IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA and
THE STATE OF INDIANA,

Plaintiffs,

v.

THE CITY OF ANDERSON, INDIANA,

Defendant.

CIVIL ACTION NO.

IP 02-1103 C M/S

CONSENT DECREE

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I. BACKGROUND

A. The United States of America (the "United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), and the State of Indiana (the "State"), on behalf of the Commissioner of the Indiana Department of Environmental Management ("IDEM") (collectively the "Plaintiffs"), have filed a Complaint in this matter seeking civil penalties and injunctive relief relating to the municipal wastewater treatment facilities and sewer system operated by the Defendant, the City of Anderson, Indiana ("Anderson").

B. The Complaint alleges that Anderson violated the Clean Water Act, 33 U.S.C. § 1251 et seq. (the "CWA"), Title 327 of the Indiana Administrative Code, Article 5, and its National Pollutant Discharge Elimination System permit (the "NPDES Permit," as defined below) issued pursuant to the CWA, by, inter alia: (i) discharging pollutants in wastewater at levels exceeding limits established by its NPDES Permit; (ii) failing to comply with monitoring, recording, and record keeping requirements imposed by its NPDES Permit; (iii) failing to administer an effective and compliant program to ensure pretreatment of wastewater discharged to its wastewater treatment facilities and sewer system; (iv) failing to operate and maintain its wastewater treatment facilities and sewer system as required by law; (v) discharging untreated or partially treated wastewater in connection with unauthorized bypass discharges; and (vi) discharging untreated wastewater in connection with unauthorized combined sewer overflow discharges.

C. The United States, the State, and Anderson (collectively the "Parties") recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been

negotiated by the Parties in good faith and will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided in Section II, below, and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

II. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and CWA Section 309(b), 33 U.S.C. § 1319(b). This Court also has personal jurisdiction over Anderson. Venue is proper in this District pursuant to CWA Section 309(b), 33 U.S.C. § 1319(b), and 28 U.S.C. § 1391(b) and (c).

2. For the purposes of this Consent Decree, Anderson waives all objections and defenses that it may have to jurisdiction of the Court or to venue in this District. Anderson shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

3. This Consent Decree applies to and is binding upon the United States and the State, and upon Anderson, acting through its officers, directors, employees and agents acting in their capacities as such, and upon Anderson's successors and assigns. To the extent provided by Fed. R. Civ. P. 65(d), the injunctive relief provisions of this Consent Decree are binding upon Anderson's officers, agents, servants, and employees, and are binding upon those parties in active concert or participation with Anderson and its officers, agents, servants or employees who receive actual notice of this Consent Decree with respect to all matters related to the performance

of this Consent Decree. In any action to enforce the terms of this Consent Decree, Anderson shall not raise as a defense the failure of its officers, directors, agents, servants, contractors, or employees or any other persons or entities provided for by Fed. R. Civ. P. 65(d) to take any actions necessary to comply with the provisions of this Consent Decree.

IV. DEFINITIONS

4. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined by the CWA, by regulations promulgated under the CWA, or by Anderson's NPDES Permit, shall have the meaning assigned to them by the CWA, by such regulations, or by the NPDES Permit. Whenever the following terms are used in this Consent Decree, the following definitions shall apply:

a. "Anderson" shall mean Defendant the City of Anderson, Indiana.

b. "Bypass" shall mean the intentional diversion of a waste stream from any portion of the Facilities.

c. "Complaint" shall mean the complaint filed by the United States and the State in this action.

d. "Consent Decree" shall mean this Decree and all appendices attached hereto (listed in Section XXI).

e. "CSO Discharge" or "Combined Sewer Overflow Discharge" shall mean any discharge from any outfall identified in Appendix A (List of Existing CSO Discharge Outfalls).

f. "Day" shall mean a calendar day unless expressly stated to be a working day. In computing any period of time under this Consent Decree, where the last day would fall

on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

g. "Dry Weather CSO Discharge" shall mean a CSO Discharge that occurs when the relevant portion of Anderson's Sewer System is not receiving precipitation-related inflow.

h. "Effective Date" shall mean the date of entry of this Decree by the Court after satisfaction of the public notice and comment procedures of 28 C.F.R. § 50.7.

i. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

j. "Facilities" shall mean Anderson's Dewey Street Facility and Gene Gustin Way Complex. A map of the Facilities is attached hereto at Appendix B.

k. "IDEM" shall mean the Indiana Department of Environmental Management and any successor departments or agencies of the State.

l. "Industrial User" shall mean a discharger of pollutants to Anderson's Sewer System from a non-domestic source (as regulated by CWA Section 307(b), (c), and (d)).

m. "NPDES Permit" shall mean Anderson's National Pollutant Discharge Elimination System permit no. IN 0032476, and any permit that succeeds that permit and is in effect at a particular time in question.

n. "Outfall" followed by an arabic numeral shall mean the outfall assigned that numerical outfall designation in Anderson's existing National Pollutant Discharge Elimination System permit no. IN 0032476, as renewed on August 16, 1988 and as modified on October 20, 1988, September 22, 1989, July 10, 1991, February 12, 1993, and June 14, 1993.

o. "Paragraph" shall mean a portion of this Decree identified by an Arabic numeral.

p. "Parties" shall mean the United States, the State, and Anderson.

q. "Plaintiffs" shall mean the United States and the State.

r. "Pretreatment Program" shall mean the program developed and administered by Anderson in accordance with 40 C.F.R. §§ 403.8 and 403.9.

s. "Pretreatment Permit" shall mean a permit for wastewater discharge issued to an Industrial User by Anderson in accordance with its Pretreatment Program.

t. "Sanitary Sewer Overflow Discharge" or "SSO Discharge" means any discharge from any portion of the Sewer System which is designed to collect and convey sewage, but not stormwater, to the Facilities.

u. "Section" shall mean a portion of this Decree identified by a Roman numeral.

v. "Sewer System" shall mean the pipes, structures, and appurtenances which collect and convey sewage and stormwater to the Facilities, and during wet weather, to the outfalls identified in Appendix A (List of Existing CSO Discharge Outfalls), or to any SSO Discharge point.

w. "Significant Industrial User" shall mean an Industrial User that: (i) is subject to Categorical Pretreatment Standards established by 40 C.F.R. Section 403.6 and 40 C.F.R. Chapter I, Subchapter N; (ii) discharges 25,000 gallons per day or more of process wastewater; (iii) discharges 5% or more of the average dry weather hydraulic or organic load to

the Facilities; or (iv) is otherwise designated as a Significant Industrial User by Anderson as provided by 40 C.F.R. § 403.112(a) or 40 C.F.R. § 403.8(f)(6).

x. "Slug Load" shall mean any single discharge episode of any toxic, conventional, or nonconventional pollutant of such volume or strength as to cause (or have the potential to cause) interference, pass-through, or any violation of a discharge prohibition or effluent limitation at Anderson's Facilities.

y. "State" shall mean the State of Indiana, acting on behalf of IDEM.

z. "United States" shall mean the United States of America, acting on behalf of EPA.

V. CIVIL PENALTIES

5. Civil Penalties Payable to the United States. No later than 30 days after the Effective Date, Anderson shall pay a civil penalty in the amount of $125,000 to the United States, plus interest at the rate established by the Secretary of the Treasury, pursuant to 28 U.S.C. § 1961, from the Effective Date to the date of payment of the penalty. Payment shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice in accordance with instructions to be provided to Anderson upon entry of the Consent Decree by the Financial Management Unit of the U.S. Attorney's Office for the Southern District of Indiana. Any EFTs received at the DOJ lockbox bank after 11:00 a.m. Eastern Time will be credited on the next business day. At the time of payment, Anderson shall simultaneously send written notice of payment and a copy of any transmittal documentation (which should reference the above-captioned case name and civil action number and DOJ case number 90-5-2-1-07043/2) to the Plaintiffs in accordance with Section VII (Notices and Submissions) of this Decree.

6. Civil Penalties Payable to the State. No later than 30 days after the Effective Date, Anderson shall pay a civil penalty in the amount of $125,000 to the State, plus interest at the rate established pursuant to Indiana Code Section 24-4.6-1-101 from the Effective Date to the date of payment of the penalty. Payment shall be made by a check made payable to "Indiana Department of Environmental Management Special Fund," delivered to:

Cashier
Indiana Department of Environmental Management
P.O. Box 7060
Indianapolis, IN 46207-7060

At the time of payment, Anderson shall simultaneously send written notice of payment and a copy of any transmittal documentation (which should reference the above-captioned case name and civil action number and DOJ case number 90-5-2-1-07043/2) to the Plaintiffs in accordance with Section VII (Notices and Submissions) of this Consent Decree.

7. Late Payments. In accordance with the Debt Collection Act of 1982, 31 U.S.C. § 3717, and 40 C.F.R. § 13.11, Anderson shall be subject to three forms of late charges in the event of late payment of the civil penalties required to be paid under Paragraph 5 (Civil Penalties Payable to the United States) or Paragraph 6 (Civil Penalties Payable to the State), or stipulated penalties required to be paid under Section VIII (Stipulated Penalties) of this Consent Decree.

a. Anderson shall pay an interest charge on any unpaid penalties that are due and payable to the United States under this Paragraph or Section VIII (Stipulated Penalties) at the rate of the current value of funds to the U.S. Treasury (*i.e.*, the Treasury tax and loan account rate), accruing on the date payment was due and payable beginning on the 31st day after payment was due, unless paid prior to that date. Anderson shall pay an interest charge on any unpaid penalties that are due and payable to the State under this Paragraph or Section VIII (Stipulated

Penalties) at the rate established by Indiana Code Section 24-4.6-1-101, accruing on the date payment was due and payable beginning on the 31st day after payment was due, unless paid prior to that date.

b. Anderson shall pay an administrative costs (handling) charge of fifteen dollars ($15) for each month past the due date specified by this Consent Decree that it does not pay the penalty in full.

c. In addition to the previous two charges, Anderson shall pay late fees on any unpaid penalty amount still due and payable more than ninety (90) days past the date due. Late fees shall accrue at the rate of six (6) percent per annum and shall be assessed monthly. Interest and handling charges as provided for in this Paragraph shall be tendered along with any late penalty payments in the manner specified above. The Plaintiffs shall be entitled to collect the costs (including attorneys fees) incurred in any action necessary to collect any portion of the civil penalty, stipulated penalty, interest, or late payment costs or fees.

VI. COMPLIANCE PROGRAM

NPDES Permit Compliance

8. Permit Compliance. Anderson shall comply with the terms and conditions of its NPDES Permit.

9. Permit Compliance Plan. Within 30 days of the Effective Date, Anderson shall develop, and submit for Plaintiffs' approval, a Permit Compliance Plan for satisfying the monitoring, record keeping, and reporting requirements contained in its NPDES Permit. The plan shall address, at a minimum: (i) data acquisition, dissemination, and utilization; (ii) raw influent and final effluent testing, record keeping, and reporting; (iii) process control testing,

record keeping, and reporting; (iv) compliance with monthly report of operation form requirements; (v) compliance with discharge monitoring report form requirements; (vi) compliance with CSO Discharge monitoring report form requirements, including Enhanced CSO Discharge Reporting required under Subparagraph 35.a; (vii) Bypass monitoring, record keeping, and reporting, including Enhanced Bypass Reporting required under Subparagraph 35.b; (viii) noncompliance reporting; (ix) spill reporting; and (x) sludge disposal record keeping and reporting. Within 30 days after it is approved by Plaintiffs, Anderson shall implement the approved Permit Compliance Plan.

Emergency Response Plan

10. Emergency Response Plan. Within 30 days of the Effective Date, Anderson shall develop a comprehensive Emergency Response Plan for its Facilities and Sewer System. The plan shall address, at a minimum: (i) plans for detecting and characterizing potential emergency conditions in its Facilities and Sewer System; (ii) plans for investigating causes of potential emergency conditions in its Facilities and Sewer System, including sampling and tracing of causes; (iii) plans for notification and coordination with other federal, state, and local emergency response agencies (including the National Response Center, the state emergency planning commission, the local emergency planning committee, and the fire department); and (iv) plans for mitigating impacts and responding to potential emergency conditions in its Facilities and Sewer System. Within 30 days of the Effective Date, Anderson shall submit the Emergency Response Plan to the Plaintiffs for their review, and shall implement the Plan immediately unless the Plaintiffs provide Anderson written notice directing Anderson not to implement the Plan as submitted.

Pretreatment Program

11. Enforcement Response Plan Implementation. Anderson shall immediately implement the Enforcement Response Plan attached as Appendix C to this Consent Decree, and any amendments or revisions to the Enforcement Response Plan approved by Plaintiffs.

12. Responses to EPA Pretreatment Audit.

a. Pretreatment Program Compliance Plan. Within 30 days of the Effective Date, Anderson shall develop, and submit for Plaintiffs' approval, a Pretreatment Compliance Plan. The plan shall include, at a minimum, schedules and plans for implementing all the "required" and "recommended" actions identified in EPA's Pretreatment Program Audit Report for the audit conducted on April 11 and 12, 2001 (a copy of which is attached at Appendix D). Within 30 days after it is approved by Plaintiffs, Anderson shall implement the approved Pretreatment Program Compliance Plan.

b. Pretreatment Permit Review. Within 180 days of the Effective Date, Anderson shall review all Pretreatment Permits issued to its Significant Industrial Users and shall modify any Pretreatment Permits as necessary to ensure compliance with all applicable pretreatment standards and requirements. The modifications shall include, but shall not necessarily be limited to, those modifications "required" and "recommended" by EPA's Pretreatment Program Audit Report. Within 210 days of the Effective Date, Anderson shall submit to the Plaintiffs a Pretreatment Permit Summary Report. The Pretreatment Summary Report shall, at a minimum, describe the Pretreatment Permit Review process completed by Anderson, the modifications made to each Pretreatment Permit, and the rationale for the modifications, and shall include copies of all modified permits.

13. Industrial User Communications Plan. Within 30 days of the Effective Date, Anderson shall develop, and submit for Plaintiffs' approval, an Industrial User Communications Plan. The plan shall, at a minimum, outline plans for frequent communication and regular meetings with all Industrial Users. Within 30 days after it is approved by Plaintiffs, Anderson shall implement the approved Industrial User Communications Plan.

14. Industrial Waste Surveys. Anderson shall conduct Industrial Waste Surveys as follows:

a. Initial Survey. Within 180 days of the Effective Date, Anderson shall conduct an initial Industrial Waste Survey of all of its Industrial Users that contains the elements described in Chapter 2.21 of EPA's December 1987 "Guidance Manual on the Development and Implementation of Local Discharge Limitations Under the Pretreatment Program" and in EPA's October 1983 "Guidance Manual for POTW Pretreatment Program Development," and shall utilize the results of the initial Industrial Waste Survey to designate Significant Industrial Users. Anderson's initial Industrial Waste Survey shall include, at a minimum, an on-site survey of all Industrial Users other than restaurants.

b. Follow-Up Surveys.

(1) Anderson shall classify each of its Industrial Users within one of three tiers, as follows. The "Tier I" classification shall include all Industrial Users categorized as Significant Industrial Users and all Industrial Users with any industrial processes that generate or have the potential to generate a wastewater discharge or spill, as well as all other Industrial Users placed within the classification by Anderson's Pretreatment Program Coordinator. The "Tier II" classification shall include all

Industrial Users that have significant dry manufacturing processes, as well as all other Industrial Users placed within the classification by Anderson's Pretreatment Program Coordinator. The "Tier III" classification shall include all Industrial Users not included within "Tier I" or "Tier II."

(2) Anderson shall conduct a follow-up Industrial Waste Survey of all of its Tier I Industrial Users at least once each calendar year, at least every two calendar years for Tier II Industrial Users, and at least every five years for Tier III Industrial Users. Anderson shall utilize the results of each follow-up Industrial Waste Survey to update its designation of Significant Industrial Users and its tiered classification of its Industrial Users. Each follow-up Industrial Waste Survey shall contain the elements described in Chapter 2.21 of EPA's December 1987 "Guidance Manual on the Development and Implementation of Local Discharge Limitations Under the Pretreatment Program" and in EPA's October 1983 "Guidance Manual for POTW Pretreatment Program Development." Each follow-up Industrial Waste Survey shall include, at a minimum, an on-site survey of any Industrial Users other than restaurants not surveyed in Anderson's prior Industrial Waste Survey.

c. Use of Survey Results.

(1) Anderson shall use the results of its Industrial Waste Surveys to identify any Industrial Users having the potential to cause interference, pass-through, or impacts on sludge disposal.

(2) Anderson shall issue new Pretreatment Permits to any newly designated Significant Industrial Users and shall revise any previously issued Pretreatment Permits as appropriate based on the results of its Industrial Waste Surveys.

15. Wastewater Slug Load Assessments. Anderson shall address each of its Significant Industrial User's potential to discharge wastewater Slug Loads as follows:

a. Wastewater Slug Load Control Plans. Anderson represents that it has assessed each of its Significant Industrial Users to determine its potential to discharge wastewater Slug Loads. Within 120 days of the Effective Date, Anderson shall require each of its Significant Industrial Users that has the potential to discharge wastewater Slug Loads to develop and submit to Anderson a new or revised Wastewater Slug Load Control Plan that conforms with 40 C.F.R. § 403.8(f)(2)(v). When any additional Significant Industrial Users that have the potential to discharge wastewater Slug Loads are identified, Anderson shall, within 30 days, require the Significant Industrial User to develop and submit to Anderson a new or revised Wastewater Slug Load Control Plan that conforms with 40 C.F.R. § 403.8(f)(2)(v). Each such Wastewater Slug Load Control Plan shall include, at a minimum: (i) a description of discharge practices, including non-routine batch discharges; (ii) an identification of any stored chemicals and description of the way the chemicals are stored; (iii) procedures for immediately notifying Anderson of Slug Load discharges, including any discharge that would violate a prohibition under 40 C.F.R. § 403.5(b), with procedures for follow up written notification within five (5) days; and (iv) procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or

equipment, measures for containing toxic pollutants (including solvents), and/or measures and equipment for emergency response.

b. Pretreatment Permits. Within 180 days of the Effective Date, Anderson shall attach each conforming Wastewater Slug Load Control Plan to the Pretreatment Permit issued by Anderson to the Significant Industrial User and shall require the Significant Industrial User to comply with the Wastewater Slug Load Control Plan as a requirement of its Pretreatment Permit.

c. Follow-Up Assessments. At least once every two calendar years, Anderson shall reassess each of its Significant Industrial Users to evaluate the Significant Industrial User's potential to discharge wastewater Slug Loads, in order to determine whether the Significant Industrial User needs to develop a new or revised Wastewater Slug Load Control Plan. Whenever a new or revised Wastewater Slug Loan Control Plan is required, Anderson shall, consistent with the requirements of Subparagraphs a and b: (i) require the Significant Industrial User to develop and submit a conforming Plan to Anderson within 30 days, and (ii) require the Significant Industrial User to comply with the Plan as a requirement of its Pretreatment Permit within 90 days of Anderson's receipt of the conforming Plan.

16. Effluent Sampling and Inspections. Anderson shall conduct effluent sampling and inspections as follows:

a. Effluent Sampling. At least once per calendar quarter, Anderson shall sample the effluent discharged by each of its Significant Industrial Users to assess the Significant Industrial User's compliance with all effluent limit paramenters specified in the Significant Industrial User's Pretreatment Permit by collecting and analyzing samples in accordance with

Pretreatment Permit requirements. At least once per calendar quarter, Anderson shall assess any other parameters of potential concern identified in Industrial Waste Surveys of the Significant Industrial User until enough information has been obtained to establish effluent limitations or to determine that new effluent limitations are not needed.

b. Periodic Inspections of Significant Industrial Users. Anderson represents that it has conducted an initial inspection of each of its Significant Industrial Users which includes the elements described in Chapter 2 of EPA's April 1994 "Industrial User Inspection and Sampling Manual for POTWs." Anderson shall conduct quarterly follow-up inspections of each of its Significant Industrial Users for two years after the Effective Date. Two years after the Effective Date, Anderson may reduce the follow-up inspection frequency to twice per calendar year (rather than quarterly) for any Significant Industrial User that has been in full compliance with Pretreatment Program requirements for the preceding two years. Each periodic inspection shall include the elements described in Chapter 2 of EPA's April 1994 "Industrial User Inspection and Sampling Manual for POTWs." Anderson shall prepare and maintain records documenting the results of each inspection conducted under this Paragraph.

17. Independent Pretreatment Audits. Anderson shall arrange for Independent Pretreatment Audits as follows:

a. Anderson shall arrange for Independent Pretreatment Audits designed to ensure that Anderson is administering an effective and compliant Pretreatment Program. Each such audit shall be based on EPA's May 1992 "Control Authority Pretreatment Audit Checklist and Instructions." Each such audit shall be conducted by an independent contractor having technical expertise and knowledge sufficient to evaluate Anderson's Pretreatment Program. At

least 30 calendar days before arranging for each such audit, Anderson shall afford the Plaintiffs an opportunity to disapprove the proposed contractor by submitting to the Plaintiffs the name of the independent contractor and a brief description of the contractor's qualifications. Independent Pretreatment Audits shall be conducted in calendar years 2002 and 2003, spaced approximately twelve (12) months apart.

b. Anderson shall ensure that all notes taken by the independent contractor during an Independent Pretreatment Audit, including draft copies of checklists and audit forms, are retained by the contractor and available for review by the Plaintiffs.

c. Anderson shall require the independent contractor to submit a Draft Audit Findings Report to Anderson and the Plaintiffs for their review within 30 days after the completion of each Independent Pretreatment Audit. Within 15 days of receipt of the Draft Audit Findings Report, Anderson shall provide comments on the Draft Audit Findings Report to the independent contractor and to the Plaintiffs. Within 75 days after the completion of each Independent Pretreatment Audit, Anderson shall submit to the Plaintiffs a Final Audit Findings Report. The Final Audit Findings Report shall, at a minimum, include a description of any deficiencies identified in the audit, and a schedule for correcting any such deficiencies. Upon approval by the Plaintiffs, Anderson shall implement any corrective measures identified in the Final Audit Findings Report, in accordance with the schedule specified in the approved Report.

