

IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS

\_\_\_\_\_)  
 THE UNITED STATES OF AMERICA, )  
 and )  
 THE STATE OF ILLINOIS )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 THE CITY OF PEORIA, ILLINOIS, and )  
 THE GREATER PEORIA SANITARY )  
 AND SEWAGE DISPOSAL DISTRICT )  
 )  
 Defendants. )  
 \_\_\_\_\_)

No.

**CONSENT DECREE**

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WHEREAS, Plaintiffs United States of America (“United States”), on behalf of the United States Environmental Protection Agency (“EPA”), and the State of Illinois (“State”), on behalf of the Illinois Environmental Protection Agency (“Illinois EPA”), have filed, concurrently with the lodging of this Consent Decree, a Complaint alleging that Defendants, the City of Peoria (“Peoria” or the “City”) and the Greater Peoria Sanitary and Sewage Disposal District (“GPSSD” or the “District”), violated Section 301 of the Clean Water Act, 33 U.S.C. § 1311 (“CWA” or “Act”), and the Defendants’ respective National Pollutant Discharge Elimination System permits (“NPDES permits”) issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

WHEREAS, the United States seeks civil penalties and injunctive relief for these violations, pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.

WHEREAS, the State seeks civil penalties and injunctive relief for these violations pursuant to Section 42(d) and (e) of the Illinois Environmental Protection Act, 415 ILCS 5/42(d) and (e).

WHEREAS, the Complaint alleges that Peoria, inter alia, (i) discharged pollutants from Combined Sewer Overflow (“CSO”) Outfalls in a manner which violates the terms and conditions of its NPDES Permit No. IL0037800, the CWA, and/or State law; (ii) failed to develop a Long Term Control Plan to control discharges from CSO Outfalls; and (iii) failed to implement all requirements of the Nine Minimum Controls as outlined and required by Peoria’s NPDES permits.

WHEREAS, Peoria denies such allegations.

WHEREAS, the Complaint separately alleges that GPSSD, inter alia, (i) caused or contributed to the discharge of pollutants from CSO Outfalls from the Combined Sewer System in violation of the CWA and/or State law; and (ii) discharged pollutants from its Sanitary Sewer

System, WWTP, and from Excess Flow Outfalls 005 and 006 in violation of its NPDES Permit No. IL 0021288, the CWA, and/or State law.

WHEREAS, GPSSD denies such allegations.

WHEREAS, Peoria owns and operates a combined sewer collection system within the boundaries of Peoria, and GPSSD, at Peoria's expense and direction, currently responds to customer backup calls and coordinates certain repairs and monitoring for Peoria.

WHEREAS, Peoria submitted a proposed Long Term Control Plan in December 2008 and a revised proposed Long Term Control Plan in March 2010.

WHEREAS, Plaintiffs allege that Peoria's proposed Long Term Control Plans did not conform to the requirements specified in the 1994 Combined Sewer Overflow Control Policy ("CSO Control Policy") and Peoria's NPDES Permit.

WHEREAS, Peoria has agreed to comply with the CWA by continuing to develop and implement a Long Term Control Plan that will eliminate CSO discharges from all of Peoria's CSO outfalls during wet weather events up to and including Peoria's Six-Month Design Storm and Peoria's modeled Typical Year, except the July 21, 1949 storm event of the Typical Year.

WHEREAS, Peoria intends to prioritize and use Green Infrastructure as much as possible to minimize CSOs.

WHEREAS, Peoria intends to develop the Peoria Green Infrastructure Program with the objective of identifying and implementing projects and programs in the combined sewer areas of Peoria that will significantly reduce or eliminate CSOs. In addition to reducing or eliminating CSOs, Peoria seeks to use Green Infrastructure to supplement redevelopment efforts, add green space to the city, increase recreational opportunities, increase groundwater recharge, improve air quality, increase property values, enhance urban quality of life, and improve human health.

WHEREAS, Peoria represents that due to the COVID-19 public health emergency, it is experiencing significant budget shortfalls that are expected to endure at least until January 1, 2022.

WHEREAS, GPSSD owns and operates the Riverfront Interceptor, Throttle Pipes, and Regulator Structures that transport wastewater and stormwater to either GPSSD's wastewater treatment plant or Peoria's CSO outfalls.

WHEREAS, GPSSD has reported discharges of pollutants into the Illinois River from the WWTP and Remote Treatment Units, in violation of its NPDES permit.

WHEREAS, GPSSD has reported discharges of wastewater from point sources, including manholes and basement backups not identified in or authorized by a NPDES permit.

The Parties agree, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that the Consent Decree will avoid complex and protracted 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 fact or law except as provided in Section I, below, and with the consent of the Parties, the Court ORDERS, ADJUDGES, and DECREES as follows:

## **I. JURISDICTION AND VENUE**

1. This Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. §§ 1331, 1345, 1355, and 1367, and Section 309(b) of the Act, 33 U.S.C. § 1319(b), and over the Parties. Venue lies in this District pursuant to Section 309(b) of the Act, 33 U.S.C. § 1319(b), and 28 U.S.C. §§ 1391(b) and 1395(a), because Defendants are located and conduct business in this judicial district and the violations alleged in the Complaint are alleged to have

occurred in this judicial district. For purposes of this Decree, or any action to enforce this Decree, Defendants consent to the Court's jurisdiction over this Decree or such action and over Defendants and consent to venue in this judicial district.

2. For purposes of this Consent Decree, Defendants agree that the Complaint states claims on which relief may be granted pursuant to Section 309 of the Act, 33 U.S.C. § 1319, and Chapter 415 of the ILCS Section 25.

3. Authority for the United States to bring this action is vested in the United States Department of Justice pursuant to Section 506 of the CWA, 33 U.S.C. § 1366, and 28 U.S.C. §§ 516 and 519. Authority for the State to bring this action is vested in the Illinois Attorney General by Section 4 of the Illinois Attorney General Act, 15 ILCS 205/4, and Section 42(d) and (e) of the Illinois Environmental Protection Act, 415 ILCS 5/42(d) and (e).

## **II. APPLICABILITY**

4. The obligations established in this Consent Decree apply to and are binding on the United States and the State, and on GPSSD and Peoria and any of their successors, assigns, or other entities, or persons otherwise bound by law.

5. No transfer of ownership or operation of either Defendant's interest in or operating role with respect to any of the components of the Sanitary Sewer System, Combined Sewer System, or Publicly Owned Treatment Works ("POTW"), whether in compliance with this Paragraph or otherwise, shall relieve Defendants of their respective obligations to ensure that the terms and conditions of this Consent Decree are implemented. At least 30 Days prior to any such transfer, Defendants shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide written notice of the prospective transfer, together with a copy of the proposed written agreement to EPA Region 5, the United States Attorney for the Central

District of Illinois, the United States Department of Justice, the Illinois Attorney General's Office, and the Illinois Environmental Protection Agency in accordance with Section XVI of this Decree (Notices). Any attempt to transfer ownership or operation of any portion of the POTW without complying with this Paragraph is a violation of this Decree. No transfer of ownership or operation of the POTW, whether in compliance with this Paragraph or otherwise, shall relieve Defendants of their respective obligations to ensure that the terms of the Decree are implemented.

6. Defendants shall provide a copy of this Consent Decree to all officers, employees, and agents whose duties reasonably might include compliance with any provision of this Decree, and any contractor retained to perform work required by this Consent Decree. Defendants shall condition any such contract on performance of the work in conformity with the terms of this Consent Decree. The requirement to provide a copy of this Consent Decree will be satisfied if Defendants provide an electronic copy or a link to a website where the Consent Decree can be found with a requirement that those accessing the Consent Decree via the website provide a written confirmation to Defendants, via email or otherwise, that the individual accessed the document.

7. In any action to enforce this Consent Decree, Defendants shall not raise as a defense the failure of any of their officers, directors, employees, agents, or contractors to take any actions necessary to comply with the applicable provisions of this Consent Decree.

