

IN THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT
OF OHIO EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

V.

CITY OF AKRON, OHIO

and

THE STATE OF OHIO,

Defendants.

CASE NO. 5:09-cv-00272

JUDGE JOHN R. ADAMS

MAGISTRATE VECCHIARELLI

FIRST AMENDMENT TO CONSENT DECREE

WHEREAS, this First Amendment to Consent Decree provides for the following two modifications, described in detail below: (1) the sequencing for two elements of injunctive relief measures required at the City of Akron’s (“City” or “Akron”) Water Pollution Control Station (“WPCS”) and (2) the method the City is required to use to address potential weaknesses in the Main Outfall Sewer.

WHEREAS, The United States of America, on behalf of the United States Environmental Protection Agency (“EPA”), filed a complaint in this matter on February 5, 2009. The complaint was amended on March 20, 2009. The amended complaint sought injunctive relief and civil penalties for, among other things, unauthorized discharges of sewage by the City from its combined and sanitary sewer system in violation of the Clean Water Act (“CWA”), 33 U.S.C. §§ 1311, 1319(b) and 1365(a). The State of Ohio (“State”) was named as a defendant pursuant to Section 309(e) of the CWA, 33 U.S.C. § 1319(e). On May 11, 2009, the State filed a crossclaim against the City alleging violations of the CWA and related Ohio law, O.R.C. § 6111.

WHEREAS, the parties in this matter (the “Parties”) entered into a Consent Decree (the “Consent Decree”) resolving the claims of the United States and State.

WHEREAS, the City entered into the Consent Decree, without admitting the violations alleged by the United States and the State, in order to settle this case and avoid complicated, protracted and expensive litigation.

WHEREAS, the Consent Decree, lodged on November 13, 2009, was entered on January 17, 2014.

WHEREAS, Paragraph 120 of the Consent Decree incorporates by reference the injunctive relief required pursuant to all “approved deliverables,” including the Long Term Control Plan Update (“LTCP Update”). The City requested approval of the current LTCP Update as a deliverable required by Paragraph 12 of the Consent Decree. The LTCP Update was approved by EPA in November 2011 and by Ohio EPA in April 2012. The approved LTCP Update, without associated appendices, is attached as Attachment A. Paragraph 112 of the Consent Decree provides that material changes to the terms of the Consent Decree, including any attached appendices, must be approved in writing by all of the Parties and the Court. Non-

material changes are effective upon written agreement of the Parties. Id.

WHEREAS, the Parties previously agreed in writing to three non-material changes to the LTCP Update, all of which allow the City to implement green infrastructure alternatives under the terms of Appendix 3 of the LTCP Update. On October 30, 2015, the United States approved the City's requests to substitute green infrastructure and increased conveyance capacity for storage basins required in Rows 2 and 10 of the LTCP Update. On December 7, 2015, the United States approved the City's request to substitute green infrastructure projects and increased conveyance capacity for the storage basin required in Row 7 of the LTCP Update.

WHEREAS, under the terms of Exhibit 2 to the LTCP Update, the City proposed to increase the size of the secondary treatment facilities at the WPCS. Alternative A, Rows 17 through 18 of the LTCP Update. This resizing was done under the terms of the LTCP Update itself, and therefore did not require a change to the existing agreement. EPA approved the resizing request on February 11, 2016.

WHEREAS, the Parties have now agreed to two material changes to the LTCP Update and the Consent Decree, as set forth herein. The proposed modifications address: (1) the sequencing for two elements of injunctive relief measures required at Akron's WPCS and (2) the method the City is required to use to address potential weaknesses in the Main Outfall Sewer. The United States and State hereby approve the modifications proposed by the City, conditioned on the Court's entry of this proposed First Amendment to the Consent Decree ("First Amendment").

WHEREAS, this First Amendment will be lodged with the Court for a period of not less than 30 days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw from or withhold its consent if the comments regarding this

First Amendment disclose facts or considerations indicating that the First Amendment is inappropriate, improper, or inadequate. Akron and the State of Ohio consent to entry of this First Amendment without further notice and agree not to withdraw from or oppose entry of this First Amendment by the Court or to challenge any provision of the First Amendment, unless the United States has notified Akron and the State of Ohio in writing that it no longer supports entry of the First Amendment.