18. Pretreatment Program Compliance Reporting. Anderson shall submit Pretreatment Program Compliance Reports to the Plaintiffs on a quarterly basis. The reports shall be due on May 15th (covering January through March), August 15th (covering April through June), November 15th (covering July through September), and February 15th (covering October

through December), each year. Each Pretreatment Program Compliance Report shall include the following:

a. a report on Anderson's compliance with the requirements of Paragraph 11 (Enforcement Response Plan Implementation) during the reporting period;

b. a report on Anderson's compliance with the requirements of Paragraph 12 (Responses to EPA Pretreatment Audit) and Paragraph 17 (Independent Pretreatment Audit) during the reporting period, including a description of steps taken to implement the Pretreatment Program Compliance Plan and a description of the steps taken to implement any corrective measures identified in a Final Audit Findings Report;

c. a report on Anderson's compliance with the requirements of Paragraph 13 (Industrial User Communications Plan) during the reporting period, including a summary of steps taken to implement the Industrial user Communications Plan;

d. a report on Anderson's compliance with the requirements of Paragraph 14 (Industrial Waste Surveys) during the reporting period, including a description of the status of Initial Surveys and Follow-Up Surveys conducted by Anderson and a listing of the Industrial Users designated by Anderson as Significant Industrial Users and a summary of the basis for each designation;

e. a report on Anderson's compliance with the requirements of Paragraph 15 (Wastewater Slug Load Assessments) during the reporting period, including: (i) a listing of all Significant Industrial Users determined to have the potential to discharge wastewater Slug Loads and a summary of the basis for the determination; (ii) a listing of all Significant Industrial Users that have submitted conforming Wastewater Slug Control Plans to Anderson; and (iii) a listing of

all Pretreatment Permits modified by Anderson to incorporate a conforming Wastewater Slug Load Control Plan;

f. a report on Anderson's compliance with Paragraph 16 (Effluent Sampling and Inspections) during the reporting period, including: (i) a summary of the results of each Effluent Sampling event required by Subparagraph 16.a, with a description of any effluent limit violations detected; (ii) a summary of the results of each Significant Industrial User Inspection required by Subparagraph 16.b, with a description of any reporting, sampling, laboratory, flow measurement, and sludge disposal deficiencies identified; (iii) a summary of all corrective measures being taken by a Significant Industrial User in response to violations or deficiencies identified by Effluent Sampling and Inspections under Paragraph 16; and (iv) a description of any enforcement action Anderson has taken against a Significant Industrial User in response to violations or deficiencies identified by Effluent Sampling and Inspections under Paragraph 16.

Facility and Sewer System Improvements

19. Pumping Capability. Within 30 days of the Effective Date, Anderson shall evaluate the pumping capability at all wastewater pumping stations, facilities, and locations at its Facilities and in its Sewer System, including, at a minimum, identifying any Facility or Sewer System improvements or other measures required to ensure that pumping capability, with the largest pump at each respective pumping station out of service, is not a factor that limits the Facilities' or Sewer System's ability to maximize the volume of flow transported to and through the Facilities.

20. Dissolved Oxygen Metering Systems. Within 30 days of the Effective Date, Anderson shall evaluate the dissolved oxygen metering systems in all aeration systems at its

Facilities, including, at a minimum, identifying any Facility improvements or other measures required to ensure that dissolved oxygen is measured continuously, with an accuracy of plus or minus 0.3 mg/l, and to ensure that the results are readily available for use by Facility personnel.

21. Scum Removal Systems. Within 30 days of the Effective Date, Anderson shall evaluate the scum removal systems in all primary clarification systems at its Facilities, including at a minimum, identifying any Facility improvements or other measures required to ensure effective scum removal such that scum accumulation does not negatively impact primary clarifier operations or effluent quality.

22. pH Metering. Within 30 days of the Effective Date, Anderson shall evaluate the effluent pH metering system for Outfall 001, including, at a minimum, identifying any Facility improvements or other measures required to ensure that the effluent pH is measured continuously, with an accuracy of plus or minus 0.1 su, and to ensure that the results are readily available for use by Facility personnel.

23. Filtration. Within 180 days of the Effective Date, Anderson shall evaluate the sand filtration system at the Gene Gustin Way Complex, including, at a minimum, assessing in detail: (i) the system treatment capacity; (ii) mechanical and electrical component condition and remaining service life; and (iii) costs and options for Facility improvements, repairs or replacements, or other measures required to ensure that the filtration system reliably achieves its design treatment capacity and solids removal performance.

24. Disinfection. Within 30 days of the Effective Date, Anderson shall evaluate the effectiveness of the disinfection process at the Gene Gustin Way Complex, including, at a minimum: (i) evaluating mixing at the point of disinfectant application; (ii) evaluating effective

contact time; (iii) evaluating the chlorination system's ability to feed the design dosage and the adequacy of the current design capacity; and (iv) identifying any Facility improvements or other measures required to ensure consistent compliance with bacteriological standards.

25. Sludge Storage.

a. Within 180 days of the Effective Date, Anderson shall evaluate its sludge storage capabilities, including, at a minimum, identifying any Facility improvements or other measures required to ensure compliance with the NPDES Permit, effective and efficient operation of all treatment processes, and permanent elimination of the need and ability to transfer waste sludge from the Gene Gustin Way Complex back to the Dewey Street Facility.

b. Until Anderson completes and implements the Facility improvements or other measures required to permanently eliminate the need and ability to transfer waste sludge from the Gene Gustin Way Complex back to the Dewey Street Facility, Anderson shall: (i) cease the transfer of waste sludge from the Gene Gustin Complex to the Dewey Street Facility, except as provided by Subparagraph b.(1); and (ii) ensure that the valve that allows sludge to be directed from the Gene Gustin Way Complex to the Dewey Street Facility remains chained, locked, and security sealed, with a uniquely numbered security seal, except as provided by Subparagraph b.(1).

(1) In the event that Anderson determines that there is an urgent need to transfer waste sludge from the Gene Gustin Way Complex back to the Dewey Street Facility, Anderson shall provide the Plaintiffs advance written notification describing: (i) the reasons that the sludge transfer needs to occur; (ii) the amount of sludge that needs to be transferred; (iii) the proposed date(s) and time(s) of sludge transfer; (iv) the actions

that will be taken to ensure that the transferred sludge does not enter waters of the State or the United States; (v) the number of the seal that will be broken in order to conduct the sludge transfer; and (vi) the number of the seal that will be used to replace the broken seal. The written notification may be sent by facsimile transmission and shall be provided as soon as Anderson becomes aware of the need to transfer sludge, but in no case later than twenty-four hours prior to the proposed date and time of sludge transfer. Anderson may proceed with the proposed transfer of sludge if the Plaintiffs do not object, and shall comply with any conditions imposed by the Plaintiffs on the sludge transfer. Following the sludge transfer, Anderson shall replace the chain and lock and place a new uniquely numbered security seal on the valve that allows sludge to be directed from the Gene Gustin Way Complex to the Dewey Street Facility.

26. Facility Space. Within 30 days of the Effective Date, Anderson shall evaluate the adequacy of the existing space at the Facilities for storage, maintenance, and Facility support operations, including, at a minimum, identifying any Facility expansions or space additions required for storage of backup equipment, spare parts, and maintenance equipment, or for housing Facility support operations such as laboratory and maintenance operations.

27. Staffing. Within 30 days of the Effective Date, Anderson shall evaluate its staffing of the Facilities, including, at a minimum, identifying any staffing level increases necessary to ensure operation of the Facilities in consistent compliance with all applicable legal requirements.

28. Flow Monitoring, Metering, and Recording.

a. Within 60 days of the Effective Date, Anderson shall service, repair or replace as needed, and calibrate the existing flow meters and recorders at locations B, G, M, and P identified in Section 1 of Appendix E, such that each of these meters is fully functional and each consistently achieves an accuracy of better than or equal to +/- 10% for the flow volume and the flow rate, and such that an accuracy of better than or equal to +/- one minute is achieved for all time measurements. Anderson shall ensure that the flow recording equipment shall provide for both electronic and paper chart recording of the instantaneous flow rate, and the integrated/totalized flow volume. The electronic recording equipment shall display instantaneous flow rate data continuously and shall record instantaneous flow rate and integrated/totalized flow volume data in at least five minute increments.

b. Within 90 days of the Effective Date, Anderson shall service, repair or replace as needed, and calibrate the existing flow meters and recorders at locations H, I, J, and K identified in Section 1 of Appendix E, such that each of these meters is fully functional and each consistently achieves an accuracy of better than or equal to +/- 15% for the flow volume and the flow rate, and such that an accuracy of better than or equal to +/- one minute is achieved for all time measurements. Anderson shall ensure that the flow recording equipment shall provide for both electronic and paper chart recording of the instantaneous flow rate, and the integrated/totalized flow volume. The electronic recording equipment shall display instantaneous flow rate data continuously and shall record instantaneous flow rate and integrated/totalized flow volume data in at least five minute increments.

c. Within 30 days of the Effective Date, Anderson shall develop, and submit for Plaintiffs' approval, a description of the methodology that Anderson proposes to use to estimate flow and pollutant loads at location E identified in Section 1 of Appendix E. The submittal to Plaintiffs shall include: (i) a description of the methodology used to calculate the flows and pollutant loads from the sludge and bio-solids processing operations to the "Old Plant" at the Gene Gustin Way Complex; (ii) a description of any assumptions being made in order to calculate such flows and pollutant loads; (iii) documentation of the field verification of any flow assumptions and other assumptions, as appropriate; and (iv) the daily estimated flows and pollutant loads for the month in calendar year 2001 that had the highest total rainfall.

d. Within 90 days of the Effective Date, Anderson shall provide for flow metering, measuring, and recording at locations A, C, D, F, L, N, and O identified in Section 1 of Appendix E in the manner specified by Section 2 of Appendix E.

29. Facility Improvement Reports and Facility Improvement Implementation. Within 120 days of the Effective Date, Anderson shall submit to Plaintiffs a Phase I Facility Improvement Report which shall: (i) describe the results of the evaluations conducted under Paragraphs 19 (Pumping Capability), 20 (Dissolved Oxygen Metering), 21 (Scum Removal), 22 (pH Metering), 24 (Disinfection), 26 (Facility Space), and 27 (Staffing); (ii) describe any required Facility improvements or other measures identified in those evaluations, and the estimated costs of those improvements or measures; (iii) propose a schedule for implementing any required Facility improvements and other measures identified in those evaluations; and (iv) describe all actions taken to comply with the requirements of Paragraph 28 (Flow Monitoring, Metering, and Recording). Within 240 days of the Effective Date, Anderson shall

submit to the Plaintiffs a Phase II Facility Improvement Report which shall: (i) describe the results of the evaluations conducted under Paragraphs 23 (Filtration) and 25 (Sludge Storage); (ii) describe any required Facility improvements or other measures identified in those evaluations, and the estimated costs of those improvements or measures; and (iii) propose a schedule for implementing any required Facility improvements and other measures identified in those evaluations. Upon Plaintiffs' approval of each Facility Improvement Report, Anderson shall implement all Facility improvements and other measures described in the Facility Improvement Report, in accordance with the schedule specified by the Facility Improvement Report.

Standard Operating Procedure Protocols

30. Standard Operating Procedure Protocols. Within 180 days of the Effective Date, Anderson shall develop, and submit for Plaintiffs' approval, separate protocols establishing standard operating procedures which are consistent with currently accepted good industry practices for each of the following: (i) operation of the Facilities and the Sewer System; (ii) maintenance of the Facilities and the Sewer System; (iii) staff training and management for the Facilities and the Sewer System; (iv) solids inventory, control, and management; (v) sludge handling and disposal; (vi) sampling procedures; (vii) laboratory quality assurance/quality control; (viii) septage acceptance procedures; and (ix) responses to any non-compliance with applicable legal requirements and any associated adverse impacts. Upon Plaintiffs' approval of each protocol, Anderson shall provide copies of the protocol to responsible employees, shall maintain copies of the protocol at appropriate locations at the Facilities, and shall use the protocol as standard operating procedures.

Immediate Measures to Maximize Flow, Control Bypasses, and Control CSO Discharges

31. Flow Maximization, Bypass Control, and CSO Discharge Control. Anderson shall immediately take the following steps to maximize flow, control Bypasses, and control CSO Discharges until Anderson implements an approved Gene Gustin Way Bypass Elimination Plan pursuant to Paragraph 38 (Gene Gustin Way Bypass Elimination Plan), and an approved Long Term Control Plan pursuant to Paragraph 44 (Long Term Control Plan Implementation and Compliance Achievement):

a. Anderson shall operate and maintain its Facilities and Sewer System to minimize CSO Discharges, including by: (i) maximizing the volume of wastewater transported through the relevant portions of its Sewer System to the Facilities before and during a CSO Discharge, and (ii) maximizing the volume of wastewater transported from all portions of the Sewer System through the Facilities before and during any CSO Discharge.

b. Anderson shall operate and maintain its Facilities and Sewer System to minimize discharges from the Dewey Street Raw Sewage Bypass (Outfall 006) and the Dewey Street Primary Effluent Bypass (Outfall 005), and to minimize Bypasses at the Facilities.

c. Within 30 days of the Effective Date, Anderson shall develop, and submit for Plaintiffs' approval, a Stress Test Work Plan for conducting a Stress Test designed to re-evaluate the peak hydraulic and effective treatment capacities of the Facilities' treatment systems. The Stress Test Work Plan shall include a plan for conducting a Stress Test in accordance with Appendix F, as well as a proposed schedule for completing the Stress Test. As expeditiously as possible, but no later than 90 days after Plaintiffs' approval of the Stress Test Work Plan, Anderson shall conduct and complete the Stress Test in accordance with the

approved Stress Test Work Plan (and the schedule included in the approved Work Plan). Upon completion of the Stress Test, Anderson shall prepare a Stress Test Report describing the evaluations and testing carried out, identifying any instances in which the evaluations and testing deviated from the Stress Test Work Plan, and identifying the peak hydraulic and effective treatment capacity limitations revealed by the testing. The Report shall also describe any capacity limitations identified for which remedial measures involving limited capital expenditure exist, shall describe the feasibility of implementing those measures, and shall propose a schedule for implementing any feasible measures.

d. Within 30 days after completion of the Stress Test, Anderson shall develop, and submit for Plaintiffs' approval, a proposed revised Operational Plan for the Facilities proposing revised flow capacities for the Facilities' treatment systems (based on the results of the Stress Test) together with the Stress Test Report prepared pursuant to Subparagraph c. Upon approval of the Operational Plan and Stress Test Report by Plaintiffs, Anderson shall maximize flow, control Bypasses, and control CSO Discharges in accordance with the flow capacities included in the approved revised Operational Plan, and in accordance with the approved Stress Test Report.

32. Prohibited Discharges. Anderson shall not allow any discharges from the Moss Island Road Treatment Plant Secondary Bypass (Outfall 002), the Western Village Overflow (Outfall 004), the Hendricks Street Overflow (Outfall 012), the 6th Street Overflow (Outfall 017), the Downtown Sewer Overflow (Outfall 019), the 26th and Monroe Street Overflow (Outfall 027), or the Nursery Road Lift Station (Outfall 029), or from any discharge point not permitted under Anderson's NPDES Permit.

33. SSO Discharges. Anderson shall not allow any Sanitary Sewer Overflow Discharges.

34. Dry Weather CSO Discharges. Anderson shall not allow any Dry Weather CSO Discharges.

35. Enhanced CSO Discharge and Bypass Reporting.

a. Enhanced CSO Discharge Reporting. For each CSO Discharge in a given month, Anderson shall submit to IDEM, at the time Anderson submits its required monthly CSO Discharge Monitoring Report, an addendum to the Report indicating whether Anderson complied with Paragraphs 31 (Flow Maximization, Bypass Control, and CSO Discharge Control), 32 (Prohibited Discharges), and 34 (Dry Weather Discharges) before and during the CSO Discharge, and explaining how compliance was achieved or why compliance was not achieved. The addendum shall include all documentation relating to each CSO Discharge during the month, including: (i) records indicating the date and time the CSO Discharge began and the date and time the CSO Discharge ended; (ii) records indicating the nature, volume, and location of the CSO Discharge; (iii) records, such as flow charts, which indicate the Dewey Street Facility and Gene Gustin Way Complex influent and final effluent flow rates before and during the CSO Discharge; (iv) records, such as flow charts, which indicate the influent and effluent flow rate for each unit treatment process at Facilities before and during the CSO Discharge, as soon as such flow rate records begin to be generated under the requirements imposed by Paragraph 28 (Flow Monitoring, Metering, and Recording); (v) results of process control testing of each unit treatment process at the Facilities prior to and during the CSO Discharge; (vi) records, such as flow charts, which indicate the flow rate through the relevant portions of the Sewer System

before and during the CSO Discharge; (vii) records which indicate the amount of precipitation before and during the CSO Discharge, including the date and time that the precipitation began and the date and time that the precipitation ended; (viii) records which indicate snow-pack depth and hourly air temperature readings, if relevant and applicable; and (ix) Facility and Sewer System maintenance records. If Anderson intends to estimate the volume or duration of discharges from any CSO Discharge outfall, Anderson shall develop, and submit for Plaintiffs' approval, a description of the basis for the estimation.

b. Enhanced Bypass Reporting. In addition to complying with the notice and reporting requirements of 40 C.F.R. § 122.41(m) and 327 IAC 5-2-8(11), Anderson shall submit to IDEM, within 12 calendar days of the Bypass, a Supplemental Bypass Report indicating whether Anderson complied with Paragraphs 31 (Flow Maximization, Bypass Control and CSO Discharge Control) and 32 (Prohibited Discharges) before and during the Bypass, and explaining how compliance was achieved or why compliance was not achieved. The Supplemental Bypass Report shall include an addendum containing all documentation relating to the Bypass, including: (i) records indicating the date and time the Bypass began and the date and time the Bypass ended; (ii) records indicating the nature, volume, and location of the Bypass; (iii) records, such as flow charts, which indicate the Dewey Street Facility and Gene Gustin Way Complex influent and final effluent flow rates before and during the Bypass; (iv) records, such as flow charts, which indicate the influent and effluent flow rate for each unit treatment process at Facilities before and during the Bypass, as soon as such flow rate records begin to be generated under the requirements imposed by Paragraph 28 (Flow Monitoring, Metering, and Recording); (v) results of process control testing of each unit treatment process at the Facilities prior to and

during the Bypass; (vi) Facility maintenance records; and (vii) all records relating to Anderson's compliance or non-compliance with the bypass conditions in 40 C.F.R. § 122.41(m) and 327 IAC 5-2-8(11).

36. Nine Minimum Controls Compliance Plan. Within 30 days of the Effective Date, Anderson shall develop, and submit for Plaintiffs' approval, a Nine Minimum Controls Compliance Plan which: (i) describes the status of Anderson's implementation of the Nine Minimum Controls described in EPA's "Combined Sewer Overflow (CSO) Control Policy," 59 Fed. Reg. 18688 (April 19, 1994), and in EPA's May 1995 "Combined Sewer Overflows; Guide for Nine Minimum Controls;" (ii) identifies additional measures necessary to ensure full implementation of the Nine Minimum Controls; and (iii) contains a plan, including a schedule, for fully implementing the Nine Minimum Controls, consistent with EPA's May 1995 "Combined Sewer Overflows; Guidance for Nine Minimum Controls," and for evaluating the effectiveness of all implemented controls. Upon approval by the Plaintiffs, Anderson shall implement the Nine Minimum Controls Compliance Plan, in accordance with the schedule specified in the approved Plan.

37. Interim Measures Plan for the Greensbranch and Morton Street CSO Outfalls. Within 30 days of the Effective Date, Anderson shall develop, and submit for Plaintiffs' approval, an Interim Measures Plan for the Greensbranch Relief Sewer Overflow (Outfall 007) and the Morton Street Overflow (Outfall 013) describing any interim measures that can feasibly be implemented to achieve reductions in the frequency, duration, and volume of CSO Discharges from the Greensbranch Relief Sewer Overflow (Outfall 007) and the Morton Street Overflow (Outfall 013) before Anderson implements an approved Long Term Control Plan pursuant to

Paragraph 44 (Long Term Control Plan Implementation and Compliance Achievement). The Plan shall include a schedule for implementing any interim measures. Upon approval by the Plaintiffs, Anderson shall implement the Plan, in accordance with the schedule specified in the approved Plan.

38. Gene Gustin Way Bypass Elimination Plan. By December 31, 2003, Anderson shall develop, and submit for Plaintiffs' approval, a Gene Gustin Way Bypass Elimination Plan describing Facility improvement or other measures required to eliminate Bypasses at the Gene Gustin Way Complex, except as permitted by the bypass conditions in 40 C.F.R. § 122.41(m) and 327 IAC 5-2-8(11). The Plan shall include a schedule for implementing required Facilities improvements and other measures. Upon approval by the Plaintiffs, Anderson shall implement the Plan, in accordance with the schedule specified by the approved Plan.

Long Term Improvement of Facility and Sewer System Operations

39. Development of Long Term Control Plan. In accordance with the requirements of Paragraphs 40 (Preliminary Programs and Studies Work Plan), 41 (Preliminary Programs and Studies Report), 42 (Long Term Control Plan Work Plan), 43 (Long Term Control Plan Report), 44 (Long Term Control Plan Implementation and Compliance Achievement), Anderson shall develop and implement a Long Term Control Plan. The Long Term Control Plan shall provide for the construction and implementation of all Facility and Sewer System improvements and other measures necessary to: (i) ensure that CSO Discharges from all CSO Discharge outfalls comply with the technology based and water quality based requirements of the CWA, state law and regulation, and Anderson's NPDES Permit; and (ii) eliminate discharges from the Dewey Street Raw Sewage Bypass (Outfall 006) and the Dewey Street Primary Effluent Bypass (Outfall

005), except as permitted by the bypass conditions in 40 C.F.R. § 122.41(m) and 327 IAC 5-2-8(11).

40. Work Plan for Preliminary Programs and Studies. Within 60 days of the Effective Date, Anderson shall develop, and submit for Plaintiffs' approval, a Preliminary Programs and Studies Work Plan which shall describe plans and schedules for completing each of the programs and studies in accordance with Sections A-D of Appendix G, including: (i) a Public and Regulatory Agency Participation Program; (ii) a Stream Reach Characterization and Evaluation Study; (iii) a Sewer System Characterization and Monitoring Program; and (iv) a Receiving Stream and Sewer System Modeling Program. The Work Plan shall include plans and schedules for submission of the Preliminary Programs and Studies Reports required by Paragraph 41. Upon approval by the Plaintiffs, Anderson shall implement the Preliminary Programs and Studies Work Plan, in accordance with the schedule specified in the approved Work Plan.