### III. OBJECTIVES

8. It is the express purpose of the Parties in entering this Consent Decree to further the objectives of the Act, as enunciated in Section 101 of the Act, 33 U.S.C. § 1251, and the objectives of the Illinois Environmental Protection Act, 415 ILCS 5/1, *et seq.* All plans, reports, construction, remedial maintenance, and other obligations in this Consent Decree or resulting from the activities required by this Consent Decree shall have the objective of causing Peoria and the District to come into and remain in full compliance with the terms and conditions of their respective NPDES Permits, to meet the objectives of the Wet Weather Water Quality Act of 2000, and to eliminate discharges from the Remote Treatment Units identified in this Consent Decree, as these terms are defined in Section IV (Definitions) of this Consent Decree and as applicable to each Defendant.

### IV. DEFINITIONS

9. Terms used in this Consent Decree, including the attached Appendices, that are defined in the Act or in regulations promulgated pursuant to the Act or in either of Defendant's current NPDES Permits, shall have the meanings assigned to them therein, unless otherwise defined by this Decree. Whenever the terms set forth below are used in this Consent Decree, including the attached Appendices, the following definitions shall apply:

a. "Act" or "CWA" shall mean the Clean Water Act, 33 U.S.C. § 1251 *et seq.*

b. "Building/Property Backup" shall mean a wastewater release or backup into a building or onto property caused by blockages, flow conditions, or other conditions in the Combined Sewer System or the Sanitary Sewer System. A wastewater backup or release that is caused solely by conditions in a Private Service Connection Lateral is not a Building/Property



Backup for purposes of this Consent Decree, nor is a wastewater backup or release caused by an isolated action by a third party, such as the illegal dumping of debris in a manhole. This exemption shall not include backups caused by conditions in sewers owned and/or operated by Defendants—such as grease, root or debris blockages, or collapses—that would be addressed by an appropriate preventative maintenance program.

c. “Business Day” shall mean Monday through Friday, except for federal holidays.

d. “City” or “Peoria” shall mean the City of Peoria, Illinois, or any successor entity.

e. “Combined Sewer Overflow” or “CSO” shall mean any discharge from a discharge point or Outfall located in the Combined Sewer System, including those listed in Special Condition 6 of Peoria’s NPDES Permit.

f. “Combined Sewer System” or “CSS” shall mean the portions of the sewer system that convey municipal sewage (domestic, commercial, and industrial wastewaters) and stormwater through a collection/transmission/storage-system to the WWTP or Combined Sewer Overflow structures. The term “Combined Sewer System” includes the collection system owned and operated by Peoria, including the CSO Outfalls and associated CSO Outfall pipes, as well as the Throttle Pipes, Regulator Structures, and Riverfront Interceptor owned and operated by GPSSD. The term “Combined Sewer System” also includes facilities constructed (or to be constructed) in the combined sewer area in accordance with this Consent Decree.

g. “Complaint” shall mean the Complaint filed by the United States and the State of Illinois in this action.

h. “Consent Decree” or “Decree” shall mean this Decree and all appendices attached hereto and listed in Section XXV (Appendices).

i. “CSO Control Policy” shall mean the policy issued by EPA regarding combined sewer overflows, entitled “Combined Sewer Overflows (CSO) Control Policy,” 59 Fed. Reg. 18,688 (April 19, 1994),<sup>1</sup> and as identified in Section 402(q) of the Clean Water Act, 33 U.S.C. § 1342(q).

j. “CSO Individual Event” shall mean a discharge from an individual CSO outfall listed in Peoria’s currently applicable NPDES permit within an Interim Performance Criteria milestone year as a result of precipitation events that are the same size or smaller than the Six-Month Design Storm. The applicable rainfall events shall be determined by comparison between the Six-Month Design Storm’s 2-hour, 3-hour, and 6-hour peaks and the applicable rainfall event’s 2-hour, 3-hour, and 6-hour peak using Appendix A of this Consent Decree. Multi-day CSO discharges will be considered a single CSO Individual Event if there are fewer than 24 hours between CSO discharges.

k. “CSO Remedial Measure(s)” shall mean the measure(s) or project(s) undertaken by Peoria or GPSSD to meet the Performance Criteria.

l. CSO Remedial Measures Program shall mean the program developed by Peoria, pursuant to the requirements of Subsection VI.A.1 of this Consent Decree and submitted to EPA and Illinois EPA for review and approval.

m. “CSO Evaluation Volume” shall mean the total volume discharged from Peoria’s CSO outfalls within an Interim Performance Criteria milestone year during rainfall events that are the same size or smaller than the Six-Month Design Storm. The applicable

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<sup>1</sup> <https://www.epa.gov/npdes/npdes-cso-control-policy>

precipitation events shall be determined by comparison between the Six-Month Design Storm's 2-hour, 3-hour, and 6-hour peaks and the applicable rainfall event's 2-hour, 3-hour, and 6-hour peak using Appendix A of this Consent Decree.

n. "Combined Sewer System Release" or "CSS Release" shall mean a release of wastewater from the Combined Sewer System at a point source not specifically identified in Peoria's NPDES Permit as well as any release of wastewater from the Combined Sewer System to public or private property, whether or not the release of wastewater reaches waters of the State or United States, such as a release to a land surface or into a structure; provided, however, that such releases which are caused solely by conditions in a Private Service Connection Lateral are not CSS Releases for the purpose of this Consent Decree. Peoria and GPSSD shall not be liable for stipulated penalties for a release of wastewater from the CSS caused by an isolated action by a third party, such as the illegal dumping of debris in a manhole, so long as Peoria and/or GPSSD demonstrate that an isolated third party action caused the CSS Release. This exemption shall not include releases caused by conditions in sewers owned and/or operated by Defendants—such as grease, root or debris blockages, or collapses—that would be addressed by an appropriate preventative maintenance program.

o. "Day" shall mean a calendar day unless expressly stated to be a Business Day. In computing any period of time under this 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 Business Day.

p. "Defendants" shall mean the City of Peoria and the Greater Peoria Sanitary and Sewage Disposal District.

q. “Deliverable” shall mean any written document required to be submitted by either Peoria and/or GPSSD to EPA and Illinois EPA for review and approval under this Consent Decree.

r. “Effective Date” shall have the definition provided in Section XVII (Effective Date).

s. “EPA” shall mean the United States Environmental Protection Agency and any of its successor departments or agencies.

t. “Final Conditions H&H Model” shall mean a successfully calibrated and validated Hydrologic and Hydraulics (H&H) model including all of the fully operational CSO Remedial Measures implemented by December 31, 2039. The Final Conditions H&H Model will be developed by Peoria and submitted to EPA and Illinois EPA as part of Peoria’s Post-Construction Compliance Monitoring Report.

u. “Final Performance Criteria” shall mean each of the following:

- Eliminating CSOs during all storms less than or equal to the hourly rainfall intensity and the total rainfall depth produced by the Six-Month Design Storm;
- Eliminating CSOs for all but one precipitation event (July 21, 1949) during Peoria’s Typical Year;
- Limiting the CSO volume discharged during July 21, 1949, storm to no more than 16.3 million gallons when analyzed in Peoria’s approved Final Conditions H&H Model; and
- No CSOs during a precipitation event equal to or smaller than (i) Peoria’s Six-Month Design Storm event and (ii) Peoria’s Typical Year precipitation events

(excluding the July 21, 1949 Typical Year precipitation event), in accordance with Appendix F, from December 31, 2039 to the termination of this Consent Decree.

v. “Flow Meter” shall mean a device used to continuously record both flow activation and volume discharged at a specific point within the Combined Sewer System or Sanitary Sewer System. Flow data recorded to calculate flow volume discharged shall be (i) flow level and velocity or (ii) flow level only if a reliable level-flow rate relationship has been demonstrated and approved by EPA and Illinois EPA.

w. “GPSSD” or “the District” shall mean the Greater Peoria Sanitary and Sewage Disposal District, or any successor entity.

