
CHAPTER 16

16.0 IMPLEMENTATION CONSIDERATIONS OF THE CENTRAL COUNTY SEWAGE TREATMENT ACTION

16.1 Introduction

The purpose of this Chapter is to outline several implementation considerations associated with the central County sewage treatment action described in the Recommended Plan. These considerations include the following major items:

- Sewer District Formation;
- Potential Privatization Approach;
- Siting;
- Regulatory Framework; and
- Schedule.

The following sections discuss these items in more detail.

16.2 Sewer District Formation

The County Sewer Committee approved the recommendation that Orange County use a district approach for administering the central County sewage treatment action in the Recommended Plan. The major factors to be considered in forming a new district are organizational, legal, institutional and regulatory.

While the district organizational structure does not need to be large, the district will have some major responsibilities:

- Management and oversight of a large construction program;
- Negotiating with the contractor;
- Negotiating and implementing interlocal agreements;
- Substantial financial and accounting responsibilities; and
- Coordination and oversight of regulatory responsibilities.

Because of the importance of the programs overseen by the district, it is recommended that the position of District Director be created. This position should be a high visibility one reporting directly to the County Executive and accountable to the County Legislature. It is possible that the remainder

of the district staff can be lean with certain functions (e.g., finance, accounting, etc.) either supported by other County departments or handled separately by subcontractors.

Creation of a district requires that the County Legislature adopt a resolution to do so, subject to a permissive referendum. Once the district is created, an important next step is the negotiation of interlocal agreements with the participating towns and villages of the central County sewage treatment action in the Recommended Plan. These agreements are required to constitute the revenue stream either as a financial guarantee that the district can rely upon for financing or to form the basis for the district's ability to negotiate with a privatizer, should that decision be made by the County. The key elements of interlocal agreements include:

- Minimum sewage quantities;
- Maximum sewage quantities or maximum sewage capacity;
- Quality standards for treated effluent including guarantees regarding local regulation;
- Responsibilities and corrective actions to be taken in the event of regulatory non-compliant effluent discharges;
- Rate and payment terms, including cost escalation formulas; and
- Capacity based reporting (e.g., number of customers by class, annual system growth, etc.).

The central County sewage treatment action in the Recommended Plan will likely require additional regulation as sewage is to be collected and piped across political boundaries. Within New York State, such regulatory powers typically reside either with a county health department or public works department.

The decision as to which County department should assume this role needs to be made at the organizational stage and incorporated into the process of creating the County district. Interlocal agreements entered into by the County district should specifically cite which County department has local enforcement and regulatory authority.

16.3 Potential Privatization Approach

The County Sewer Committee approved the recommendation that the County should further investigate privatization for the central County sewage treatment action in the Recommended Plan. A general analysis of successful privatization projects shows the following common characteristics:

- A set of clearly defined technical, financial and institutional criteria; and
- A strong team of specialists (e.g., technical, legal and financial, etc.) supporting the governmental body; and
- A fortuitous combination of business circumstances (e.g., land ownership, complementary interests, etc.).

Privatization should be considered for implementation only if it offers positive benefits to the County (e.g., technical, cost, risk, schedule, regulatory, etc.) over the alternative of governmental ownership. Table 16-1 summarizes a typical distribution of responsibilities under a privatization approach. A review of the County's responsibilities, through a district, reveals the interrelationship between the privatizer and the district's necessary interlocal agreements.

As a first step towards privatization, a district should form its own specialist team (e.g., technical, legal and financial, etc.) using the best available combination of internal and external resources. Entering into a privatization agreement typically means entering into a long term relationship of 20 or more years in a high cost, high risk endeavor. The County's ability to achieve economic growth is dependent on a successful project. To that end, it is prudent that the district have detailed information regarding the privatizer. Table 16-2 is a suggested list of the information that the County and its district will need to begin evaluating potential privatizers.

More detailed information from potential privatizers can be obtained through a process which includes the issuance of a Request of Qualifications (RFQ), followed by the issuance of a Request for Proposals (RFP) from those respondents deemed qualified to submit a proposal. Examples of general outlines for such documents are provided as Tables 16-3 and 16-4, respectively.

