that could have been assessed by the Court under the CWA, as a penalty if the matter were tried, Scarsdale shall pay a total of one hundred and fifty thousand dollars (\$150,000) for use on projects relating to the reduction, mitigation, and/or remediation of the effects of stormwater pollution or environmental restoration of, or other benefit to, the Long Island Sound watershed ("EBP Fund").
 - a. Within ninety (90) days of the Effective Date, Scarsdale will provide a Project Plan for a proposed environmental benefit project regarding biological treatment of stormwater entering Crane Library Pond (the "Pond Project"). The Project Plan shall include clear and specific metrics, including but not limited to: (1) the proposed location and drainage area; (2) estimated treated flow and supporting calculations; (3) an estimated budget with itemized expected costs; (4) a timeline for completion (which shall not extend beyond two (2) years from the Effective Date); and (5) supporting diagrams for the structural components of the proposed project.

- b. Within one hundred and five (105) days of the Effective Date, Plaintiffs will review and provide comments on the Project Plan.
- c. Within one hundred and twenty (120) days of the Effective Date, Scarsdale will either (a) revise the Project Plan in accordance with Plaintiffs' comments or (b) attend a video conference with Plaintiffs to resolve any disagreements with Plaintiffs' comments. Scarsdale shall have not more than two (2) weeks from the date of the video conference to submit the revised Project Plan updated in accordance with the Parties' agreements. If the Parties cannot reach agreement on the contents of the Project Plan, the Parties may initiate Dispute Resolution pursuant to Section XI.

The Pond Project shall be completed within two (2) years of the Effective Date ("Completion Date"). On or before two (2) months from the Completion Date, Scarsdale shall submit an Implementation Report to Plaintiffs, which will compare the completed project to the estimates provided in the Project Plan. The Implementation Report shall include a final accounting of Pond Project costs paid from the EBP Fund, which may include in kind services provided by the Village. Plaintiffs have until four (4) months from the Completion Date to object to any costs included in the final accounting.

9. **Fees, Costs, and Expenses.** Defendants shall pay a sum of two hundred and thirty-five thousand dollars (\$235,000) as full and complete satisfaction of Plaintiff's claims for attorneys' fees and costs incurred to date, including investigative and expert engineering costs, against Scarsdale. The payment will be paid to Plaintiffs' attorney within twenty (20) days of the Effective Date of this Stipulated Order by check or electronic transfer. A check shall be sent by certified mail, or similar service with tracking, and shall be payable to "Super Law Group, LLC Attorney Trust - IOLA". Payments will be deposited in Super Law Group's IOLA Trust Account for the benefit of the Plaintiffs.
10. **Compliance Monitoring Fees - Engineering.** Plaintiffs intend to engage the consulting services of a professional engineer licensed in the State of New York ("Consulting Engineer") to monitor Scarsdale's compliance with this Stipulated Order, and as necessary for mediation assistance in connection with Dispute Resolution (*see* Section XI). Scarsdale agrees to pay the reasonable fees and costs for work to be performed by Plaintiffs' Consulting Engineer, between the Effective Date and the Termination Date, in an amount not to exceed \$3,000 in any calendar year. Plaintiffs' Consulting Engineer shall issue invoices and statements directly to Scarsdale that explain the fees and costs charged for this work, and Scarsdale's payments pursuant to this Paragraph shall be made directly to Plaintiffs' Consulting Engineer. Scarsdale agrees to be solely responsible for any additional charges associated with the late payment of any reasonable fees and costs of Plaintiffs' Consulting Engineer. Within thirty (30) days of the Effective Date, Plaintiffs shall provide Scarsdale with their Consulting Engineer's name, address, telephone number, e-mail address, W-9, and any other necessary payment information, and shall keep Scarsdale informed of any changes to this information going forward.

11. Compliance Monitoring Fees - Legal. As reimbursement for Plaintiffs' future legal and administrative fees and costs that will be incurred to monitor Scarsdale's compliance with this Stipulated Order, Scarsdale agrees to pay reasonable fees and costs for this work performed by Plaintiffs' counsel and Plaintiffs' staff, between the Effective Date and the Termination Date, in an amount not to exceed \$4,000 in any calendar year. Fees and costs reimbursable pursuant to this Paragraph may include, but are not limited to, those incurred by Plaintiffs or their counsel to conduct site inspections, review of engineering reports, review of annual reports, review of the Pond Project Plan and Implementation Report, discussion with representatives of Defendants concerning potential changes to compliance requirements, preparation and participation in mediation or otherwise in connection with Dispute Resolution (*see* Section XI), and similar tasks. Plaintiffs' counsel shall provide invoices containing itemized descriptions for any fees and costs claimed. Scarsdale shall make payment by check, payable to "Super Law Group, LLC," within thirty (30) days of receipt of an invoice that contains an itemized description of fees and costs incurred by Plaintiffs to monitor implementation of the Stipulated Order during the previous twelve (12) months. Payments will be deposited in Super Law Group's IOLA Trust Account for the benefit of Plaintiffs.