x. “Gray Infrastructure” for purposes of this Consent Decree shall mean engineered structural control practices to control CSOs that are not Green Infrastructure as defined in this Decree. Examples include tunnel systems, storage tanks, in-line storage facilities, sewer lines, and pump stations.

y. “Green Infrastructure” or “GI” for purposes of this Consent Decree shall refer to the range of stormwater control systems that use plant/soil systems, permeable pavement, stormwater harvest and reuse, or native landscaping to store, infiltrate, and/or evapotranspire stormwater and reduce flows to the combined sewer collection system. Green Infrastructure may include, but is not limited to bioretention, bioswales, extended detention wetland areas, green roofs, and permeable pavement. Green Infrastructure includes practices to harvest and reuse stormwater from storage equipment or facilities, such as rain barrels and cisterns.

z. “Illinois EPA” shall mean the Illinois Environmental Protection Agency and any successor departments, agencies, or instrumentalities of the State.

aa. “Infiltration” is defined by 40 C.F.R. § 35.2005(b)(20).

bb. “Insufficient Precipitation” occurs when one or more of the following conditions are met:

- 70% or less than Peoria’s climatological annual precipitation (which is 25.54 inches) occurs, averaged by Peoria’s rain gauges in the Combined Sewer System or the Sanitary Sewer System tributary to the Riverfront Interceptor, over the monitoring period;
- Peoria’s rain gauges in the Combined Sewer System or the Sanitary Sewer System tributary to the Riverfront Interceptor indicate that 4 or fewer qualifying precipitation events occur at any one of Peoria’s rain gauges (or at multiple rain gauges). For the purposes of this condition, qualifying precipitation events will have a 2-hour, 3-hour, and/or 6-hour peak precipitation amount(s) that are between those of the Two-Month Design Storm and Six-Month Design Storm over the monitoring period.
- For 39 full weeks or more over the monitoring period, a portion of Peoria County (Illinois) is considered in D0 (Abnormally Dry) or a more severe drought indicator, pursuant to the United States Drought Monitor (<https://droughtmonitor.unl.edu>) or an equivalent drought monitoring system.

cc. “Interim Performance Criteria” shall mean the performance criteria set forth in Subsection VI.A.2 of this Consent Decree.

dd. “Interim Performance Criteria Evaluation Monitoring Period” shall mean the periods described in the chart in Paragraph 31. Peoria will conduct monitoring within its

Combined Sewer System to determine compliance with applicable Interim Performance Criteria during these years.

ee. “Million Gallons per Day” or “MGD” means a flow rate expressed in millions of gallons per day. A flow rate for a shorter period of time, such as an hour, may also be expressed in MGD. For example, a flow of one million gallons in an hour would be equivalent to a daily flow of 24 MGD.

ff. “Nine Minimum Controls” or “NMC” shall mean the Nine Minimum Controls set forth in the CSO Control Policy and discussed in EPA’s May 1995 publication entitled “Combined Sewer Overflows: Guide for Nine Minimum Controls.”<sup>2</sup>

gg. “NPDES Permit” means an effective permit issued in accordance with the National Pollutant Discharge Elimination System pursuant to the CWA.

hh. “Outfall” means a type of “point source,” as that term is defined in Section 502(14) of the CWA, 33 U.S.C. § 1362(14), that serves as a discharge point from the Combined Sewer System and/or the Sanitary Sewer System. “Outfall” followed by an Arabic numeral means that Outfall assigned that Discharge Number in either Defendants’ NPDES Permit. Peoria owns the CSO Outfalls referenced in Peoria’s NPDES Permit; GPSSD owns the WWTP Outfalls and the Remote Treatment Unit Outfalls referenced in GPSSD’s NPDES Permit.

ii. “Paragraph” shall mean a portion of this Consent Decree identified by an Arabic numeral, romanette, or lowercase letter.

jj. “Parties” shall mean the United States, the State, GPSSD, and Peoria.

kk. “Performance Criteria” shall mean both the Interim Performance Criteria and the Final Performance Criteria.

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<sup>2</sup> EPA 832-B-95-003, available at <https://www.epa.gov/npdes/npdes-cso-guidance-documents>.

ll. “Plaintiffs” shall mean the United States and the State of Illinois.

mm. “Private Service Connection Lateral” shall mean the portion or portions of the Combined Sewer System or Sanitary Sewer System, not owned by Defendants, used to convey wastewater from a building or buildings to that portion of the Combined Sewer System or Sanitary Sewer System owned by either Defendant.

nn. “Proposed Conditions H&H Model” shall mean a Hydrologic and Hydraulics model based on future conditions after Peoria implements currently feasible CSO Remedial Measures that will achieve the Final Performance Criteria.

oo. “Publicly Owned Treatment Works” or “POTW” shall mean a treatment works as defined in Section 212(2) of the Act, 33 U.S.C. § 1292(2), which is owned by a State or a municipality (as defined by Section 502(4) of the Act, 33 U.S.C. § 1362(4)). This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in section 502(4) of the Act, 33 U.S.C. § 1362(4), which has jurisdiction over indirect and direct discharges from such a treatment works.

pp. “Regulator Structures” shall mean the GPSSD-owned components connected to Peoria’s Combined Sewer System that direct municipal sewage and stormwater from the portion of the Combined Sewer System owned and operated by Peoria into GPSSD’s Riverfront Interceptor or Peoria’s CSO Outfalls.

qq. “Remote Treatment Units” shall mean the two GPSSD-owned and operated treatment facilities within GPSSD’s Sanitary Sewer System; these facilities discharge to



outfalls GPSSD's NPDES Permit identifies as 005 Paramount Road Excess Flow Outfall and 006 Rutledge Excess Flow Outfall.

rr. "Riverfront Interceptor" or "RI" shall mean the GPSSD-owned sewer downstream of Peoria's Combined Sewer System that receives municipal sewage and stormwater (either directly or indirectly) from the portion of the Combined Sewer System owned and operated by Peoria and that transports that sewage and stormwater to the WWTP.

ss. "Sanitary Sewer System" shall mean all portions of the POTW sewer system that are intended to convey liquid and water-carried waste to the WWTP or to any sanitary sewer overflow structure from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

tt. "Sanitary Sewer Overflow" or "SSO" means any discharge to waters of the State or United States from the Sanitary Sewer System through point sources not authorized to discharge in any NPDES permit, as well as any release of wastewater from the Sanitary Sewer System to public or private property, whether or not the release of wastewater reaches waters of the State or United States, such as a release to a land surface or into a structure; provided, however, that such releases which are caused solely by conditions in a Private Service Connection Lateral are not SSOs for the purpose of this Consent Decree. Peoria and GPSSD shall not be liable for stipulated penalties for an SSO caused by an isolated action by a third party, such as the illegal dumping of debris in a manhole, so long as Peoria and/or GPSSD demonstrate that an isolated third party action caused the SSO. This exemption shall not include releases caused by conditions in sewers owned and/or operated by Defendants—such as grease,

root or debris blockages, or collapses—that would be addressed by an appropriate preventative maintenance program. The term SSO includes Building/Property Backups as defined above.

uu. “Section” shall mean a portion of this Consent Decree identified by a Roman numeral, unless the Consent Decree states that the “Section” referred to is a Section of the Clean Water Act.

vv. “Six-Month Design Storm” shall mean a six-month, six-hour precipitation event as defined by the Illinois State Water Survey, Rainfall Frequency Atlas of the Midwest by Floyd A. Huff and James R. Angel dated 1992, Bulletin 71 (MCC Research Report 92-03) with a total rainfall depth of 1.53 inches over 6 hours, a 1-hour precipitation peak of 0.66 inches, a 2-hour precipitation peak of 1.11 inches, a 3-hour precipitation peak of 1.29 inches, a 4-hour precipitation peak of 1.39 inches, a 5-hour precipitation peak of 1.46 inches, and a 6-hour precipitation peak of 1.53 inches, that utilizes the Huff first-quartile rainfall distribution. The Six-Month Design Storm is further described in Appendix E.