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

NOW THEREFORE, before the taking of any further testimony, without further adjudication of any issue of fact or law, and upon the consent and agreement of the Parties, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. The Consent Decree shall remain in full force and effect in accordance with its terms, except that LTCP Update Rows 17 and 18, and Rows 21 and 22, are revised as set forth below, and a new Row 23 is added to the LTCP Update, effective upon entry of this First Amendment by the Court.
2. Row 17 of the LTCP Update, which currently requires installation of additional secondary treatment capacity by February 28, 2019, is revised to require bidding for the additional secondary treatment capacity by April 30, 2017. The Achievement of Full Operation Date, currently December 31, 2021, is revised to require completion of the control measure by April 30, 2019.
3. Row 18 of the LTCP Update, which currently requires installation of a BioActiflo unit by April 30, 2017, is revised to require bidding of that control measure by February 28,

2019. The Achievement of Full Operation Date for the BioActiflo unit, which is currently April 30, 2019, is revised to require completion by December 31, 2021.

4. Row 21, which requires the installation and operation of a relief sewer line parallel to the Main Outfall Sewer, is deleted.
5. Row 22, which requires the inspection and rehabilitation of the Main Outfall Sewer, and provides that the City shall not operate the Main Outfall Sewer under surcharge conditions, is deleted.
6. Rows 21 and 22 are replaced with amended Rows 21 through 23 as set forth in Attachment B to this First Amendment. The amended Rows require installation of a steel-reinforced concrete cap over all but a small portion of the existing Main Outfall Sewer. The City is still required to meet the original Achievement of Full Operation date, November 30, 2017, for the revised project. The City is also required to perform regular inspections and to perform any necessary rehabilitation through the duration of the First Amendment.

JUDGMENT IS HEREBY ENTERED in accordance with this First Amendment to Consent Decree, on this 20th day of September, 2016.


/s/ John R. Adams

JUDGE JOHN R. ADAMS
UNITED STATES DISTRICT COURT JUDGE


THE UNDERSIGNED PARTY hereby consents to this First Amendment to the Consent Decree in the matter of *United States v. City of Akron, et al.*, No. 5:09-cv-272 (N.D. Ohio).

FOR THE UNITED STATES OF AMERICA:

Date: April __, 2016


JOHN C. CRUDEN
Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice
900 Pennsylvania Ave., NW
Washington, DC 20530


Date: April __, 2016

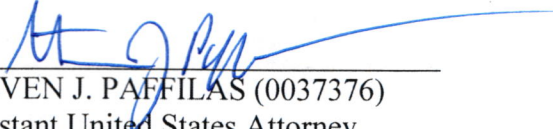

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FOR THE UNITED STATES OF AMERICA:

CAROLE S. RENDON
Acting United States Attorney

Date: April 27, 2016





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FOR THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY:

Date: April 12, 2016

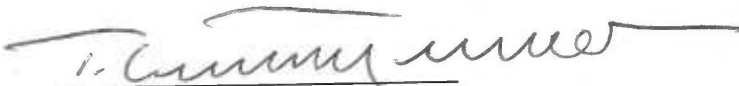
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FOR THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY:

ROBERT A. KAPLAN,
Acting Regional Administrator
U.S. EPA Region 5

Date: April 12, 2016



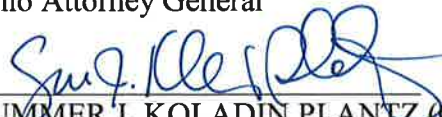
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FOR THE STATE OF OHIO:

MIKE DeWINE
Ohio Attorney General

Date: April 8, 2016


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FOR THE CITY OF AKRON:

Date: April 12, 2016



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ATTACHMENT A

Negotiated Long Term Control Plan Update

Submitted in accordance with conditions set forth in cover letter dated November 15, 2011

