

Maintenance Plan described above at Paragraph 17 of this Consent Decree. The High Flow Maintenance Plan shall adequately address any comments from EPA and PADEP on the wet weather operational strategy. The High Flow Maintenance Plan shall also provide for and include a log of any SSO events which identify the nature of the storm events, the locations of the SSO discharges, and the duration and estimated volume of the SSO discharges. Upon review and comment from EPA and the Department, the Defendant shall address the comments and, if necessary, change the High Flow Maintenance Plan accordingly.

G. **PRETREATMENT PROGRAM**

34. Defendant shall not accept non-domestic wastewater from industrial users that causes pass through or interference at the Facility and/or that does not comply with local limits.

35. Within six (6) months from the Date of Lodging, the Defendant shall have on its staff a qualified pretreatment coordinator who shall be in charge of and be responsible for the pretreatment program. From that time forward, the Defendant shall continue to retain a qualified pretreatment coordinator with such power and responsibility. Should such pretreatment coordinator cease to be retained or employed by the Defendant, the Defendant shall advertise the position internally and externally immediately and shall hire a new pretreatment coordinator not later than six (6) months following the conclusion of the prior coordinator's employment or retention.

36. The Defendant shall implement its current Enforcement Response Plan ("ERP"), attached as **Appendix E**, to address Industrial User ("IU") noncompliance. After the Defendant assesses any penalties and/or a compliance schedule, if such IUs remain in Significant Non-Compliance ("SNC"), or the IU does not agree to a reasonable compliance schedule and/or penalty consistent with the ERP, then the Defendant shall escalate its response in accordance with the current EPA approved ERP, including issuance of an administrative order by the

Defendant, the assessment of a penalty, the revocation of the local permit and/or referring the IU to EPA for additional enforcement action.

37. For any IU that is a frequent violator of any pretreatment standards (including approved local limits), Defendant shall require more frequent monitoring in accordance with Defendant's approved pretreatment program. If necessary, the Defendant shall amend or reissue an existing IU permit to increase the frequency of self-monitoring for the pollutants of concern. Defendant shall require such sampling to commence within ninety (90) days of the Date of Lodging.

38. Pretreatment Computerized Management System Plan To improve tracking of document submission violations, required re-sampling, and compliance milestones and aid in assessment of SNCs, Defendant shall commit to developing and implementing a computerized management system plan for the pretreatment program which plan incorporates Defendant's approved pretreatment program. Defendant shall submit a Pretreatment Computerized Management System plan and implementation schedule to EPA within ninety (90) days of the Date of Lodging of the Consent Decree. The computerized management system plan shall ensure full and complete compliance with the pretreatment requirements set forth in the CWA, the implementing regulations thereto, and Defendant's approved pretreatment program, including, but not limited to, the terms and conditions of Defendant's NPDES Permit. Upon approval of the plan by EPA, Defendant shall implement the computerized management system plan in accordance with the approved implementation schedule. This system shall be on-line and fully functional within three (3) months of implementation.

39. By no later than six (6) months from the Date of Lodging of this Consent Decree, the Defendant shall complete its reevaluation of local limits as required by the current NPDES permit and submit that reevaluation to EPA for review and approval. The Defendant shall require that all contributing member municipalities adopt local limits by ordinance within one (1) year of EPA acceptance of revised or new local limits. If any such municipality has not adopted

all current local limits within one (1) year from the Date of Lodging, then the Defendant shall take further action to compel the contributing municipality to formally adopt the local limits ordinance. These further actions may include equitable enforcement of the inter-municipal agreement requesting injunctive relief, damages, penalties, attorney's fees, and other costs that may be incurred by Defendant in compelling compliance and/or any other penalties allowable under state or federal law.

40. The Defendant shall report semi-annually on which IUs are in SNC and identify all violations. This report shall also include all monitoring results, and copies of enforcement actions taken, and penalties issued, assessed and collected pursuant to the ERP. One such report shall occur in the Annual Report, and copies of both reports shall be submitted to the Pretreatment Coordinator, EPA Region 3, 1650 Arch St., Philadelphia, PA 19103-2029.

VI. REPORTING REQUIREMENTS

41. Beginning March 31, 2011, Defendant shall submit to EPA and the Department and before March 31 of each year until termination of this Consent Decree, an Annual Report ("Annual Report") of all subjects required to be in the Annual Report pursuant to this Consent Decree, including, but not limited to: the interim wet weather operational strategy; the interim plant improvement plan; the connection management plan; the pump station annual review; and a list of SIUs in SNC. In addition, the Annual Report shall include any updates or changes to the POA as well as a list of all SSDs and SSOs, occurring in the system in the preceding year, which identifies, where available, the frequency, date, duration and volume of SSOs and SSDs, the magnitude of each rainfall event, and the cause or condition which contributed to each event.

