

six million gallons of untreated overflow during four or less overflow events in the typical year, and (2) a storage tank at Bissell Point Outfall 052, providing for storage capacity of one million gallons and resulting in no more than 20 million gallons of untreated overflow during four or less overflow events in the typical year. However, the Parties have agreed to replace these two CSO Control Measures with a single storage facility to accommodate overflow from both Bissell Point Outfalls 051 and 052 (hereafter "Proposed Amendment"). This single storage facility will provide expandable storage capacity of 12.5 million gallons and result in no more than 84 million gallons of untreated overflow during four or less overflow events in a typical year. All stored flow will receive secondary treatment at the Bissell Point wastewater treatment plant, as compared to just primary treatment for the flow from Outfall 051 as required under the original Consent Decree. The Critical Milestones for this new CSO Control Measure for Outfalls 051 and 052 will be unchanged and remain with a Bid Year of 2017 and Achievement of Full Operation of December 31, 2020;

WHEREAS, the Parties agree that this Proposed Amendment is necessary because recent design-level modeling using additional flow meter data acquired since the completion of the LTCP modeling indicates higher CSO volumes and higher peak flow rates from Outfalls 051 and 052 than was originally modeled in the LTCP, which served as the basis for the selection of the CSO Control Measures for these outfalls in Appendix D of the original Consent Decree;

WHEREAS, as a result of the higher flow rates and CSO volumes, the engineering analysis showed that it is now more costly to pump and treat the flow than it is to store the flow from Outfalls 051 and 052. In addition, the Proposed Amendment will result in lower pollutant loadings to Maline Creek and increased operational efficiencies of a below-grade storage facility, as compared to a treatment system;

WHEREAS, Paragraph 136 of the Consent Decree provides that the Consent Decree, including any attached appendices, may be modified only by a subsequent written agreement signed by all Parties. Where the modification constitutes a material change to the Consent Decree, the modification shall be effective only upon approval by the Court;

WHEREAS, the Parties have agreed, pursuant to Paragraph 136 of the Consent Decree, to this Proposed Amendment to the Consent Decree;

WHEREAS, this Proposed Amendment made herein constitutes a material change to the Consent Decree, requiring Court approval under Paragraph 136 of the Consent Decree; and

WHEREAS, the Parties recognize, and the Court by entering this Amendment finds, that this Amendment has been negotiated by the Parties at arm's length and in good faith and that this Amendment is fair, reasonable, and in the public interest.

NOW THEREFORE, with the consent of the Parties, **IT IS HEREBY ADJUDGED, ORDERED, AND DECREED** as follows:

1. Except as specifically modified herein, all provisions of the Consent Decree entered by the Court on April 27, 2012 (Dkt. # 159) shall remain unchanged and in full force and effect.
2. The CSO Control Measures for Bissell Point Outfalls 051 and 052 as set forth at page 1 of Appendix D of the Consent Decree shall be amended as follows (deletions are indicated in ~~strikeout text~~ and additions are indicated in **bold and italicized text**):

CSO Control Measure	Description	Design Criteria	Performance Criteria	Critical Milestones
CSO Treatment Unit at Bissell Point Outfall 051	Enhanced High-Rate Clarification facility	94 MGD capacity providing equivalent of primary clarification, solids/floatables disposal, and disinfection	Reduce overflows to 4 events or less, and 6 million gallons of untreated overflow volume in the typical year⁽¹⁾. Comply with applicable Missouri Operating Permit.	<ul style="list-style-type: none"> • Bid Year – 2017 • Achievement of Full Operation – 12/31/2020
<i>Bissell Point Outfall 052 Storage Tank Local Storage Facility for Bissell Point Outfalls 051 and 052</i>	Local storage facility	Provide storage volume of one 12.5 million gallons, expandable to accommodate storage requirements, if any, as determined in SSO Control Master Plan	Reduce overflows to 4 events or less, and 20 84 million gallons of untreated overflow volume in the typical year ⁽¹⁾	<ul style="list-style-type: none"> • Bid Year – 2017 • Achievement of Full Operation – 12/31/2020

3. The Figure entitled “Maline Creek CSO Controls” on page 1 of Appendix D shall be replaced with Exhibit A.
4. The following confirming changes to Appendix E, Post-Construction Monitoring Program, shall also be made (deletions are indicated in ~~strikeout text~~ and additions are indicated in **bold and italicized text**):

- a. On page 2 of Appendix E, the last sentence of the third paragraph will be amended as follows: Locations to be monitored in the Bissell Point service area include remaining CSO outfalls to Maline Creek, and major components of the CSO Control Measures including pump stations, *and storage tanks and treatment facilities.*”
- b. On page 3 of Appendix E under the heading for Maline Creek, the language will be amended as follows:

Maline Creek:

- ~~Enhanced High Rate Treatment unit at Outfall 051~~
- ~~Storage Tank at Outfall 052~~ *Local Storage Facility for Outfalls 051 and 052*

5. The effective date of this Amendment shall be the date upon which this Amendment is entered by the Court or the motion to enter this Amendment is granted, whichever occurs first, as recorded on the Court's docket.