V. FEDERAL REVIEW OF STIPULATED ORDER

12. Review by Agencies. The Parties recognize that, pursuant to 33 U.S.C. § 1365(c)(3), this Stipulated Order cannot be entered until forty-five (45) days after the receipt of a copy of the proposed Stipulated Order by the Agencies. Therefore, upon signing of this Stipulated Order by the Parties, Plaintiffs shall serve copies of this Stipulated Order upon the EPA Administrator, the Regional EPA Administrator, and the Attorney General for review, as required by 40 C.F.R. § 135.5. If for any reason the United States should decline to approve this Stipulated Order in the form presented, the Parties agree to continue negotiations in good faith to cure any objection to entry of this Stipulated Order raised by the United States.

13. Entry of Stipulated Order. Upon the expiration of the forty-five-day review period provided by 33 U.S.C. § 1365(c)(3), the Parties shall move the Court for entry of this Stipulated Order. This Stipulated Order shall take effect on the date it is entered by this Court (the "Effective Date," *see* Section XV) and shall terminate on the Termination Date. If for any reason the Court should decline to approve this Stipulated Order in the form presented, the Parties agree to continue negotiations in good faith in an attempt to cure any objection raised by the Court to entry of this Stipulated Order.

VI. REMEDIAL MEASURES

14. Completion of Remedial Measures. Scarsdale shall complete the Remedial Measures set forth in Appendix A (which refers to Appendices C and D), subject to the further terms and conditions found therein. For each day beyond the end of the Work End Date that Scarsdale fails to complete the Remedial Measures, Scarsdale shall pay a stipulated Environmental Benefit Payment as forth in Section IX.

VII. OPERATIONAL AND MANAGEMENT MEASURES

15. **Implementing Operational and Management Measures.** Scarsdale shall fully implement the Operational and Management Measures set forth in Appendix B (which refers to Appendices E and F), subject to the further terms and conditions found therein.

VIII. PUBLIC INFORMATION

16. On or before February 1 of each year during the Term of this Order, Scarsdale shall publish on its website and shall send to Plaintiffs a copy of the sewer map that Scarsdale files with the County on January 15, pursuant to Section 824.73 of the County Sewer Act.
17. On or before September 15 of each year during the Term of this Order, Scarsdale shall publish on its website and shall send to Plaintiffs an electronic copy of the plan for Scarsdale's maintenance and repair program that Scarsdale files with the County on September 1, pursuant to Section 824.72(7) of the County Sewer Act.
18. On or before September 15 of each year during the Term of this Order, Scarsdale shall publish on its website and shall send to Plaintiffs an electronic copy of its updated CMOM Manual.
19. On or before September 15 of each year during the Term of this Order, Scarsdale shall send to Plaintiffs a record of all spill reports filed by Scarsdale pursuant to the Sewage Pollution Right to Know Act (NY ECL §17-0826-a).
20. On or before April 1 of each year during the Term of this Order, Scarsdale shall publish on its website and shall send to Plaintiffs a summary of its analysis of its proposed annual budget for sewage expenditures.

IX. REVIEW AND APPROVAL OF DELIVERABLES

21. A "Deliverable" is any plan, report, map, or other item that Scarsdale is required to submit to Plaintiffs for either review or approval pursuant to this Stipulated Order and any obligation that Scarsdale is required to complete under Appendix A or Appendix B.
22. Scarsdale shall submit any significant modification or amendment of any Deliverable for review or approval pursuant to this Stipulated Order to Plaintiffs.
23. Plaintiffs shall use their best efforts to timely respond to any Deliverable or amended Deliverable.
24. Within forty-five (45) days of receiving Plaintiffs' written comments, Scarsdale shall either: (a) alter the submission consistent with Plaintiffs' written comments or (b) submit the matter for Dispute Resolution under Section XI of this Stipulated Order
25. If a Deliverable is approved pursuant to this Section, the Defendant shall take all actions required by the Deliverable, in accordance with the schedules and requirements of the Deliverable as approved.