42. This Annual Report shall also contain the following:

a. Progress reports on the implementation of the requirements of Section V (Remedial Measures) as described in Paragraphs 7 through 40;

b. A description of any problems anticipated with respect to meeting the requirements of Section V (Remedial Measures) of this Consent Decree;

c. Updated POA Reports, which shall include, but not be limited to, the status of the corrective actions conducted or completed in the past twelve (12) months and the work anticipated to occur in the following twelve-month period, the number of connections made during the year, a chart listing all projects that have received certification of capacity for planning module revision and the allocations per year, and a chart of all projected connections by Defendant; and

d. Any such additional matters as Defendant believes should be brought to the attention of EPA and the Department.

43. The Annual Reports shall be certified, consistent with the requirements of 40 C.F.R. 122.22(a)(3), by the person responsible for compliance or by a person responsible for overseeing implementation of this Consent Decree, who shall state:

“I certify under penalty of law that this information was prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my directions and my inquiry of the person(s) who manage the system, or the person(s) directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete.”

VII. RIGHT OF ACCESS

44. EPA and the Department, and their authorized representatives and contractors, shall each have authority at all reasonable times, upon the presentation of credentials, to enter the property of Defendant to:

- a. Monitor the progress of activities required by this Consent Decree;
- b. Verify any data or information submitted to the United States and Commonwealth of Pennsylvania;
- c. Obtain samples;

- d. Observe performance tests;
- e. Inspect and evaluate any portion of the Collection System; and
- f. Review and copy any record required to be kept under the terms and conditions of this Consent Decree.

45. Upon request, Defendant shall provide EPA or the Department or their authorized representative(s) splits of any samples collected by Defendant or its consultants and contractors. Upon request, EPA or the Department shall provide Defendant splits of any samples collected by EPA or the Department.

46. These inspection rights are in addition to, and in no way limit or otherwise affect, EPA's and the Department's statutory authorities to conduct inspections, to require monitoring and to obtain information from Defendant as authorized by law.

VIII. REVIEW AND APPROVAL PROCEDURES

47. After receipt and review of any plan, program or other document which is required to be submitted for approval pursuant to this Consent Decree, EPA and the Department may (1) approve, in whole or in part, the submission; (2) approve the complete submission or portions of the submission upon specified conditions; (3) disapprove the submission, in whole or in part, and direct that Defendant modify the submission; or (4) any combination of the above. The EPA and Department will have 120 days in which to review each such plan, program or other document and respond to it, which time period will be anticipated by the Township in its planning process. In the event that the Department or the EPA fails to respond within 120 days and that failure is not due to the incompleteness of the Township's submission, the Township will be entitled to an extension of time for each affected obligation equal to the amount by which the Department or the EPA exceeded 120 days.

48. In the event of approval of the complete submission, Defendant shall proceed to take any actions required by the plan, program or other approved document, as approved by EPA and the Department.

49. In the event of approval of portions of the submission or approval upon specified conditions, Defendant shall proceed to take the actions identified in the non-deficient portion of the plan, program, other document, or portion thereof, in accordance with any applicable conditions specified by EPA and the Department, subject only to Defendant's right to invoke the Dispute Resolution procedures set forth in Section XII with respect to the conditions imposed. Implementation of any non-deficient portion of the submission shall not eliminate the potential of Defendant to incur stipulated penalties pursuant to Section X.

50. Upon receipt of a notice of disapproval of all or part of a submission from EPA and the Department, Defendant shall, within thirty (30) days (or such greater time frame as specified by EPA and/or PADEP in writing), correct the deficiencies as directed by EPA's and the Department's written comments and resubmit the plan, program or other document for approval. Any stipulated penalties applicable to the submission, as provided in Section X, shall accrue during the 30-day period, but shall not be payable unless the resubmission is disapproved as provided in Paragraph 49.

51. In the event that a resubmitted plan, program or other document, or portion thereof, is disapproved by EPA and the Department, EPA and the Department may again require the Defendant to correct the deficiencies in accordance with this Section. Unless Defendant invokes the Dispute Resolution Procedures set forth in Section XII and EPA's and the Department's disapproval of the Defendant's resubmission is overturned pursuant to that Section, Defendant shall be deemed to have failed to submit such program, plan or other document timely and adequately and stipulated penalties shall accrue for such violation from the date on which the initial submission was originally due.

52. All programs, plans or other documents required to be submitted pursuant to this Consent Decree shall become incorporated into and enforceable under this Consent Decree, upon EPA's and the Department's approval. In the event EPA and the Department approve a portion of any program, plan or other document pursuant to this Section, then the approved portion shall become incorporated into and enforceable under this Consent Decree.