41. Preliminary Programs and Studies Reports. After completing the programs and studies specified by Sections B-D of Appendix G (Long Term Control Plan Requirements), Anderson shall submit to the Plaintiffs the following Preliminary Programs and Studies Reports, in accordance with the plans and schedules established by the approved Preliminary Programs and Studies Work Plan: (i) a Stream Reach Characterization and Evaluation Study Report; (ii) a Sewer System Characterization and Monitoring Program Report; and (iii) a Receiving Stream and Sewer System Modeling Report. Each report shall summarize all information and data obtained, and the results of all assessments, evaluations, and characterizations carried out in completing the relevant program or study in accordance with the governing Section of Appendix G, and shall describe any deviations from the approved Preliminary Programs and

Studies Work Plan in completing the relevant program or study (as well as the justifications for any deviations). Anderson shall use the results of the Preliminary Programs and Studies, as described in the Preliminary Programs and Studies Reports approved by the Plaintiffs, in developing and implementing its Long Term Control Plan.

42. Long Term Control Plan Work Plan. Within 60 days of the Effective Date, Anderson shall develop, and submit for Plaintiffs' approval, a Long Term Control Plan Work Plan which shall describe plans and schedules for developing a Long Term Control Plan in accordance with Section E of Appendix G (Long Term Control Plan Requirements). The Work Plan shall include plans and schedules for submission of the Long Term Control Plan Report required by Paragraph 43. The schedule included in the Work Plan shall require submission of the Long Term Control Plan Report by no later than March 31, 2004. Upon approval by the Plaintiffs, Anderson shall implement the Long Term Control Plan Work Plan, in accordance with the schedule specified in the approved Work Plan.

43. Long Term Control Plan Report. After completing the planning processes specified by Section E of Appendix G (Long Term Control Plan Requirements), Anderson shall submit to the Plaintiffs an engineering report, known as the Long Term Control Plan Report, in accordance with the plans and schedules established by the approved Long Term Control Plan Work Plan. The Report shall describe the results of the Public and Regulatory Agency Program implemented in accordance with Section A of Appendix G and the details of the planning and assessment process implemented in accordance with Section E of Appendix G, consistent with EPA's May 1995 "Combined Sewer Overflows; Guidance for Long Term Control Plan." The Report shall also include: (i) a description of the control/treatment measures selected by

Anderson as its Long Term Control Plan; (ii) a schedule for design, construction, and implementation of Facility and Sewer System improvements and other measures required under the Long Term Control Plan; and (iii) a description of the post-construction compliance monitoring program that will be implemented upon completion of the construction and implementation of the control/treatment measures. The schedule included in the Long Term Control Plan Report shall require the design, construction, and implementation of all control/treatment measures selected by Anderson by no later than December 31, 2009, with priority being given to early implementation of the measures selected by Anderson to address discharges from the Greensbranch Relief Sewer Overflow (Outfall 007), the Morton Street Overflow (Outfall 013), the Dewey Street Raw Sewage Bypass (Outfall 006), and the Dewey Street Primary Effluent Bypass (Outfall 005).

44. Long Term Control Plan Implementation and Compliance Achievement.

a. Upon approval by the Plaintiffs, Anderson shall implement the Long Term Control Plan, in accordance with the schedule specified in the approved Long Term Control Plan Report.

b. After implementing the selected control/treatment options specified by its Long Term Control Plan, Anderson shall demonstrate compliance with the technology based and water quality based requirements of the CWA, state law and regulation, and the applicable provisions of Anderson's NPDES Permit, by implementing the Post-Construction Compliance Monitoring Program portion of its Long Term Control Plan, in accordance with the schedule specified in the approved Plan. If the results of the Post-Construction Compliance Monitoring Program do not demonstrate compliance, Anderson shall, within sixty days, submit to the

Plaintiffs a Supplemental Compliance Plan which includes the actions that Anderson will take to achieve compliance, and a schedule for taking such actions. Upon approval by the Plaintiffs, Anderson shall implement the Supplemental Compliance Plan, in accordance with the schedule specified in the approved Plan.

45. Schedules and Deadlines Under Section VI (Compliance Program). Any schedule or deadline for submission of a report or submission under Section VI (Compliance Program) may be extended by written agreement of the Parties. In order to request an extension of a schedule or deadline, Anderson shall submit a written request for extension to the Plaintiffs in accordance with Section VII (Notices and Submissions) at least 30 days prior to the date on which the report or submission is due.

VII. NOTICES AND SUBMISSIONS

46. Unless otherwise specified herein, whenever notifications, reports, submissions, or communications are required by this Consent Decree, they shall be made in writing and addressed as follows:

To the United States:

To the U.S. Department of Justice:

Chief, Environmental Enforcement Section
U.S. Department of Justice -- DOJ No. 90-5-2-1-07043/2
P.O. Box 7611
Washington, D.C. 20044-7611

and

To EPA:

Chief, Water Enforcement and Compliance Assurance Branch (WCC-15J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

and

Regional Counsel (C-14J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

To the State:

To the Indiana Attorney General:

Chief, Environmental Section
Office of the Attorney General
Indiana Government Center South
5th Floor
402 West Washington Street
Indianapolis, IN 46204

and

To IDEM:

Chief, Compliance Branch
Office of Water Quality
Indiana Department of Environmental Management
100 North Senate Street
P.O. Box 6015
Indianapolis, IN 46206

and

Chief, Enforcement Section
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Street
P.O. Box 6015
Indianapolis, IN 46206

To Anderson:

Fredric P. Andes
Barnes and Thornburg
2600 Chase Plaza
10 S. LaSalle Street
Chicago, IL 60603

47. Notices and submissions provided pursuant to this Section shall be deemed effective upon receipt, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing.

48. In addition to the other reports required by this Consent Decree, if Anderson violates any requirement of this Consent Decree or its NPDES Permit, Anderson shall notify the Plaintiffs of such violation and its likely duration in writing within ten (10) working days of the day Anderson first becomes aware of the violation, with an explanation of the violation's likely cause and of the remedial steps taken, and/or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the report is due, Anderson shall include a statement to that effect in the report. Anderson shall immediately investigate to determine the cause of the violation and then shall submit an amendment to the report, including a full explanation of the cause of the violation, within thirty (30) days of the day Anderson becomes aware of the cause of the violation.

49. Each notice or submission submitted by Anderson under this Consent Decree shall be signed by an official of the submitting Party and include the following certification:

> I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that this document and its attachments were prepared under my direction or supervision in a manner designed to ensure that qualified and knowledgeable personnel properly gather and

present the information contained therein. I further certify, based on my inquiry of those individuals immediately responsible for obtaining the information, that I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

50. Anderson shall retain all underlying documents from which it has compiled any report or other submission required by this Consent Decree until five years after termination of the Decree.

51. The reporting requirements of this Consent Decree do not relieve Anderson of any reporting obligations required by the CWA or implementing regulations, or by any other federal, state, or local law, regulation, permit, or requirement.

52. Any information provided pursuant to this Consent Decree may be used by the Plaintiffs in any proceeding to enforce the provisions of this Consent Decree and as otherwise permitted by law.

53. Review of Reports and Submissions. Following receipt of any report, plan, or other submission by Anderson under this Consent Decree, the Plaintiffs may do one of the following, in writing: (i) approve all of or any portion of the submission; (ii) approve all or part of the submission upon specified conditions; (iii) disapprove all of or any portion of the submission, notifying Anderson of deficiencies in the submission and granting Anderson additional time within which to correct the deficiencies; (iv) modify the submission to correct deficiencies; or (v) reject all of or any portion of the submission.

VIII. STIPULATED PENALTIES

54. Liability for Stipulated Penalties. Anderson shall be liable to the Plaintiffs for stipulated penalties in the amounts set forth in this Section for failure to comply with the

requirements of this Consent Decree as specified below, unless excused under Section IX (Force Majeure). "Compliance" shall include meeting all requirements of this Consent Decree and any applicable permit, as well as completing the activities under this Consent Decree, or any work plan or other plan approved under this Consent Decree, in accordance with all applicable requirements of this Consent Decree, and within the specified time schedules established by and approved under this Consent Decree.

55. Noncompliance with Effluent Limits. Stipulated penalties for any noncompliance with a numerical effluent limit imposed by Anderson's NPDES Permit shall accrue as follows:

a. Penalty Amount. The following stipulated penalties shall accrue per violation for any noncompliance with a numerical effluent limit imposed by Anderson's NPDES Permit during the time period specified by Subparagraph b:

Parameter	Stipulated Penalty
Daily concentration and mass limits	$2,000 per day per parameter
pH minimum or maximum	$2,000 per day per parameter
Weekly average concentration and mass limits	$4,000 per week per parameter
Monthly average concentration and mass limits	$10,000 per month per parameter

b. Time Period for Accrual of Penalties under this Paragraph. Stipulated penalties for any noncompliance covered by this Paragraph 55 shall accrue for at least three years after the Effective Date, but Anderson's obligation to pay stipulated penalties under this Paragraph shall cease if: (i) at least three years have elapsed since the Effective Date; (ii) Anderson has maintained continuous compliance with the requirements of its NPDES Permit for the most recent twelve months; and (iii) Anderson has made all payments due under this

Consent Decree, including all payments due under Paragraphs 5 (Penalties Payable to the United States), 6 (Penalties Payable to the State), 7 (Late Payments), and this Section VIII (Stipulated Penalties).

56. Noncompliance with Flow Maximization, Bypass Control, and CSO Discharge Control Requirements.

a. CSO Discharge Control. The following stipulated penalties shall accrue per violation for each day a CSO Discharge occurs or continues in violation of Paragraph 31 (Flow Maximization, Bypass Control, and CSO Discharge Control):

Period of Noncompliance	Stipulated Penalty
1st to 3rd day of CSO Discharge	$2,000 per day per CSO Discharge
4th to 60th day of CSO Discharge	$5,000 per day per CSO Discharge
After 60 days of CSO Discharge	$7,500 per day per CSO Discharge

b. Bypass Control. The following stipulated penalties shall accrue for each day a Bypass occurs or continues whenever Anderson has not achieved and maintained the minimum flow rates specified below:

Period of Noncompliance	Stipulated Penalty
1st to 3rd day of Bypass	$2,000 per day per Bypass
4th to 60th day of Bypass	$5,000 per day per Bypass
After 60 days of Bypass	$7,500 per day per Bypass

Until Plaintiffs approve a revised Operational Plan with revised flow capacities for the Facilities' treatment systems pursuant to Subparagraph 31.d, the minimum flow rates for the purpose of this Subparagraph 56.b shall be: (i) 40 MGD though the primary wastewater treatment process (at the

Dewey Street Facility) prior to and during each discharge event from the Dewey Street Raw Sewage Bypass (Outfall 006); and (ii) 21.25 MGD through the "Old Plant" and "New Plant" secondary wastewater treatment processes at the Gene Gustin Way Complex prior to and during each discharge event from the Dewey Street Primary Effluent Bypass (Outfall 005). Once Plaintiffs approve a revised Operational Plan with revised flow capacities pursuant to Subparagraph 31.d, the minimum flow rates for the purpose of this Subparagraph 56.b shall be the flow capacities included in the revised Operational Plan approved by Plaintiffs.

57. Noncompliance with Discharge Prohibitions. The following stipulated penalties shall accrue per violation for any discharge in violation of Paragraphs 32 (Prohibited Discharges) or 33 (SSO Discharges):

Period of Noncompliance	Stipulated Penalty
1st to 3rd day of violation	$2,000 per day per violation
4th to 60th day of violation	$5,000 per day per violation
After 60 days of violation	$7,500 per day per violation

58. Stipulated Penalties for Certain CSO Discharges. The following stipulated penalties shall accrue per day for any CSO Discharge whenever there has been no precipitation or snow melt in the relevant geographical area during the CSO Discharge and within the 24 hours immediately preceding the CSO Discharge:

Period of Noncompliance	Stipulated Penalty
1st to 3rd day of CSO Discharge	$2000 per day per CSO Discharge
4th to 60th day of CSO Discharge	$5,000 per day per CSO Discharge
After 60 days of CSO Discharge	$7,500 per day per CSO Discharge

59. Noncompliance with Compliance Program Requirements. The following stipulated penalties shall accrue for each noncompliance with any of the compliance program requirements of this Consent Decree set forth in Paragraphs 11 (Enforcement Response Plan Implementation), 12 (Responses to EPA Pretreatment Audit), 13 (Industrial User Communications Plan), 14 (Industrial Waste Surveys), 15 (Wastewater Slug Load Assessments), 16 (Effluent Sampling and Inspections), 17 (Independent Pretreatment Audits), 19 (Pumping Capability), 20 (Dissolved Oxygen Metering), 21 (Scum Removal), 22 (pH Metering), 23 (Filtration), 24 (Disinfection), 25 (Sludge Storage), 26 (Facility Space), 27 (Staffing), 28 (Flow Monitoring, Metering, and Reporting), 29 (Facility Improvement Reports and Facility Improvement Implementation), 30 (Standard Operating Procedure Protocols), 31 (Flow Maximization, Bypass Control, and CSO Discharge Control), 36 (Nine Minimum Controls Compliance Plan), 37 (Interim Measures Plan for Greensbranch and Morton Street CSO Outfalls), 38 (Gene Gustin Way Bypass Elimination Plan), 40 (Work Plan for Preliminary Programs and Studies), 42 (Long Term Control Plan Work Plan), or 44 (Long Term Control Plan Implementation and Compliance Achievement):

Period of noncompliance	Stipulated Penalty
1st to 30th day of violation	$1,000 per day per violation
31st to 60th day of violation	$1,500 per day per violation
After 60 days of violation	$2,500 per day per violation

60. Noncompliance with Reporting Requirements. The following stipulated penalties shall accrue for each noncompliance with any requirement that Anderson submit to the Plaintiffs any work plan, report, or any other submission under this Consent Decree:

Period of noncompliance	Stipulated Penalty
1st to 30th day of violation	$1,000 per day per violation
31st to 60th day of violation	$1,500 per day per violation
After 60 days of violation	$2,000 per day per violation

61. Either the United States, or the State, or both may elect to seek stipulated penalties under this Section. Where both sovereigns elect to seek stipulated penalties, any such penalties determined to be owing shall be paid fifty (50) percent to the United States and fifty (50) percent to the State. Where only one Plaintiff elects to seek stipulated penalties, the entire amount of stipulated penalties determined to be owing shall be payable to that sovereign. In no case shall the determination by one sovereign not to seek stipulated penalties preclude the other sovereign from seeking stipulated penalties, as otherwise provided for by, and consistent with, the terms of this Consent Decree. A decision by the United States or the State to waive, in whole or in part, stipulated penalties otherwise due under this Section shall not be subject to judicial review.

62. All stipulated penalties shall begin to accrue on the day after the performance is due or on the day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree, except that when two or more violations are based upon the same noncompliance, the higher stipulated penalty shall apply.

63. Penalty Accrual During Dispute Resolution. Stipulated penalties shall continue to accrue as provided in accordance with Paragraphs 54 (Liability for Stipulated Penalties),

55 (Noncompliance with Effluent Limits), 56 (Noncompliance with Flow Maximization, Bypass Control, and CSO Discharge Control Requirements), 57 (Noncompliance with Discharge Prohibitions), 58 (Stipulated Penalties for Certain CSO Discharges), 59 (Noncompliance with Compliance Program Requirements), and 60 (Noncompliance with Reporting Requirements) during any dispute resolution, with interest on accrued penalties payable and calculated at the rate established by the Secretary of the Treasury, pursuant to 28 U.S.C. § 1961 (for penalties payable to the United States) and at the rate established pursuant to Indiana Code Section 24-4.6-1-101 (for penalties payable to the State), but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of EPA that is not appealed to the Court, accrued penalties determined to be owing, together with accrued interest, shall be paid to the Plaintiffs within thirty (30) days of the effective date of the agreement or the receipt of EPA's decision or order.

b. If the dispute is appealed to the Court and the Plaintiffs prevail in whole or in part, Anderson shall, within sixty (60) days of receipt of the Court's decision or order, pay all accrued penalties determined by the Court to be owing, together with accrued interest, except as provided in Subparagraph c.

c. If the District Court's decision is appealed by any Party, Anderson shall, within fifteen (15) days of receipt of the final appellate court decision, pay all accrued penalties determined to be owing to the Plaintiffs, together with accrued interest.

64. Stipulated penalties for violations under Paragraphs 55 (Noncompliance with Effluent Limits), 56 (Noncompliance with Flow Maximization, Bypass Control, and CSO Discharge Control Requirements), 57 (Noncompliance with Discharge Prohibitions), and

58 (Stipulated Penalties for Certain CSO Discharges) occurring between April 15, 2002 and the Effective Date of this Consent Decree may be assessed retroactively pursuant to the terms of this Section.

65. All stipulated penalties must be paid within thirty (30) days of the date that they accrue.

66. Payment of Stipulated Penalties to the United States.

a. Payment. Stipulated penalties payable to the United States shall be paid by certified or cashier's check in the amount due, payable to the "Treasurer, United States of America," referencing the above-captioned case name and civil action number and DOJ No. 90-5-2-1-07043/2, and shall be delivered to the Financial Litigation Unit of the Office of the United States Attorney for the Southern District of Indiana, at the following address:

Financial Litigation Unit
Office of the United States Attorney
Southern District of Indiana
10 West Market Street, Suite 2100
Indianapolis, IN 46204-3048

b. Late Payment. Should Anderson fail to pay stipulated penalties and accrued interest payable to the United States in accordance with the terms of this Consent Decree, the United States shall be entitled to collect interest and late payment costs and fees, as set forth in Paragraph 7 (Late Payments) together with the costs (including attorneys fees) incurred in any action necessary to collect any such stipulated penalties, interest, or late payment costs or fees.

67. Payment of Stipulated Penalties to the State.

a. Payment. Stipulated penalties payable to the State shall be paid by certified or cashier's check in the amount due, payable to the "Indiana Department of Environmental Management Special Fund," delivered to:

Cashier
Indiana Department of Environmental Management
P.O. Box 7060
Indianapolis, IN 46207-7060

b. Late Payment. Should Anderson fail to pay stipulated penalties and accrued interest payable to the State in accordance with the terms of this Consent Decree, the State shall be entitled to collect interest and late payment costs and fees, as set forth in Paragraph 7 (Late Payments) together with the costs (including attorneys fees) incurred in any action necessary to collect any such stipulated penalties, interest, or late payment costs or fees.

68. Anderson's payment of stipulated penalties under this Section shall be in addition to any other rights or remedies available to the United States and the State by reason of Anderson's failure to comply with any requirement of this Consent Decree or applicable law.

IX. FORCE MAJEURE

69. "Force majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of Anderson, its contractors, or any entity controlled by Anderson that delays or prevents the performance of any obligation under this Consent Decree despite Anderson's best efforts to fulfill the obligation. "Best efforts" include using best efforts to anticipate any potential force majeure event and to address the effects of any such event (a) as it is occurring and (b) after it has occurred, such that the delay is minimized to the greatest extent possible. "Force Majeure" does not include Anderson's financial inability to perform any

obligation under this Consent Decree.

70. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, as to which Anderson intends to assert a claim of force majeure, Anderson shall provide notice in writing, as provided in Section VII (Notices and Submissions) of this Consent Decree, within seven (7) days of the time Anderson first knew of, or by the exercise of due diligence should have known of, the event. Such notification shall include an explanation and description of the reasons for the delay; the anticipated duration of the delay; a description of all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; and Anderson's rationale for attributing such delay to a force majeure event. Failure to comply with the above requirements shall preclude Anderson from asserting any claim of force majeure. Anderson shall be deemed to know of any circumstance of which Anderson, its contractors, or any entity controlled by Anderson knew or should have known.

71. Anderson shall have the burden of proving, by a preponderance of the evidence, that each event described in the preceding Paragraph was a force majeure event; that Anderson gave the notice required by the preceding Paragraph; that Anderson took all reasonable steps to prevent or minimize any delay caused by the event; and that any period of delay it claims was attributable to the force majeure event was caused by that event.

72. If the Parties agree that Anderson could not have prevented or mitigated any delay, or anticipated delay, attributable to a force majeure event by the exercise of due diligence, the Parties shall stipulate to an extension of time for Anderson's performance of the affected compliance requirement by a period not exceeding the delay actually caused by such event. In

such circumstances, the appropriate modification shall be made pursuant to: (i) Paragraph 45 (Schedules and Deadlines Under Section VI (Compliance Program)); and/or (ii) Section XVII (Consent Decree Modifications), where the modification is to a term of this Consent Decree or is a material modification of any Appendix to this Consent Decree. In the event the Parties cannot agree, the matter shall be resolved in accordance with Section X (Dispute Resolution). An extension of time for performance of the obligations affected by a force majeure event shall not, of itself, extend the time for performance of any other obligation.

X. DISPUTE RESOLUTION

73. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. However, such procedures shall not apply to actions by the Plaintiffs to enforce obligations of Anderson that have not been disputed in accordance with this Section.

74. Informal Dispute Resolution. Any dispute which arises under or with respect to this Consent Decree shall first be the subject of informal negotiations. The period of informal negotiations shall not exceed twenty days from the time Anderson sends the Plaintiffs a written Notice of Dispute in accordance with Section VII (Notices and Submissions), unless that period is modified by written agreement. Such Notice of Dispute shall state clearly the matter in dispute. The failure to submit a Notice of Dispute within ten days from the date upon which the issue in dispute first arises waives Anderson's right to invoke dispute resolution under this Section.

75. Formal Dispute Resolution.

a. If the Parties cannot resolve a dispute by informal negotiations pursuant to the preceding Paragraph, then the position advanced by the Plaintiffs shall be considered binding unless, within fifteen working days after the conclusion of the informal negotiation period, Anderson invokes formal dispute resolution procedures by serving on the Plaintiffs, in accordance with Section VII (Notices and Submissions), a written Statement of Position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, together with a statement indicating whether formal dispute resolution should proceed upon the administrative record.

b. Within fifteen working days after receipt of Anderson's Statement of Position, the Plaintiffs will serve on Anderson their Statement of Position, including any supporting factual data, analysis, opinion or documentation, together with a statement indicating whether formal dispute resolution should proceed upon the administrative record. Within ten working days after receipt of the Plaintiffs' Statement of Position, Anderson may submit a Reply.

c. If there is disagreement as to whether dispute resolution should proceed upon the administrative record, the Parties shall follow the procedures determined by the Plaintiffs to be applicable. However, if Anderson ultimately appeals to the Court to resolve the dispute, the Court shall determine the applicable standard and scope of review, in accordance with Subparagraph 76.c.

d. An administrative record of the dispute shall be maintained by EPA and shall contain all statements of position, including supporting documentation, submitted pursuant

to this Section. That record, together with other appropriate records maintained by EPA or submitted by Anderson, shall constitute the administrative record upon which the matter in dispute is to be resolved, when such resolution proceeds on the administrative record under this Section.