16.4 Siting

The siting of the sewage treatment facility, pumping stations and main collection pipelines associated with the central County sewage treatment action is a significant issue. The County should recognize

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TABLE 16-1

**DISTRIBUTION OF RESPONSIBILITIES WITHIN TYPICAL
SERVICE CONTACT PROVISIONS**

SERVICE CONTRACT PROVISION	COUNTY RESPONSIBILITY	PRIVATIZER RESPONSIBILITY
Design, construction & permitting	Conducts planning: Approves site and design	Conducts design, construction & permitting
Delivery & acceptance of sewage	Guarantees a level (or levels) of sewage flow	Guarantees treatment capacity. May have own capacity needs
Maintenance of transmission lines/collection system	May maintain transmission; Municipalities maintain collection systems	Could own & maintain transmission lines
Operation/compliance of facility	Provides acceptable sewage	Responsible for operation & compliance of facility
Expansion or modification of facility	Responsible for improvements related to new regulations (costs added to service fee)	Responsible for expansion for own purposes & improvements to meet existing regulations
Service charges	Pays fee based on minimum flow guarantee plus additional flow	Pays portion of costs related to own use
Purchase option	May purchase at market value or for \$1 if lease/purchase	N/A

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TABLE 16-2

SUGGESTED INFORMATION NEEDED FROM PRIVATIZERS FOR PRELIMINARY ASSESSMENT

1. How many and what types of organizations do you anticipate using throughout the privatization process, e.g., corporation, limited partnership, etc.?
2. If you anticipate separate organizations for different phases of the project, please describe how many and for what purpose, e.g., construction, ownership and operation.
3. Please provide verification of the current financial condition of resources to be pledged to this project by either an auditor, external accountant or other comparable source.
4. Please provide three pertinent financial references including your principal banker.
5. Please provide verification of the ability to pay or finance the work required up to the receipt of bond funds.
6. Describe the financial assurance mechanism that you anticipate using during construction. Please provide some verification (e.g., letter, etc.) of the ability to employ the described mechanism(s).
7. Provide a brief description of nearby or related businesses in which you are currently or expect to be involved and the relationship of that business to this project.
8. Describe your target rate of return or net margin (as appropriate) for the various aspects of the project. Also, describe the rationale for these goals.
9. Describe the risks by project stage that you expect to be borne by the County and the risks that you expect to bear.
10. Describe through a summary of related experience and the makeup of your organization, the management and technical capability of your team to successfully complete this project. Provide more detailed information regarding:
 - the construction experience of the principal firm, i.e., projects of a similar nature and percent of the work undertaken for each; and
 - the type and size of similar projects undertaken by the principal firm involving design, permitting, environmental studies, etc.
11. Provide brief (1-2 pages) resumes of the principal personnel that will be involved in the project.
12. Describe your approach to construction. How will construction management be provided? Describe the type and amount of work to be given to subcontractors.

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TABLE 16-3

GENERAL OUTLINE OF A REQUEST FOR QUALIFICATIONS (RFQ)

FROM PRIVATIZERS

1. **Scope and Purpose**
2. **Project Information**
 - **Background**
 - **Proposed Facility**
 - **Site and Facility Ownership**
 - **Financing**
 - **Project Schedule**
3. **Instructions for Preparing Qualifications Statement**
 - **General Instructions**
 - **Information to be Provided by the Respondent**
 - **General Information**
 - **Sewage Treatment Project Experience**
 - **Project Personnel**
 - **Financial Statement**
4. **Evaluation and Selection Criteria**
 - **General Information**
 - **Procurement**
 - **Sewage Treatment Facility Experience**
 - **Specialized Experience**
 - **Financial Statement**
 - **Minimum Acceptable Qualifications**

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TABLE 16-4

GENERAL OUTLINE OF A REQUEST FOR PROPOSALS (RFP)