City of Akron

Control Measures, Design Criteria, Performance Criteria and Critical Milestones

ROW #	CONTROL MEASURE LOCATION	DESCRIPTION	DESIGN CRITERIA ¹	PERFORMANCE CRITERIA ² (TYPICAL YEAR)	CRITICAL MILESTONES
CSO Control Measures					
<i>Separation of Racks 8, 25, 21, 30 and 13: To be performed consistent with the Consent Decree Section (V).</i>					
Storage Basins					
1	Rack 3	Storage Basin(s)	Minimum storage volume of 1,865,006 gallons	0 CSOs	Bidding of Control Measure –June 30, 2018 Achievement of Full Operation–Nov 30, 2020
2	Rack 5 and 7	Storage Basin(s)	Minimum storage volume of 1,105,920 gallons	0 CSOs	Bidding of Control Measure –Oct 31, 2015 Achievement of Full Operation–Oct 31, 2017
3	Racks 10 and 11	Storage Basin(s)	Minimum storage volume of 2,518,616 gallons	0 CSOs	Bidding of Control Measure –June 30, 2018 Achievement of Full Operation–Dec 31, 2020

¹ The criteria for storage volumes are effective storage volumes and as such shall account for hydraulic and/or operational limitations and any other factors of consideration that are necessary to ensure that the basin(s) or tunnel will be able to store the specified volume identified in this column during either the largest typical year storm event (for the basins and the Northside Interceptor Tunnel) or the 8th largest typical year storm event (for the Ohio Canal Tunnel). Akron may propose that the effective storage volumes for the storage basins set forth in Rows 1-12, excluding Row 11.a., be reduced through the use of Green Infrastructure, in accordance with the requirements and review and approval process set forth in Exhibit 3 to this LTCP Update. Any demonstration by Akron that reduced storage volumes coupled with green infrastructure controls will provide the same or greater level of control in terms of CSO overflows in a typical year must be submitted to EPA and OH EPA for approval, by no later than six (6) months prior to the due date for the bidding of the relevant control measure.

² “Typical Year” is defined as the Adjusted 1994 Typical Year as defined in Appendix 1 to Attachment A of the Consent Decree. Number of overflows and bypasses are based on a 12-hour inter-event period.

ROW #	CONTROL MEASURE LOCATION	DESCRIPTION	DESIGN CRITERIA ¹	PERFORMANCE CRITERIA ² (TYPICAL YEAR)	CRITICAL MILESTONES
4	Rack 12	Storage Basin(s)	Minimum storage volume of 6,004,454 gallons	0 CSOs	Bidding of Control Measure –Nov 30, 2014 Achievement of Full Operation-Oct 31, 2017
5	Rack 14	Storage Basin(s)	Minimum storage volume of 1,927,842 gallons	0 CSOs	Bidding of Control Measure –Oct 31, 2014 Achievement of Full Operation-April 30, 2017
6	Rack 15	Storage Basin(s)	Minimum storage volume of 1,446,246 gallons	0 CSOs	Bidding of Control Measure –Nov 30, 2013 Achievement of Full Operation-Oct 31, 2015
7	Rack 22	Storage Basin(s)	Minimum storage volume of 2,424,446 gallons	0 CSOs	Bidding of Control Measure –Oct 31, 2015 Achievement of Full Operation-Dec 31, 2017
8	Rack 26 and 28	Storage Basin(s)	Minimum storage volume of 2,296,669 gallons	0 CSOs	Bidding of Control Measure –Oct 31, 2021 Achievement of Full Operation-Dec 31, 2022
9	Rack 27 and 29	Storage Basin(s)	Minimum storage volume of 1,290,276 gallons	0 CSOs	Bidding of Control Measure –Jan 31, 2018 Achievement of Full Operation-Dec 31, 2019