IX. CIVIL PENALTY

53. Defendant shall pay a total civil penalty in the amount of \$226,000 to the United States and the Commonwealth for violations as alleged by the United States and the Commonwealth in the Complaint. Defendant shall pay twenty-five percent (25%) of the total civil penalty to the United States within thirty (30) days of the Date of Lodging of this Consent Decree in accordance with the procedures described in Paragraph 55, below. Defendant shall pay twenty-five percent (25%) of the total civil penalty to the Commonwealth within thirty (30) days of the Date of Lodging in accordance with the procedures described in Paragraph 56, below. Defendant shall pay twenty-five percent (25%) of the total civil penalty, plus interest at the post-judgment interest rate applicable on the Date of Lodging of this Consent Decree, to the United States within twelve (12) months of the Date of Lodging of this Consent Decree in accordance with the procedures described in Paragraph 55, below. Defendant shall pay twenty-five percent (25%) of the total civil penalty, plus interest at the post-judgment interest rate applicable on the Date of Lodging of this Consent Decree, to the Commonwealth within twelve (12) months of the Date of Lodging in accordance with the procedures described in Paragraph 56, below.

54. The United States and the Commonwealth shall be deemed judgment creditors for purposes of collection of this penalty.

55. Payment of the civil penalty to the United States shall be made by Electronic Funds Transfer ("EFT") to the U.S. Department of Justice ("DOJ") lockbox bank, referencing

DOJ No 90-5-1-1-4402/2. Payment shall be made in accordance with instructions provided by the United States to Defendant following execution of this Consent Decree. Any EFT received at the DOJ lockbox bank after 11:00 A.M. Eastern Time will be credited on the next business day. Notice of the EFT shall simultaneously be mailed to the following:

Docket Clerk (3RC00)
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Pamela J. Lazos (3RC20)
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029; and

Margaret L. Hutchinson
Chief, Civil Division Eastern District of Pennsylvania
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106-4476
Re: DOJ No. 2008-V00444

The transmittal letter forwarding such notice shall include the caption, civil action number and judicial district of this action.

56. Payments to the Commonwealth of Pennsylvania shall be made by tendering to the Pennsylvania Department of Environmental Protection checks made payable to: "Commonwealth of Pennsylvania" and sent to:

Steve O'Neil
Pennsylvania Department of Environmental Protection
2 East Main Street
Norristown, PA 19401

57. If Defendant fails to tender all or any portion of the civil penalty payment owed to the United States within thirty (30) days of the Date of Lodging of this Consent Decree interest on the unpaid amount shall accrue in accordance with the provisions of 28 U.S.C. § 1961 from the date of the original payment until all amounts owed are paid. If Defendant fails to tender all or any portion of the civil penalty payment owed to the Commonwealth of Pennsylvania within

thirty (30) days of the Date of Lodging of this Consent Decree interest on the unpaid amount shall accrue in accordance with the provisions of 41 Pa. C.S. § 202 from the date of the original payment until all amounts owed are paid.

X. STIPULATED PENALTIES

58. Defendant shall pay stipulated penalties for each failure to comply with the terms of this Consent Decree, including the terms of any plans or schedules developed pursuant to and incorporated into this Consent Decree. The stipulated penalties shall be assessed as follows and paid 50% to the United States and 50% to the Commonwealth as set forth in Paragraph 55 and 56 of this Decree:

59. Stipulated Penalties for Failure to Comply with Various Provisions of this Consent Decree Defendant shall pay stipulated penalties in the amount set forth below for each day it fails to meet any of the project milestone dates set forth in Section V. Remedial Measures, of this Consent Decree, for each failure to satisfactorily perform in accordance with the requirements under the Consent Decree, and for each late submission:

<u>Period of Non-Compliance</u>	<u>Penalty per Milestone Date per day of Violation</u>
1 st to 15 th Day	\$ 500
16 th to 30 th Day	\$ 1,000
31 st to 60 th Day	\$ 2,000
After 60 Days	\$ 5,000

60. Stipulated Penalties for NPDES Permit Violations Beginning on the Date of Lodging, Defendant shall pay a stipulated penalty for each NPDES Permit Violation in the amount set forth below.