26. For each day Scarsdale fails to timely submit any Deliverable in the case of a written item, or to timely achieve any Deliverable in the case of an obligation identified in Appendix A or B, a stipulated Environmental Benefit Payment (“EBP”) for each such Deliverable, payable to the EBP Recipient identified in Section IV, may be assessed to Scarsdale as follows:

Period of Noncompliance	EBP Per Deliverable Per Day
1-30 Days	\$100
31-60 Days	\$200
More than 60 Days	\$300

Scarsdale shall have a fifteen (15) day period to cure any untimely Deliverable. No EBP is required if the Deliverable is submitted/achieved within fifteen days of the deadline.

X. FORCE MAJEURE

27. “Force Majeure,” for purposes of the Stipulated Order, is defined as any event arising from causes entirely beyond the control of Scarsdale, of any entity controlled by Scarsdale, or of Scarsdale’s engineers, consultants, and contractors, that delays or prevents the timely performance of any obligation under the Stipulated Order notwithstanding Scarsdale's best efforts to fulfill the obligation.

28. The requirement that Scarsdale exercise “best efforts” includes using best efforts to anticipate any potential Force Majeure event and best efforts to address the effects of any such event (a) as it is occurring and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent feasible. “Force Majeure” does not include Scarsdale’s financial inability to perform any obligation under this Stipulated Order.

29. If any event occurs that may delay or prevent the performance of any obligation under this Stipulated Order, whether or not caused by a Force Majeure event, Scarsdale shall notify Plaintiffs via email within three (3) working days after Scarsdale first knew or should have known that the event might cause a delay. Within five (5) additional working days thereafter, Scarsdale shall submit for review and approval by Plaintiffs, in accordance with Section XIV (Notices), a written explanation of the cause(s) of any actual or expected delay or noncompliance, the anticipated duration of any delay, the measure(s) taken and to be taken by Scarsdale to prevent or minimize the delay, a proposed schedule for the implementation of such measures, and a statement as to whether, in the opinion of Scarsdale, such event may cause or contribute to an endangerment to public health, welfare, or the environment.

30. If Plaintiffs agree that a delay or anticipated delay is attributable to Force Majeure, the time for performance of the obligations under this Stipulated Order that are affected by the Force Majeure event shall be extended for a period of time as is necessary to complete these obligations. If the parties cannot agree on the period of time necessary to complete these obligations, the parties may initiate Dispute Resolution as set forth in Section XI.

31. If Plaintiffs do not agree the delay or anticipated delay is attributable to Force Majeure, or on the number of days of noncompliance caused by such event, Plaintiffs will notify Scarsdale in writing of its decision. Scarsdale may then elect to initiate Dispute Resolution as set forth in Section XI. In any Dispute Resolution proceeding, Scarsdale shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a Force Majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that “best efforts” were exercised to avoid and mitigate the effects of the delay, and that Scarsdale complied with the requirements of this Section. If Scarsdale carries this burden, the delay at issue shall be deemed not to be a violation by Scarsdale of the affected obligation(s) of this Stipulated Order.
32. Delay in performance of any obligation under this Stipulated Order shall not automatically justify or excuse delay in complying with any subsequent obligation or requirement of this Stipulated Order.

XI. DISPUTE RESOLUTION

33. The Dispute Resolution procedure of this Section shall be the exclusive mechanism to resolve any disputes arising under this Stipulated Order. Any dispute that arises under this Stipulated Order shall initially be subject to a period of informal negotiations, which shall not extend beyond thirty (30) days unless the Parties otherwise mutually agree in writing to an extension of the informal negotiation period and/or a mediation process. The dispute shall be considered to have arisen on the date one Party receives written notification from the other, specifically referencing this Paragraph, that there is a dispute. Such notice shall clearly state the matter in dispute.
34. If the Parties cannot resolve a dispute by informal negotiations, either Party may file a Dispute Resolution motion with the Court. The motion shall refer to this Stipulated Order and Paragraph and shall set forth the nature of the dispute and a proposal for its resolution. The opposing Party shall have thirty (30) days in which to file a response with an alternate proposal for resolution.
35. Nothing in this Section should be interpreted to limit the Court’s inherent authority to enforce its orders, including through the use of sanctions.

XII. INFORMATION COLLECTION AND RETENTION

36. Plaintiffs and their contractors, consultants, and attorneys shall have authority to enter any property or facility owned or controlled by Scarsdale, at all reasonable times, upon proper identification, for the purposes of: (a) monitoring the progress of activity required by this Stipulated Order; (b) verifying any data or information submitted to Plaintiffs under this Stipulated Order; (c) assessing Scarsdale’s compliance with this Stipulated Order; (d) obtaining samples and, upon request, splits of any samples taken by Scarsdale or its representatives, contractors, or consultants; and (e) obtaining documentary

evidence, including photographs and similar data related to compliance with this Stipulated Order. Upon request, Plaintiffs shall provide Scarsdale splits of any samples taken.