ww. “Starting Conditions H&H Model” shall mean the calibrated and validated Hydrologic and Hydraulics model that represents Peoria’s Combined Sewer System and the Sanitary Sewer System tributary to the Riverfront Interceptor before Peoria implemented any CSO Remedial Measures in 2015. The Starting Conditions H&H Model, as approved by EPA and Illinois EPA in the CSO Remedial Measures Program, shall not change throughout the implementation of this Consent Decree for any reason unless specifically approved by EPA and Illinois EPA.

xx. “State” shall mean the State of Illinois.

yy. “Throttle Pipes” shall mean the conveyance pipes currently owned and operated by GPSSD that connect the Regulator Structures to the Riverfront Interceptor.

zz. “Two-Month Design Storm” shall mean a two-month, six-hour precipitation event as defined by the Illinois State Water Survey, Rainfall Frequency Atlas of the Midwest by Floyd A. Huff and James R. Angel dated 1992, Bulletin 71 (MCC Research Report 92-03) with a total rainfall depth of 1.03 inches over 6 hours, with a 2-hour precipitation peak of 0.75 inches, a 3-hour precipitation peak of 0.87 inches, and a 6-hour precipitation peak of 1.03 inches, that utilizes the Huff first-quartile rainfall distribution.

aaa. “Typical Year” shall refer to the precipitation that occurred in Peoria during the 1949 calendar year as recorded at the General Wayne A. Downing Peoria International Airport except for the storm event from December 20<sup>th</sup> to December 21<sup>st</sup>. Peoria’s Typical Year is further defined in Appendix C.

bbb. “United States” shall mean the United States of America, acting on behalf of EPA.

ccc. “Unrestricted Design Flow Rate” shall mean the design flow into the Riverfront Interceptor from one or more Regulator Structures via one or more Throttle Pipes, if applicable, that could be achieved when the water level in the Regulator Structure(s) is at the overflow height(s) and the Throttle Pipes (or Regulators, in the event that there are no Throttle Pipes) connecting to the Riverfront Interceptor are at free discharge. It is understood that even with improvements designed to the Unrestricted Design Flow Rate, the Riverfront Interceptor will rarely be immediately completely full and the actual flow will typically be lower than as designed due to multiple factors, such as, but not limited to: location of rainfall, hydraulic conditions, or flow controls.

ddd. “Wastewater Treatment Plant” or “WWTP” shall mean the Wastewater Treatment Plant identified in the NPDES Permit issued to GPSSD, located at 2322 South Darst Street in Peoria and owned and operated by GPSSD.

## V. CIVIL PENALTY

10. Within 30 Days after the Effective Date of this Consent Decree, (i) Peoria shall pay the sum of \$75,000 to the United States and \$25,000 to the State, as a civil penalty; and (ii) GPSSD shall pay the sum of \$75,000 to the United States and \$75,000 to the State, as a civil penalty. Each Defendant shall also pay interest from the date on which the Consent Decree is lodged with the Court, accruing at the rate specified in 28 U.S.C. § 1961 as of the Effective Date of this Consent Decree.

11. The civil penalty shall be paid as follows:

a. Payment to the United States shall be made by FedWire Electronic Funds Transfer (“EFT”) to the U.S. Department of Justice in accordance with written instructions to be provided to each Defendant, following entry of the Consent Decree, by the Financial Litigation Unit of the U.S. Attorney’s Office for the Central District of Illinois, 318 South 6th Street, Springfield, IL 62701. At the time of payment, each Defendant shall send a copy of the EFT authorization form and the EFT transaction record, together with a transmittal letter, which shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in *United States of America, et al. v. The City of Peoria, et al.*, and shall reference the civil action number and DOJ case number 90-5-1-1-08724, to the United States in accordance with Section XVI (Notices); by email to [acctsreceivable.CINWD@epa.gov](mailto:acctsreceivable.CINWD@epa.gov); and by mail to:

EPA Cincinnati Finance Office  
26 Martin Luther King Drive

Cincinnati, OH 45268

b. Payment to the State shall be made by certified check, payable to the Illinois EPA for deposit to the Environmental Protection Trust Fund (“EPTF”). Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency  
Fiscal Services  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

The name and case number shall appear on the face of the check. A copy of the certified check shall be sent to:

Ellen O’Laughlin  
Environmental Bureau  
Illinois Attorney General’s Office  
69 West Washington Street, Suite 1800  
Chicago, IL 60602

## **VI. COMPLIANCE REQUIREMENTS**

12. Each Defendant shall properly operate and maintain its respective portion of the Combined Sewer System including all improvements, Green and Gray Infrastructure, and all other CSO Remedial Measures implemented pursuant to this Consent Decree.

### **A. Peoria Requirements**

13. Peoria shall operate and maintain the Combined Sewer System in accordance with the Nine Minimum Controls.

14. Performance Criteria. Peoria shall comply with the Final Performance Criteria starting on December 31, 2039, as set forth in Subsections VI.A.3 and VI.A.4. Peoria shall also meet the Interim Performance Criteria as set forth in Subsection VI.A.2. Meeting the Interim Performance Criteria will ensure that Peoria:

a. Reduces Peoria's CSO Individual Events from the Starting Conditions H&H Model by 25 percent by December 31, 2028, by 40 percent by December 31, 2031, and by 60 percent by December 31, 2035; and

b. Reduces its CSO Evaluation Volume from the Starting Conditions H&H Model by 20 percent by December 31, 2025, by 35 percent by December 31, 2028, by 50 percent by December 31, 2031, and by 70 percent by December 31, 2035.

**1. CSO Remedial Measures Program**

15. By August 31, 2022, Peoria shall submit to EPA and Illinois EPA for review and approval a CSO Remedial Measures Program that meets the requirements of this Subsection VI.A.1.

16. Hydrologic and Hydraulic Modeling. The CSO Remedial Measures Program shall include:

a. An updated model report for Peoria's Starting Conditions H&H Model, including relevant calibration and validation data and model output for Peoria's Six-Month Design Storm and Peoria's Typical Year. Peoria will also:

i. Develop and submit a table that lists the total CSO volume discharged at each CSO outfall during Peoria's Six-Month Design Storm and Peoria's Typical Year in the Starting Conditions H&H Model.

b. An electronic and executable copy of the Starting Conditions H&H Model in the most recent version of EPA's Stormwater Management Model ("SWMM"), version 5.1. Peoria will also confirm that this submitted Starting Conditions H&H Model SWMM will produce identical model output as Peoria's Starting Conditions H&H Model.

c. A Rain Gauge Location Map showing the locations of each of the rain gauges that Peoria will use to record precipitation during the Interim Performance Criteria Evaluation Monitoring Period and during its Post-Construction Compliance Monitoring. Peoria will also list the type of rain gauges used at each of these locations and explain how the rain gauges will be used within Peoria's Starting Conditions H&H Model. Peoria's rain gauge placement shall be consistent with accepted industry practices and, at a minimum, not less than one rain gauge for every two square miles of monitoring area. Peoria will utilize the information obtained from the rain gauges included in Rain Gauge Location Map to (i) determine compliance with the Interim Performance Criteria, including using the precipitation data in the Starting Conditions H&H Model; (ii) determine compliance with the Final Performance Criteria, including using the precipitation data to calibrate and validate the Final Condition H&H Model; and (iii) track precipitation events after the implementation of Peoria's CSO Remedial Measures Program. Peoria shall timely repair or replace any malfunctioning Rain Gauge upon becoming aware of a malfunction, and the deadlines in Paragraph 21 shall apply. Peoria may add and use additional rain gauges during and/or after the implementation of Peoria's CSO Remedial Measures Program if needed, provided that:

- i. The rain gauges shall utilize tipping bucket technology;
- ii. The rain gauges shall have a sensitivity of 0.01 inches;
- iii. The rain gauges can record precipitation in at least hour intervals;
- iv. The original rain gauge locations in the approved CSO Remedial Measures Program are unchanged (unless new locations are approved by EPA and Illinois EPA);

- v. The additional rain gauges are added within the Combined Sewer System or the Sanitary Sewer System that is tributary to the Riverfront Interceptor; and
- vi. The additional rain gauges are documented in Peoria's CSO Annual Report.