ROW #	CONTROL MEASURE LOCATION	DESCRIPTION	DESIGN CRITERIA ¹	PERFORMANCE CRITERIA ² (TYPICAL YEAR)	CRITICAL MILESTONES
10	Rack 36	Storage Basin(s)	Minimum storage volume of 1,133,074 gallons	0 CSOs	Bidding of Control Measure –Oct 31, 2015 Achievement of Full Operation-Oct 31, 2017
<i>Tunnel Systems</i>					
11	Racks 4, 16, 17, 18, 19, 20, 23, 24, 37	Ohio Canal Tunnel – Construct a 28-foot internal diameter tunnel, 5,550 feet in length, or any other combination of diameter and length that achieves the design criteria.	Minimum storage volume of 25,600,000 gallons. This volume excludes conveyance tunnels, dewatering tunnels/sewers, adits, and drop shafts.	No more than 7 CSOs Racks 4 and 37: 0 CSOs	Bidding of Control Measure –April 30, 2014 Achievement of Full Operation-Dec 31, 2018

ROW #	CONTROL MEASURE LOCATION	DESCRIPTION	DESIGN CRITERIA ¹	PERFORMANCE CRITERIA ² (TYPICAL YEAR)	CRITICAL MILESTONES
11a	Racks 16, 17, 18, 19, 20, 23, 24,	Ohio Canal Tunnel – ACTIFLO™ Ballasted Flocculation Unit or equivalent technology that meets the Design and Performance Criteria and Disinfection	An ACTIFLO™ ballasted flocculation unit (sand ballast technology) or an EPA and OEPA- approved equivalent technology that meets the Performance Criteria, including disinfection, with a minimum sustained design capacity of 300 million gallons per day (208,000 gallons per minute). The hydraulic loading rate shall not exceed the manufacturer's recommendation.	<p>Treated discharges must not exceed the following discharge limitations³:</p> <ol style="list-style-type: none"> 1) 30 mg/l TSS 2) In the recreational season, no more than 10% of the samples taken during any 30 day period shall exceed 298/100 ml of E. coli. 3) The geometric mean of all the samples collected during the recreational season shall not exceed 126/100 ml of E.coli. 4) 0.024 mg/l residual chlorine 	<p>Bidding of Control Measure –April 30, 2024</p> <p>Achievement of Full Operation-Oct 31, 2027</p>

³ Akron shall sample all discharges from the ACTIFLO™ and BioACTIFLO™ treatment units such that the samples are representative and accurately characterize the actual treated discharge once stable operation is achieved (beginning no more than (a) 20 minutes after discharge from the ACTIFLO™ treatment system begins; or (b) 40 minutes after discharge from the BioACTIFLO™ treatment system begins), and shall comply with all applicable NPDES permit requirements. CBOD5 and TSS shall be collected as flow proportioned composite samples taken over the entire period of each discharge once stable operation of the ACTIFLO™ or BioACTIFLO™ treatment systems is achieved. E. coli shall be collected as two or more grab samples taken during the period of discharge once stable operation of the Actiflo or Bioactiflo treatment systems is achieved.

ROW #	CONTROL MEASURE LOCATION	DESCRIPTION	DESIGN CRITERIA ¹	PERFORMANCE CRITERIA ² (TYPICAL YEAR)	CRITICAL MILESTONES
12	Racks 32, 33, 34, 35	Northside Interceptor Tunnel – Construct a 20-foot internal diameter tunnel, 10,000 feet in length or any other combination of diameter and length that achieves the design criteria.	Minimum storage volume of 23,000,000 gallons. This volume excludes conveyance tunnels, dewatering tunnels/sewers, adits, and drop shafts.	0 CSOs	Bidding of Control Measure –April 30, 2023 Achievement of Full Operation- Dec 31, 2026