Type of Violation : Daily/Instantaneous

Penalty Per Day or Excursion	Period of Noncompliance
\$ 100	1 st through 12 th Month
\$ 200	13 th through 24 th Month
\$ 300	25 th Month and Beyond

Type of Violation: Weekly Average

Penalty Per Violation Per Week	Period of Noncompliance
\$ 100	1 st through 12 th Month
\$ 200	13 th through 24 th Month
\$ 300	25 th Month and Beyond

Type of Violation: Monthly Average

Penalty Per Violation Per Month	Period of Noncompliance
\$ 250	1 st through 12 th Month
\$ 500	13 th through 18 th Month
\$ 750	19 th through 24 th Month
\$ 2,500	25 th Month and beyond

61. Compliance Reporting Defendant shall pay stipulated penalties in the amount set forth below for each day it fails to submit any progress report other than one in Section V. Remedial Measures of this Consent Decree or information required to be included within a progress report required to be submitted pursuant to this Consent Decree.

<u>Period of Non-Compliance</u>	<u>Penalty per Element per Day of Violation</u>
1 st to 15	\$ 150
16 th to 30 th Day	\$ 300
31 st to 60 th Day	\$ 500
After 60 days	\$ 1,000

62. Stipulated Penalties for Sanitary Sewer Overflows (“SSOs”) Defendant shall pay stipulated penalties in the amount of \$1,000 for each SSO that occurs in the Sanitary Sewer Collection System.

63. Pretreatment Program Stipulated Penalties

Defendants shall pay 100% of the stipulated penalty to EPA:

a. For the first calendar quarter within three months after the Date of Lodging, for failure to enforce the pretreatment program according to the ERP against each Significant Industrial User (“SIU”) in SNC and for each such subsequent quarter: \$1,000 per SIU.

b. Beginning with the first calendar quarter within three months after the date of Lodging of this Consent Decree, failure to conduct and/or report quarterly influent, effluent and sludge monitoring, will result in the following stipulated penalties:

<u>Period of Non-Compliance</u>	<u>Penalty per Element per Day of Violation</u>
1 st to 15 th Day	\$ 200
16 th to 30 th Day	\$ 400
31 st to 60 th Day	\$ 600
After 60 days	\$ 1,200

64. Defendant shall pay 100% of the stipulated penalties to the EPA in the amount set forth below for each day it fails to submit its annual pretreatment report.

<u>Period of Non-Compliance</u>	<u>Penalty per Element per Day of Violation</u>
1 st to 15 th Day	\$ 150
16 th to 30 th Day	\$ 300
31 st to 60 th Day	\$ 500
After 60 days	\$ 1,000

65. Stipulated civil penalties shall automatically begin to accrue on the first day Defendant fails to satisfy any obligation or requirement of this Consent Decree and shall continue to accrue until the violation or deficiency is corrected.

66. Stipulated penalties incurred by Defendant under this Consent Decree shall be due on or before the twenty-eighth (28th) day of each succeeding month. Stipulated Penalty payments for effluent violations shall be accompanied by a copy of the Discharge Monitoring Report (DMR) for that month.

67. Stipulated penalties incurred under this Consent Decree shall be due automatically and without notice, unless Defendant contests the penalty in accordance with the dispute resolution provisions of this Consent Decree. If Defendant invokes the dispute resolution provisions in Section XII of this Consent Decree, it shall deposit any disputed penalty in an interest-bearing escrow account within ten (10) days of invoking dispute resolution. The stipulated penalties that are the subject of the dispute, as well as interest earned thereon, shall be released in a manner consistent with the terms of the resolution of the dispute within sixty (60) days after the dispute is resolved. Stipulated penalties for any continuing violation shall accrue during the resolution of any dispute.

68. The stipulated civil penalties as set forth above shall be in addition to any other rights or remedies which may be available to the United States and the Commonwealth or their agencies by reason of Defendants failure to comply with the requirements of this Consent Decree, and all applicable federal, Commonwealth or local laws, regulations, or permits.

69. In the event that a stipulated civil penalty is not paid when due, the stipulated civil penalty owed to the United States and or the Department shall be payable with interest from the original due date to the date of payment at the statutory judgment rate set forth at 28 U.S.C. § 1961(a) with respect to the federal government and 41 Pa. C.S. § 202 with respect to the Commonwealth.

70. The United States may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due to the United States under this Consent Decree. Any such reduction or waiver shall be without prejudice to any other penalty that is already, or later becomes, due. Defendant shall not rely on any such waiver or reduction being repeated with respect to any future penalty.

XI. FORCE MAJEURE

71. "Force Majeure" for the purposes of this Consent Decree is defined as an event arising from causes beyond the control of Defendant or the control of any entity controlled by Defendant, including their agents, consultants and contractors, which delays or prevents the performance of any obligation under this Consent Decree despite Defendant's best efforts to fulfill the obligation. The requirement that Defendant exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any such event a) as it is occurring, and b) after it has occurred to prevent or minimize any resulting delay to the greatest extent possible. Unanticipated or increased costs or expenses associated with implementation of this Consent Decree and changed financial circumstances shall not, in any event, be considered "force majeure" events. In addition, failure to apply for a required permit or approval or to provide in a timely manner all information required to obtain a permit or approval that is necessary to meet the requirements of this Consent Decree, or failure of Defendant to approve contracts, shall not, in any event, be

considered “force majeure” events. Defendant shall adopt all reasonable measures to avoid or minimize such delay.