Peoria's Annual Report documentation will include a description of the gauge type, a photograph of the new gauge location, an explanation of why the rain gauges were added, the date that the gauge went into service, and the submittal of an updated Rain Gauge Location Map if Peoria adds additional rain gauges.

d. A demonstration using Proposed Conditions H&H Model output that Peoria will use to identify controls intended to meet the Final Performance Criteria, including a list of CSO Remedial Measures sufficient for Peoria to do so. This list of CSO Remedial Measures shall include general information such as the type of project, project description, project location, and sewershed location, and the computed amount of wastewater or stormwater captured, stored, or infiltrated by each project.

17. Flow Monitoring Implementation Plan. The CSO Remedial Measures Program shall include a Flow Monitoring Implementation Plan.

18. The Flow Monitoring Implementation Plan shall provide for the measurement of flow with a Flow Meter for each CSO listed in Paragraph 18.b, and shall include the following components:

- i. The location of the CSO discharge for each of the CSOs listed in Paragraph 18.b;



- ii. A description and schematic of the flow monitoring location for each of the CSOs listed in Paragraph 18.b;
- iii. How flow is being calculated at each monitoring location for each of the CSOs listed in Paragraph 18.b;
- iv. If the CSO discharge is being calculated by the Flow Meter using flow level only, Peoria will include information to demonstrate a reliable level-flow rate relationship and a reliable volume calculation for the Flow Meter;
- v. If new Flow Meters are being installed, Peoria will provide an implementation schedule that includes a fully-operational date for the new Flow Meter(s), not to exceed 60 days from EPA's and Illinois EPA's approval of the CSO Remedial Measures Program. Peoria may set additional Flow Meters after approval of the CSO Remedial Measures Program with approval of EPA and Illinois EPA; and
- vi. A Maintenance Plan for Peoria's Flow Meters.

b. The Flow Monitoring Implementation Plan shall provide the information

in this Paragraph for the following CSOs:

- CSO 001 – Green Street
- CSO 003 – Spring/Caroline
- CSO A06 – Old Eaton Street
- CSO B06 – New Eaton Street
- CSO A07 – Fayette Street
- CSO 009 – Fulton Street
- CSO 016 – Cedar Street
- CSO 017 – South Street
- CSO 018 – Sanger Street
- CSO 019 – Darst Street
- CSO 020 – Main Street

c. The Flow Monitoring Implementation Plan shall also describe CSO detection methods utilized at Peoria's remaining CSOs and any maintenance procedures for these CSO detection methods.

19. The Flow Meters required by the previous Paragraph shall be area-velocity or flow level sensor Flow Meters that will have the ability to automatically alert Peoria of a CSO event and allow for recorded data accessed instantaneously through telemetry. If Peoria utilizes flow level only Flow Meters to calculate flow from the CSOs listed in Paragraph 18.b, Peoria shall demonstrate, for EPA and Illinois EPA approval, that the flow level only sensor can be used to produce a reliable volume calculation. Each Flow Meter shall have a malfunction alarm, and Peoria shall visually inspect each Flow Meter no less than twice per year to ensure that each is in proper working order. In addition, Peoria shall conduct preventative maintenance and calibration service on all Flow Meters in accordance with the manufacturer's recommended maintenance and calibration program. Peoria shall retain all records of the maintenance and calibration services.

20. The Flow Monitoring Implementation Plan shall also describe how Peoria will calculate CSO volume discharged and CSO Individual Events at all of its NPDES permitted CSOs if any of its Flow Meters are inoperable or malfunctioning or if the CSOs are not included in the CSO Outfall list in Paragraph 18.b.

21. Repair and Replacement. Peoria shall timely repair or replace any malfunctioning Flow Meter upon becoming aware of a malfunction. If a repair of the malfunctioning Flow Meter is possible, then Peoria shall repair the malfunctioning Flow Meter no later than 30 Days after the date Peoria becomes aware of the malfunction, except that if access to the meter is prohibited by high river stage, Peoria shall complete the repair as soon as access is feasible. If it

is determined that repair of the malfunctioning Flow Meter is not possible, then Peoria shall enter into a contract to purchase a replacement and install the new Flow Meter no later than 60 Days after the date Peoria becomes aware of the malfunction, except that if access to the meter is prohibited by high river stage, Peoria shall complete the replacement as soon as access is feasible. Peoria shall retain a log that records the date of any malfunction, the steps taken to repair the malfunctioning part, and the initial date that the CSO Flow Meter was returned to service or determined to be in need of replacement.

22. Sewersheds. Peoria shall delineate its sewersheds so that each sewershed is tributary to a single CSO outfall, with the exception of the sewershed that is tributary to both CSO A06 and CSO B06, and include a map of its sewershed delineation in the CSO Remedial Measures Program submittal. Peoria shall not change its sewershed delineation after EPA's and Illinois EPA's approval of the CSO Remedial Measures Program, except upon approval of EPA and Illinois EPA.

23. GI Design Manual. The CSO Remedial Measures Program shall include a GI Design Manual. The GI Design Manual shall include, at a minimum, the following information for each type of GI that Peoria will use to comply with its Interim Performance Criteria and Final Performance Criteria:

- a. A comprehensive description of the technology, how it is expected to work, and how it will be constructed.
- b. Typical design standards, including identification of the materials to be used for each type of GI technology. Peoria shall include references to technical guidance that presents industry-accepted practices as it develops its typical design standards for each type of GI technology it will use in its CSO Remedial Measures Program.

c. An explanation of how the GI technology will be modeled in Peoria's Final Conditions H&H Model.

d. A description of the construction considerations for the technology and what pre-construction and post-construction testing will be required.

24. Public Participation. The CSO Remedial Measures Program shall include a Public Participation Plan that describes how Peoria will involve the public in the decision making for implementation of the CSO Remedial Measures Program. The Public Participation Plan shall include, but not be limited to, the following:

a. The means by which Peoria shall make information pertaining to the development of any CSO Remedial Measure available for public for review;

b. The means by which Peoria shall solicit comments from the public on any CSO Remedial Measure;

c. The means by which Peoria shall conduct public meetings regarding the proposed CSO Remedial Measures on at least an annual frequency; and

d. The means by which Peoria shall consider public comments regarding CSO Remedial Measures.

25. In accordance with Peoria's public outreach responsibilities under the CSO Control Policy, Peoria shall:

a. Provide enhanced public notification of each discharge commencement event of the CSOs listed in Paragraph 18.b:

i. Sign Location. Peoria will maintain CSO location signs at each CSO listed in Paragraph 18.b. Each sign shall be two-sided: one side of the sign will face the Illinois River and the other side will face land. Peoria's CSO

location signs shall clearly indicate that a CSO discharge location is present at this location.

ii. Email Notification. Peoria will send an automated email using its distribution list within two hours of learning of a CSO. If the CSO occurs outside of regular business hours (8:00 am to 5:00 pm), including after 3:00 pm, Peoria shall send its automated email by 10:00 am the next Day. Peoria shall send an additional CSO notification email using its distribution list by 10:00 am the next Day if a discharge from one of its CSOs is still occurring. Peoria shall also send an additional CSO notification using its distribution list by 10:00 am if the CSO discharge occurred less than 48 hours ago. Peoria shall maintain a link on its website instructing people on how to sign up for its CSO email notification.

iii. Website Notice. Peoria shall update its website homepage within four hours after becoming aware, through its Flow Meters, that a CSO discharge has occurred. If the CSO occurs outside of regular business hours (8:00 am to 5:00 pm), including after 1:00 pm, Peoria shall update its website with the CSO notification by 10:00 am the next Day. Peoria shall leave up this CSO notification for at least 48 hours after the CSO discharge has ended.

b. Develop and maintain a public website that contains the following

information:

i. Total CSO volume on a monthly basis discharged from each CSO outfall;

- ii. An associated table and graph that charts the total amount of CSO volume discharged each month and the total rainfall each month, as recorded by Peoria's rain gauge network;
- iii. Any applicable water quality monitoring results of the CSO receiving waters;
- iv. The dangers to human health and the environment from CSOs; and
- v. An electronic database on Peoria's public website of all the deliverables required by this Consent Decree, in a matter that is readily accessible, clearly labeled, and clearly presented to the public.