76. Resolution of Disputes.

a. The Director of the Water Division in EPA Region 5 will issue a final decision resolving the matter in dispute. Where the dispute pertains to the performance of the Compliance Program under Section VI of this Consent Decree, or is otherwise accorded review on the administrative record under applicable principles of administrative law, the decision shall be upon the administrative record maintained by EPA pursuant to Subparagraph 75.d. The decision of the Water Division Director shall be binding upon Anderson, subject only to the right to seek judicial review, in accordance with Subparagraph 76.b.

b. The decision issued by EPA under Subparagraph 76.a shall be reviewable by this Court upon a motion filed by Anderson and served upon the Plaintiffs within 20 working days of receipt of EPA's decision. In addition to containing the supporting factual data, analysis, opinion, and documentation upon which Anderson relies, the motion shall describe the history of the matter in dispute, the relief requested, and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree, as well as Anderson's position on whether the dispute should be resolved on the administrative record.

c. In any judicial proceeding pursuant to Subparagraph 76.b that concerns the performance of the Compliance Program under Section VI (Compliance Program), or that is otherwise accorded review on the administrative record under applicable principles of

administrative law, Anderson shall have the burden of demonstrating that the decision of the Water Division Director is arbitrary and capricious or otherwise not in accordance with law. Judicial review of such decision shall be on the administrative record compiled in accordance with Subparagraph 75.d. Judicial review for all other disputes shall be governed by applicable principles of law.

77. The invocation of dispute resolution procedures under this Section shall not extend, postpone, or affect in any way any obligation of Anderson under this Consent Decree, not directly in dispute, unless the Plaintiffs or the Court agrees otherwise. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 63 (Penalty Accrual During Dispute Resolution). In the event that Anderson does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section VIII (Stipulated Penalties).

XI. ACCESS TO INFORMATION AND DOCUMENT RETENTION

78. Commencing on the date of lodging of this Consent Decree, Anderson agrees to provide the United States and its representatives (including EPA and its contractors and consultants), and the State and its representatives (including IDEM and its contractors and consultants), access at all reasonable times to all areas and facilities under Anderson's control, and to allow such representatives to move about, without restriction, for the purposes of conducting any activity related to this Consent Decree, including to:

a. monitor the progress of activities required under this Consent Decree;

b. verify any data or information submitted to the United States or the State in accordance with the terms of this Consent Decree;

c. obtain samples and, upon request, splits of any samples taken by Anderson or its representative, contractors, or consultants; and

d. assess Anderson's compliance with this Consent Decree.

79. This Consent Decree in no way limits or affects any right of entry and inspection held by the United States or the State pursuant to applicable federal or state laws, regulations, or permits.

80. Anderson shall provide to the Plaintiffs, upon request, copies of all documents and information within its possession or control (or that of its contractors or agents) relating to compliance with this Consent Decree. Anderson shall also make available to Plaintiffs its employees, agents, or representatives with knowledge of relevant facts concerning its compliance with this Consent Decree.

a. Anderson may assert business confidentiality claims covering part or all of the documents or information submitted to the Plaintiffs under this Consent Decree, to the extent permitted by and in accordance with 40 C.F.R. Part 2. Documents or information submitted to EPA and determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when they are submitted to EPA, the public may be given access to such documents or information without further notice in accordance with 40 C.F.R. Part 2, Subpart B.

b. Anderson may assert that certain documents and information are privileged under the attorney-client privilege or any other privilege recognized by applicable law.

If Anderson asserts such a privilege in lieu of providing documents, Anderson shall provide the Plaintiffs with the following: (i) the title of the document; (ii) the date of the document; (iii) the name and title of the author of the document; (iv) the name and title of each addressee and recipient; (v) a description of the contents of the document; and (vi) the privilege asserted by Anderson. No documents or information created or generated pursuant to the requirements of the Consent Decree shall be withheld on the grounds that they are privileged.

81. Anderson agrees that it will preserve, during the pendency of this Consent Decree and for at least one (1) year after its termination, at least one legible copy of all documents in its possession, custody or control that relate to the performance of its obligations under this Consent Decree.

XII. FAILURE OF COMPLIANCE

82. The Plaintiffs do not, by their consent to the entry of this Consent Decree, warrant or aver in any manner that Anderson's compliance with any aspect of this Consent Decree will result in compliance with provisions of the CWA, 33 U.S.C. § 1251 et seq. applicable state law and regulations, or its NPDES Permit. Notwithstanding the Plaintiffs' review and approval of any documents submitted by Anderson pursuant to this Consent Decree, Anderson shall remain solely responsible for compliance with the terms of the CWA, applicable state law and regulations, Anderson's NPDES Permit, and this Consent Decree.

XIII. EFFECT OF SETTLEMENT AND RESERVATION OF RIGHTS

83. Complete performance by Anderson of all its obligations under this Consent Decree shall fully satisfy all civil liability of Anderson for the violations alleged in the Complaint in this action through the date of lodging of this Consent Decree.

84. This Consent Decree shall not be construed to prevent or limit the rights of the Plaintiffs to obtain penalties or injunctive relief under the CWA, or under other federal or state laws, regulations, or permit conditions, except as expressly specified herein.

85. Anderson is responsible for achieving and maintaining complete compliance with all applicable federal, State and local laws, regulations, and permits. Anderson's compliance with this Consent Decree shall be no defense to any action commenced pursuant to said laws, regulations, or permits.

86. This Consent Decree does not limit or affect the rights of Anderson or of the United States or the State against any third parties, not party to this Consent Decree, nor does it limit the rights of third parties, not party to this Consent Decree, against Anderson.

87. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

88. The Plaintiffs reserve any and all legal and equitable remedies available to enforce the provisions of this Consent Decree, except as expressly stated herein.

XIV. COSTS

89. The Parties shall each bear their own costs of litigation of this action, including attorneys fees, except as provided in Paragraph 7 (Late Payments) and Subparagraphs 66.b, and 67.b.

XV. EFFECTIVE DATE

90. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court.

XVI. RETENTION OF JURISDICTION

91. The Court shall retain jurisdiction of this case until termination of this Consent Decree, for the purpose of enabling any of the Parties to apply to the Court for such further order, direction, or relief as may be necessary or appropriate for the construction or modification of this Consent Decree, or to effectuate or enforce compliance with its terms, or to resolve disputes in accordance with Section X (Dispute Resolution).

XVII. CONSENT DECREE MODIFICATIONS

92. The terms of this Consent Decree may be modified only by a subsequent written agreement signed by all the Parties and approved by the Court as a modification to this Decree. Pursuant to Paragraph 45 (Schedules and Deadlines Under Section VI (Compliance Program)), any schedule or deadline for submission of a report or submission under Section VI (Compliance Program) may be extended by written agreement of the Parties, without Court approval, unless the extension effects a material change to the terms of this Consent Decree or materially affects the ability to meet the objectives of this Decree. The terms and schedules contained in Appendices A through G of this Decree may be modified upon written agreement of the Parties, without Court approval, unless any such modification effects a material change to the terms of this Consent Decree or materially affects the ability to meet the objectives of this Decree.

93. Notwithstanding the preceding Paragraph, upon application by a Party pursuant to Section XVI (Retention of Jurisdiction), the Court may enforce, supervise, construe, or modify this Consent Decree, as necessary to further its objectives.

XVIII. TERMINATION

94. After Anderson has completed all requirements imposed by Section VI (Compliance Program), has maintained continuous compliance with the requirements of the CWA, applicable state law and regulations, its NPDES Permit, and this Consent Decree for a period of at least one year, and has paid the civil penalties and any accrued stipulated penalties as required by this Consent Decree, Anderson may file and serve upon the Plaintiffs a "Motion for Termination of Consent Decree," with supporting documentation demonstrating that Anderson has successfully completed all requirements of this Consent Decree. The Plaintiffs shall have the right to oppose Anderson's motion for termination. If the Plaintiffs oppose termination of this Consent Decree, Anderson shall have the burden of proof by clear and convincing evidence that the requisite conditions for termination of the Decree have been satisfied.

XIX. PUBLIC COMMENT

95. This Consent Decree shall be lodged with the Court for a period of not less than thirty 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 the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. Anderson consents to entry of this Consent Decree without further notice.

XX. SIGNATORIES/SERVICE

96. Each undersigned representative of Anderson, the State, and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of

Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

97. This Consent Decree may be signed in counterparts, and such counterpart signature pages shall be given full force and effect.

98. Anderson hereby agrees not to oppose entry of this Consent Decree by the Court or to challenge any provision of the Decree, unless the United States has notified Anderson in writing that it no longer supports entry of the Decree.

99. Anderson hereby agrees to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons.

XXI. INTEGRATION/APPENDICES

100. This Consent Decree and its Appendices constitute the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Consent Decree and supersede all prior agreements and understandings, whether oral or written. Other than the Appendices, which are attached to and incorporated in this Decree, no other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Consent Decree or the settlement it represents, nor shall it be used in construing the terms of this Consent Decree.

101. The following appendices are attached to and incorporated into this Consent Decree:

"Appendix A" is the List of Existing CSO Discharge Outfalls.

"Appendix B" is a map of the Facilities.

"Appendix C" is the Enforcement Response Plan.

"Appendix D" is the Pretreatment Program Audit Report.

"Appendix E" is the Flow Metering, Monitoring, and Recording Requirements.

"Appendix F" is the Stress Test Requirements.

"Appendix G" the Long Term Control Plan Requirements.

XXII. FINAL JUDGMENT

102. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment between the United States, the State, and Anderson. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS _____ DAY OF _____, _____.

_____

United States District Judge

THE UNDERSIGNED PARTY enters into this Consent Decree in this action captioned United States and the State of Indiana v. City of Anderson, Indiana (S.D. Ind.):

FOR THE UNITED STATES OF AMERICA

DATE: 6.22.02

[redacted]

THOMAS L. SANSONETTI
Assistant Attorney General
Environment & Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

DATE: 6/22/02

[redacted]

RANDALL M. STONE, Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 514-1308

SUSAN W. BROOKS
United States Attorney

THOMAS E. KIEPER
Assistant United States Attorney
Southern District of Indiana
10 West Market Street, Suite 2100
Indianapolis, IN 46204-3048

THE UNDERSIGNED PARTY enters into this Consent Decree in this action captioned United States and the State of Indiana v. City of Anderson, Indiana (S.D. Ind.):

DATE: 6.6.02

[redacted]

THOMAS SKINNER
Regional Administrator
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

DATE: May 20, 2002

[redacted]

for NICOLE CANTELLO
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

THE UNDERSIGNED PARTY enters into this Consent Decree in this action captioned United States and the State of Indiana v. City of Anderson, Indiana (S.D. Ind.):

FOR THE STATE OF INDIANA

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DATE: 4-19-02

LORI F. KAPLAN
Commissioner

Approved as to form and legality:

DATE: 4-22-02

HALA SILVEY
Attorney
Indiana Department of Environmental Management
100 North Senate Street
P.O. Box 6015
Indianapolis, IN 46206

STEVE CARTER
Indiana Attorney General

DATE: 5-1-02

CHARLES J. TODD
Chief Operating Officer
Office of the Attorney General
Indiana Government Center South
5th Floor
402 West Washington Street
Indianapolis, IN 46204

THE UNDERSIGNED PARTY enters into this Consent Decree in this action captioned United States and the State of Indiana v. City of Anderson, Indiana (S.D. Ind.):

DATE: 4/16/02

FOR THE CITY OF ANDERSON

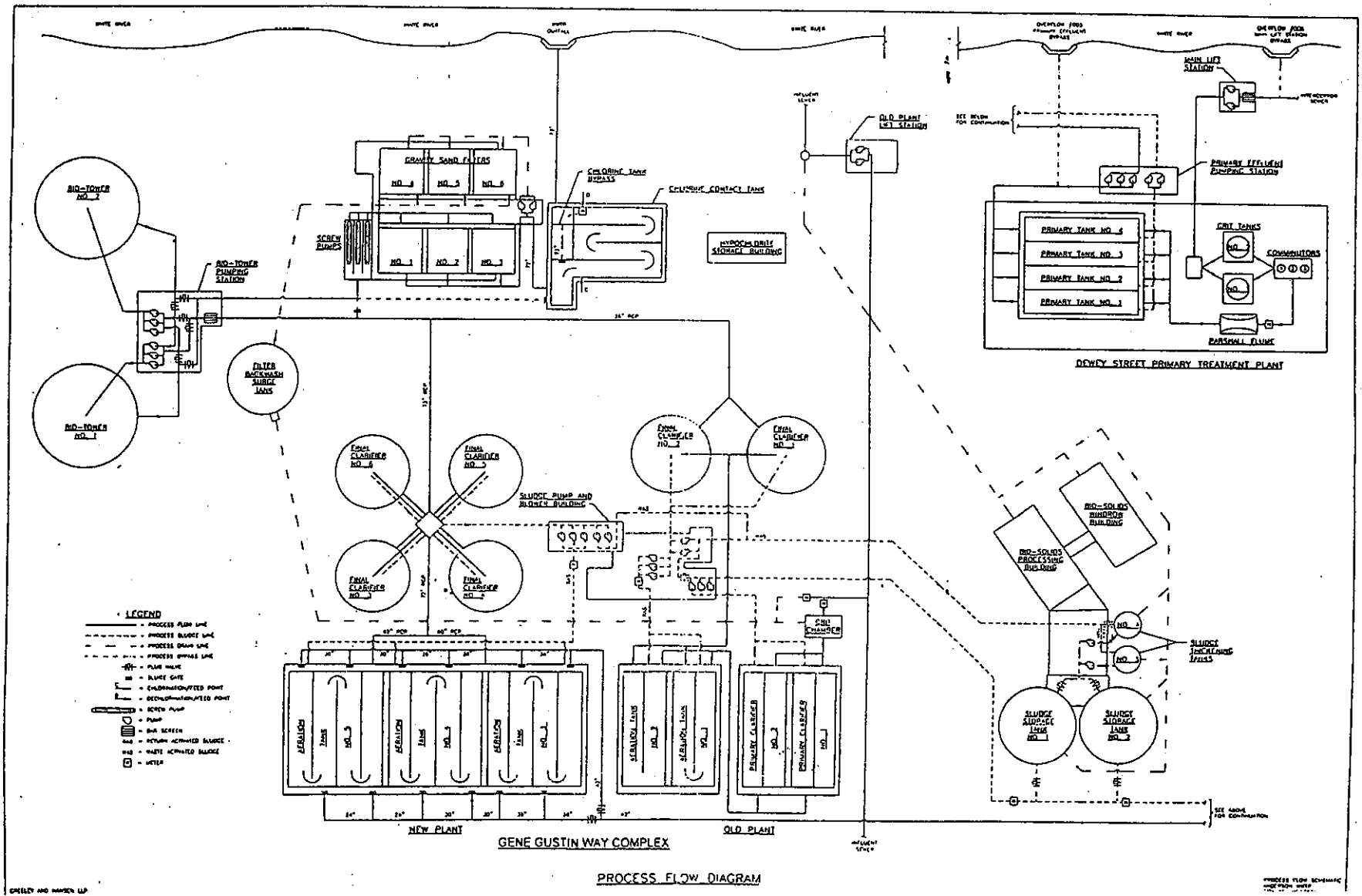
[redacted]

CONSENT DECREE APPENDIX A: List of Existing CSO Discharge Outfalls

Outfall 003	North Shore Boulevard Interceptor Overflow
Outfall 007	Greensbranch Relief Sewer Overflow
Outfall 009	Louise Street Overflow
Outfall 011	Madison Avenue Overflow
Outfall 013	Morton Street Overflow
Outfall 014	Indiana Avenue Overflow
Outfall 015	Broadway Overflow
Outfall 016	5th Street Overflow
Outfall 020	8th Street Overflow
Outfall 021	10th Street Overflow
Outfall 022	9th Street Overflow
Outfall 026	Fairwood Bluffs Overflow
Outfall 028	Chesterfield Lift Station Overflow

Note: The Pittsford Ditch Siphon Overflow (Outfall 025) was not included in the list of CSO Outfalls contained in Attachment A to Anderson's 1988 NPDES permit, based upon the following statement included by Anderson in its NPDES permit renewal application dated March 13, 1986: "The Pittsford Ditch Siphon Overflow has been plugged and no longer functions." Anderson has subsequently advised IDEM that this CSO Outfall has not been plugged and is functional.

CONSENT DECREE APPENDIX B: Map of the Facilities



PROCESS FLOW DIAGRAM

CRESLEY AND MANSEN LLP

CONSENT DECREE APPENDIX C: Enforcement Response Plan

Anderson Water Pollution Control Utility

Superintendent
Randy Hamilton

Enforcement Response Plan

EPA Approved

August 15, 2001

Introduction

This document represents the City of Anderson Water Pollution Control Utility's Enforcement Response Procedures. The Industrial Surveillance Section institutes enforcement actions for industrial user violations under Title 5 Chapter 51 of the City of Anderson Code of Ordinances and has primary responsibility to enforce all applicable pretreatment standards and requirements under this ordinance.

It is understood that if a User's **NONCOMPLIANCE** persists after notification by the Industrial Surveillance Section, the Indiana Department of Environmental Management may proceed to enforce directly against the user and or the City of Anderson. I.D.E.M. may also take its own enforcement action when the Control Authority (Industrial Surveillance Section), has not taken timely action or has failed to impose adequate sanction against the industrial user in violation.

With this in mind, action taken by the Industrial Surveillance Section is preferable to the I.D.E.M. EPA retains the authority to take its own enforcement action where the state or Control Authority is not willing to take timely or appropriate enforcement.

This guide has been tailored as recommended by the USEPA, to include a range of enforcement available to the Control Authority. It addresses a wide range of pretreatment violations. It is not intended to cover every type of violation. It has been developed as a guidance and is not intended to limit the enforcement discretion of any of the administering agencies.

If the industrial user personnel appear to be attempting in good faith to comply with pretreatment requirements, the Control Authority enforcement actions may be administered in a more cooperative manner than if the industrial user personnel do not appear to be attempting to comply in good faith. It should be noted however, that when "Good Faith", must be measured against the violation, congress clearly expressed in the **Clean Water Act** that, **extraordinary efforts**, are required by the Industrial Community to comply with the pretreatment requirements.

Nara Manor
Industrial Surveillance Manger
Anderson Water Pollution Control Utility

INDUSTRIAL USER INVENTORY

The General Pretreatment Regulations, 40 CFR 403.8 (t) (2) require all POTW's to identify potential industrial users subject to requirement of the pretreatment program and to identify the volume and character of pollutants discharged by the industrial users. The first Industrial Waste Survey was conducted in 1975, and a review of current users is ongoing but will be performed on a two year basis at a minimum.

In order to implement an effective Enforcement Response Guide, all industries subject to pretreatment regulations must be identified and controlled. Therefore, the Industrial Surveillance Section has developed a systematic approach to identifying new users and began implementing it 1975. This process, rather than being conducted just on a biannual basis, requires ongoing activities to remain current with the industrial community.

Previous questionnaires, survey results, and test results that have been collected during the City of Anderson Pretreatment Programs development were reviewed. This information was screened and potential users were contacted by mail or telephone. The facilities that remained were contacted to arrange site visits and determine if permitting was in order. If necessary a Wastewater Discharge Permit Application was provided, along with a date for submission to this department. Industries that are identified

presently are evaluated by the same procedure.

There isn't a single reliable source for identification of new industries. It takes various activities to discover new industries. The following is a list of some of the resources used by the City to identify facilities:

Telephone listings (the Yellow Pages);

Previous Survey Results;

Sewer connections and Water Usages;

Referrals from other Agencies, (Other Departments);

Site Visits;

Reports from other Industrial Users;

Citizen Reports;

Contacts from Potential Industries;

Observations by Department Personnel;

Newspaper articles, Trade Journals, Business Magazines;

Chamber of Commerce;

Internet Searches.

All new industries subject to any pretreatment requirements are issued an Industrial Discharge Permit and added to our master list of regulated facilities. This list is provided to the Approval Authority (IDEM) on a quarterly basis as a attachment to the Quarterly Noncompliance Report (QNCR). New Industries shall be added to the master

list that contains the significant industries divided into non-categorical and categorical groups, non-significant industries shall also be included on the quarterly report.

An additional requirement associated with the Industrial User Inventory shall be the maintenance of an accurate characterization of the volume, type, and quality of discharge from all regulated users. This is accomplished by completion of ongoing activities that includes:

Scheduled minimum biannual inspections at each industry;

Unscheduled inspections at industries;

Requirements of the Industries to report changed discharges;

Observations from field personnel;

Information submitted on Wastewater Discharge Permit Applications; and

Review of surveillance sampling data and self monitoring data.

Updated information collected as part of the City of Anderson Water Pollution Control Utility's activities that are recorded in the Industrial Section files.

The majority of inventory responsibilities are assumed by the Industrial Surveillance Manager. Surveillance sampling is conducted by the Industrial Waste Specialist or other laboratory personnel.

COMPLIANCE MONITORING PROCEDURES

Compliance monitoring activities conducted by the Industrial Surveillance Section are necessary to document and identify violations that can be presented as admissible

irrefutable evidence in legal proceedings and administrative actions. Industrial compliance with applicable regulations is evaluated and determined through:

1) Inspections conducted by the Industrial Surveillance Section;

2) Self-monitoring data from industrial users;

3) Surveillance sampling and analysis conducted by the Anderson POTW laboratory and Industrial Waste Specialist;

4) Evaluation by the City of Anderson of the industrial permit application.

Self monitoring data has been required of all permitted industrial users. The forms used at this time are provided by the user but are being modified at the present time to conform with a style developed by the Industrial Surveillance Section. Each report shall also be signed by the authorized industrial representative. This data is used as evidence if violations are identified.

Inspections by the Anderson Water Pollution Control Utility are conducted to identify any potential problems or violations and to verify compliance. Standard inspection forms are used to be sure that all areas have been evaluated. This form is dated and signed by the inspector. Any situations that show noncompliance are noted on the inspection form or on notes that are included with it and a follow up is conducted at the industry.