6. Each undersigned representative of MSD (by MSD Ordinance No. 13277), the Coalition, and the Assistant Attorney General for the Environment and Natural Resources Division of the United States Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Amendment and to execute and legally bind the Party he or she represents to this Amendment.


7. This Amendment shall be lodged with this Court for a period of at least 30 days for public notice and comment in accordance with 28 C.F.R. 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding this Amendment disclose facts or considerations indicating that this Amendment is inappropriate, improper, or inadequate.

MSD consents to entry of this Amendment as proposed without further notice and agrees not to withdraw from or oppose entry of this Amendment by the Court or to challenge any provision of this Amendment, unless the United States has notified MSD in writing that the United States no longer supports entry of the Amendment.

8. This Amendment to the Consent Decree constitutes the final, complete and exclusive agreement and understanding among the Parties with respect to this Amendment to the Consent Decree, and this Amendment supersedes all prior agreements and understandings, whether oral or written concerning the Amendment embodied herein.

9. This Agreement may be executed in counterparts, and its validity shall not be challenged on that basis.

Dated and entered this 10th day of October, 2013.

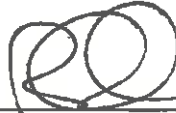


CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE
Eastern District of Missouri
Eastern Division

The undersigned party hereby consents and certifies that it is authorized to consent to the terms and conditions of this Amendment to Consent Decree in the matter of *United States, et al. v. Metropolitan St. Louis Sewer District*, No. 4:07-cv-01120-CEJ (E.D. Mo.).

FOR THE UNITED STATES OF AMERICA:

Date: 7/3/13



ROBERT G. DREHER
Acting Assistant Attorney General
United States Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section

Date: 7/5/2013




KATHRYN C. MACDONALD
Senior Trial Attorney
United States Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section
P.O. Box 7611
Washington, D.C. 20044

The undersigned party hereby consents and certifies that it is authorized to consent to the terms and conditions of this Amendment to Consent Decree in the matter of *United States, et al. v. Metropolitan St. Louis Sewer District*, No. 4:07-cv-01120-CEJ (E.D. Mo.).


FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII:

Date: 6/20/13



DAVID COZAD
Regional Counsel
United States Environmental Protection Agency
Region 7
11201 Renner Road
Lenexa, Kansas 66219

Date: 6/19/2013




ELIZABETH HUSTON
Assistant Regional Counsel
A United States Environmental Protection Agency
Region 7
11201 Renner Road
Lenexa, Kansas 66219


The undersigned party hereby consents and certifies that it is authorized to consent to the terms and conditions of this Amendment to Consent Decree in the matter of *United States, et al. v. Metropolitan St. Louis Sewer District*, No. 4:07-cv-01120-CEJ (E.D. Mo.).

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE:


Date: 6/27/13


CYNTHIA GILES
Assistant Administrator
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20004


Date: 6/25/13


SUSAN SHINKMAN
Director, Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Date: 6/25/13


MARK POLLINS
Director, Water Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20004


Date: 6/25/13


JOANNA CITRON DAY
Attorney Advisor, Water Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20004


The undersigned party hereby consents and certifies that it is authorized to consent to the terms and conditions of this Amendment to Consent Decree in the matter of *United States, et al. v. Metropolitan St. Louis Sewer District*, No. 4:07-cv-01120-CEJ (E.D. Mo.).

FOR THE MISSOURI COALITION FOR THE ENVIRONMENT FOUNDATION:

Date: 6/20/2013


HEATHER B. NAVARRO
Executive Director
Missouri Coalition for the Environment Foundation
6267 Delmar Blvd., Suite 2E
St. Louis, Missouri 63130


Date: 6/20/13


ELIZABETH J. HUBERTZ
Clinic Attorney
Interdisciplinary Environmental Clinic
Washington University School of Law
Campus Box 1120
St. Louis, Missouri 63130

The undersigned party hereby consents and certifies that it is authorized to consent to the terms and conditions of this Amendment to Consent Decree in the matter of *United States, et al. v. Metropolitan St. Louis Sewer District*, No. 4:07-cv-01120-CEJ (E.D. Mo.).


FOR THE METROPOLITAN ST. LOUIS SEWER DISTRICT:

Date: 6/21/13



BRIAN L. HOELSCHER
Executive Director
Metropolitan St. Louis Sewer District
2350 Market Street
St. Louis, Missouri 63103

Date: 6/21/13



SUSAN M. MYERS
General Counsel
Metropolitan St. Louis Sewer District
2350 Market Street
St. Louis, Missouri 63103