ROW #	UPGRADE PHASES	CONTROL MEASURE LOCATION	DESCRIPTION	DESIGN CRITERIA	PERFORMANCE CRITERIA (TYPICAL YEAR)		CRITICAL MILESTONES
					CAPACITY (MGD)	NUMBER AND EFFLUENT LIMITATIONS OF BYPASSES	
WPCS Control Measures							
(1) Measures at WPCS							
13	WPCS Phase 1: Akron shall upgrade conventional secondary treatment capacity to 130 MGD in accordance with either 13a or 13b below, as required in Section V (Specific Action Project), Paragraph 10 (Upgrade WPCS to 130 MGD) of the Consent Decree.						
13a.	WPCS Phase 1	WPCS	Upgrade conventional secondary treatment capacity to 130 MGD by implementing step feed operation in Train 6, as described in Paragraph 10.a of the Consent Decree.	Secondary treatment to achieve a minimum sustained capacity ⁴ of 130 MGD.	Secondary treatment to achieve a minimum sustained capacity of 130 MGD.	No more than 22 bypasses	Bidding of Control Measure –Oct 31,2011 Achievement of Full Operation-Oct 15, 2013
13b.	WPCS Phase 1	WPCS	Upgrade conventional secondary treatment capacity to 130 MGD by performing the upgrades identified in the Consent Decree in Section V.10.C.	Secondary treatment to achieve a minimum sustained capacity ⁴ of 130 MGD.	Secondary treatment to achieve a minimum sustained capacity of 130 MGD.	No more than 22 bypasses	Bidding of Control Measure – January 15, 2016 Achievement of Full Operation-Oct 15, 2017

⁴ “Minimum sustained capacity” shall be the smallest acceptable peak capacity that can be sustained continuously for a minimum of 48 hours under normal operating conditions.

ROW #	UPGRADE PHASES	CONTROL MEASURE LOCATION	DESCRIPTION	DESIGN CRITERIA	PERFORMANCE CRITERIA (TYPICAL YEAR)		CRITICAL MILESTONES
					CAPACITY (MGD)	NUMBER AND EFFLUENT LIMITATIONS OF BYPASSES	
14	WPCS Phase 1 BioACTIFLO Wet Weather Treatment Pilot Study (the "Pilot Study")	WPCS	Conduct the Pilot Study in accordance with Exhibit 1 to this Long Term Control Plan Update.	BioACTIFLO™ Biological ballasted flocculation system designed to meet parameters of approved study outlined in Exhibit 1. Maximum loading rates shall not exceed the manufacturer's recommendations.	See Exhibit 1	Not applicable (pilot study)	Pilot Study start date- May 1, 2012 Pilot Study Completion Date- Nov 30, 2013 Pilot Study Report submitted to EPA by Dec 31, 2013
15	WPCS Phase 2- Part I	WPCS	Upgrade conventional secondary treatment capacity to 170 MGD	Secondary treatment to achieve a minimum sustained capacity of 170 MGD.	Secondary treatment to achieve a minimum sustained capacity of 170 MGD.	No more than 10 bypasses	Bidding of Control Measure –Feb 28, 2019 Achievement of Full Operation- Dec 31, 2021

ROW #	UPGRADE PHASES	CONTROL MEASURE LOCATION	DESCRIPTION	DESIGN CRITERIA	PERFORMANCE CRITERIA (TYPICAL YEAR)		CRITICAL MILESTONES
					CAPACITY (MGD)	NUMBER AND EFFLUENT LIMITATIONS OF BYPASSES	
16	WPCS Phase 2- Part 2	WPCS	Install BioACTIFLO™ ballasted flocculation to treat all flow that does not receive conventional secondary treatment. ⁵ In addition, all flows receiving BioACTIFLO shall receive disinfection.	A minimum sustained capacity of 110 MGD BioACTIFLO™ ballasted flocculation to treat all secondary treatment bypasses. Maximum loading rates shall not exceed the manufacturer's recommendations. In addition, all flows receiving BioACTIFLO shall receive disinfection.	BioACTIFLO™ ballasted flocculation to achieve a minimum sustained capacity of 110 MGD. In addition, all flows receiving BioACTIFLO shall receive disinfection.	Treated discharges must not exceed the following limitations: ^{3, 5} 1) 30 day average of 30 mg/l for TSS; 2) An average weekly discharge limitation of 298/100mL E.coli (during recreational season) 3) An average monthly discharge limitation of 126/100 ml E. coli (during recreational season) 4) 0.024 mg/l residual chlorine	Bidding of Control Measure –April 30, 2017 Achievement of Full Operation April, 30,2019

⁵ If the biological ballasted flocculation unit has a dedicated disinfection system, all limits shall apply after the dedicated disinfection system. If the biological ballasted flocculation unit effluent is combined with conventional secondary treatment system effluent prior to disinfection, then the limits for TSS and CBOD5 will apply after the biological ballasted flocculation unit, but before flows from biological ballasted flocculation are combined with flows that went through conventional secondary treatment. E.coli and residual chlorine limits will apply after the combined disinfection unit.