Sampling that is conducted by the Anderson Water Pollution Control Utility and the related chemical testing are the backbone of our compliance monitoring. Strict adherence is required to standard operating procedures and proper Quality Control

procedures. Sampling and inspection personnel are trained to collect industrial samples and properly complete chain of custody forms in the field that accompany each sample. Proper protocol for maintaining custody of samples in followed throughout the laboratory.

Industrial Permit Applications are evaluated for the information that has been submitted for regulatory compliance. The Industrial Surveillance Manager, needs to also determine if all of the information that is necessary has been documented for the completion of the application. The failure to disclose vital information shall be treated as a violation of the permitting program. The application form contains a statement that attests to the accuracy and completeness of the information that has been submitted and must be signed by an authorized representative of the industrial user.

DATA SCREENING

Most of the data that is to be screened and evaluated has been generated through industrial self monitoring and Anderson's surveillance sampling. Data generated by the two activities are reviewed by the Industrial Surveillance Manager.

Data is evaluated as it is received so that the proper enforcement response may be initiated. The time frames and specific responses are detailed in the Enforcement Response Section. This includes those industries that fail to submit reports in a timely manner.

The screening and tracking of reports that are submitted as part of a compliance schedule are reviewed manually. A facility that is under a compliance schedule is closely

tracked and receives additional site visits. Action will be taken if required reports have not been received or if milestones are missed.

Test results of the Anderson Water Pollution Control Utility surveillance sampling is kept on both the computer and in paper files.

IDENTIFICATION OF VIOLATIONS

Identification of violations of pretreatment requirements, regardless of the severity will initiate the enforcement process. The discovery of a violation may occur as a result of several activities. The following list represents the most common sources that identify violations:

1) Review of the City's industrial sampling results;

2) The review of self-monitoring data from industrial users;

3) Accidental discharge and Spill reports from industrial users;

4) 24 hour violation notification by the industry to the City;

5) Inspections and site visits by City personnel;

6) Other information that has been provided by industrial user employees;

7) Observations by field personnel;

8) Information provided by private citizens and public employees;

9) Compliance schedule requirement review;

10) Review of agreed judgement requirements; or

11) Information provided by other agencies (EPA, IDEM, Madison County Health

Department etc.).

Once violations have been identified, it is the Industrial Surveillance Manager's responsibility to implement the appropriate enforcement response. When determining the appropriate response, especially one which includes the imposition of penalties and/or fines, the specific procedures in the Enforcement Response Section must be followed. Additional criteria may be used to determine the response including:

1. Duration of the violation;
2. Magnitude of the violation;
3. Effects of the violation on the POTW's receiving stream;
4. Compliance history of the industrial user;
5. Good faith of the industrial user; or
6. Pollutants of particular importance to the POTW.

ENFORCEMENT PROCEDURES

Generally, all violations that have been identified by the City are reviewed, evaluated, and addressed by the appropriate enforcement response. The responses fall within the guidelines of the Enforcement Response Guide.

Frequently enforcement actions may begin with the issuance of an initial Letter of Violation which may be preceded by Verbal Telephone Notice. The LOV shall describe the nature of the violation and inform the industrial user that any additional violations may result in escalated enforcement actions.

Once the industrial user has been notified of a violation or has the knowledge of a condition which is a violation, the industrial user may be allowed up to thirty days to correct the noncompliance before an escalation of the enforcement response occurs unless this has been extended under an enforcement schedule. This period will apply only to the initial violation. A violation that occurs after this period shall be evaluated according to the plan procedures. A repeat occurrence does not necessarily indicate the same condition, parameter, or procedural requirement was found in violation. An industry receiving the results of self monitoring or City surveillance sampling which are in violation has thirty days to correct what ever condition exists or existed which contributed to the violation. Thereafter, each violation is evaluated for enforcement action. Additionally, if a violation occurred during the thirty day correction period, the industry must demonstrate good faith has been exercised to prevent or further mitigate further violations during that period.

STAFF RESPONSIBILITIES

Described below are the responsibilities of the staff that are involved in sample collection and data screening, direction of enforcement actions, review of actions taken, and the overall management of the enforcement response procedures. An attempt has been made to identify all of the positions involved in the enforcement process.

Industrial Surveillance and Laboratory	Primary Responsibilities
Industrial Surveillance Manager	Coordinates all section activities including sampling, enforcement and permitting
Industrial Surveillance Manager	Review permit applications, develop and issue discharge permits and control mechanisms
Industrial Surveillance Manager	Reviews noncompliance reports to determine industrial user eligibility for enforcement action
Industrial Surveillance Manager	Conduct Quarterly or Biannual Inspections
Industrial Surveillance Manager	Reviews and audits discharge data submitted by regulated users
Industrial Surveillance Manager	Prepares and routes correspondence in enforcement proceedings
Industrial Surveillance Manager, Industrial Inspector	Respond to spills, accidental discharges, complaints
Industrial Surveillance Manager	Input industry self monitoring data, and POTW monitoring data, sets sampling frequencies
Office Manager	Tracks receipt of certified notices of violation

Industrial Surveillance Manager, Laboratory Supervisor	Coordination of field personnel activities
Industrial Specialist, Wet Chemistry Analyst	Collect samples, complete chain of chain of custody, deliver samples to laboratory
Office Manager	Records emergency spill information and notifies and dispatches pretreatment personnel when they are out of the office
CSO Sampling Specialist	Collect river samples, inspect CSO's

TRACKING SYSTEM

Industrial users are required to submit various reports and information that result in a number of compliance activities. It is important that the City has reliable procedures to ensure that industrial users submit all information by the required dates. Reports or required information are recorded by the Industrial Surveillance Manager.

These items may be required from industrial users by a specific date:

- Industrial Permit Applications;
- Self Monitoring reports;
- Compliance schedule progress reports;
- Follow up information subsequent to industrial inspections;
- Written reports following spills, accidental or slug discharges;
- Special discharge permit applications;

- Written responses to notices of violation;
- Scheduled inspection dates.

A number of forms, reports, and correspondence required by a specific due date are tracked by the City. These documents are submitted periodically and are most easily tracked by noting the submission dates on a designated calender, rolling file system, or log book. These sources are reviewed regularly by the Manager to determine if any reports are due. The file shall remain open until the schedule is complete and all of the reports are submitted. Responses to inspection activities and notices of violations are tracked similarly.

The tracking of timely submission of other information, which may include applications for discharge is accomplished by reviewing a list of facilities needing applications, sending advance notices to permittees, and regularly checking the list to determine if the proper information has been submitted.

SCHEDULING INDUSTRIAL INSPECTIONS

Each facility permitted under the Anderson Pretreatment Program must be inspected at least biannually as a minimum and preferably quarterly. However, many facilities will receive numerous inspections and visits during the year to track compliance schedule activities, verify changes in discharge or processes, maintain a regulatory presence, or scrutinize facilities with discharges most likely to impact the POTW.

Scheduling regular quarterly or biannual inspections is done on a random basis upon review of the current industry list. The day and time of the inspection is noted in a monthly planning log for the facilities to be inspected. Depending on the industry, advance notice by telephone may be given of the impending inspection. As an industry is inspected, the date is noted in the tracking system to ensure each facility is inspected at least twice during each calendar year as dictated by program requirements.

Other inspections or site visits are conducted as needed. Facilities operating under a compliance schedule are given priority for visits to verify progress and to document that required activities are being accomplished. Inspections of these facilities may take place at regular intervals by noting site visit dates in a planning log well in advance. Inspections may be scheduled at the request of an industrial user to verify compliance with certain requirements or to identify potential problems.

Some inspections are not be scheduled in advance, but are conducted as a result of a spill, accidental discharge, surveillance sampling or other extraordinary events. These are often referred to as demand inspections and are accomplished as the need arises.

At the beginning of December of each calendar year, the current industry list is reviewed to determine if all facilities have been inspected or are scheduled for an inspection in the current year. Those industries that have not been visited are then scheduled for an inspection at this time.

ANDERSON WATER POLLUTION CONTROL UTILITY

Enforcement Procedures

Industrial Pretreatment

Those industries found to be out of compliance with federal, state, or local requirements are subject to the conditions of the Enforcement Response Guide, of the Anderson Water Pollution Control Utility.

Informal enforcement actions, verbal telephone notices, letters of violation, site visits, administrative orders, compliance schedules and administrative fines are conducted by the Industrial Surveillance Manager with the signature of the Anderson Water Pollution Control Department Superintendent. Enforcement actions which require legal action, are made by the Board of Works upon the recommendations of the Superintendent.

Violations and discrepancies identified during the review process are to be evaluated as to the type of enforcement response necessary by the Industrial Surveillance Manager. In order to ensure equal treatment of violators and provide a stronger basis for selection of appropriate responses to violations, the following Enforcement Response Guide (ERG) should normally be followed, unless mitigating circumstances can be shown.

The Enforcement Response Guide indicates the type of noncompliance, the circumstances which could vary the response type, and the range of responses for that particular category of noncompliance. The Enforcement Response Guide has been developed

with the intention of serving the following three main purposes.

1. It recommends enforcement responses that are appropriate in relation to the severity and nature of the violation and the overall degree of noncompliance; and

2. It provides a guide to allow a uniform application of enforcement responses to comparable levels in types of violations, and it can be used as a tool to review the appropriateness of the response; and

3. It allows the industrial community to understand the importance of the pretreatment program along with proper operation of equipment and meeting standards and limits, along with responses by the Anderson Water Pollution Control Utility if and when various violations occur.

The Enforcement Response Guide groups various types of violations into the following four categories:

I. Violations of monitoring, sampling, and reporting.

II. Violations of compliance schedules.

III. Violations of discharge limitations.

IV. Violations detected through inspection or field monitoring.

TYPES OF ENFORCEMENT RESPONSES

1. **VTN = Verbal Telephone Notice**
2. **SV = Site Visit**
3. **LOV = Letter of Violation**
4. **SCH = Show Cause Hearing**
5. **AO = Administrative Order**

6. **ECS = Enforcement Compliance Schedule**
7. **AF = Administrative Fine**
8. **LIT = Litigation**

SNC = Significant Noncompliance

TRC = Technical Review Criteria

Types of Enforcement Response

To provide a concise manual acronyms have been used for several of the types of response. A definition of the acronyms is as follows and are listed in increasing order of severity:

I. VTN - Verbal Telephone Notice - This is meant to notify the industrial user of of a very minor type of violation, this is normally conveyed verbally, to the contact person at the industry and no further follow up normally is taken. This is to be utilized when there is a very minor infraction, such as a report being received one or two days late.

II. SV - Site Visit - A visit to the industrial site to discuss and observe the problem. This can be a substitution for VTN or LOV. The SV can also be made in conjunction with a Letter of Violation. The SV can also require a written response within ten (10) days, indicating a reason for the noncompliance and what steps are being taken to prevent any future violations of this nature. A site

visit sheet shall be filled out also.

III. LOV - Letter of Violation - A written notification to the industrial user indicating the type of alleged violation and requiring a written response within ten (10) days, indicating a reason for the noncompliance and what steps are being taken to eliminate any future violations of this nature.

IV. SCH - Show Cause Hearing - A meeting to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user.

IV. AO - Administrative Order - An Administrative Order would be used in such cases where the City believed the Industrial User was committed to providing necessary corrective measures to correct previous violations, and would utilize the Administrative Order to outline minor compliance schedules, along with other

conditions that might be required, such as additional monitoring, more reporting etc. The order would normally contain a short time-frame of between one (1) month to six (6) months.

VI. ECS - Enforcement Compliance Schedule - This is a Formal Enforcement Compliance Schedule and may be signed by both the City and the industry involved. This control mechanism is used when serious or long term violations of discharge limits occur that require the design and installation of new or additional pretreatment equipment. Usually the time-frame will be six (6) months to one (1) year. It may also contain administrative fines. Violations of the ECS can result in the next step, consisting of administrative fines.

VII. AF - Administrative Fine - An administrative fine would be used in such cases where all lower types of enforcement responses have failed and or where deemed appropriate by the Industrial Surveillance Manager , because of the nature and/or intent of the violation. The next response step is court action. The administrative fine step exists, to avoid court activity and yet to correct the problem and or show the severity of the problem to the industry involved. The maximum fine is $2500.00 per violation per day. The administrative fine may also be part of an (AO), Administrative Order, (ECS) Enforcement Compliance Schedule, or may be the next step above an (AO).

VII. LIT- Litigation - Litigation is utilized to define several courses of action that include civil suits for injunctive relief and/or civil penalties, criminal suits, (must be initiated by the State or Federal Government Agencies), termination of service, etc. These types of actions would all involve the courts, the City Attorney and would follow the procedures necessary for due process.

Utilizing the Enforcement Response Guide the Industrial Surveillance Manager will initiate the appropriate response and see that the files have been updated to show the response date, if one is so indicated, and the type of action taken. The Industrial Surveillance Manager will initiate any field sampling which is felt appropriate to substantiate previous data received, or to double check the response of an Industrial User to the action which they have indicated that they have taken.

At the end of each three month period, the Manager will be responsible for reviewing the industry files to determine any SNC's, and if so, the Manager shall be responsible for seeing that the SNC's are tabulated on an annual basis and that the name of all SNC's are published in the local daily newspaper. SNC covers a "rolling" six month period.

Significant Noncompliance

Instances of Significant Noncompliance (SNC) are Industrial User Violations which meet one or more of the following criteria:

I. Violations of wastewater discharge limits.

A. Chronic Violations: Sixty-six percent (66%) or more of the measurements exceed the same daily maximum limit or the same average limit in a six month period.

B. Technical Review Criteria (TRC): Thirty-three percent (33%) or more of the measurements exceed the same daily maximum limit or the same average limit in a six month period.

There are two groups of TRC's:

Group I for conventional pollutants (BOD, TSS, fats, oil and grease) TRC = 1.4

Group II for all other pollutants TRC = 1.2

C. Any other violation of an effluent limit (average or daily maximum) that the Industrial Surveillance Manager believes has caused, along with or in conjunction with other dischargers, interference (for example slug loads) or pass-through; or endangered the health of sewage treatment personnel or the public.

D. Any discharge of a pollutant which has caused imminent endangerment to human health or welfare or to the environment and resulted in the POTW's exercise of this emergency authority to halt or prevent such a discharge.

II Violation of compliance schedule milestones contained in a local control mechanism or enforcement order for starting construction, completing construction and attaining final compliance by 90 days or more after the schedule date.

III. Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (baseline monitoring reports, 90-day compliance reports, and periodic reports) within 30 days from due date.

IV Failure to accurately report noncompliance.

V. Any other violation or group of violations which the Industrial Surveillance Manager considers to be significant.

ENFORCEMENT RESPONSE GUIDE
DISCHARGE LIMITATIONS

NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE
Exceeding final limits (categorical, local or prohibited).	Infrequent or isolated minor violation.	VTN, SV, or LOV
Exceeding Final Limits	Infrequent or isolated major violations exceed the limits of TRC or a single effluent limit.	VTN, SV, AF, or LIT including penalty.
Exceeding Final Limits	Violations which are SNC	AO, ECS, AF, or LIT including penalty.
Exceeding Interim Limits (categorical or local).	Without known damages.	LOV or AO.
Exceeding Interim Limits.	Results in known environmental or POTW damage - SNC.	AO, ECS, AF, or LIT penalty.
Reported Slug Load	Isolated without known damage.	LOV, Show cause or AO.
Reported Slug Load	Isolated with known interference, pass through or damage - SNC.	AO, AF, or LIT including penalty.
Reported Slug Load	Recurring - SNC	LIT including penalty.
Discharge without a permit or approval.	One time without known environmental or POTW damage.	AO.
Discharge without a permit or approval.	One time which results in environmental damage or continuing violation - SNC.	AO, AF, or LIT and penalty. Request for criminal investigation.
Discharge without a permit or approval.	Continuing violation with known environmental or POTW damage - SNC.	LIT and penalty. Request for criminal investigation and disconnect.

Whenever an LOV is issued that requires a response and the Industrial User fails to respond, the next level of enforcement should be undertaken.

ENFORCEMENT RESPONSE GUIDE
COMPLIANCE SCHEDULES
(Construction Phases or Planning)

NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE
Reporting false information.	Any instance - SNC	AF, LIT penalties. Sewer ban.
Missed Interim Date.	Will not cause late final date or other interim dates.	LOV, SV.
Missed Interim Date.	Will result in other missed interim dates. Violation for good or valid cause.	LOV, SV, or AO.
Missed Interim Date.	Will result in other missed interim dates. No good or valid cause - SNC.	LOV, AO, AF, or LIT.
Missed Final Date.	Violation due to Strikes, act of God, etc.	Contact permittee and require documentation of good or valid cause; show cause.
Missed Final Date.	90 days or more outstanding. Failure or refusal to comply without good or valid cause.	AO, AF, or LIT including penalty.
Failure to install monitoring equipment.	Continued - SNC.	AO, AF to begin monitoring (using outside contracts, if necessary) and install equipment within minimal time.

Whenever an LOV is issued that requires a response and the industrial user fails to respond, the next level of enforcement should be undertaken.

ENFORCEMENT RESPONSE GUIDE
SAMPLING MONITORING AND REPORTING BY THE INDUSTRY

NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE
Failure to sample, monitor or report (routine reports), Baseline monitoring report.	Isolated or Infrequent.	VTN, ECS, AF, or LIT.
Failure to sample, monitor, report or notify.	IU does not respond to letters, does not follow through on verbal or written agreement, or frequent violation - SNC.	AO, ECS, AF, or LIT.
Failure to notify of effluent limit violation or slug discharge.	Isolated or infrequent. No known effects.	VTN, SV, or LOV. If no response within 10 days, issue an AO.
Failure to notify of effluent limit violation or slug discharge.	Frequent or continued violation - SNC.	Show cause meeting, AO, AF, or LIT including penalties.
Failure to notify of effluent limit violation or slug discharge.	Known environmental or POTW damage results - SNC.	AF, LIT and penalties.
Minor sampling, monitoring, or reporting deficiencies (computational or typographical errors).	Isolated or Infrequent.	VTN, SV, or LOV.. Corrections to be made on next submittal. AO if continued.
Major or gross monitoring, sampling or reporting deficiencies (missing information, late reports).	Isolated or Infrequent.	SV, LOV, or AO. Corrections to be made on next submittal.
Major or gross reporting deficiencies.	Continued. Remains uncorrected 30 days	AO, AF, or LIT.

Whenever an LOV is issued that requires a response and the Industrial User fails to respond, the next level of enforcement should be undertaken.

ENFORCEMENT RESPONSE GUIDE

NONCOMPLIANCE DETECTED THROUGH INSPECTIONS OR FIELD

INSPECTIONS BY THE CITY OF ANDERSON

NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE
Minor violations of analytical procedures.	Any instance.	VTN, SV.
Major violation of analytical procedures.	No evidence of intent.	LOV or AO.
Major violation of analytical procedures	Evidence of negligence or intent - SNC.	AO, AF, or LIT and penalty (possible referral for criminal action).
Minor violation of permit conditions.	No evidence of negligence or intent.	VTN, SV, or LOV. Immediate correction required.
Minor violation of permit conditions.	Evidence of negligence or intent - SNC.	AO, AF, or LIT and penalty (possible referral for criminal action).
Major violation of permit condition.	Evidence of negligence or intent - SNC.	AO, AF, or LIT and penalty (possible referral for criminal action)

Whenever a LOV is issued that has a requirement for a response and the Industrial User fails to respond, the next level of enforcement should be undertaken.

SNC - This denotes that the circumstances of a particular violation would generally be considered.

TRC - Technical Review Criteria.

ENFORCEMENT RESPONSE GUIDE

TIME FRAMES FOR RESPONSES

I. All violations shall be identified and documented within five (5) working days of receiving compliance information.

II Initial enforcement responses (that involve contact with the industrial user and information requests on corrective or preventative action or actions will occur within (30) days of detection of the violation).

III. Follow up actions for continuing or reoccurring violations shall be taken within sixty (60) days of the initial enforcement response. For all of the continuing violations, the response shall include a compliance schedule.

IV Violations which threaten health, environmental quality, or property are considered emergencies and will receive immediate responses such as halting the discharge or termination of service.

V. All violations that meet the criteria for significant noncompliance (SNC) will be addressed with an enforceable order within thirty (30) days of identification of significant noncompliance.

CONSENT DECREE APPENDIX D: Pretreatment Program Audit Report

1. INTRODUCTION AND BACKGROUND

Under United States Environmental Protection Agency (USEPA) Task Order No. ETS-0-13(RE), and at the request of USEPA Region 5, Science Applications International Corporation (SAIC) has provided assistance in the Anderson, Indiana case. At EPA's request, SAIC assisted in conducting a Pretreatment Audit of the City's (City) Pretreatment Program. EPA Region 5 and Indiana Department of Environmental Management (IDEM) staff also participated in the audit. The Pretreatment Program staff are based at the City's Publicly Owned Treatment Works (POTW) which is located at 2801 Gene Gustin Way, Anderson, IN. The audit included interviews with City staff, evaluation of the City's industrial user (IU) files, and the inspection of four industrial dischargers. The audit was conducted on April 11 - 12, 2001, by the following Audit Team members:

Matthew Gluckman	Pretreatment Program Manager, USEPA Region 5
Carol Staniec	Pretreatment Enforcement Manager, USEPA Region 5
Dianne Stewart	Senior Environmental Scientist , SAIC
Jerry Whittum	Senior Environmental Scientist, SAIC
William Blue	Senior Environmental Manager, IDEM
Kevin Cohoon	Senior Environmental Manager, IDEM
Natalie Green	Environmental Manager, IDEM.

The City representatives present at the audit were:

Nara Manor	Industrial Surveillance Manager
Chad Pigg	Industrial Waste Specialist
Beth Harvey	Barnes & Thornburg, Attorneys at Law.

The purpose of the audit was to:

- Evaluate the City's pretreatment program for implementation and compliance with the 40 CFR Part 403 General Pretreatment Regulations.
- Determine the extent to which the City achieves Pretreatment Program goals.

- Provide findings and recommendations to the City to assist in implementing the program requirements and directing program improvements.

The City, as Control Authority (CA), operates an Industrial Pretreatment Program to regulate and monitor IUs that discharge process wastewater to the City of Anderson POTW. The City currently regulates ten IUs consisting of categorical, significant noncategorical, and other noncategorical IUs. The City receives wastewater from the Edgewood and Chesterfield communities, and has authority under inter-jurisdictional agreements to regulate industrial discharges from these jurisdictions.