72. Defendant shall notify EPA and the Department, in writing, within twenty (20) business days after Defendant first knew, or in the exercise of reasonable diligence under the circumstances, should have known of an event that might delay completion of any requirement of this Consent Decree, whether or not the event is a “force majeure” event. The notice shall provide a description of the event and an explanation of the reasons for the delay, the anticipated duration of the delay, all actions taken or to be taken to prevent or mitigate the delay or the effect of the delay, the timetable by which those measures will be implemented, whether Defendant claims that the delay should be excused as a “force majeure” event, and its rationale for attributing such delay to a “force majeure” event if it asserts such a claim. Defendant shall include all available documentation supporting its claim that the delay was attributable to a “force majeure” event. Further, where a contractor or subcontractor has not completed a construction project on time, Defendant shall state what steps it is taking to ensure performance by the contractor or subcontractor in question, and shall supply any documentation available to show the steps it has taken.

73. Failure to provide the required written notice to EPA and the Department shall render this Section void and of no effect as to the event in question, and shall be a waiver of Defendant’s right to obtain an extension of time for its obligations based on such event. Defendant shall be deemed to have notice of any circumstance of which its contractors, or subcontractors had or should have had notice.

74. If EPA and the Department find that a delay in performance is, or was, caused by a “force majeure” event, the time for performance of the specific obligation(s) under this Consent Decree that are caused by the “force majeure” event shall be extended for a period to compensate for the delay resulting from such event, and stipulated penalties shall not be due for such period. EPA and the Department will notify Defendant in writing of the length of the

extension for performance of the obligation(s) caused by the “force majeure” event. An extension of time for performance of the obligation(s) caused by the “force majeure” event shall not, of itself, extend the time for performance of any other obligation. Defendant shall make an individual showing of proof regarding the cause of each delayed incremental step or other requirement for which an extension is sought.

75. In the event of a dispute regarding application of these provisions to a delay in performance, the dispute resolution provisions of Section XII (Dispute Resolution) shall apply, and Defendant shall have the burden of proving that the delay is, or was, caused by a “force majeure” event, and that the amount of additional time requested is necessary to compensate for that event. Defendant shall not be liable for stipulated penalties for any period of delay which was excused by the Court or EPA and the Department pursuant to this “Force Majeure” Section. However, pending resolution of a "force majeure" dispute, stipulated penalties will continue to accrue, and shall be due and payable if the Court determines that the event in question was not a "force majeure" event, that the Defendant did not undertake reasonable measures to limit the effect of the event, or that the "force majeure" event occurred for a shorter period of time than that alleged by Defendant.

XII. DISPUTE RESOLUTION

76. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes between Defendant and/or EPA or the Department arising under or with respect to this Consent Decree. However, the procedures set forth in this Section shall not apply to actions by the United States and the Commonwealth of Pennsylvania to enforce obligations of Defendant that have not been disputed in accordance with this Section.

77. Informal Dispute Resolution Any dispute which arises under or with respect to this Consent Decree shall in the first instance be the subject of informal negotiations between

Defendant, EPA and the Department. The period for informal negotiations shall not exceed twenty (20) days from the time Defendant sends EPA and the Department a written Notice of Dispute, unless that period is modified by written agreement of Defendant, EPA and the Department. The Notice of Dispute shall clearly describe the matter in dispute. In the event the parties cannot resolve their dispute within the informal negotiation period, then the position advanced by EPA and the Department shall be considered binding unless, within 30 days of the conclusion of the informal negotiation period, Defendant invokes the formal dispute resolution procedures as set forth below.

78. Formal Dispute Resolution Defendant shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by filing with the Court and serving on EPA and the Department a motion requesting judicial resolution of the dispute. The motion shall contain a written statement of Defendant's position on the matter in dispute, including any supporting factual data, analysis, opinion or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree.

79. Notwithstanding the provisions of the Federal Rules of Civil Procedure, the United States and the Commonwealth shall respond to Defendant's motion within thirty (30) days, unless the Parties stipulate otherwise. Defendant may file a reply memorandum, to the extent permitted by the Local Rules or the Parties' stipulation, as applicable.

80. In any dispute under this Paragraph, Defendant shall bear the burden of demonstrating that Defendant's position best complies with the terms and conditions of, and furthers the objectives of, this Consent Decree, the Clean Water Act, and the Clean Streams Law.