ROW #	UPGRADE PHASES	CONTROL MEASURE LOCATION	DESCRIPTION	DESIGN CRITERIA	PERFORMANCE CRITERIA (TYPICAL YEAR)		CRITICAL MILESTONES
					CAPACITY (MGD)	NUMBER AND EFFLUENT LIMITATIONS OF BYPASSES	
Alternative Plan to Upgrading Conventional Secondary Treatment to 170 MGD: <ul style="list-style-type: none">• If US EPA approves in writing an Alternative Plan A in accordance with Exhibit 2 to the LTCP Update, then Akron shall implement the control measures specified below in Rows 17 and 18, instead of the control measures specified in Rows 15 and 16.• If US EPA approves in writing an Alternative Plan B, in accordance with the Attachment to the LTCP Update, then Akron shall implement the control measures specified below in Rows 19 and 20, instead of the control measures specified in Rows 15 and 16.							
17	Alternative Plan A-Phase 2-Part 1	WPCS	Upgrade conventional secondary treatment capacity to achieve the minimum sustained capacity specified in Alternative Plan A approved by U.S. EPA	Conventional secondary treatment capacity will be designed to achieve at least the minimum sustained capacity specified in Alternative Plan A approved by U.S. EPA	Conventional secondary treatment facilities will achieve the minimum sustained capacity specified in Alternative Plan A approved by U.S. EPA	Comply with current NPDES permit limits.	Bidding of Control Measure – February 28, 2019 Achievement of Full Operation- December 31, 2021

ROW #	UPGRADE PHASES	CONTROL MEASURE LOCATION	DESCRIPTION	DESIGN CRITERIA	PERFORMANCE CRITERIA (TYPICAL YEAR)		CRITICAL MILESTONES
					CAPACITY (MGD)	NUMBER AND EFFLUENT LIMITATIONS OF BYPASSES	
18	Alternative Plan A-Phase 2-Part 2	WPCS	Install BioACTIFLO™ ballasted flocculation to achieve the minimum capacity specified in Alternative Plan A approved by U.S. EPA. In addition, all flows receiving BioACTIFLO shall receive disinfection.	BioACTIFLO™ ballasted flocculation plus disinfection facilities will be designed to achieve (1) at least the minimum capacity specified in Alternative Plan A approved by U.S. EPA (2) the effluent limitations of specified in the Performance Criteria for this Row	BioACTIFLO™ ballasted flocculation facilities will achieve the minimum sustained capacity specified in Alternative Plan A approved by U.S. EPA and all flows up to that minimum sustained capacity must be disinfected.	Treated discharges must not exceed the following limitations: ^{3, 5} 1) 30 day average of 30 mg/l for TSS; 2) An average weekly discharge limitation of 298/100mL E.coli (during recreational season) 3) An average monthly discharge limitation of 126/100 ml E. coli (during recreational season) 4) 0.024 mg/l residual chlorine	Bidding of Control Measure – April 30, 2017 Achievement of Full Operation- April 30, 2019
19	Alternative Plan B-Phase 2-Part 1	WPCS	Upgrade conventional secondary treatment capacity to achieve the minimum sustained capacity specified in Alternative Plan B approved by U.S. EPA	Conventional secondary treatment capacity will be designed to achieve at least the minimum sustained capacity specified in Alternative Plan B approved by U.S. EPA	Conventional secondary treatment facilities will achieve the minimum sustained capacity specified in Alternative Plan B approved by U.S. EPA	Comply with current NPDES permit limits.	Bidding of Control Measure –Dec 31, 2019 Achievement of Full Operation-Dec 31, 2021