Ms. Manor is manager of the City's Pretreatment Program. Previously, she filled the position of chief chemist at the City's POTW laboratory. Ms. Manor assumed the Pretreatment Program management position approximately one and one-half months prior to the audit. As Pretreatment Program manager, she conducts the IU inspections and is assisted by Mr. Pigg who conducts the CA's sampling of the IUs. Since assuming her current position, Ms. Manor has visited each IU in the Pretreatment Program and is proceeding to collect diagrams of the industries' treatment processes. Ms. Manor is in the process of making several changes to the Pretreatment Program.

The Audit Team evaluated the City's IU files for the following seven industries: American Metal Products; Delphi Energy & Engine Management Systems; Carrara Industries; Smurfit Stone (Jefferson Stone Corporation); Alac Services, Inc.; Prairie Farms Dairy; and Guide Corporation. Copies of the Audit Checklist, Section I: IU File Evaluation are provided in Appendix A. The Pretreatment Program also regulates three noncategorical IUs that consist of underground storage tank remediation sites. The Audit Team did not evaluate the noncategorical IU files or inspect those facilities.

The City completed the Audit Checklist, Section II: Data Review/Interview/IU Site Visit and Audit Checklist, Attachment B - Pretreatment Program Profile and provided those documents to the USEPA prior to the date of the audit. Copies of those documents are provided in Appendix B of this report.

The Audit Team conducted site visits at four IUs that discharge to the POTW under the authority of the City's Pretreatment Program. These industries included Alac Services, Inc., an industrial dry cleaner/laundry; Carbide Grinding Co., Inc., a metal finisher; Delphi Energy & Engine Management Systems (Delphi), a metal finisher; and Prairie Farms Dairy (Prairie Farms), a dairy. The respective site reports are provided in Appendix D.

The audit of the City's Pretreatment Program noted several areas needing improvement which are discussed in the Section 2 - Findings and Recommendations portion of this report. The current Pretreatment Program Manager has initiated improvements in the program and has plans for enacting additional positive program changes.

Information collected during the audit interviews and file evaluations and the subsequent findings and recommendations, as presented during the closing conference, are presented in Section 2 below. A copy of the Audit Checklist, Section III: Findings is provided in Appendix C.

2. FINDINGS AND RECOMMENDATIONS

The Audit Team, led by Matthew Gluckman, conducted a closing conference and presented audit findings and recommendations to the City staff and legal representation consisting of Ms. Manor, Mr. Pigg, and Ms. Harvey respectively. A copy of the Audit Checklist, Section III: Findings document is provided in Appendix C. Discussion of the findings and recommendations is presented below, in the order of the Audit Checklist.

2.1 CA Pretreatment Program Modifications

Findings:

Ms. Manor has reviewed the City's Enforcement Response Plan (ERP) and believes it requires improvement. She anticipates developing changes that will provide improvement and submitting the proposed ERP for approval.

The City has set local limits for cadmium, chromium, copper, cyanide, and lead, but not for arsenic, nickel, mercury, silver, and zinc. The City has not reevaluated the local limits recently.

The City is considering changes to the Sewer Use Ordinance (SUO).

Requirements:

The City will need to reevaluate its local limits following reissuance of its NPDES Permit, No. IN0032476. As noted in 40 CFR Part 403.8(f)(4), the POTW should develop local limits as required in 403.5(c)(1) or demonstrate that they are not necessary. POTWs with approved pretreatment programs shall continue to develop these limits as necessary and effectively enforce such limits.

During reevaluation of the local limits, the City should review applicable guidance for assistance and direction. Since it appears that additional IUs, not previously included when local limits were evaluated, may be added to the Pretreatment Program, the local limits should reflect the discharge from those industries as well as presently known contributing industries.

Recommendations:

The City should periodically reevaluate the ERP. It is also recommended the City provide a copy of the final ERP to each permitted IU. Providing the ERP to the IUs has a two-fold purpose, 1) as a deterrent, the IU will know the consequence of a violation, and

2) in general, enforcement should be less difficult since the IU understands the City is following a preestablished enforcement response and is not acting arbitrary or capricious.

2.2 Legal Authority

Findings:

Matthew Gluckman, USEPA evaluated the City's SUO and noted the following concerns:

Section 51.15 Categorical Standards, has not been updated to incorporate the standards finalized since 1993.

Section 51.50 Slug Definition, does not include discharges that cause pass through or violations of any prohibition.

Section 51.52(5) Temperature Prohibition, allows discharges with a maximum temperature of 150 degrees F.

Section 51.52(9) Hydraulic Overloading Prohibition, is dependent on notice by the POTW that there is a problem with the loading.

Section 51.56 Subpart (B)(3) Upset, does not specify what needs to be submitted to satisfy the upset requirements, as provided in 403.16 (c)(3).

Section 51.57(E) This provision states that when requested by the Agency, all IUs must submit information on the nature and characteristics of their wastewater by completing a survey prior to commencing their discharge.

Section 51.70 Right of Appeal Provision, allows the IU to delay all enforcement proceedings by requesting a regulatory or permit interpretation. The enforcement action is then delayed until the City responds.

The City POTW receives wastewater from the towns of Edgewood and Chesterfield and has an interjurisdictional agreements with each town. The Town of Daleville discharges to the Town of Chesterfield. As discussed in detail in Section 2.3 below, the City of Anderson needs to conduct an Industrial Waste Survey (IWS). It is very possible that the survey will identify other Significant Industrial Users (SIUs) in the Towns of Edgewood, Chesterfield, and Daleville.

Matthew Gluckman, USEPA reviewed and evaluated the City's Interjurisdictional Agreements and based on the identification of Carbide Grinding (see section 2.3), and the potential discovery of other SIUs has noted the following concerns:

The Interjurisdictional Agreements do not state that industrial waste discharged to the City from the Towns shall be subject to the same surcharges and prohibitions as is imposed on the Anderson IUs through its SUO.

The Interjurisdictional Agreements do not require Edgewood and Chesterfield to adopt a SUO that is at least as stringent as the City's SUO.

The Interjurisdictional Agreements do not specify who will ensure compliance with the ordinance on a routine basis (including maintaining an updated IU survey, investigations, permitting, and enforcement).

The Interjurisdictional Agreements do not provide the City with the authority to enforce each Town's ordinance on behalf of those Towns when deemed appropriate.

Requirements:

The City must update the Categorical Standards, Section 51.15 to incorporate the standards finalized since 1993.

The City must expand the Slug Definition, Section 51.50 to include discharges that cause pass through or violations of any prohibition.

The City must modify the existing SUO Section 51.52(5) to reflect the temperature requirements of 40 CFR Part 403.5(b)(5). That regulation notes that one of the pollutants that shall not be introduced into a POTW is "heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40°C (104°F) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits."

The City must modify the existing SUO Section 51.52(9) to reflect the interference requirements of 40 CFR Part 403.5(a)(1) which states that "a user may not introduce into any POTW any pollutant(s) which cause Pass Through or Interference." Hydraulic overload is a form of POTW interference and must be considered as such by the City. The City's hydraulic overload prohibition must not be dependent on notice by the POTW that there is a problem with the loading.

The City must modify the existing upset requirements as found in Section 51.56 Subpart (B)(3) of the SUO. The SUO must specify what the IU is required to submit to satisfy the requirements of 40 CFR Part 403.16(c)(3).

The City must revise the Right of Appeal provision found in Section 51.70. The current provision provides opportunity for the IU to cause undue delay in obtaining compliance with any new permit requirement or limitation, or the enforcement process.

To enable the City to have adequate authority to regulate Carbide Grinding, the City must make the following changes to its existing Interjurisdictional Agreement with The Town of Chesterfield. It should also make the same changes to its Agreement with the Town of Edgewood.

1) The Agreements should state that IU discharges shall be subject to the same surcharges and prohibitions as imposed on the City of Anderson IUs through its SUO.

2) The Interjurisdictional Agreements should require Edgewood and Chesterfield to adopt SUOs that are at least as stringent as the City's ordinance.

3) The Interjurisdictional Agreements should specify which municipal entity will ensure compliance with the SUO on a routine basis (including maintaining an updated IU survey, investigations, permitting, and enforcement).

4) The Interjurisdictional Agreements should provide Anderson with the authority to enforce each Town's ordinance on behalf of the Towns where it deems it appropriate.

Recommendations:

The City should make the following change to the existing SUO to ensure compliance with 40 CFR Part 403.8(f)(1).

The City should revise the Section 51.57(E) provision requiring IUs to submit information on the nature and characteristics of their wastewater by completing a survey prior to commencing their discharge when requested by the Agency. The phrase "when requested by the Agency" should be deleted since it is unclear how the Agency would routinely be aware of plans to begin discharging.

2.3 IU Characterization

Findings:

The City's application of the SIU definition appears to be similar to EPA's definition and is adequate.

The City recently received a call from the Town of Chesterfield providing notification of an industry that was dumping solids to the sewer system. The City investigated and identified Carbide Grinding Company (Carbide), which was not in the pretreatment program, as a possible SIU. The City proceeded to identify a sampling point and collect and analyze a sample which showed 1.8 mg/l cadmium, an exceedance of the local limit. Reportedly Carbide is in the process of completing a permit application for submission to the City. Carbide began operations in 1958 in Anderson and relocated to the present Chesterfield site in 1983. It appears likely that other unidentified SIUs are discharging to the POTW. The City plans to evaluate a few additional industries in Chesterfield, one of which is a Delphi plant.

The City has received permit applications from three new industries, and a permit renewal from Guide Corporation (Guide). Xstrata, a magnesium recycler, submitted one of the new permit applications. Xstrata will discharge contact cooling water used during the recycle of scrap magnesium to ingots.

Based on information available at the time of the audit, the Audit Team was unable to determine if Smurfit Stone is a paperboard manufacturer, although the City was in the process of obtaining additional information from the IU. Paperboard manufacturing is a categorical industry regulated by 40 CFR Part 430, applicable where paperboard is manufactured from pulp. The City has not classified Smurfit Stone as a Categorical Industrial User (CIU) and has not incorporated categorical limits in their permit. Based on information obtained subsequent to the audit, it is our understanding that this facility does not manufacture paperboard, but makes corrugated cardboard boxes by gluing together sheets of paperboard.

The City's collection system has combined sewer overflows (CSOs).

Requirements:

As a very high priority, the City must, as required by 40 CFR Part 403.8(f)(2), identify and locate all categorical and significant industrial users subject to the POTW Pretreatment Program. The City must conduct a thorough IWS, which should include a review of the commercial and industrial water records for the cities of Anderson, Edgewood, Chesterfield, and Daleville; telephone yellow pages; Chamber of Commerce

records; local business directories; Internet listings; and other records that may identify local IUs.. The 40 CFR Part 403.12(i) requires inclusion of an updated list of IUs in each Annual Report; thus the city must continuously update their IWS.

Recommendations:

During the IWS and subsequent evaluation of the industrial dischargers, the City may wish to designate other IUs as SIUs or permit other types of dischargers, including commercial, to obtain additional control of their discharges.

The City should contact the USEPA Region 5 if it requires assistance with categorizing or developing limits for either Xstrata or Smurfit Stone.

The City should evaluate each IU to identify ways to minimize flow during wet weather events. The City should then place any identified actions into the IU permits.

2.4 Control Mechanism

Findings:

The City needs to revise and reissue the control mechanism (permit) to Guide, which is currently classified as a CIU. Guide formerly conducted metal finishing operations, but has reportedly shut down this process and is currently conducting cleanup operations. Guide will be reclassified as a SIU. The current permit is issued to the Guide wastewater treatment plant (WWTP) rather than Guide Corporation.

As discussed in Section 2.3 above, Carbide has discharged to the City without a permit. The industry has indicated it will establish contract pickup of all industrial wastewater and thereby avoid the requirements imposed as a SIU.

The permits reviewed by the Audit Team did not contain the Specific Prohibitions as identified and required in 40 CFR Part 403.5(b). Also the permits do not clearly state that facilities must comply with both the local limits and with applicable categorical limits.

The permits reviewed by the Audit Team did not contain a requirement for repeat sampling by the IU in response to an IU sample that indicates a violation.

The Delphi permit contains several inadequacies and is in need of revision and reissuance.

1) The storm water volumes used in the City combined wastestream formula (CWF) calculations conflict with the volumes presented by Delphi.

2 The sampling location identified in the permit includes sanitary, cooling tower, power house, and storm waters. The varying amounts of these inputs preclude accurate usage of the CWF.

3) The City's Pretreatment Program Annual Report for 2000 notes that the Delphi permit was issued on 1/19/99, but the Delphi permit does not include an effective date.

The permit language to regulate bypass events is not consistent with 40 CFR Part 403.17 and should be revised.

The American Metal Products permit designated the Total Toxic Organic (TTO) sample as a grab/composite.

The City recently relocated the sampling locations at two IUs (Alac Services and Delphi). Evaluation of the pretreatment processes and sampling points showed that previously collected samples did not accurately represent the IU wastestream discharged to the City.

The CA IU files did not contain schematics/maps/drawings of the industrial process, pretreatment process, and sampling location.

The City has an established program for receiving trucked wastes (septage). All septage haulers, discharging to the City system, are first approved by the City. Prior to discharging a load, the septage truck driver presents a trip ticket to City personnel. City personnel observe the tanker contents discharge to validate the contents match the trip ticket contents description. The City does not accept grease trap/interceptor waste.

Requirements:

40 CFR Part 403.5(c)(1) states that each POTW ... shall develop and enforce specific limits to implement the prohibitions listed in paragraphs (a)(1) and (b) of this section. The City must revise the IU permits to include the Specific Prohibitions as found in 40 CFR Part 403.5(a)(1) and (b) and to include the local limits.

40 CFR Part 403.12 (g)(2) states that if the IU sampling indicates a violation, the IU must repeat the sampling and analysis and submit that sample data to the CA. The City's IU permits must include a requirement for repeat sampling.

The Guide and Delphi permits must be updated to correlate with the current discharge conditions. The Guide permit should be issued to the Guide Corporation rather than the WWTP. The Delphi permit must include the permit duration (i.e., effective and expiration dates) and limits based on correct application of the combined wastestream formula. The permit must include accurate volumes in the CWF calculations and identification of an acceptable sampling point.

Bypass language in the City's permits should comply with 40 CFR Part 403.17. The City should add the language of Part 403.17 to clarify industrial users' obligations with regard to bypass, as follows:

(b) Bypass not violating applicable Pretreatment Standards or Requirements. An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (c) and (d) of this section.

(c) Notice. (1) If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority, if possible at least ten days before the date of the bypass.

(2) An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the Control Authority within 24 hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(d) Prohibition of bypass. (1) Bypass is prohibited, and the Control Authority may take enforcement action against an Industrial User for a bypass, unless; (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and (iii) The Industrial User submitted notices as required under paragraph (c) of this section.

Recommendations:

It is strongly recommended the City establish and implement a monitoring schedule for Carbide to assure all process wastewater is collected by a contractor. The City should establish an inspection program that includes a periodic review of the facility's waste disposal manifests to ensure contract collection and proper disposal of all industrial wastewater.

The City should give priority to revision of the Delphi permit.

The City should evaluate all IU permits and revise the permits as necessary to ensure the proper regulation of bypass events.

The IU permits should clearly identify the sample type (i.e., composite, grab) for all required samples. The American Metal Products permit should be revised to include this correction.

The City should evaluate all IUs to verify that the specified sample point locations will provide representative wastestream samples.

The City should maintain schematics/maps/drawings that clearly identify the industrial process, pretreatment process(es), and the sampling point(s).

The City should improve the control of trucked wastes. The existing procedures for control of septage are good, but could be further improved. The City should institute a procedure that includes collection and labeling of a sample from each truck, refrigerated holding of the sample, and evaluation of the sample if the septage causes interference or pass through of the POTW processes. The City should review the Guidance Manual for the Control of Wastes Hauled to Publically Owned Treatment Works, September 1999, EPA-833-B-98-003 for additional controls.

2.5 Application of Pretreatment Standards and Requirements

Findings:

The discharge from Delphi may at times contain high volumes of storm water. Storm water runoff, collected from an acre area, is discharged to Delphi's industrial wastewater treatment process. Delphi calculates the CWF for a storm water volume of 38,828 gallons, but during storm events the rain fall volume contributed to the treatment process may greatly exceed that amount. Delphi also incorporates cooling tower (18,871 gallons), power house (19,971 gallons), and sanitary wastewater (82,638 gallons) into the CWF

calculations. The large volume of unregulated wastewater compared to regulated process wastewater may preclude the ability to accurately judge compliance with categorical standards based on sampling the combined wastestream.

Recommendations:

It is recommended that the City reevaluate Delphi's practice of collecting site storm water and discharging those waters to the Delphi treatment process. Much of the storm water on the Delphi facility appears to come from unused parking lots. This water is likely relatively uncontaminated and from an environmental viewpoint should not be mixed with contaminated water that enters the City sewer. Allowing uncontaminated storm water to enter the City sewers puts additional stress on the collection system and on the treatment plant. This may lead to combined sewer overflows (CSOs) and/or reduce the City's ability to meet NPDES permit limitations.

The City and Delphi should evaluate the waste streams from the industrial process, cooling tower, power house, and sanitary sources as related to the industry's sampling point. They should then determine if the relocation of the existing sampling point or the establishment of a second sampling point would provide better characterization of Delphi's discharge to the POTW.

If the City allows Delphi to continue the current practice of including site storm water in the discharge, than the City should impose mass limits to ensure that dilution is not being used to comply with the standards.

2.6 Compliance Monitoring

Findings:

Overall, the City's sampling frequency appears adequate. However, the IU sampling frequency requirement for Guide appears inadequate.

The City has recently improved its inspection form and has correspondingly improved its inspections of IUs. While the City has upgraded its IU inspections, areas where improvement is needed remain. The City's inspections do not include observations for chemical and spill hazards, and the inspection reports do not include flow data and a drawing of the IU's process and treatment flow paths. The Audit Team noted chemical and spill hazards at Prairie Farms Dairy and Alac Services during the IU site visits. Prairie Farms Dairy had truck wash chemicals, without containment, stored next to a grate. As noted in Appendix D Industrial Users Site Visits, Alac Services had two tanks with containment that if punctured or ruptured could spill to the ground.

City inspections of the IUs occur at varying frequencies (e.g., monthly for CIUs, 7 consecutive days per year for some SIUs).

The City has recently enacted improvements to its IU sampling program. Ms. Manor has instituted changes to include maintaining ice in the field sampling units, collection of field pH, and the replacement of sampler tubing. Previously, the City practiced collection of grab samples at IUs where composite samples were required but difficult to collect. The City now collects composite samples as required. The City is in the process of developing Standard Operating Procedures (SOP) for sampling.

Review of the City's IU analytical data noted instances where the City's BOD, TSS, and TTO samples exceeded holding times prior to analysis. The City's sampling data for American Metal Products did not include the required cyanide and TTO sample data. Sampling at Delphi often did not include cyanide.

The City has not conducted a periodic review of IU sampling and laboratory procedures and does not know the quality of data submitted. During the review of Prairie Farms' files, the Audit Team noted that the City had received IU sampling data, but that the data were submitted by the dairy's contract laboratory and did not contain a signature of certification.

The Alac Services and Prairie Farms' permits include language referencing pH, but do not require the monitoring of pH in the local limits.

As noted in Section 2.4 above, the City evaluated the sample location for Alac Services and Delphi and subsequently changed their sampling locations to ensure adequate monitoring of the IU discharge. The respective permits have not been revised to reflect the change. The Alac permit contains a vague description of the sampling location (i.e., following the dissolved air flotation (DAF) process).

The City generally has not required the IUs to develop a Slug Discharge Control Plan. The file review of Delphi, by the Audit Team, noted that the facility had a slug plan, but that the plan was not evaluated by the City.

As noted in Section 2.4 above, the City permits do not require repeat sampling by the IU in response to sampling that indicates a violation.

Requirements:

The sample holding times must comply with 40 CFR Part 136 as required by 40 CFR Part 403.12(b)(5)(vi) which states that sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR Part 136. Also the City must ensure that all

required sample analyses occur and that sample data are maintained in the appropriate files.

The IU self-monitoring data submitted to the City must, as required by 40 CFR Part 403.12(l), be certified by a responsible corporate officer. The industry must certify, by signature, data submitted to the City. Typically, the contract laboratory would send the analytical data to the industry who would verify its accuracy, certify the data through signature, and submit the certified data to the City.

The 40 CFR Part 403.8(f)(2)(v) requires the CA to evaluate at least once every two years whether each SIU needs a plan to control slug discharges.

As required in 40 CFR Part 403.12 (g)(2), the IU must conduct repeat sampling following sampling that indicates a violation. The repeat sampling analytical data must be submitted to the City.

Recommendations:

It is recommended that, as the permit is revised, the City reevaluate Guide's sampling frequency to reflect the changed operation conditions.

It is recommended that the City continue to improve its inspection program through observance of chemical and spill hazards. Observation for improperly contained chemicals that may be spilled to the municipal sewer or the exterior of the industries is essential. The City should look for inadequate containment structures and the potential for spill due to puncture or rupture of chemical containers. The City's inspection reports should include the IU's flow data, flow paths, and the location of potential spills.

The City inspects CIUs monthly, and EPA agrees that inspection of CIUs and SIUs at a frequency exceeding the federal minimum is appropriate.

The City should conduct a periodic review of the IU sampling and laboratory procedures for proper sample collection, handling, preservation, and analysis if it is conducted onsite.

The development of a sampling SOP is important, but should be given a lower priority than other required activities such as the implementation of an IWS to identify all IUs.

It is recommended that the City's IU permits have both a 24-hour continuous pH monitoring requirement (at facilities that may discharge highly basic or acidic wastestreams) and pH limits.

The City should reevaluate the sampling point for all industrial dischargers and as needed relocate the sample point to ensure adequate/representative monitoring of the discharge to the City. The IU permits should then be revised to contain a very specific, written description of the sampling location(s) and should also include a site drawing with sample point(s) identification.

2.7 Enforcement

Findings:

As noted in Section 2.1 above, the City is reviewing its ERP and anticipates proposing changes and submitting the plan for approval. Under the current ERP, the City has issued repeated Notices of Violation (NOVs) that did not require a response. The City previously instituted enforcement actions (NOVs) against Alac Services and Smurfit Stone for discharge violations. In those actions, the City did not require a response from the industries.