26. GI Performance Testing Plan. The CSO Remedial Measures Program shall include a GI Performance Testing Plan. The GI Performance Testing Plan will include a testing program for pre-construction and post-construction analysis of each type of GI CSO Remedial Measure project that Peoria anticipates using to reach the Performance Criteria. For each GI CSO Remedial Measure implemented, Peoria will be required to implement initial performance testing and recurring long-term performance tests, conducted at a minimum frequency of once every three years, in order to track any changes in performance. This performance testing shall be designed to include an assessment of the infiltration rates associated with the GI CSO Remedial Measure, including soil below the GI CSO Remedial Measure, and this information will be used in the Final Conditions H&H model. The GI Performance Testing Plan shall also be designed to demonstrate the benefits and effectiveness of each GI CSO Remedial Measure and an evaluation process to determine if the performance testing indicates that maintenance of the GI CSO Remedial Measure is needed.

27. CSO Remedial Measures Operation and Maintenance Plan. The CSO Remedial Measures Program shall include a CSO Remedial Measures Operation and Maintenance Plan that sets forth the maintenance frequency and responsible party for all CSO Remedial Measures, including GI CSO Remedial Measures. The CSO Remedial Measures Operation and Maintenance Plan will also include the following description of operation and maintenance activities:

a. Routine Inspections and Maintenance. A description of and schedule for routine inspections and maintenance of the different types of GI CSO Remedial Measures. Routine inspections, and maintenance, if needed, shall occur at least four times per year from March to November, with one inspection to take place in November, as well as additional inspections within 48 hours after each rainfall with more than 1-inch of depth. Routine inspections shall include, at a minimum:

- i. Removal of trash and debris from the GI CSO Remedial Measures.
- ii. Assessment of vegetation conditions (if applicable) for viability of desired vegetation and to remove unwanted vegetation.
- iii. Assessment of embankment and outlet stabilization.
- iv. Assessment of integrity of mechanical components.
- v. Assessment of the general operation of the GI CSO Remedial Measures identifying and addressing any items that impede the measures' general operational function.
- vi. Removal of sediment accumulated in the GI CSO Remedial Measures that is blocking inlets, outlets, forebays, low flow orifices, accumulating over

the mulch or soil media, or otherwise contributing to clogging that will interfere with the functionality of the Green Infrastructure.

b. Non-Routine Maintenance. A description of non-routine maintenance of the GI CSO Remedial Measures. Non-routine maintenance shall include, at a minimum, when necessary:

- i. Stabilization of embankments and outlet structures;
- ii. Replacement or replenishment of vegetation (if applicable); and
- iii. Repair and/or replacement of mechanical components.

28. Peoria shall commit to a procedure that Peoria will use to track and document on-going maintenance activities and the performance of each GI CSO Remedial Measure. Such documentation shall be maintained by Peoria in a Geographic Information System (“GIS”) electronic format or equivalent.

29. Peoria shall utilize industry-accepted GI and Gray Infrastructure maintenance practices when developing its CSO Remedial Measures Operation and Maintenance Plan.

30. New Technology Update. If Peoria proposes to use a different type of Green Infrastructure or Gray Infrastructure technology, not included in its initial GI Design Manual, within the CSO Remedial Measures Program, Peoria will resubmit a Revised CSO Remedial Measures Program, including updates to those components of the program that require updating, including at least the GI Design Manual and CSO Remedial Measures Operation and Maintenance Plan, with the new technology information, pursuant to the requirements for the original submittals. Peoria shall submit the updated reports 180 days before it plans on implementing the new technology. The new and/or revised sections of the CSO Remedial



Measures Program will be subject to EPA and Illinois EPA review and approval before Peoria can implement the new technology.

**2. CSO Interim Performance Criteria**

31. Peoria shall meet the following Interim Performance Criteria for reducing CSO activations and CSO volume discharge:

	<b>Interim Performance Criteria Milestone #1</b>	<b>Interim Performance Criteria Milestone #2</b>	<b>Interim Performance Criteria Milestone #3</b>	<b>Interim Performance Criteria Milestone #4</b>
CSO Individual Discharge Reduction	None	25%	40%	60%
CSO Evaluation Volume Reduction	20%	35%	50%	70%
Interim Performance Criteria Evaluation Monitoring Period	January 1, 2026 to December 31, 2026 “Year 4”	January 1, 2029 to December 31, 2029 “Year 7”	January 1, 2032 to December 31, 2032 “Year 10”	January 1, 2036 to December 31, 2036 “Year 14”
Interim Performance Criteria Report Submittal	March 31, 2027	March 31, 2030	March 31, 2033	March 31, 2037

32. Interim Performance Criteria Reports. By the deadlines in the previous Paragraph, Peoria shall submit Interim Performance Criteria Reports to EPA and Illinois EPA for review and approval. The purpose of the Interim Performance Criteria Report will be to provide information sufficient to determine whether the applicable Interim Performance Criteria were met, pursuant to the table in the previous Paragraph. To meet the Interim Performance Criteria, Peoria shall satisfy the percent reduction in the previous Paragraph for both CSO Individual Discharges (if applicable) and CSO Evaluation Volume discharged. The Interim Performance

Criteria Reports shall include information sufficient to substantiate the calculations of CSO Individual Events and CSO Evaluation Volume reductions, including the applicable Starting Conditions H&H Model results and observed flow meter data.

33. CSO Individual Event Reduction Calculation. The CSO Individual Event reduction calculation required in this Consent Decree shall be performed as follows:

a. Peoria will record and tabulate the number of CSO Individual Events in the Combined Sewer System based on information obtained from its CSO Flow Meters during the entire Interim Performance Criteria Evaluation Monitoring Period.

b. Peoria will obtain and tabulate precipitation data at the rain gauge locations identified in Paragraph 16.c, which shall be within Peoria's Combined Sewer System that is tributary to the Riverfront Interceptor, for the entire Interim Performance Criteria Evaluation Monitoring Period. Peoria will also compute the 2-hour, 3-hour, and 6-hour peaks for each storm event during the entire Interim Performance Criteria Evaluation Monitoring Period.

c. Peoria will conduct an analysis that compares each precipitation event during the entire Interim Performance Criteria Evaluation Monitoring Period to the Six-Month Design Storm's 2-hour, 3-hour, and 6-hour peaks. Peoria shall submit to EPA and Illinois EPA the tabular exhibit in Appendix A completed for each precipitation event during the entire Interim Performance Criteria Evaluation Monitoring Period and clearly delineate which storms exceeded the Six-Month Design Storm's 2-hour, 3-hour, or 6-hour peaks.

d. Peoria will input the Interim Performance Criteria Evaluation Monitoring Period's precipitation data into the Starting Conditions H&H Model for the entire applicable Interim Performance Criteria Evaluation Monitoring Period. Peoria will exclude the CSO

Individual Events for the precipitation events that occurred during the applicable Interim Performance Criteria Evaluation Monitoring Period that were determined in Paragraph 33.c to be greater than the Six-Month Design Storm’s 2-hour, 3-hour, or 6-hour peaks, but will include these precipitation events within the Starting Conditions H&H Model analysis. Peoria shall utilize the same rain gauge assignment in this Starting Conditions H&H Model run as in its approved CSO Remedial Measures Program, pursuant to Paragraph 16.c. Peoria will use the H&H model output from the Starting Conditions H&H Model, using the Interim Performance Criteria Evaluation Monitoring Period’s precipitation data, along with the applicable precipitation events analysis from Paragraph 33.c, to determine the number of CSO Individual Events shown by the model.

e. The percent reduction of CSO Individual Events shall consist of the following calculation:

*Percent Reduction of CSO Individual Events (%)*

$$= \left( \frac{\text{Total Starting Conditions H\&H Model CSO Individual Events} - \text{Total Observed CSO Individual Events}}{\text{Total Starting Conditions H\&H Model CSO Individual Events}} \right) \times 100$$

f. The equation above shall be based on the following values:

i. The “Total Starting Conditions H&H Model CSO Individual Events” variable in the equation in Paragraph 33.e shall be equal to the total number of modeled CSO Individual Events simulated by Peoria’s Starting H&H Model running the applicable Interim Performance Criteria Evaluation Monitoring Period’s precipitation record, minus the number of modeled CSO Individual Events generated by precipitation events that exceeded the Six-Month Design Storm during the applicable Interim Performance Criteria Evaluation Monitoring Period, pursuant to the analysis in subparagraph c.