37. Scarsdale shall retain all non-identical copies of all documents, records, and other information (including documents, records, or other information in electronic form) generated by Scarsdale, and all data collected and all reports generated by Scarsdale's contractors (including data and reports in electronic form), that relate in any manner to Scarsdale's performance of its obligations under this Stipulated Order for the time required by the NYS Records Management Act. This information retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon request by the Plaintiffs, Scarsdale shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.
38. Scarsdale may assert that certain documents, records, or other forms of information are privileged under the attorney-client privilege or any other privilege or protection from disclosure recognized by federal law or state law. If Scarsdale asserts such a privilege or protection, it shall provide the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of each author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the subject of the document, record, or information; and (6) the privilege or protection asserted by Scarsdale. However, no documents, records, data, reports, or other information created or generated pursuant to the requirements of this Stipulated Order shall be withheld on grounds of privilege or on grounds of protection from disclosure.

XIII. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

39. This Stipulated Order resolves the civil claims of Plaintiffs for the violations alleged in their Complaint filed in this action through the Date of Lodging. This Stipulated Order also resolves any additional claims Plaintiffs could have alleged in their Complaint that arise from or relate to the events underlying the violations alleged in the Complaint. Plaintiffs release and forever discharge Scarsdale and its officers, agents, employees acting in their official capacities, successors, and assigns from any and all matters, claims, complaints, charges, demands, damages, causes of action, debts, liabilities, controversies, judgments and suits of every kind and nature whatsoever, as of the Date of Lodging, foreseen or unforeseen, known or unknown, arising out of the events set forth therein. This release is not intended to, and shall not, extend to or otherwise discharge any rights, privileges, benefits, duties, or obligations of the Parties arising under this Stipulated Order.
40. Scarsdale is responsible for achieving and maintaining complete compliance with all applicable federal, state, and local laws, regulations, and permits, and Scarsdale's compliance with this Stipulated Order shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The Plaintiffs do not, by their consent to the entry of this Stipulated Order, warrant or aver in

any manner that Scarsdale's compliance with any aspect of this Stipulated Order will result in compliance with provisions of the CWA or with any other provisions of federal, state, or local laws, regulations, or permits.

41. This Stipulated Order does not limit any rights or remedies available to the Plaintiffs for any violation by Scarsdale of the CWA, state law, or associated regulations or permit conditions other than those claims alleged in the Complaint through the Date of Lodging.
42. This Stipulated Order does not limit any rights or remedies available to the United States or the State.
43. This Stipulated Order shall not constitute an admission of liability or responsibility for any claims, costs, or damages asserted in the Complaint and may not be used as such by any party in any action or proceeding, except in any action or proceeding brought to enforce the terms of this Stipulated Order.
44. This Stipulated Order does not limit or affect the rights of Scarsdale or the Plaintiffs against any third parties not party to this Stipulated Order, nor does it limit the rights of third parties not party to this Stipulated Order against Scarsdale, except as otherwise provided by law.
45. This Stipulated Order shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Stipulated Order.

XIV. NOTICES

46. Any notice, demand, copies of documents and other communications required to be made under the provisions of this Stipulated Order (collectively, "Notices") by any Party hereto shall be effective only if in writing and (a) personally served, (b) mailed by United States registered or certified mail, return receipt requested, postage prepaid, (c) sent by a nationally recognized courier service (*e.g.*, Federal Express) to be confirmed in writing by such courier, or (d) sent by electronic mail, with receipt confirmed by the counterparty via electronic mail. Notices shall be directed to the Parties at their respective addresses set forth below.

Notices for Plaintiffs shall be sent to:

Edan Rotenberg
Julia Muench
Super Law Group, LLC
222 Broadway, 22nd Floor
New York, NY 10038
edan@superlawgroup.com
julia@superlawgroup.com

Notices sent to the individual listed above at the address listed above shall be deemed as notice to Plaintiffs.

Notice for Scarsdale shall be sent to both:

Village Manager
Village of Scarsdale
1001 Post Road
Scarsdale, NY 10583
rcole@scarsdale.com

Nicholas M. Ward-Willis, Esq.
Keane & Beane, P.C.
445 Hamilton Avenue, 15th Floor
White Plains, NY 10601
nward-willis@kblaw.com

Notices sent to the individuals listed above at the addresses listed above shall be deemed as notice to Scarsdale.