FROM PRIVATIZERS

PROPOSAL INFORMATION

Introduction and Description of Procurement Process

General Scope of Work

Selection Process

Award Process

Project Schedule/Time For Performance

Commitments of the County

Vendor Commitments

Project Team

Submission of Proposals

CONTENTS OF THE PROPOSAL

Business Organization

The Service Agreement

The Operation and Maintenance Agreement

Technical Specifications

Influent Flow and Concentrations

Effluent Criteria

Bypass Provisions

Technical Information Requirements

Existing Facilities

Plant Staffing Requirements

Costs

Future Expandability

Financial Specifications

Financing Arrangements

Equity Structures

ORANGE COUNTY COMPREHENSIVE SEWERAGE STUDY

TABLE 16-4

GENERAL OUTLINE OF A REQUEST FOR PROPOSALS (RFP)

FROM PRIVATIZERS

EVALUATION OF THE PROPOSAL

Evaluation Criteria
Management Qualifications
Technical Reliability of the Proposed System
Financial Qualifications
Contractual Conditions

ADDITIONAL PROPOSAL REQUIREMENTS

Proposer Costs
Proposer's Personal Investigations
County Rights and Options
Addenda and Amendments
Interpretations and Clarifications
Correction of Errors
Withdrawal From Negotiations
Delay in Negotiations to Proposer
Disposition of Materials

GENERAL PROJECT REQUIREMENTS

Assignment and Sub-Contracting
Indemnification
Materials, Appliances, Employees
Equal Employment Opportunity
Royalties and Patents
Explosives
Accidents and Damages
Project Information and Community Relations Requirements

this by developing an approach to site identification, evaluation and selection as part of its adoption of the Recommended Plan.

The project scope of work of this Study did not include a comprehensive siting analysis task. Therefore, this Study can not recommend any particular site or sites at which the central County sewage treatment action should be located. It is suggested that Orange County undertake a separate siting study to accomplish this objective.

When conducting a siting study and assessment, criteria that must be taken into consideration include, but are not limited to the following:

- Proximity to residential areas;
- Direction of prevailing winds;
- Accessibility;
- Area available for future expansion;
- Local zoning requirements;
- Soil characteristics, topography and hydrology;
- Environmental sensitivity and historical significance;
- Access to the designated receiving water body (i.e., the Hudson River);
- Downstream uses of the receiving water and zone of tidal influence; and
- Compatibility of treatment processes with present and planned local land uses, including noise, odor control, air quality protection, sludge treatment and utilization/disposal considerations.

The primary objective when siting the central County sewage treatment action facilities is to minimize adverse impacts on the surrounding areas. A well planned and executed assessment of suitable sites can both help to streamline the regulatory review process and address the issues raised by public and private concerns that, left unanswered, may otherwise impede the siting process. Thus, it is suggested that a proactive role be taken that allows for substantial public participation and review.

In conclusion, the identification of suitable sites for facilities associated with the central County sewage treatment action is crucial to ensuring the implementation of a successful project. Many siting criteria need to be examined via a siting study. While a full-scale siting assessment was beyond the project scope of work for this Study, both inspections of existing facilities and environmental assessment reconnaissance trips made during the Study revealed that there are a sufficient number

of sites in the vicinity of the Town of New Windsor which appear to have the potential to accommodate the new central County sewage treatment facility described in the Recommended Plan.

16.5 Regulatory Framework

The implementation of the central County sewage treatment action must be done within the framework of New York State environmental regulations enforced by the NYSDEC. Due to the comprehensive scope of this project, it will be required to undergo a regulatory review process outlined in the New York State Environmental Quality Review (SEQR) Act.

The basic purpose of the SEQR Act is to incorporate the consideration of environmental factors into the existing planning, review and decision-making processes of State, regional and local government agencies at the early stage of a planned project. To accomplish this goal, the SEQR Act requires all involved agencies to determine whether the actions they undertake, fund or approve may have a significant effect on the environment, in terms of air, water, land, habitat and living resources. If it is determined by NYSDEC that the action may have a significant effect upon the environment, an environmental impact statement (EIS) must be prepared.