- ii. The “Total Observed CSO Individual Events” variable in the equation in Paragraph 33.e shall be equal to the total number of observed CSO Individual Events, recorded by Flow Meters or the methods described in the portion of Peoria’s approved CSO Remedial Measures Plan that satisfies Paragraph 20 of this Consent Decree if an applicable Flow Meter is inoperable or malfunctioning or if the CSO is not included in the CSO Outfall list in Paragraph 18.b of this Consent Decree, during the applicable Interim Performance Criteria Evaluation Monitoring Period minus the observed CSO Individual Events, recorded by Flow Meters or the methods described in the portion of Peoria’s approved CSO Remedial Measures Plan that satisfies Paragraph 20 of this Consent Decree if an applicable Flow Meter is inoperable or malfunctioning or if the CSO is not included in the CSO Outfall list in Paragraph 18.b of this Consent Decree, that occurred during precipitation events that exceeded the Six-Month Design Storm during the applicable Interim Performance Criteria Evaluation Monitoring Period, pursuant to the analysis in subparagraph c.
- iii. Subparagraph ii is subtracted from Subparagraph i, divided by subparagraph i, and then multiplied by 100 to determine the Percent Reduction of CSO Individual Events during the applicable Interim Performance Criteria Monitoring Period, consistent with the equation in Paragraph 33.e.
- iv. The result shall be expressed as a percentage and rounded to the nearest whole percent.

34. CSO Evaluation Volume Reduction Calculation. The CSO Evaluation Volume reduction calculation required in this Consent Decree shall be performed as follows:

a. Peoria will record total CSO volume in the Combined Sewer System based on its CSO Flow Meters for each CSO discharge during the entire Interim Performance Criteria Evaluation Monitoring Period. For the CSO outfalls without Flow Meters, Peoria will estimate the CSO volume discharged from those CSO outfalls using the methodology approved under Paragraph 20 of this Consent Decree and will provide an explanation for its estimation.

b. Peoria will obtain and tabulate precipitation data at the rain gauge locations identified in Paragraph 16.c, which shall be within Peoria's Combined Sewer System that is tributary to the Riverfront Interceptor, for the entire Interim Performance Criteria Evaluation Monitoring Period. Peoria will also compute the 2-hour, 3-hour, and 6-hour peaks for each storm event during the entire Interim Performance Criteria Evaluation Monitoring Period.

c. Peoria will conduct an analysis that compares each precipitation event during the entire Interim Performance Criteria Evaluation Monitoring Period to the Six-Month Design Storm's 2-hour, 3-hour, and 6-hour peaks. Peoria shall submit to EPA and Illinois EPA the tabular exhibit in Appendix A completed for each precipitation event during the entire Interim Performance Criteria Evaluation Monitoring Period and clearly delineate which storms exceeded the Six-Month Design Storm's 2-hour, 3-hour, or 6-hour peaks.

d. Peoria will input the Interim Performance Criteria Evaluation Monitoring Period precipitation data into the Starting Conditions H&H Model. Peoria will exclude the CSO volume discharged during precipitation events that occurred during the applicable Interim Performance Criteria Evaluation Monitoring Period that were determined in Paragraph 34.c to be

greater than the Six-Month Design Storm’s 2-hour, 3-hour, or 6-hour peaks, but will include these precipitation events within the Starting Conditions H&H Model analysis. Peoria shall utilize the same rain gauge assignment in this Starting Conditions H&H Model run as in its approved CSO Remedial Measures Program, pursuant to Paragraph 16.c. Peoria will use the H&H model output from the Starting Conditions H&H Model, using the Interim Performance Criteria Evaluation Monitoring Year’s precipitation data from the Starting Conditions H&H Model, along with the applicable precipitation events analysis from Paragraph 34.c, to determine the amount of CSO Evaluation Volume discharged, as shown by the model.

e. The percent reduction of CSO Evaluation Volume shall consist of the following calculation:

*Percent Reduction of CSO Evaluation Volume (%)*

$$= \left( \frac{\text{Total Starting Conditions H\&H Model CSO Evaluation Volume discharged} - \text{Total Observed CSO Evaluation Volume discharged}}{\text{Total Starting Conditions H\&H Model CSO Evaluation Volume discharged}} \right) \times 100$$

f. The equation above shall be based on the following values:

- i. The “Total Starting Conditions H&H Model CSO Evaluation Volume discharged” variable in the equation in Paragraph 34.e shall be equal to the total modeled CSO discharge volume simulated by Peoria’s Starting H&H Model running the applicable Interim Performance Criteria Evaluation Monitoring Period’s precipitation record minus the modeled CSO volume generated during precipitation events that exceeded the Six-Month Design Storm during the applicable Interim Performance Criteria Evaluation Monitoring Period, pursuant to the analysis in subparagraph c.
- ii. The “Total Observed CSO Evaluation Volume discharged” variable in the equation in Paragraph 34.e shall be equal to the total observed CSO

discharge volume, which is recorded by Flow Meters or the methods described in the portion of Peoria's approved CSO Remedial Measures Plan that satisfies Paragraph 20 of this Consent Decree if an applicable Flow Meter is inoperable or malfunctioning or if the CSO is not included in the CSO Outfall list in Paragraph 18 of this Consent Decree, during the applicable Interim Performance Criteria Evaluation Monitoring Period minus the observed CSO discharge volume, which is recorded by Flow Meters or the methods described in the portion of Peoria's approved CSO Remedial Measures Plan that satisfies Paragraph 20 of this Consent Decree if an applicable Flow Meter is inoperable or malfunctioning or if the CSO is not included in the CSO Outfall list in Paragraph 18 of this Consent Decree, that occurred during precipitation events that exceeded the Six-Month Design Storm during the applicable Interim Performance Criteria Evaluation Monitoring Period, pursuant to the analysis in subparagraph c.

- iii. Subparagraph ii is subtracted from Subparagraph i, divided by subparagraph i, and then multiplied by 100 to determine the Percent Reduction of CSO Evaluation Volume during the applicable Interim Performance Criteria Monitoring Period, consistent with the equation in Paragraph 34.e.
- iv. The result shall be expressed as a percentage and rounded to the nearest whole percent.

35. Each Interim Performance Criteria Report will also include the following:

a. A tabulation of Peoria's CSO Individual Discharges at each specific CSO outfall that occurred during the applicable Interim Performance Criteria Evaluation Monitoring Period; and

b. The tabular exhibit in Appendix A completed for each precipitation event during the entire Interim Performance Criteria Evaluation Monitoring Period and clearly delineating which storm exceeded the Six-Month Design Storm's 2-hour, 3-hour, or 6-hour peaks, by using Appendix A of this Consent Decree.

c. A tabulation of the precipitation data recorded at each rain gauge that occurred during the applicable Interim Performance Criteria Evaluation Monitoring Period and which storms will be used by Peoria when it runs the Interim Performance Criteria Evaluation Monitoring Period precipitation data in its Starting Conditions H&H Model, consistent with Paragraphs 33 and 34 of this Consent Decree. Peoria shall evaluate its precipitation data to determine if the precipitation events that occurred during the applicable Interim Performance Criteria Evaluation Monitoring Period qualify as Insufficient Precipitation. If Peoria determines that there has been Insufficient Precipitation, it shall notify EPA and Illinois EPA in writing within 30 days of the end of the Interim Performance Criteria Evaluation Monitoring Period. If Peoria does not find Insufficient Precipitation, it shall explain the basis for that determination in its Interim Performance Criteria Report with subsequent justification.

d. A tabulation of the CSO Individual Events and CSO Evaluation Volume reduction percentage for each applicable Interim Performance Criteria year, consistent with Paragraphs 33 and 34.

