

Set of Discovery Requests to MSD from Robert A. Mueller, Intervenor.

1. On June 29, 2011, The Metropolitan [St. Louis](#) Sewer District Board of Trustees voted to adopt a \$4.7 billion, 23 year Long-Term Control Plan, outlined in a "Consent Decree" that MSD worked out with the U.S. Environmental Protection Agency (EPA) in response to a suit filed by the Agency in U.S. District Court in 2007, to force compliance with the Clean Water Act of 1972.

A. Does the Consent Decree contain any provision which stipulates that the EPA will be bound by a "no further action" clause that prevents the EPA from initiating further litigation in this matter in the event that the Plan agreed to by all parties to the Consent Decree fails to comply with the provisions contained in the Non-Pollution Discharge Elimination System (NPDES) Permit and the Clean Water Act of 1972? Or alternatively,

B. Are the District and it's Customers fully exposed to further litigation and possible additional rate increases as a result of future actions that may be taken by the EPA and/or the [Missouri](#) Department of Natural Resources related to this same matter?

2. In the last 4 1/2 years, how often has MSD violated it's NPDES Permit or the Clean Water Act of 1972, with discharges of untreated combined storm water and sanitary sewage? Is there a record of the dates and times and an estimate of the volume of water involved when such discharges have taken place? For the most part, do the violations of the NPDES Permit and /or the Clean Water Act take place during heavy storm water conditions or do they, as a matter of fact, occur on a regular or irregular basis when there is no storm water event? If these violations occur primarily during storm water events, is there a record of such occurrences and what percentage of MSD's overall operation does this constitute? What I am trying to discover with this line of questions is this. Are we dealing with cleaning up a 2% or 3% problem with the Consent Decree and the expenditure of \$4.7 to \$6.0 billion? MSD's response to these discovery questions may cause the Rate Commission to give serious consideration as to the cost/benefit to MSD's customers.

3. In order to comply with the full impact of the Consent Decree, which continues to remain confidential during these deliberations, is it probable that MSD will have to request additional rate increases in the near future and is it possible that individual single family home owners within the District's jurisdiction could see their monthly sewer service charge ultimately be increased to \$100.00 or \$200.00 per month if these increases are approved?

4. Does the 1972 Clean Water Act and the EPA's interpretation of said Act consider the [Missouri](#) and the [Mississippi](#) Rivers within the MSD boundaries to be clean clear water streams suitable for recreational use such as boating, swimming and other water sports? Are the regulation and water quality limits

contained in MSD's NPDES Permits, as issued by the Missouri Department of Natural Resources (DNR) for the treatment plants that are located along these rivers, based upon of such interpretation?

5. Has the Economic Analysis undertaken by MSD's consultants taken into consideration the fact that a significant percentage of single family homes within the District have been foreclosed on and that an equally large number are in various stages of going into the foreclosure process; that home ownership in at least one close-in suburb to the City of St. Louis has dropped to 55%; and that the market values for some homes with 3 bedrooms and 1 bath in that same community have been lowered from \$80,000.00 to \$20,000.00 in the past year, an extreme case, but nevertheless a sign of the times? Realistically, when people can barely afford to make their home payment, unemployment seems to be holding steady at about 10%, the United States Government stand on the brink of default of it's financial obligations, how can MSD, the EPA, the U.S District Court and any other parties to the Consent Decree expect ordinary people to endure such substantial increases in their monthly sewer service charges along with all of the other increases in basic necessities such as food, shelter, clothing, transportation and health care without very serious hardship to their lives?

I am not a lawyer representing some other entity. I have been involved in clean water efforts for over 45 years as a past Member and Chairman of the Missouri Water Pollution Board and the Clean Water Commission and Member of the City of St. Louis Port Commission. I continue to support efforts to keep our waterways clean in a reasonable and responsible manner. I believe that your response to the above Discovery Requests will assist in arriving at a fair and equitable decision in the matter of the Rate Increase now before the MSD Rate Commission. Thank you.

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