It is not the intention of the SEQR Act that environmental factors be the sole consideration in the decision-making process. Rather, the process attempts to shape public policy by considering the protection and enhancement of environmental, human and community resources in light of demonstrated social and economic needs. Thus, it allows for a balance of social, economic and environmental factors to be incorporated into the planning process.

The regulatory framework for implementation of the SEQR Act requirements includes the following:

- Procedural requirements for compliance with the law;
- Provisions for coordinating multiple agency environmental reviews through a single lead agency;
- Criteria to determine whether a proposed action may have a significant effect on the environment;
- Model assessment forms to aid in determining whether an action may have a significant effect on the environment; and

- **Examples of actions and classes of actions which are likely to require an EIS.**

The central County sewage treatment action in the Recommended Plan will be classified as a "Type I" action under the SEQR Act, thereby requiring the preparation of an EIS. As such, the lead agency (e.g., County, district or private entity) must make every reasonable effort to involve applicants, other agencies and the public in the process. Early consultations initiated by the lead agency can serve to narrow the issues of significance and identify areas of potential difficulty related to environmental issues. This will permit the EIS to focus on issues requiring in-depth analysis.

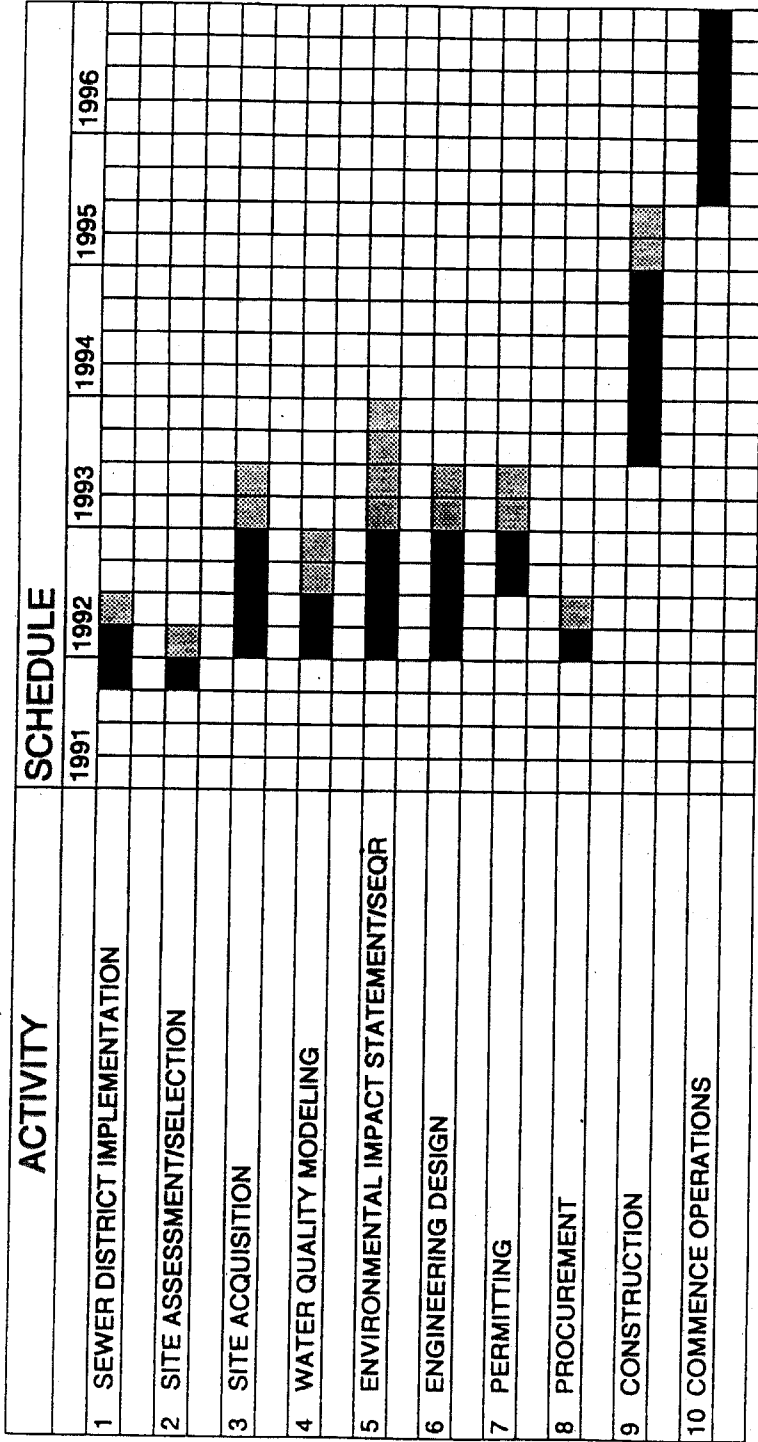
Following the preparation of a draft EIS, the lead agency needs to commence with public review. The public review period involves a public hearing in which substantive or significant environmental impacts, adequacy of mitigation measures proposed and the consideration of alternatives are discussed. Following the public comment period, a final EIS is issued. The lead agency must file a written finding which demonstrates that requirements of the SEQR Act have been met and that the planned action is one which minimizes adverse environmental impacts to the maximum extent practicable in consideration of social, economic and other essential considerations, and reasonable alternatives thereto.