81. Submission of any matter to the Court for resolution shall not extend any of the deadlines set forth in this Consent Decree unless the Parties agree to such extension in writing or the Court grants an order extending such deadline. Stipulated penalties with respect to the disputed matter shall continue to accrue but payment shall be stayed pending resolution of the

dispute as provided in Section X. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Consent Decree. In the event that Defendant does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section X (Stipulated Penalties) and consistent with the Court's ruling.

XIII. EFFECT OF SETTLEMENT

82. Compliance with this Consent Decree, including the payment of all civil and stipulated penalties and interest accrued thereon, and the completion of all injunctive relief, shall resolve the United States' and the Commonwealth of Pennsylvania's civil claims for violations of the Clean Water Act and the Clean Streams Law as alleged in the Complaint filed in this matter, through the Date of Lodging of this Consent Decree.

XIV. NON-WAIVER PROVISIONS

83. The Parties agree that Defendant is responsible for achieving and maintaining complete compliance with all applicable federal and Commonwealth laws, regulations, and permits, and that compliance with this Consent Decree shall be no defense to any actions commenced pursuant to said laws, regulations, or permits, except as otherwise expressly specified in the Consent Decree.

84. The United States and Commonwealth of Pennsylvania, do not, by their consent to the Lodging of this Consent Decree, warrant or aver in any manner that Defendant's complete compliance with this Consent Decree will result in compliance with the provisions of the Clean Water Act, 33 U.S.C. §§ 1251 et seq. or with Pennsylvania's water pollution control laws. Notwithstanding EPA's and the Department's review or acceptance of any plans, reports, policies, or procedures formulated pursuant to this Consent Decree, Defendant shall remain solely responsible for any non-compliance with the terms of this Consent Decree, the Clean

Water Act and regulations promulgated under that Act, and Pennsylvania's Environment Article and implementing regulations.

85. The Parties reserve any and all legal and equitable remedies available to enforce the provisions of this Consent Decree.

86. This Consent Decree shall not limit any authority of EPA and the Department under the Clean Water Act, the Clean Streams Law, or any other applicable statute, including the authority to seek information from Defendant or to seek access to the property of Defendant.

87. Performance of the terms of this Consent Decree by Defendant is not conditioned on the receipt of any federal, Commonwealth or local funds. Application for construction grants, Commonwealth revolving loan funds, or any other grants or loans, or delays caused by inadequate facility planning or plans and specifications on the part of Defendant shall not be cause for extension of any required compliance date in this Consent Decree.

88. The United States and the Commonwealth of Pennsylvania reserve all remedies available to them for violations of the Clean Water Act and the Clean Streams Law by Defendant which are not addressed in this Consent Decree.

89. This Consent Decree does not resolve criminal liability, if any, that any person might have for violations of the Clean Water Act or the Clean Streams Law.

90. Nothing in this Consent Decree shall be construed to limit the authority of the United States or the Commonwealth of Pennsylvania to undertake any action against any person, including Defendant, in response to conditions that may present an imminent and substantial endangerment to the environment or to the public health or welfare.

XV. NOT A PERMIT/COMPLIANCE WITH OTHER STATUTES/REGULATIONS

91. This Consent Decree is not and shall not be construed as a permit issued pursuant to Section 402 of the Clean Water Act, 33 U.S.C. § 1342, nor as a modification of any existing permit so issued, nor shall it in any way relieve Defendant of its obligations to comply with

permits, if any, otherwise required for any portion of its Collection System or related sanitary sewage treatment facilities, and with any other applicable federal or Commonwealth law or regulation. Defendant must comply with any new permit, or modification of existing permits, in accordance with applicable federal and Commonwealth laws and regulations.

92. Nothing herein shall be construed as relieving Defendant of the duty to comply with the Clean Water Act and the Pennsylvania Clean Streams Law, the regulations promulgated under those acts, and all applicable permits issued under those acts and regulations.

XVI. COSTS OF SUIT

93. All parties shall bear their own costs and attorney's fees with respect to matters resolved by this Consent Decree.

XVII. RECORD KEEPING

94. Defendant shall maintain copies of any reports, plans, permits and documents, submitted to EPA and the Department pursuant to this Consent Decree, including any underlying research and data, for a period of five (5) years from date of submission. Defendant shall require any independent contractor operating any portion of the Defendant's Collection System or implementing any portion of this Consent Decree to also retain such materials for a period of five (5) years from date of submission. Defendant shall submit such supporting documents to EPA and the Department upon request.

