



DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Modification
Under the Clean Water Act

On November 21, 2014, the Department of Justice lodged a proposed Agreed Consent Decree Modification with the United States District Court for the Northern District of Indiana in the lawsuit entitled *United States and State of Indiana v. The City of Fort Wayne, Indiana*, Civil Action No. 2:07-cv-00445-PPS-APR.

The United States and State of Indiana (State) previously filed a complaint against Fort Wayne for violations of the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, in connection with the City of Fort Wayne's operation of its municipal wastewater and sewer system. On April 1, 2008, the Court entered a Consent Decree between the parties that required Fort Wayne to implement various injunctive measures to address its combined sewer overflows (CSOs) and sanitary sewer overflows (SSOs). Under the Consent Decree, the injunctive relief is to be implemented over an 18-year period and is designed to eliminate SSOs and reduce the number of CSOs to approximately one per year on the St. Joseph River and four per year on the St. Marys and Maumee Rivers.

In the process of implementing the injunctive relief, Fort Wayne developed, and proposed to the regulators, an alternative remedy for CSOs 45, 51, 53, 68, and 52, which discharge to the St. Joseph River. The alternative approach will achieve the same level of control as required by the Decree, but will cost less and be completed considerably sooner – by December 2015 instead of December 2019. In addition, Fort Wayne is in the process of developing an alternative approach for CSO Control Measure 9 to address CSOs 54, 61, and 62, which discharge to the St. Marys and Maumee Rivers. The parties have agreed to revise the Consent Decree to allow Fort

Wayne to propose a revised solution, subject to the regulators’ approval in accordance with a process set forth in the Decree, as long as any such proposal is submitted by December 15, 2016 and meets the Performance Criteria and Critical Milestones previously agreed to for Control Measure 9. Finally, the parties have agreed to correct a typographical error concerning CSO Control Measure 9. This Control Measure must be designed to achieve a Performance Criterion of 4 CSO events in a typical year as correctly set forth in Appendix 3, footnote 7, and not one overflow per year, as incorrectly set forth in the text box of Appendix 3 that describes CSO Control Measure 9. The proposed Agreed Consent Decree Modification incorporates all of these changes.

The publication of this notice opens a period for public comment on the proposed Agreed Consent Decree Modification. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Indiana v. The City of Fort Wayne, Indiana*, D.J. Ref. No. 90-5-1-1-07653. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov.
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611.

During the public comment period, the proposed Agreed Consent Decree Modification may be examined and downloaded at this Justice Department website:

http://www.usdoj.gov/enrd/Consent_Decrees.html. We will provide a paper copy of the Agreed

Consent Decree Modification upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611.

Please enclose a check or money order for \$8.50 (25 cents per page reproduction cost) payable to the United States Treasury.

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