16.6 Schedule

A proposed implementation schedule for the central County sewage treatment action described in the Recommended Plan is presented in Figure 16-1. This schedule takes into consideration the fact that several of the communities to be served by the central County sewage treatment action are under voluntary or obligatory moratoria for sewer connections. As shown, there are ten primary steps in implementing the project as follows:

- Sewer district implementation and interlocal agreements;
- Site assessment/selection;
- Site acquisition;
- Water quality modeling including a hydrodynamic analysis to determine tidal influence;
- Environmental impact statement (SEQR Act);
- Engineering and design;
- Permitting;
- Procurement;
- Construction; and
- Operations commencement.

FIGURE 16-1



LEGEND

MINIMUM EXPECTED TIMEFRAME: ■

MAXIMUM EXPECTED TIMEFRAME: ▨

ORANGE COUNTY, N.Y.
COMPREHENSIVE SEWERAGE
STUDY

PROPOSED IMPLEMENTATION
SCHEM. FOR CENTRAL COUNTY
SEWERAGE TREATMENT ACTION

HAZEN AND SAWYER, P.C.
Engineers

It is recommended that the County proceed as soon as possible in initiating some of the above steps, particularly sewer district implementation and siting. The County also needs to reach a consensus on the involvement of the private sector in the central County sewage treatment action in order to begin the procurement process.

Overall, it is anticipated that the construction of facilities can begin in mid-1993 and take between 18 to 24 months to complete. This timeframe results in the commencement of project operation by mid-1995.

Consideration has been made as to possible sequencing of the central County sewage treatment action construction with the planned Orange County Water Authority project. The only parallel between the two is the pipeline route from Harriman to Goshen, mainly along abandoned railroad ROWs. While common trench construction is not acceptable, it may be possible to place both water and sewer pipes during the same construction sequence. At this stage, it is not possible to project the amount of cost savings that could occur from joint construction of both water and sewer pipelines.

16.7 Summary

The County needs to be examining several major implementation issues with regard to the central County sewage treatment action in the Recommended Plan.

Sewer district formation is a recommended first step in effecting the successful implementation of the project. In addition, the County needs to empower either the Department of Health or the Department of Public Works to regulate the operation of the project.

The County has indicated an interest in assessing the benefits attainable with various types of public-private partnerships for the project. To do so, it is suggested that key information be requested from interested private entities to gauge the benefits of such an approach.

Siting of the sewage treatment facility, pumping stations and pipelines associated with the central County sewage treatment action is a major implementation issue. It is recommended that the County begin to take steps to address this issue, such as siting study, as soon as possible.

The central County sewage treatment action will fall within the regulatory framework of the New York SEQRA Act. As such, an EIS process will need to be undertaken to address planning, environmental, technical and social issues.

Ten primary steps in a proposed schedule to implement the central County sewage treatment action are identified. It is anticipated that project construction can begin in mid-1993 with the commencement of operations in mid-1995.