

Mo. Code Regs. Ann. Tit. 10, § 20-7.015(10); to eliminate all Constructed SSO Outfalls; and to achieve the goal of eliminating all known SSOs.

C. Paragraph 51 of the Consent Decree requires, among other things, that MSD construct and implement the CSO Control Measures in accordance with the descriptions, design and performance criteria, and the dates for bid year and achievement of full operation for each CSO Control Measure set forth in Appendix D to the Consent Decree.

D. Appendix D, at page 6, requires that MSD construct and implement a CSO treatment unit – enhanced high rate clarification facility - at the location of the Lemay CSO Outfall 063. Similarly, Appendix E, the Post-Construction Monitoring Program, refers to this enhanced high rate treatment unit as being near Outfall 063.

E. 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.

F. The Parties have agreed, pursuant to Paragraph 136 of the Consent Decree, to allow MSD to move the location of the CSO treatment unit to a new location near the downstream end of the CSO storage tunnel as illustrated in Exhibit A. The description, design and performance criteria, and critical milestones for this CSO treatment unit will remain the same as set forth in Appendix D.

G. The changes made herein constitute non-material Consent Decree modifications that do not require Court approval under Paragraph 136 of the Consent Decree. The undersigned Parties anticipate that the United States will file this Agreed Non-Material Consent Decree Modification (“Agreement”) with the Court as a non-material modification and an agreed supplement to the

Consent Decree. The Parties hereby agree that this Agreement shall be effective on the date that it has been signed by all Parties.

H. No action by the Court is required at this time. The Parties file this non-material modification to the Consent Decree with the Court in order to maintain a complete record of the Consent Decree and this modification thereto.

Agreement

1. The Parties hereby agree to the following non-material modification to Appendices D and E of the Consent Decree:

- a. Delete the phrase “CSO Treatment Unit at Lemay CSO Outfall 063” on page 6 of Appendix D under the column heading entitled “CSO Control Measure”.
- b. Replace the deleted phrase in Paragraph 1(a) above with “CSO Treatment Unit”.
- c. Delete the Figure entitled “Lower & Middle River Des Peres CSO Controls” on page 7 of Appendix D.
- d. Replace the deleted Figure in Paragraph 1(c) with Exhibit A.
- e. Delete the phrase “Enhanced High Rate treatment unit near Outfall 063” on page 3 of Appendix E (Post-Construction Monitoring Program) under the heading for Lower and Middle River Des Peres, at the second bullet.
- f. Replace the deleted phrase in Paragraph 1(e) with “Enhanced High Rate treatment unit.”

2. Except as specified herein, no additional provisions of the Consent Decree are modified, superseded, or altered in any way by this Agreement.

3. This Agreement may be executed in counterparts.

The undersigned party hereby consents and certifies that it is authorized to consent to the terms and conditions of this Agreed Non-Material Consent Decree Modification 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: 06-26-2013



THOMAS A. MARIANI, JR.
Deputy Chief
United States Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section

Date: 7/5/2013



KATHRYN C. MACDONALD
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Washington, D.C. 20044

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FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII:

Date: 6/20



DAVID COZAD
Regional Counsel
United States Environmental Protection Agency
Region 7
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Date: 6/20



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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



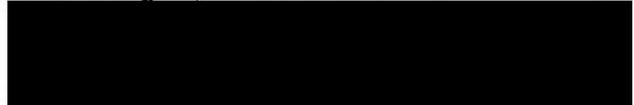
SUSAN SHINKMAN
Director, Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
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Date: 6/25/13



MARK POLLINS
Director, Water Enforcement Division
Office of Civil Enforcement
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Date: 6/25/13



JOANNA CITRON DAY
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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
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Date: 6/20/13



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

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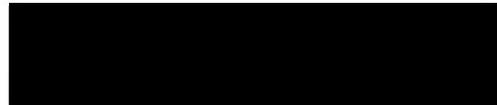
FOR THE METROPOLITAN ST. LOUIS SEWER DISTRICT:

Date: 6/21/13



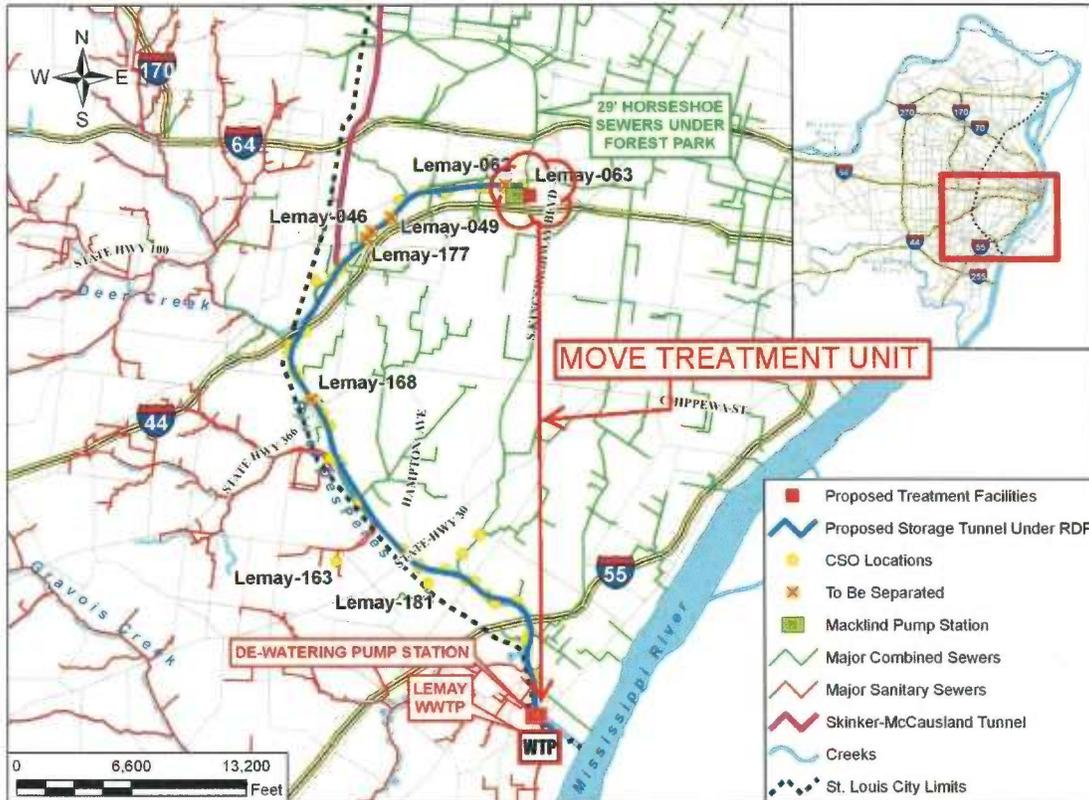
BRIAN L. HOELSCHER
Executive Director
Metropolitan St. Louis Sewer District
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Date: 6/21/13



SUSAN M. MYERS
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Metropolitan St. Louis Sewer District
2350 Market Street
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EXHIBIT A



Lower & Middle River Des Peres CSO Controls