95. In addition to the reports and documentation required to be provided by Defendant under the terms of this Consent Decree, Defendant shall also provide, upon demand, any analytical data or any other documents requested by the United States and the Department to review work done, or to be done, by Defendant or to determine Defendant's compliance with the terms of this Consent Decree.

96. Defendant shall notify EPA and the Department thirty (30) days prior to the disposal or destruction of such records at the end of this five year period and shall, upon EPA's and the Department's request, make such records available to EPA and the Department prior to such disposal or destruction.

XVIII. FORM OF NOTICE

97. Unless otherwise specified, all reports, notices, or any other written communications required to be submitted under this Consent Decree shall be sent to the respective Parties at the following addresses:

As to the United States:

Margaret L. Hutchinson
Chief, Civil Division Eastern District of Pennsylvania
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106-4476
Re: DOJ No. 90-5-1-1-4402/2

Nancy Flickinger
Senior Attorney
United States Department of Justice
Environmental and Natural Resources Division
Ben Franklin Station
P.O. Box 7611
Washington, DC 20044-7611

As to the Environmental Protection Agency:

Pamela Lazos (3RC20)
Senior Assistant Regional Counsel
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103

Lisa Trakis (3WP42)
Water Protection Division
United States Environmental Protection Agency
Region III

1650 Arch Street
Philadelphia, PA 19103

As to Commonwealth of Pennsylvania:

Steve O'Neil
Environmental Group Manager
Water Management Program
Pennsylvania Department of Environmental Protection
2 East Main Street
Norristown, PA 19401

As to Defendant:

Jeff Bartlett
Managing Director of Bristol Township
Bristol Township Municipal Building
2501 Bath Road
Bristol, PA 19007

Russell P. Sacco, Esquire
Solicitor for Bristol Township
53 S. Main Street
Yardley, PA 19067

Notifications to or communications with EPA, the Department and the United States Department of Justice ("DOJ") shall be deemed submitted on the date they are received.

XIX. MODIFICATION

98. This Consent Decree contains the entire agreement of the Parties and shall not be modified by any prior written agreement, representation or understanding. Any disputes concerning modification of this Decree shall be resolved pursuant to Section X of this Decree (Dispute Resolution), provided, however, that instead of the burden of proof provided by Paragraph 80, the Party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with the Fed. R. Civ. P. 65(b). The Consent Decree may be modified by written Order of this Court. Modifications deemed non-material by mutual agreement of EPA, the Department, and Defendant, including extension of deadlines

within this Consent Decree for not more than ninety (90) days, shall be in writing and must be filed with the Court before such modification will be deemed effective but are deemed effective without further written Order of this Court.

XX. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

99. This Consent Decree shall be lodged with the Court for a period of thirty (30) days for public notice and comment, pursuant to the requirements of 28 C.F.R. § 50.7. The United States and the Commonwealth reserve the right to withdraw or withhold their consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper, or inadequate. Defendant consents to the Lodging of this Consent Decree without further notice.

100. If for any reason this Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

XXI. RETENTION OF JURISDICTION

101. This Court shall retain jurisdiction of this matter for the purposes of implementing and enforcing the terms and conditions of this Consent Decree and for the purpose of adjudicating all disputes among the Parties that may arise under the provisions of this Consent Decree, to the extent that this Consent Decree provides for resolution of disputes by the Court. Such jurisdiction shall not terminate until all requirements of this Consent Decree have been fulfilled and all disputes arising under this Consent Decree have been resolved.

XXII. TERMINATION

102. The Consent Decree shall terminate when all of the following events have occurred:

a. Defendant certifies that it has completed all obligations under Section V (Remedial Measures) of this Consent Decree, and that it has maintained compliance with all other requirements of the Consent Decree for a period of one year following completion of its obligations under Section V.

b. Defendant has paid all civil penalties, costs, damages, stipulated penalties, and any other sums due under this Consent Decree; and

c. The Parties file a Joint Motion to Terminate the Consent Decree with the Court and the Court grants the Motion.

103. The Consent Decree shall not terminate if, following certification by Defendant of compliance pursuant to Paragraph 102, above, the United States or the Commonwealth of Pennsylvania assert in writing that full compliance has not been achieved. If the United States or the Commonwealth of Pennsylvania dispute Defendant's full compliance, this Consent Decree shall remain in effect pending resolution of the dispute by the Parties or the Court in accordance with the Dispute Resolution provisions of this Consent Decree.

XXIII. SIGNATORIES/SERVICE

104. The Assistant Attorney General and her designee on behalf of the United States and the undersigned representatives of Defendant and the Commonwealth of Pennsylvania certify that they are fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind such party to this document.

105. Defendant 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.

XXIV. INTEGRATION/APPENDICES

106. 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 Decree and supercede all prior agreements and understandings, whether oral or written. Other than the Appendices, which are attached to and incorporated into this Decree, no other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Decree or the settlement it represents, nor shall it be used in construing the terms of this Decree.