Each Party shall promptly notify the other Party of any change in the above-listed contact information by using the procedures set forth in this Paragraph.

XV. EFFECTIVE DATE

47. Under Section 505(c)(3) of the CWA, Plaintiffs will provide a copy of this Stipulated Order to the Agencies, and the Court may not enter the Stipulated Order prior to forty-five (45) days from the date this Stipulated Order is received by the Agencies. 33 U.S.C. § 1365(c)(3). In the event the Agencies' comments raise concerns on the provisions of this Stipulated Order during the review period, the Parties agree to meet and confer to attempt to resolve any issue(s) raised by the Agencies. At the end of the forty-five (45) day review period or receipt of comments from the Agencies, whichever occurs first, the Parties will jointly notify the Court of any comments received from the Agencies, any resolution of those comments, and move the Court to enter the Stipulated Order. This Stipulated Order will become effective on the date signed and issued by the Court.

XVI. RETENTION OF JURISDICTION

48. The Court shall retain jurisdiction to enforce the terms of this Stipulated Order and its Appendices and to resolve disputes between the Parties pursuant to the Dispute Resolution process (*see* Section XI).

XVII. MISCELLANEOUS

49. **Entire Agreement.** This Stipulated Order and its Appendices contain the entire agreement between the Parties and no major modifications shall be valid unless in writing, mutually agreed to and executed by the Parties, and entered by the Court; except that the Parties may mutually agree in writing to minor modifications of this Stipulated Order without further consent of the Court and such written minor modifications shall be deemed incorporated into this Stipulated Order.

50. **Representatives.** The undersigned representatives of each Party certify that they are fully authorized to enter into the terms and conditions of the Stipulated Order and to execute and legally bind the Party they represent to this document.
51. **Execution in Counterparts.** This Stipulated Order may be signed in counterparts, and its validity shall not be challenged on that basis.
52. **Headings.** The section and paragraph headings contained in this Stipulated Order are for reference purposes only and shall not affect in any way the meaning or interpretation of this Stipulated Order.
53. **Interpretation.** The provisions contained herein shall not be construed in favor of or against any Party because that party or its counsel drafted this Stipulated Order, but shall be construed as if all Parties prepared this Stipulated Order, and any rules of construction to the contrary are hereby specifically waived. The terms of this Stipulated Order were negotiated at arm's length by the Parties hereto. The language in all parts of this Stipulated Order shall be construed according to its plain and ordinary meaning, except as to those terms defined by the CWA or specifically herein.

XVIII. FINAL JUDGMENT

54. Entry of this Stipulated Order constitutes Final Judgment under Rule 54 of the Federal Rules of Civil Procedure.

XIX. APPENDICES

Appendix A – Remedial Measures
Appendix B – Operational and Management Measures
Appendix C – Scarsdale SSES
Appendix D – Scarsdale Remedial Work Plan with Amendments
Appendix E - Capacity Management Operations and Maintenance Manual
Appendix F – Private Lateral Ordinance

Dated: June 15, 2023 _____

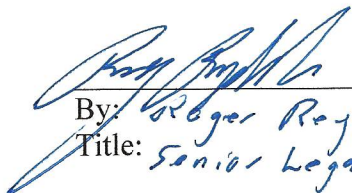
Village of Scarsdale



By: Robert Cole
Title: Village Manager

Dated: June 14, 2023

Save the Sound


By: Robert Reynolds
Title: Senior Legal Director

Dated: June 14, 2023

Atlantic Clam Farms of Connecticut, Inc.



By: Edan Rotenberg
Title: Partner, Super Law Group LLC - signed on
behalf of Edward Stilwagen, President of
Atlantic Clam Farms of Connecticut, Inc.

ENTERED and DATED this ___ day of _____, 2023

Honorable Cathy Seibel
United States District Judge

APPENDIX A – REMEDIAL MEASURES

1. Scarsdale shall perform the work recommended in the SSES (Appendix C) and set forth in the Remediation Plan, as amended through 2022 (Appendix D), on or before June 30, 2023 (the “Work End Date”). Scarsdale shall provide a final report demonstrating completion of all repairs to Plaintiffs on or before July 31, 2023.

APPENDIX B – SEWER SYSTEM MANAGEMENT AND OPERATIONAL MEASURES

1. **Capacity, Management, Operation & Maintenance (CMOM) Manual.** Scarsdale shall comply with its Capacity, Management, Operation & Maintenance Manual, attached hereto as Appendix E.