ROW #	UPGRADE PHASES	CONTROL MEASURE LOCATION	DESCRIPTION	DESIGN CRITERIA	PERFORMANCE CRITERIA (TYPICAL YEAR)		CRITICAL MILESTONES
					CAPACITY (MGD)	NUMBER AND EFFLUENT LIMITATIONS OF BYPASSES	
20	Alternative Plan B-Phase 2-Part 2	WPCS	Install BioACTIFLO™ ballasted flocculation to achieve the minimum capacity specified in Alternative Plan B approved by U.S. EPA. In addition, all flows receiving BioACTIFLO shall receive disinfection.	BioACTIFLO™ ballasted flocculation facilities will be designed to achieve the effluent limitations specified in the Performance Criteria for this Row. Maximum loading rates shall not exceed the manufacturer's recommendations. In addition, all flows receiving BioACTIFLO shall receive disinfection.	BioACTIFLO™ ballasted flocculation facilities will achieve a minimum sustained capacity specified in Alternative Plan B approved by US EPA and all flows up to that minimum sustained capacity must be disinfected.	Treated discharges must not exceed the following limitations: ^{3,5,6} 1) 30-day average of 30 mg/l for TSS and 25mg/l for CBOD5; 2) 7-day average of 45 mg/l for TSS and 40 mg/l CBOD5; 3) An average monthly discharge limitation of 126/100 ml E. coli (during recreational season) 4) An average weekly discharge limitation of 298/100mL E.coli (during recreational season) 5) 0.024 mg/l residual chlorine	Bidding of Control Measure -April 30, 2017. Achievement of Full Operation- April 30, 2019

⁶ The terms "30-day average" and "7-day average" shall have the meaning for those terms set forth at 40 CFR 133.101

ROW #	CONTROL MEASURE LOCATION	DESCRIPTION	DESIGN CRITERIA ⁷	PERFORMANCE CRITERIA (CAPACITY)	CRITICAL MILESTONES
(2) Collection System Measures					
21	Parallel Relief Interceptor and Pump Station	Installation of parallel relief sewer between Survey Station 88+00 and the WPCS and associated pump station to convey wastewater to WPCS	At a minimum, 7 ft inside finished diameter sewer from WPCS to Survey Station 88+00, along with associated pump station and flow monitoring, designed to allow at a minimum, transport and flow of 180 MGD to the WPCS	Conveyance capacity under normal operating conditions of projects outlined in Rows 21-22 to allow transmission of 280 MGD to the WPCS	Bidding of Control Measures: Parallel Relief Interceptor – July 31, 2015; Pump Station – Nov. 30, 2015 Achievement of Full Operation- Nov. 30, 2017
22	Main Outfall Sewer	Perform inspections and rehabilitation consistent with the Main Outfall Sewer Supplement ⁸ to the Approved CMOM Program as outlined in Section VII of the Consent decree.	Ensure the integrity of the sewer allowing for the transport of flow to the WPCS in accordance with the certification provided in Exhibit 4.	Conveyance capacity under normal operating conditions of projects outlined in Rows 21-22 to allow transmission of up to 280 MGD to the WPCS. Through Nov. 30, 2017, the Main Outfall Sewer shall allow transmission of up to 280 MGD to the WPCS. Thereafter, except during emergency conditions, the Main Outfall Sewer from Survey Station 88+00 to the WPCS shall be operated to preclude surcharge and at a maximum of 200 MGD.	Full Operation shall be maintained consistent with Main Outfall Sewer Supplement to the Approved CMOM Program

⁷ Transmission conveyance capacity under normal operating conditions combined from both sewers to achieve a minimum effective combined flow of 280 MGD.

⁸ The Main Outfall Sewer Supplement to the Approved CMOM shall include, but not be limited to, and a Main Outfall Sewer Emergency Response Plan and Schedule for Repair of Defects discovered during internal and external inspections of the Main Outfall Sewer. These items are documented in Exhibit 5.