Smurfit Stone filed a late self-monitoring report, causing it to be in significant noncompliance, but the City failed to publish a notice of Smurfit Stone's noncompliance in the local newspaper. The City did publish Alac Services for circumventing the sample location with a metal precipitate. That is, Alac implemented a separate treatment process and discharge pipe for its perchloroethylene waste. That discharge pipe circumvented the established IU effluent sample point. Alac failed to sample the perchloroethylene treatment process discharge and failed to notify the City of the implementation of the additional discharge pipe.

In the most recent enforcement action against Alac Services, the City issued an Administrative Order. The City reports that during recent meetings with Alac Services, the industry questioned the City's authority and the City responded properly and maintained control. The City has since observed a positive response by the industry.

The City observed Smurfit Stone discharging effluent with a color (which can potentially pass through the treatment plant and cause a violation of the NPDES permit) that was unusual for the IU. The City did not follow-up to identify the cause and did not require the IU to correct the discharge.

Requirements:

The 40 CFR Part 403.8(f)(2)(vii) requires at least annual public notification, in the largest daily newspaper, of IUs in Significant Noncompliance at any time during the previous twelve months.

Recommendations:

The revised ERP should specify escalating enforcement activities and should always require a response from the IU.

The City should establish a practice of follow-up on issues that may impact the POTW through interference and/or pass through (i.e., Smurfit Stone's unusual discharge of effluent with a color).

2.8 Data Management/Public Participation

Findings:

The review of City files noted that while most required information was maintained, it was often spread between several files, or in a general IU file. The IU applications were filed in the year of application and were not available in current files.

The City appears to be developing open lines of communication with the IUs.

Recommendations:

For ease of file review, filing of information specific to each IU is recommended. The IU's permit application should be maintained in a current file. It is recommended the City visit other Control Authorities to observe the manner and effectiveness of their filing systems.

Active communication efforts with all IUs is strongly recommended. The City should hold a meeting with each IU at the POTW, and the industry personnel should be educated in the POTW treatment process and the effect of their industrial waste stream on that process.

2.9 Resources

Findings:

As noted in this report, the City will need to address several issues in response to the Pretreatment Program Audit. The Pretreatment Program is currently staffed by Nara Manor, who also has other duties. She is assisted on a part-time basis by Chad Pigg who has primary responsibility to the POTW laboratory. Currently, the City of Anderson

Pretreatment Program has 1+ full time equivalents (FTEs). Ms. Manor has requested that Mr. Pigg be tasked full time in the Pretreatment Program.

Requirements:

40 CFR Part 403.8(f)(3) requires the City to have sufficient resources and qualified personnel to carry out the authorities and procedures of the pretreatment program.

Recommendations:

Due to the anticipated increased work load incurred by the City to properly operate its Pretreatment Program, and the inclusion of newly identified SIUs, it is recommended the City devote at least 2 FTEs specifically to activities such as permitting, inspection and sampling, and follow up on issues as they are identified.

2.10 Environmental Effectiveness/Pollution Prevention

Findings:

The City has experienced pass through of surfactants.

The City has permitted three underground storage tank (UST) remediation sites.

Recommendations:

USEPA Region 5 recommended the City contact the City of Muskegon, MI. Muskegon has developed a test for surfactants that may be beneficial for use by the City of Anderson.

It is recommended the City contact the State of Indiana to identify technical guidance for Benzene, Toluene, Ethyl Benzene, and Xylene (BTEX) wastes.

CONSENT DECREE APPENDIX E: Flow Metering, Monitoring, and Recording Requirements

Section 1 - Flow Meter and Measurement Location Designations

Location	Required Accuracy	Description/Location
A	** Best Possible	(Future) Dewey Street Raw Sewage Bypass (Outfall 006)
B	+/- 10%	(Existing) Raw Influent at Dewey Street Facility, 48" Parshall Flume
C	+/- 10%	(Future) Primary Effluent at Dewey Street Plant
D	** Best Possible	(Future) Dewey Street Primary Effluent Bypass (Outfall 005)
E	* Estimate	(Future) Sludge and Bio-solids processing recycle streams at the Gene Gustin Way Complex
F	+/- 15%	(Future) Gravity Sand Filtration Backwash Recycle Stream at the Gene Gustin Way Complex
G	+/- 10%	(Existing) "Old Plant" Raw Influent at the Gene Gustin Way Complex
H	+/- 15%	(Existing) "Old Plant" Waste Activated Sludge at the Gene Gustin Way Complex
I	+/- 15%	(Existing) "Old Plant" Return Activated Sludge at the Gene Gustin Way Complex
J	+/- 15%	(Existing) "New Plant" Waste Activated Sludge at the Gene Gustin Way Complex
K	+/- 15%	(Existing) "New Plant" Return Activated Sludge at the Gene Gustin Way Complex
L	** Best Possible	(Future) Secondary Effluent /Bio-tower Influent Bypass at the Gene Gustin Way Complex
M	+/- 10%	(Existing) Bio-tower Influent at the Gene Gustin Way Complex
N	** Best Possible	(Future) Bio-tower Effluent/Sand Filtration Influent Bypass at the Gene Gustin Way Complex
O	+/- 10%	(Future) Chlorine Contact Tank Diversion/Bypass, Gene Gustin Way Complex, (Outfall 001)
P	+/- 10%	(Existing) Final Effluent Weir, End of Chlorine Contact Tank at the Gene Gustin Way Complex, 12' Rectangular Weir (with end contractions) (Outfall 001)

* Anderson shall provide an estimation based upon approved methodologies and operating conditions.

** Anderson shall provide for the best possible accuracy given the current characteristics of these locations.

Section 2 - Flow Metering, Monitoring, and Recording Requirements at Locations A, C, D, L, N, and O

a. At location A, Anderson shall install, as necessary, and utilize flow metering, measuring, and recording equipment capable of continuously, reliably, and accurately measuring and recording the flow rate, flow duration (including beginning and ending times), and flow volume of discharges from the Dewey Street Raw Sewage Bypass (Outfall 006), as well as the height of the wastewater in the raw influent wet-well of the Dewey Street Facility. The flow recording equipment shall provide for both electronic and paper chart recording of the instantaneous raw influent wet-well level, as well as the duration (including beginning and ending times), the instantaneous flow rate, and the integrated/totalized flow volume of discharges from the Dewey Street Raw Sewage Bypass (Outfall 006). The electronic recording equipment shall display instantaneous flow rate data continuously and shall record instantaneous flow rate and integrated/totalized flow volume data in at least five minute increments. Anderson shall configure and calibrate the flow metering, measuring, and recording equipment such that the best possible accuracy is achieved for the flow volume, the flow rate, and wet-well level height, and such that an accuracy of better than or equal to +/- one minute is achieved for all time measurements. In order to satisfy the requirements of this paragraph Anderson may utilize the existing raw influent wet-well level sensor, and the raw influent bypass weir, provided that the requirement of best possible accuracy is achieved.

b. At location C, Anderson shall install and utilize flow metering, measuring, and recording equipment capable of continuously, reliably, and accurately measuring and recording the flow rate and flow volume of Primary Effluent from the Dewey Street Plant/Secondary Influent to the Gene Gustin Way Complex. The flow recording equipment shall provide for both electronic and paper chart recording of the instantaneous flow rate, and the integrated/totalized flow volume. The electronic recording equipment shall display instantaneous flow rate data continuously and shall record instantaneous flow rate and integrated/totalized flow volume data in at least five minute increments. Anderson shall configure and calibrate the flow metering, measuring, and recording equipment such that an accuracy of better than or equal to +/- 10% is achieved for the flow volume and the flow rate, and such that an accuracy of better than or equal to +/- one minute is achieved for all time measurements.

c. At location D, Anderson shall install, as necessary, and utilize flow metering, measuring, and recording equipment capable of continuously, reliably, and accurately measuring and recording the flow rate, flow duration (including beginning and ending times), and flow volume of discharges from the Dewey Street Primary Effluent Bypass (Outfall 005), as well as the height of the wastewater in the primary effluent discharge channel of the Dewey Street Facility. The flow recording equipment shall provide for both electronic and paper chart recording of the instantaneous primary effluent discharge channel level, as well as the duration (including beginning and ending times), the instantaneous flow rate, and the integrated/totalized flow volume of discharges from the Dewey Street Primary Effluent Bypass (Outfall 005). The electronic recording equipment shall display instantaneous flow rate data continuously and shall record instantaneous flow rate and integrated/totalized flow volume data in at least five minute

increments. Anderson shall configure and calibrate the flow metering, measuring, and recording equipment such that the best possible accuracy is achieved given the characteristics of the existing primary effluent bypass weir (at this location) for the flow volume, the flow rate, and the primary effluent channel height, and such that an accuracy of better than or equal to +/- one minute is achieved for all time measurements. In order to satisfy the requirements of this paragraph Anderson may utilize the existing primary effluent discharge channel level sensor, and the existing primary effluent bypass weir. In reporting flow rates at location D, Anderson shall report both: (i) the flow as measured by the existing channel level sensor; and (ii) a flow value calculated by determining the difference between the measured flows at locations B and C.

d. At location F, Anderson shall install and utilize flow metering, measuring, and recording equipment capable of continuously, reliably, and accurately measuring and recording the flow rate and flow volume of the Gravity Sand Filtration Backwash Recycle Stream at the Gene Gustin Way Complex. The flow recording equipment shall provide for both electronic and paper chart recording of the instantaneous flow rate, and the integrated/totalized flow volume. The electronic recording equipment shall display instantaneous flow rate data continuously and shall record instantaneous flow rate and integrated/totalized flow volume data in at least five minute increments. Anderson shall configure and calibrate the flow metering, measuring, and recording equipment such that an accuracy of better than or equal to +/- 15% is achieved for the flow volume and the flow rate, and such that an accuracy of better than or equal to +/- one minute is achieved for all time measurements.

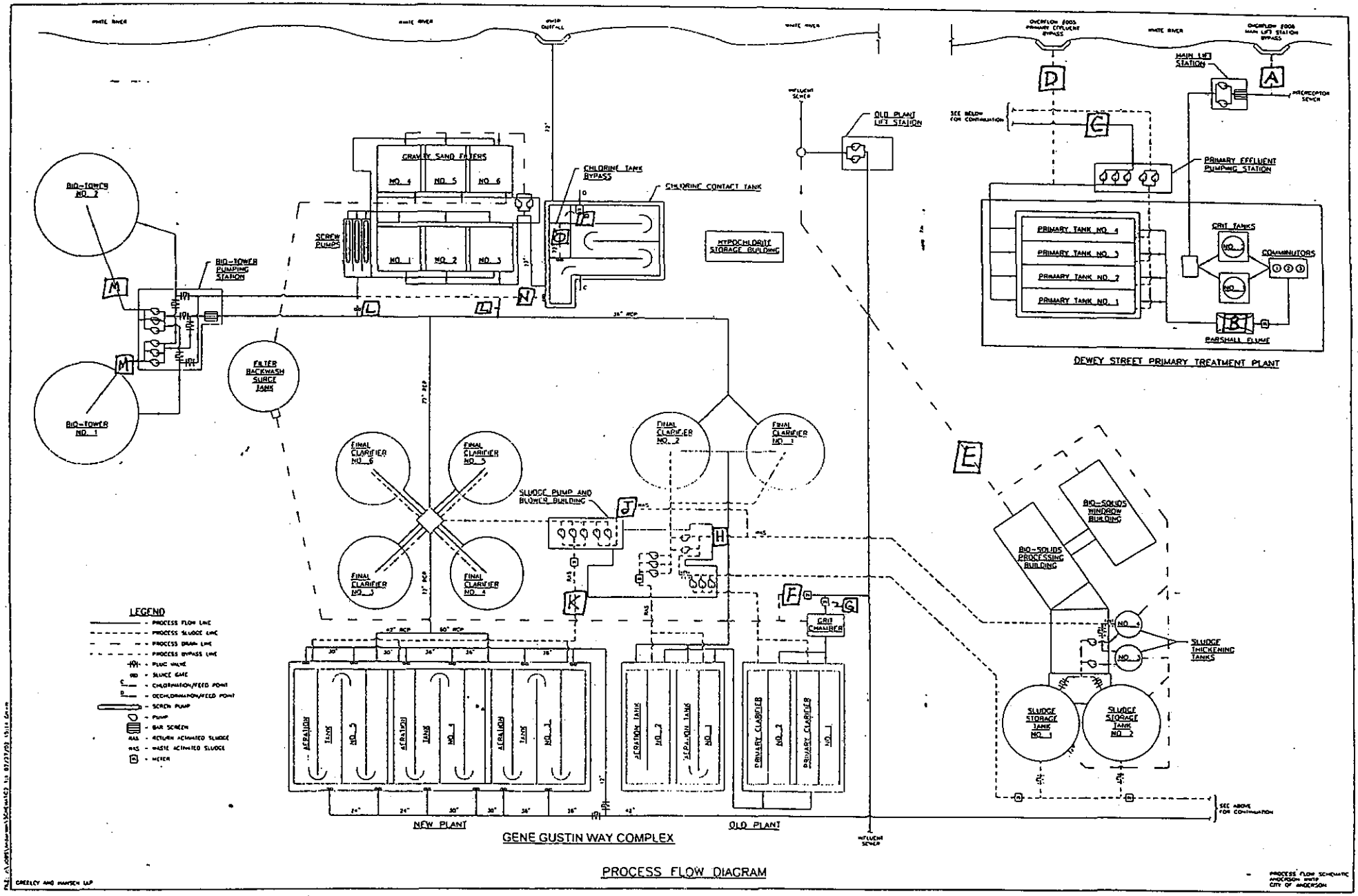
e. At location L, Anderson shall install, as necessary, and utilize flow metering, measuring, and recording equipment capable of continuously, reliably, and accurately measuring and recording the flow rate, flow duration (including beginning and ending times), and flow volume of discharges from the secondary effluent bypass points (around the bio-tower filtration process), as well as the height of the wastewater in the secondary effluent discharge channel, upstream of the bio-tower filtration process at the Gene Gustin Way Complex. The flow recording equipment shall provide for both electronic and paper chart recording of the instantaneous secondary effluent discharge channel level, upstream of the bio-tower filtration process, as well as the duration (including beginning and ending times), the instantaneous flow rate, and the integrated/totalized flow volume of discharges from the secondary effluent bypass points (around the bio-tower filtration process). The electronic recording equipment shall display instantaneous flow rate data continuously and shall record instantaneous flow rate and integrated/totalized flow volume data in at least five minute increments. Anderson shall configure and calibrate the flow metering, measuring, and recording equipment such that best possible accuracy is achieved given the characteristics of the existing secondary effluent bypass points (at this location) for the flow volume, the flow rate, and the secondary effluent channel height, upstream of the bio-tower filtration process, and such that an accuracy of better than or equal to +/- one minute achieved for all time measurements.

f. At location N, Anderson shall install, as necessary, and utilize flow metering, measuring, and recording equipment capable of continuously, reliably, and accurately measuring and recording the flow rate, flow duration (including beginning and ending times), and flow

volume of discharges from the Bio-Tower Effluent Bypass point (around the gravity sand filtration process), as well as the height of the wastewater in the bio-tower effluent discharge channel, upstream of the gravity sand filtration process, at the Gene Gustin Way Complex. The flow recording equipment shall provide for both electronic and paper chart recording of the instantaneous bio-tower effluent discharge channel level, upstream of the gravity sand filtration process, as well as the duration (including beginning and ending times), the instantaneous flow rate, and the integrated/totalized flow volume of discharges from the Bio-tower Effluent Bypass point (around the gravity sand filtration process). The electronic recording equipment shall display instantaneous flow rate data continuously and shall record instantaneous flow rate and integrated/totalized flow volume data in at least five minute increments. Anderson shall configure and calibrate this flow metering, measuring, and recording equipment such that best possible accuracy is achieved given the characteristics of the existing Bio-tower Effluent Bypass point (at this location) for the flow volume, the flow rate, and the bio-tower effluent channel height, upstream ~~of~~ the gravity sand filtration process, and such that an accuracy of better than or equal to +/- one minute achieved for all time measurements.

g. At location O, Anderson shall install and utilize flow metering, measuring, and recording equipment capable of continuously, reliably, and accurately measuring and recording the flow rate and flow volume of the Final Effluent (Outfall 001) when the Chlorine Contact Tank is not being utilized at the Gene Gustin Way Complex. The flow recording equipment shall provide for both electronic and paper chart recording of the instantaneous flow rate, and the integrated/totalized flow volume. The electronic recording equipment shall display instantaneous flow rate data continuously and shall record instantaneous flow rate and integrated/totalized flow volume data in at least five minute increments. Anderson shall configure and calibrate this flow metering, measuring, and recording equipment such that an accuracy of better than or equal to +/- 10% is achieved for the flow volume and the flow rate, and such that an accuracy of better than or equal to +/- one minute is achieved for all time measurements. In addition, the flow metering, measuring, and recording equipment shall be utilized to provide continuous, reliable and accurate data on the occurrence of bypasses/diversions of the chlorine contact chamber, as well as flow volume, flow rate and duration of such bypasses/diversion.

Section 3 - Diagram Showing Flow Meter and Monitor Locations (attached)



PROCESS FLOW DIAGRAM

CREELEY AND HANSEN LLP

PROCESS FLOW SCHEMATIC
ANDERSON, WATER
CITY OF ANDERSON

CONSENT DECREE APPENDIX F: Stress Test Requirements

Anderson shall complete a Stress Test designed to re-evaluate the peak hydraulic and effective treatment capacities of all of the Facilities' treatment systems.

1. The Stress Test shall include the evaluation of the peak hydraulic and effective treatment capacity in all pumping systems which directly affect short term Facility hydraulic and treatment capacity, including preliminary treatment (screening and grit removal), primary clarification, secondary treatment (aeration and secondary clarification), the biotowers, filtration, and disinfection/dechlorination.

2. The Stress Test shall include an engineering assessment of each unit operation's design characteristics and nominal loading rates. These should be compared to widely accepted design standards (i.e., "10 States Standards" or WEF's MOP #8), so as to identify specific design shortcomings which may limit hydraulic or treatment capacities. An example of such an analyses for the primary clarifiers would consider average and peak surface loading rates, weir loading rates, and the likely impact of unit depth and configuration (including raw wastewater feed structures, sludge removal mechanisms and configuration, surface skimming equipment, etc.) on unit capacities.

3. The Stress Test shall include the field investigation of actual pumping capacities of all pumping systems which directly affect short-term Facility hydraulic and treatment capacity. These investigations shall characterize the performance of both individual pumps and various combinations of pumps in service, including the "design" capacity with all pumps but the largest (i.e., redundant, or "back up") pump in service. These investigations shall consider the impact of variation of suction head (i.e., wet well level) on system performance, and may involve either the use of permanent or temporary flow metering (of better than +/- 10 % accuracy), and/or the monitoring of wet well draw-downs during periods of low (or artificially constrained) influent flow.

4. The Stress Test shall include the field investigation of peak hydraulic, and peak transient and sustained treatment flow capacities of the unit processes described above. These tests typically involve either (i) the manipulation of flow balance between parallel treatment units (such as Anderson's four primary clarifiers), so as to simulate the effects of peak flows, (ii) monitoring of operations during actual peak wet weather conditions, or (iii) a combination of the two foregoing approaches. These tests shall include the collection of appropriate flow and operational data, and wastewater samples for appropriate parameters, so as to allow the identification of the peak transient and sustained flow rates at which treatment becomes substantially ineffective. For example, such a test of secondary clarifier capacity might involve increasing flow to one unit at one or more predetermined rates of increase, while regularly monitoring effluent turbidity and TSS, sludge blanket depth and Return Sludge solids content. In conducting these tests, flow through the subject unit(s) must be accurately measured, and operation of that individual unit should be carefully controlled so as to optimize treatment capacity (i.e., return sludge rate from the test clarifier may require adjustment during the course

of the test(s)). Such tests may also include dye testing to identify actual (versus nominal) detention times and tendencies to short circuit.

5. The Stress Test shall include the identification and correction, prior to field testing, of any observable, readily addressed deficiencies in the unit(s) to be tested. For example, if out-of-level effluent weirs were noted in the secondary clarifier to be used in the field testing, the weirs should be leveled prior to test execution.

6. The field tests shall be carried out only when the Facility is operating normally (i.e., not in an upset condition).

7. An operator or individual qualified to carry out process control adjustments should be present throughout all field testing.

CONSENT DECREE APPENDIX G: Long Term Control Plan Requirements

A. Public and Regulatory Agency Participation Program. Anderson shall implement a Public and Regulatory Agency Participation Program (the "Participation Program") designed to ensure that there is ample public participation, and ample participation by the Plaintiffs, throughout all stages of development of Anderson's Long Term Control Plan ("LTCP"). The Program shall include, at a minimum, the features described below.

1. The Participation Program shall include means by which Anderson will make information pertaining to the development of the LTCP available to the public for review.

2. The Participation Program shall include means by which Anderson will solicit comments from the public on the development of the LTCP.

3. The Participation Program shall include transcribed public hearings at meaningful times during the LTCP development process to provide the public with information and to solicit comments from the public regarding the components of the LTCP.

4. The Participation Program shall include Anderson's consideration of comments provided by the public as Anderson develops its LTCP.

5. The Participation Program shall include measures that Anderson will employ to ensure that Plaintiffs are kept informed of Anderson's progress in developing its LTCP, including scheduling periodic meetings with Plaintiffs at meaningful times during the LTCP development process and regular submittal of reports to Plaintiffs summarizing the public comments received throughout implementation of the Program.

B. Stream Reach Characterization and Evaluation Study ("SRCES"). Anderson shall perform a SRCES to characterize water quality in, and the water quality impacts of CSO Discharges, Bypass discharges, other point sources, and non-point sources upon the West Fork of the White River (the "Receiving Waters"), and to facilitate the development, calibration, and validation of the modeling required pursuant to Section D below. The SRCES shall include the identification of "sensitive areas," as defined by the EPA's "Combined Sewer Overflow (CSO) Control Policy," 59 Fed. Reg. 18688 (April 19, 1994). The SRCES shall result in the identification of pollutant parameters of concern (any parameter for which water quality standards violations have occurred, which has been measured a significant number of times at 90% of the applicable water quality standard (or in the case of dissolved oxygen, within 0.5 mg/l of the applicable water quality standard), or any parameter that Anderson has reason to believe is a significant measure of water quality impacts in the evaluation of CSO Discharge and/or Bypass discharge controls). The SRCES shall include, at a minimum, the features described below.