Dated and entered this _____ day of _____ 2010.

UNITED STATES DISTRICT COURT

U.S. District Court Judge

WE HEREBY CONSENT to the entry of the Consent Decree in the United States v. Bristol Township, Civil Action No. _____, subject to the public notice and comment requirements of 28 C.F.R. § 50.7.

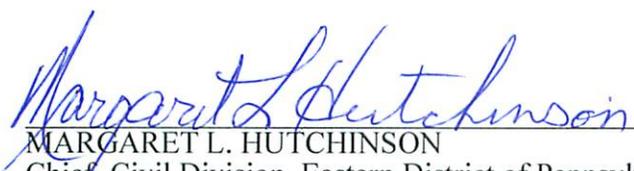
FOR THE UNITED STATES ATTORNEY:



ZANE DAVID MEMEGER
United States Attorney

615 Chestnut Street, Suite 1250
Philadelphia, PA 19106-4476
Re: DOJ No. 90-5-1-1-444402/2

Dated: 9-27-10



MARGARET L. HUTCHINSON
Chief, Civil Division, Eastern District of Pennsylvania
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106-4476
Re: DOJ No. 90-5-1-1-444402/2

Dated: 9-27-10



PAUL W. KAUFMAN
Assistant U.S. Attorney *PLK*
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106-4476
Re: DOJ No. 90-5-1-1-444402/2

Dated: 9-27-10

WE HEREBY CONSENT to the entry of the Consent Decree in the United States v. Bristol Township, Civil Action No. _____, subject to the public notice and comment requirements of 28 C.F.R. § 50.7.

FOR THE UNITED STATES DEPARTMENT OF JUSTICE:



W. Benjamin Fisherow
Deputy Chief
Environmental Enforcement Section
Environment and Natural Resources Division
Ben Franklin Station
P.O. Box 7611
Washington, DC 20044-7611

Dated: 9/8/10



NANCY FLICKINGER
Environmental Enforcement Section
Environment and Natural Resource Division
United States Department of Justice
Ben Franklin Station
P.O. Box 7611
Washington, DC 20044-7611

Dated: 9/9/2010

WE HEREBY CONSENT to the entry of the Consent Decree in the United States v. Bristol Township, Civil Action No. _____, subject to the public notice and comment requirements of 28 C.F.R. § 50.7.

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:



ADAM M. KUSHNER
Office Director
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dated: September 24, 2010



MARK POLLINS
Division Director
Water Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dated: 9/23/10



CAROL DEMARCO
Water Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dated: 9/23/10

WE HEREBY CONSENT to the entry of the Consent Decree in the United States v. Bristol Township, Civil Action No. _____, subject to the public notice and comment requirements of 28 C.F.R. § 50.7.

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:



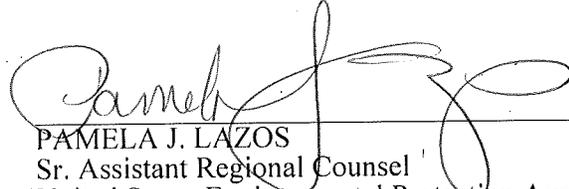
SHAWN M. GARVIN
Regional Administrator
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103

Dated: 9/23/10



MARCIA MULKEY
Regional Counsel
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103

Dated: 9/17/10

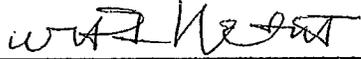


PAMELA J. LAZOS
Sr. Assistant Regional Counsel
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103

Dated: 9/15/10

WE HEREBY CONSENT to the entry of the Consent Decree in the United States v. Bristol Township, Civil Action No.

FOR THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION:



WILLIAM H. GELLES
Assistant Counsel
Pennsylvania Department of Environmental Protection
2 East Main Street
Norristown, PA 19401

Dated: 9/15/2010



JENIFER FIELDS
Water Program Manager
Pennsylvania Department of Environmental Protection
2 East Main Street
Norristown, PA 19401

Dated: 9/15/10

WE HEREBY CONSENT to the entry of the Consent Decree in the United States v. Bristol Township, Civil Action No.

FOR BRISTOL TOWNSHIP:



RICK PLUTA

Bristol Township Council
Council President
2501 Bath Road
Bristol, PA 19007

Dated: 08/19/10



JEFF BARTLETT

Bristol Township
Managing Director
2501 Bath Road
Bristol, PA 19007

Dated: 08/19/10



RUSSELL P. SACCO

Solicitor, Bristol Township
53 South Main Street
Yardley, PA 19067

Dated: 08/19/10