ATTACHMENT B

ATTACHMENT B TO FIRST AMENDED CONSENT DECREE BETWEEN THE UNITED STATES, CITY OF AKRON, OHIO AND STATE OF OHIO

ROW #	CONTROL MEASURE LOCATION	DESCRIPTION	DESIGN CRITERIA	PERFORMANCE CRITERIA	CRITICAL MILESTONES
21	Main Outfall Sewer Upgrades – Phase I	Installation of a pneumatically placed, steel reinforced mortar cap over the entire length of the brick-arch section of the Main Outfall Interceptor (“MOI”) that runs between Survey Station 83+00 and the rectangular bridge section that is located just upstream of the WPCS (the “Bridge Section”). The Bridge Section is not of brick-arch construction, and the approximately 400-foot portion of the MOI between the Bridge Section and the WPCS is covered with soil. As part of Phase I, a limited amount of additional soil will be added to the brick-arch portion of the MOI between the Bridge Section and the WPCS headworks.	Mortar cap and reinforcing steel designed to withstand five feet of surcharge in the interceptor, with a thickness ranging from 6 inches at the top to 18 inches at the sides. Cap to be installed over the brick-arch section of the MOI that runs between Survey Station 83+00 and the Bridge Section. A soil cap of at least 3 inches on any brick-arch portion of the MOI between the Bridge Section and the WPCS.	Conveyance capacity under normal operating conditions to allow transmission of 280 MGD to the WPCS.	Bidding of Control Measure: May 4, 2016 Achievement of Full Operation: November 30, 2017

ATTACHMENT B TO FIRST AMENDED CONSENT DECREE BETWEEN THE UNITED STATES, CITY OF AKRON, OHIO AND STATE OF OHIO

22	Main Outfall Sewer Upgrades – Phase II	<p>Additional soil will be added to the soil cap on the brick-arch portion of the MOI between the Bridge Section and the WPCS headworks, after the completion of, and subject to the results of, a geotechnical and engineering evaluation. The maximum thickness of the soil cap will be 2 feet. The purpose of the geotechnical and engineering evaluation will be to determine the amount of additional soil cover, up to 2 feet, that can be placed on the remaining brick-arch portion of the MOI between the Bridge Section and the existing WPCS headworks without causing excessive settlement of that portion of the MOI. The parties understand that the City may eliminate and/or improve some of the brick-arch portion of the MOI between the Bridge Section and the existing WPCS headworks through construction of a proposed WPCS headworks project. Any improvements to the brick-arch portion of the MOI between the Bridge Section and the existing WPCS headworks associated with the proposed WPCS headworks project shall ensure structural integrity such that the improved portion of the enclosed conduit of the MOI withstands at least 5 feet of surcharge.</p>	<p>Subject to the results of a geotechnical and engineering evaluation, a soil cover of up to 2 feet on any brick-arch portion of the MOI between the Bridge Section and the WPCS. The actual thickness of soil cover placed on this brick arched portion of the MOI shall be the maximum thickness, up to 2 feet, that will cause no more than one-half (½) of an inch of settlement of the MOI, based upon a recommendation by a Professional Engineer. The Professional Engineer must have expertise in the field of geotechnical engineering and the recommendation shall be based on the results of additional geotechnical investigations and a subsequent engineering evaluation.</p>	<p>Conveyance capacity under normal operating conditions to allow transmission of 280 MGD to the WPCS.</p>	<p>Completion of engineering evaluation: May 30, 2017</p> <p>Completion of placement of additional soil: November 30, 2017</p>
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ATTACHMENT B TO FIRST AMENDED CONSENT DECREE BETWEEN THE UNITED STATES, CITY OF AKRON, OHIO AND STATE OF OHIO

23	Main Outfall Sewer Inspection	Perform inspection and rehabilitation consistent with the Main Outfall ⁷ Sewer Supplement to the Approved CMOM Program as outlined in Section VII of the Consent decree.	Ensure the integrity of the sewer allowing for the transport of flow to the WPCS in accordance with the certification provided in Exhibit 4.	Conveyance capacity under normal operating conditions of projects outlined in Rows 21-22 to allow transmission of up to 280 MGD to the WPCS.	Full Operation shall be maintained consistent with Main Outfall Sewer Supplement to the Approved CMOM Program
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⁷ The Main Outfall Sewer Supplement to the Approved CMOM shall include, but not be limited to, a Main Outfall Sewer Emergency Response Plan and Schedule for Repair of Defects discovered during internal and external inspections of the Main Outfall Sewer. These items are documented in Exhibit 5.