1. The SRCES shall include an investigation of the characteristics of the receiving stream's watershed(s), which should include each watershed directly impacting the receiving stream within Anderson's service area, as well as those watersheds impacting each upstream reach. This investigation should include, but not be limited to, the topographic and soils characteristics, drainage characteristics and areas, land uses and population information, point and non-point sources, and precipitation patterns within the watershed(s). The SRCES shall include a detailed characterization of all watersheds directly tributary to the Receiving Waters within Anderson's service area, and an appropriate characterization of all watersheds tributary to the Receiving Waters upstream of Anderson's service area. This effort shall develop map(s) which indicate watershed boundaries, watershed characteristics such as those described above, and major point sources (including all of Anderson's CSO Discharge points, Bypass discharge points, and Sewer System and Facility discharge points).

2. The SRCES shall include a detailed characterization of: (i) current Receiving Waters quality and conditions; (ii) the impacts of point and nonpoint sources within the Anderson service area on Receiving Waters quality and conditions; and (iii) an appropriate characterization of upstream impacts on the Receiving Waters. Receiving Water information considered will include water and sediment quality data and biological data. Point sources within the Anderson service area shall include all of Anderson's CSO Discharge points, Bypass discharge points, and Sewer System and Facility discharge points. Non-point sources shall include agriculture, septic systems, landfills, and other non-point stormwater sources.

3. The SRCES shall include an evaluation of the adequacy of existing precipitation data, CSO Discharge, Bypass discharge, and other point source discharge volume and quality data, existing hydrologic and water quality monitoring data and other existing stream condition assessments, and past modeling efforts to satisfy the SRCES requirements, and to support development of the Hydraulic Model and the Water Quality Model (collectively the "Models") required pursuant to Section D, and the LTCP required pursuant to Section E. Based on the evaluation of existing data and information, Anderson shall identify and collect all additional monitoring data needed to satisfy the SRCES requirements, and to adequately support development of the Models and the LTCP. Anderson shall provide a detailed description of how the existing data and any additional monitoring conducted as part of the SRCES together will satisfy the SRCES requirements, and adequately support development of the Models and the LTCP.

a. To the extent it is relied upon in performing the SRCES, all existing data and any newly-collected data on precipitation, source and stream flow, discharge quality and water quality data shall be consistent with the requirements of EPA's "Combined Sewer Overflows: Guidance For Monitoring and Modeling"(1999) and "Combined Sewer Overflows: Guidance for Long Term Control Plan" (1995).

b. The data on CSO Discharges and Bypass discharges, and water quality to be analyzed as part of the SRCES shall include, but not be limited to: carbonaceous biochemical oxygen demand, dissolved oxygen, total suspended solids, nitrogen species, phosphorus, fecal coliform and e. coli. The data shall specifically address the identification of toxic pollutants of Industrial User origin which have the potential for discharge from Anderson's Sewer System.

Identification and characterization of such pollutant parameters of concern may require Industrial User discharge, Sewer System, CSO Discharge, and/or Bypass discharge sampling for specific pollutant parameters, and/or for whole effluent toxicity. CSO Discharge monitoring will include monitoring at Anderson's most significant CSO Discharge points, based upon volume and frequency of discharge; monitoring at CSO Discharge points impacted by Industrial User discharges; and monitoring at such other CSO Discharge points as necessary to allow adequate characterization of all of Anderson's CSO Discharges. Bypass discharge monitoring will include monitoring of discharges from the Dewey Street Raw Sewage Bypass (Outfall 006) and the Dewey Street Primary Effluent Bypass (Outfall 005).

4. The SRCES shall include an identification of Sensitive Areas in the Receiving Waters, and the CSO Discharges and Bypass discharges which potentially impact them. Identification and characterization of Sensitive Areas shall include: (i) inquiries to appropriate State and Federal Agencies (to identify endangered/threatened species habitat, designated outstanding waters, and aquatic sanctuaries), and (ii) survey activities to identify potentially impacted drinking water sources and recreational uses. The SRCES shall also evaluate the impact of Anderson's CSO Discharges and Bypass discharges on any identified Sensitive Areas.

5. The SRCES shall include a summary and analysis of human health alerts, swimming advisories, fish consumption advisories, fish kill events, and spill events which occur during the study period and which occurred during the previous five (5) years.

6. The SRCES shall include the use of an appropriate data management system to organize, analyze, and report the data collected as part of the SRCES to satisfy the SRCES requirements, and support development of the Models and the LTCP.

7. The SRCES shall include the use of an appropriate quality assurance and quality control program to ensure that the accuracy and reliability of data collected as part of the SRCES will satisfy the SRCES requirements, and to support development of the Models and the LTCP.

C. **Sewer System Characterization and Monitoring Program**. Anderson shall implement a Sewer System Characterization and Monitoring Program (the "Monitoring Program"): (i) to characterize the physical and operational attributes of its Sewer System; (ii) to monitor Sewer System flows, CSO Discharges, and Bypass discharges; and (iii) collect any additional data needed to facilitate the development, calibration, and validation of the modeling required pursuant to Section D below. The Monitoring Program shall include, at a minimum, the features described below.

1. The Monitoring Program shall include an assessment of: (i) existing Sewer System and Facility characteristics and physical attributes; and (ii) the adequacy, completeness, and accuracy of the existing precipitation data, groundwater elevation data, Sewer System flow data, and volume and quality data on CSO Discharges and Bypass discharges with respect to its

ability to support development of the Models and the LTCP. That assessment shall include, at a minimum, an assessment of the following information:

a. physical characteristics and attributes of Anderson's Sewer System (these will include system configuration; pipe diameters, shapes, lengths, slope, elevation and interior surface condition (i.e., representative friction coefficients); regulator, manhole and other appurtenances' shapes, sizes, elevations and interior condition; pump station capacities and characteristics);

b. CSO Discharge and Bypass discharge flow and quality data;

c. Facility flows and flows within Anderson's Sewer System;

d. stream flow, level, and water quality monitoring data, as needed to supplement that included in the SRCES;

e. groundwater monitoring data; and

f. precipitation monitoring data for locations throughout the areas served by Anderson's Sewer System and at the Facilities.

2. Based on the evaluation of existing data and information, the Monitoring Program shall include the identification of additional Sewer System and Facility characteristics and attribute data and information, and precipitation data, groundwater elevation data, Sewer System flow data, CSO Discharge and Bypass Discharge volume and quality monitoring and data acquisition needed to adequately support the development of the Models and the LTCP. The data collection as part of the SRCES required by Section B and the data collection required as part of the Monitoring Program under this Section C are intended to be complimentary, and not duplicative.

a. All data used in the development of the SRCES, the Model, or the LTCP shall be consistent with EPA's "Combined Sewer Overflows: Guidance For Monitoring and Modeling"(1999), EPA's "Combined Sewer Overflows: Guidance for Long Term Control Plan" (1995), 40 C.F.R. Part 136, and good engineering practice.

b. The data on CSO Discharges and Bypass discharges, and water quality to be analyzed as part of the SRCES shall include, but not be limited to: carbonaceous biochemical oxygen demand, dissolved oxygen, total suspended solids, nitrogen species, phosphorus, fecal coliform and e. coli. The data shall specifically address the identification of toxic pollutants of Industrial User origin which have the potential for discharge from Anderson's Sewer System. Identification and characterization of such pollutant parameters of concern may require Industrial User discharge, Sewer System, CSO Discharge, and Bypass discharge sampling for specific pollutant parameters, and/or for whole effluent toxicity.

3. The Monitoring Program shall include the development of digitized map(s) which: (i) illustrate the configuration and location of all major trunk sewers, force mains, interceptors, pump stations, syphons and other major appurtenances (to the extent practical, include the size of the sewers so mapped); and (ii) indicate the locations of all prior and proposed monitoring.

4. The Monitoring Program shall include the development of schematic(s) which illustrate the relationship between all of the major components of the Sewer System mentioned above in Paragraph C.3.

5. The Monitoring Program shall include the selection of representative CSO Discharge outfalls for any additional CSO Discharge flow and quality monitoring, so that sufficient precipitation data and CSO Discharge flow and quality data will be obtained to allow appropriate characterization of discharge frequency, volume, duration, and pollutant loads for a range of precipitation events (of varying durations and return frequencies), for each outfall. Selection of CSO Discharge outfalls for monitoring shall be based upon the following: (i) expected volume and frequency of discharge; (ii) proximity to Sensitive Areas in the Receiving Waters; (iii) likelihood of discharges of toxic pollutants resulting from Industrial Users; (iv) coverage of major land use/types within the Anderson service area; and (v) potential to function as interceptor relief points. As noted above, CSO Discharge monitoring will include monitoring at Anderson's most significant CSO Discharge points, based upon volume and frequency of discharge; monitoring at CSO Discharge points impacted by Industrial User discharges; and monitoring at such other CSO Discharge points as necessary to allow adequate characterization of all of Anderson's CSO Discharges. Bypass discharge monitoring will include monitoring of discharges from the Dewey Street Raw Sewage Bypass (Outfall 006) and the Dewey Street Primary Effluent Bypass (Outfall 005).

6. The Monitoring Program shall include the collection of activation data on all CSO Discharge outfalls, using simple methods such as chalking, blocks, bottle boards or simple level sensors for those CSO Discharge outfalls not equipped with temporary or permanent flow monitoring equipment.

7. The Monitoring Program shall include use of sufficient numbers of appropriately located recording rain gauges (or a combination of rain gauges and doppler radar) to allow accurate characterization of rainfall amounts in all areas served by Anderson's Sewer System.

8. The Monitoring Program shall include use of appropriate data management systems to organize, analyze, and report the data collected as part of the Monitoring Program, to ensure that the data will support the development of the Models and the LTCP.

9. The Monitoring Program shall include use of appropriate quality assurance and quality control programs to ensure the accuracy and reliability of data collected as part of the Monitoring Program, to ensure that the data will support the development of the Models and the LTCP.

D. Receiving Stream and Sewer System Modeling Program. Anderson shall implement a Receiving Stream and Sewer System Modeling Program (the "Modeling Program") that provides for the development and utilization of a Hydraulic Model and a Water Quality Model, to aid in the identification of a range of potential water pollution treatment/control alternatives and to

evaluate the impacts of such alternatives on the water quality of the receiving stream and the operation of the sewer system. The Modeling Program shall include, at a minimum, the features described below.

1. The Modeling Program shall include the development and utilization of a Hydraulic Model to be used in conjunction with the Water Quality Model in the development of the LTCP. In addition, the Hydraulic Model shall also be used in the development and implementation of operation and maintenance procedures and to establish priorities for, and evaluate the impacts of, proposed system modifications and upgrades. Anderson shall also utilize the Hydraulic Model, or other appropriate engineering analyses, to assess the hydraulic capacities of the pump stations serving the separate sewer areas, and major sewers within the separate sewer areas (as specified by Anderson in its Preliminary Programs and Studies Work Plan), and to identify whether those identified capacities are currently insufficient, or are expected to become insufficient, under future conditions (which shall include system modifications proposed by the LTCP). The evaluation of separate system capacities is to assure that future separate system characteristics will be consistent with the CSO Discharge control measures that Anderson will propose in its LTCP.

a. at a minimum, the Hydraulic Model shall be capable of: (i) predicting base flows and wet weather flows generated by various wet weather events in combined areas; (ii) predicting the hydraulic grade lines, volume and flow rates of wastewater in force mains and gravity sewer lines as specified in Anderson's Work Plan; (iii) predicting the hydraulic pressure and flow capacity of wastewater at any point in force mains throughout the Combined Sewer System; (iv) predicting the flow capacity of each pump station; (v) predicting the flow capacity of all gravity sewer lines as specified in Anderson's Work Plan; (vi) predicting the peak flows during wet weather and dry weather conditions for each pump station and all specified gravity sewer lines; (vii) predicting the likelihood, location, duration and volume of discharge from each CSO Discharge outfall for a range of precipitation events (of varying durations and return frequencies); (vii) predicting wet weather flows for Anderson's separate sewer areas; (viii) predicting the peak instantaneous and sustained flows to the Facilities for a variety of storm events (of varying durations and return frequencies); (ix) estimating wastewater flow, groundwater infiltration, runoff, and precipitation-induced infiltration and inflow ("I/I"); and (x) providing all output data necessary to develop and implement the Water Quality Model, and support development of the LTCP.

b. As part of the Modeling Program, Anderson shall prepare and submit to Plaintiffs a work plan for developing the Hydraulic Model, which shall include: (i) a description of the Hydraulic Model; (ii) specific attributes, characteristics, and limitations of the Hydraulic Model; (iii) identification of all input parameters, constants, assumed values, and expected outputs; (iv) digitized map(s) and schematic(s) that identify and characterize the portions of the Sewer System that shall be included in the Hydraulic Model; (v) identification of input data to be used; (vi) configuration of the Hydraulic Model; (vii) procedures and protocols for performance of sensitivity analyses (i.e., how the Hydraulic Model responds to changes in input parameters and variables) and identification of the ranges within which calibration parameters shall be maintained; (viii) procedures for calibrating the Hydraulic Model to account for values representative of the Sewer System and the Facilities using actual Sewer System and Facilities

data (e.g., flow data and hydraulic grade line data); (ix) procedures to verify the Hydraulic Model's performance using actual Sewer System and Facilities data (e.g., flow data and hydraulic grade line data); (x) procedures for modeling wet weather flows from separate Sewer System service areas; and (xi) an expeditious schedule for the development and utilization of the Hydraulic Model.

2. The Modeling Program shall include the development and utilization of a Water Quality Model to be used in conjunction with the Hydraulic Model in the development of the LTCP.

a. At a minimum, the Water Quality Model shall be capable of: (i) accurately modeling water quality in the Receiving Waters, under existing and future predicted conditions, during an appropriate range of both dry and wet weather conditions, and across an appropriate range of river flows; (ii) assessing the impacts on water quality (both absolute and relative to other sources) of CSO Discharges, Bypass discharges, and discharges from the Facilities under those ranges of conditions; and (iii) assessing the changes in CSO Discharges, Bypass discharge, and Facility discharge impacts expected to occur following implementation of the various control measures that Anderson will evaluate in developing its LTCP.

b. As part of the Modeling Program, Anderson shall prepare and submit to Plaintiffs a work plan to be used as a protocol for developing the Water Quality Model, which shall include: (i) a description of the Water Quality Model; (ii) specific attributes, characteristics, and limitations of the Water Quality Model; (iii) identification of all input parameters, constants, assumed values, and expected outputs; (iv) identification of input data to be used; (v) configuration of the Water Quality Model; (vi) procedures and protocols for performance of sensitivity analyses (i.e., how the Water Quality Model responds to changes in input parameters and variables); (vii) procedures for calibrating the Water Quality Model using actual water quality monitoring and river flow data; (viii) procedures to verify the Water Quality Model's calibration using actual water quality monitoring and river flow data; and (ix) an expeditious schedule for the development and utilization of the Water Quality Model.

E. **Long Term Control Plan** Anderson shall develop and implement a Long Term Control Plan which shall provide for the construction and implementation of all Facility and Sewer System improvements and other measures necessary to: (i) ensure that CSO Discharges from all CSO Discharge outfalls comply with the technology based and water quality based requirements of the CWA, state law and regulation, and Anderson's NPDES Permit; and (ii) eliminate discharges from the Dewey Street Raw Sewage Bypass (Outfall 006) and the Dewey Street Primary Effluent Bypass (Outfall 005), except as permitted by the bypass conditions in 40 C.F.R. § 122.41(m) and 327 IAC 5-2-8(11). The LTCP shall build upon, and integrate the results of the SRCES, the Monitoring Program, and the Modeling Program. The LTCP shall include, at a minimum, the features described below.

1. The LTCP shall include an evaluation and screening of a wide range of alternatives for eliminating, reducing, or treating CSO Discharges, and for eliminating Bypass

discharges (except as permitted by the bypass conditions in 40 C.F.R. § 122.41(m) and 327 IAC 5-2-8(11)). This screening shall result in the identification of an appropriate list of alternatives for further evaluation. This further evaluation shall consider the costs, effectiveness (in terms of overflow volume reduction, pollutant loading reductions, etc.) and the water quality improvements of the appropriate list of alternatives. In performing the evaluation, Anderson shall use the results of the SRCES, the Monitoring Program, and the Hydraulic Model and Water Quality Model developed under the Modeling Program.

2. In identifying, assessing and selecting alternatives for its LTCP, Anderson shall give the highest priority to controlling overflows to sensitive areas (as defined in Section B.4 of this Appendix). Anderson's LTCP shall prohibit new or increased overflows to sensitive areas. Anderson's LTCP shall, where possible and where doing so does not provide less environmental benefits than additional treatment, eliminate or relocate overflows that discharge to sensitive areas. Where relocation or elimination of an overflow to a sensitive area would provide less environmental benefit than additional treatment, Anderson's LTCP shall provide for additional treatment as is necessary to meet water quality standards for full protection of all designated and existing uses.

3. The alternatives evaluated as part of the LTCP shall include, at a minimum: (i) taking no-action; (ii) complete sewer separation; (iii) partial separation of various portions of the combined sewer system; (iv) installation of various sizes of storage or equalization basins at the Anderson Facilities and/or in the Sewer System; (v) construction of new secondary or advanced wastewater treatment plants; (vi) construction of increased treatment capacities at the existing Facilities; (vii) construction of additional facilities (such as high rate treatment or ballasted flocculation facilities) for providing primary treatment or better than primary treatment of discharges from CSO Discharge outfall structures; (ix) construction of new intercepting sewers from the Sewer System to the Facilities; (x) construction of facilities for providing disinfection (and dechlorination, if necessary) of CSO Discharges; (xi) construction of facilities for removing floatables from CSO Discharges; (xii) construction of relief sewers; (xiii) relocation of CSO Discharge outfall structures; (xiv) implementation of pretreatment measures to reduce flows and/or pollutants discharged into the sewer system from Industrial Users; and (xv) construction and/or implementation of combinations of these alternatives, utilizing the "alternatives analyses" portion of EPA's "Combined Sewer Overflows Guidance for Long-Term Control Plan."

4. For each alternative or combination of alternatives evaluated as part of the LTCP, Anderson's assessment shall include, at a minimum, an evaluation of the technical feasibility and applicability of each alternative or combination of alternatives at each CSO Discharge outfall or grouping of CSO Discharge outfalls.

5. For each alternative or combination of alternatives evaluated as part of the LTCP and through the aforementioned screening process, found to be technically feasible and applicable, Anderson's assessment shall include an evaluation of a range of "sizes" of each

alternative with the exception of the alternatives identified in Paragraph E.2.(i), (ii), (xii), and (xiii), or combination of alternatives, that will:

a. provide capture and/or treatment, on an annual average basis, of a range of combined storm and sanitary wastewater flows, including 75%, 85%, 90%, 95% and 100% or an equivalent range of capture rates; and/or

b. reduce the average number of untreated CSO Discharge events per year to a specified range, including 0, 1-3, 4-7 and 8-12, events per year;

6. For each alternative or combination of alternatives evaluated as part of the LTCP, Anderson's assessment shall include a determination of the estimated "project costs," as that term is described on pages 3-49 through 3-51 of the EPA's "Combined Sewer Overflows Guidance for Long-Term Control Plan," for each alternative or combination of alternatives. The determination of the estimated "project costs" shall include:

a. "capital costs," "annual operation and maintenance costs," and "life cycle costs," as those terms are described on pages 3-49 through 3-51 of EPA's "Combined Sewer Overflows Guidance for Long-Term Control Plan;" and

b an itemization of the "capital costs" and "annual operation and maintenance costs" used to determine the total "project costs" for each separate component of each alternative or combination of alternatives.

7. For each alternative or combination of alternatives evaluated as part of the LTCP, Anderson's assessment shall include an evaluation, using the results of the SRCES and the Water Quality Model, of the expected water quality improvements in the Receiving Waters that will result from implementation of each alternative or combination of alternatives. The evaluation shall include, at a minimum, an analysis of the improvement in every pollutant of concern in that Receiving Water.

8. For each alternative or combination of alternatives evaluated as part of the LTCP, Anderson's assessment shall include a cost-performance analysis, such as a "knee of the curve" analysis, for each alternative or combination of alternatives that will allow for the comparison of the costs to: (i) the associated expected water quality improvements; (ii) the reduction of CSO Discharge and Bypass discharge volume; (iii) the reduction in CSO Discharge and Bypass discharge events; and/or (iv) the reduction in pollutant loading from CSO Discharge and Bypass discharge events.

9. The LTCP shall include an evaluation of Anderson's financial capability to fund the selected alternative or combination of alternatives, including an analysis of: (i) median household income/total project cost per household; (ii) per capita debt as a percent of full market property value; (iii) property tax revenues as a percent of full market property value; (iv) property tax collection rate; (v) unemployment rate; (vi) current and projected residential, commercial and industrial user fees; (vii) bond rating; (viii) bond capacity for the next twenty years; (ix) grant and/or loan eligibility and availability; (x) other viable funding mechanisms and sources of financing; and (xi) other factors which may be applicable to the financial evaluation.

10. The LTCP shall include the selection of CSO Discharge control measures, including the construction of all Sewer System and Facility improvements, necessary to ensure compliance with the technology-based and water quality based requirements of the CWA, state law and regulation, and Anderson's NPDES Permit. The LTCP shall include the selection of Bypass discharge control measures, including the construction of all Sewer System and Facility improvements, necessary to ensure elimination of discharges from the Dewey Street Raw Sewage Bypass (Outfall 006) and the Dewey Street Primary Effluent Bypass (Outfall 005), except as permitted by the bypass conditions in 40 C.F.R. § 122.41(m) and 327 IAC 5-2-8(11)

11. The LTCP shall include an expeditious schedule for the design, construction, and implementation of all measures described in Paragraph E.10 of this Appendix. If it is not possible for Anderson to design and construct all measures simultaneously, the LTCP shall include a phased schedule based on the relative importance of each measure, with highest priority being given to eliminating discharges to sensitive areas and to those projects which most reduce the discharge of pollutants. The schedule shall specify critical construction milestones for each specific measure, including dates for: (i) submission of applications for all permits required by law; (ii) commencement of construction; (iii) completion of construction; and (iv) achievement of full operation.

12. The LTCP shall include a post-construction monitoring program which will result in the assessment of the effectiveness of the selected and completed CSO Discharge and Bypass discharge controls. This program shall be consistent with the guidance "Combined Sewer Overflows Guidance for Long-Term Control Plan."