36. Insufficient Precipitation. If the precipitation events that occurred during the applicable Interim Performance Criteria Evaluation Monitoring Period met the conditions of



Insufficient Precipitation, Peoria shall continue to monitor and record precipitation data and CSO discharges, consistent with the requirements of this Consent Decree, until it has a period of 12 consecutive months that does not qualify as Insufficient Precipitation and shall then perform the same Interim Performance Criteria Evaluation on that 12-month period. The same Interim Performance Criteria that applied for CSO Individual Events Reduction Requirement and CSO Evaluation Volume Reduction Requirement during the milestone year with Insufficient Precipitation will apply during the 12-month period, and Peoria will use the requirements in this Consent Decree to determine and report compliance with the applicable Interim Performance Criteria. If Peoria must use a different 12-month period due to Insufficient Precipitation, then the Interim Performance Criteria Report shall be due 90 days after the end of the last month of the 12-month period used. If it is determined that Insufficient Precipitation from an applicable Interim Performance Criteria Evaluation Monitoring Period to the next scheduled Interim Performance Criteria milestone has occurred, then the next scheduled Interim Performance Criteria milestone and its requirements will supersede any prior Interim Performance Criteria milestone that went unfulfilled by Insufficient Precipitation. Any Insufficient Precipitation shall not affect subsequent Interim Milestone timing or reduction requirements.

37. Interim Performance Criteria Corrective Action Plan. If EPA, after consultation with Illinois EPA, determines that Peoria failed to meet the requirements of the applicable Interim Performance Criteria in Paragraph 31, Peoria shall submit an Interim Performance Criteria Corrective Action Plan to EPA and Illinois EPA for review and approval within 90 days of the written notification from EPA that Peoria failed to satisfy the applicable Interim Performance Criteria.

38. The Interim Performance Criteria Corrective Action Plan shall include:

- a. An analysis of why Peoria failed to meet the applicable Interim Performance Criteria.
- b. One or more proposals to achieve the required reductions. In its submission Peoria shall propose a plan for the required reductions that relies on Gray Infrastructure, Green Infrastructure, or a combination of the two. Peoria's submission shall also describe how the required reductions could be achieved through Gray Infrastructure alone, including the estimated capital and annual O&M costs of the necessary project(s). Any plan that Peoria submits shall be designed to achieve a reduction 1.5 times as large as the amount by which Peoria missed the applicable Interim Performance Criteria.<sup>3</sup> Any plans shall be designed so that all CSO Remedial Measures identified in the plan can be completed within 360 days of the Agencies' approval of the Interim Performance Criteria Corrective Action Plan. Upon approval, Peoria shall implement the Interim Performance Criteria Corrective Action Plan and demonstrate its compliance with the plan requirements in the next Annual Report.

39. Model Revisions. If Peoria, EPA, and/or Illinois EPA discovers during the implementation of Peoria's CSO Remedial Measures Program that SWMM 5 is not supported and is unable to run the Starting Conditions H&H Model, the discovering party will notify the other Parties, and Peoria will begin redeveloping its Starting Conditions Model with the new modeling software. Within 270 days of Peoria learning that SWMM 5 is no longer supported, Peoria shall submit a new report for EPA and Illinois EPA review and approval that includes:

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<sup>3</sup> For example, if at Milestone 1 Peoria achieves 19% CSO Evaluation Volume reduction rather than 20%, as required, the Corrective Action Plan shall be designed to achieve a 1.5% reduction.

a. A demonstration that the replacement Starting Conditions H&H Model was developed using dynamic modeling software, that the new software is as robust as SWMM 5, and that the new software can be readily accessed by EPA and Illinois EPA at no cost.

b. An updated model report for Peoria's replacement Starting Conditions H&H Model, including relevant calibration and validation data and model output for Peoria's Six-Month Design Storm and Peoria's Typical Year. Peoria will compare this output to the original Starting Conditions H&H Model and will demonstrate that the revised Starting Conditions H&H Model output is equivalent.

c. An electronic and executable copy of the Starting Conditions H&H Model input file in the newest version of the no-cost software, consistent with subparagraph a.

40. Once approved by EPA and Illinois EPA, the revised Starting Conditions H&H Model will not change throughout the implementation of this Consent Decree, unless specifically approved by EPA and Illinois EPA.

### **3. CSO Final Performance Criteria**

41. After completion of all CSO Remedial Measures, Peoria shall determine compliance with the Final Performance Criteria by implementing its Post-Construction Compliance Monitoring Plan. Discharges from Peoria's permitted CSO outfalls shall also comply with the CWA, CSO Control Policy, the Illinois Environmental Protection Act and applicable Illinois Pollution Control Board Regulations and Orders, and Peoria's NPDES Permit. In the event of a conflict between any of the laws, regulations, or documents listed above, the Parties agree that the provisions of the CWA shall govern.

**4. Post-Construction Compliance Monitoring**

42. Post-Construction Compliance Monitoring Plan. Within 90 Days of approval of the CSO Remedial Measures Program, Peoria shall submit to EPA and Illinois EPA for review and approval a Post-Construction Compliance Monitoring Plan. The Plan shall:

- a. Consider EPA's CSO Post-Construction Compliance Monitoring Guidance, dated May 2012, and the CSO Control Policy.
- b. Be designed to ascertain whether the CSO Remedial Measures performed under this Consent Decree are meeting the Final Performance Criteria established herein. The plan shall include the requirement that Peoria develop a Final Conditions H&H Model and perform a model run using a calibrated and validated Final Conditions H&H Model with the Six-Month Design Storm and Peoria's Typical Year to determine whether the output meets the Final Performance Criteria. The plan shall also require that Peoria include the input and output of the modeling run and report the results.
- c. Include a commitment for at least two years of flow monitoring following the final completion of all CSO Remedial Measures and the identification of the Flow Meter locations within Peoria's Combined Sewer System and the Sanitary Sewer System that is tributary to the Riverfront Interceptor that will be used to calibrate and validate Peoria's Final Condition H&H Model. If different Flow Meter locations than the Flow Meter locations used for the development of Peoria's Starting Conditions H&H Model, Peoria will include an explanation of why the Flow Meter locations were changed and the potential impacts of those changes on the analysis results.

d. Include a commitment to use the Flow Meter data obtained, pursuant to subparagraph c, to develop a Final Conditions H&H Model that includes a proper model calibration and model validation.

e. Include a plan to conduct the measurement of compliance with water quality standards and protection of designated uses.

f. Include a plan to monitor and sample Peoria's CSO Outfalls and the CSO receiving waters adequate to determine the impacts of discharge on water quality in the Illinois River and Lake Peoria downstream of the CSO Outfalls.

43. Peoria shall implement the approved Post-Construction Compliance Monitoring Plan after it has completed the CSO Remedial Measures Program, no later than January 1, 2040.

44. Post-Construction Compliance Monitoring Report. Within six months after the end of the monitoring period specified in the approved Post-Construction Compliance Monitoring Plan, Peoria shall submit a Post-Construction Compliance Monitoring Report for review and approval. The Post-Construction Compliance Monitoring Report shall include the following information:

a. CSO outfall monitoring analysis including frequency, duration, and volume discharged.

b. Relevant flow meter data from the post-construction monitoring period and throughout the implementation of the CSO Remedial Program.

c. Relevant precipitation data from the post-construction monitoring period.

d. A final modeling analysis with a proper dry weather and wet weather calibration and validation that meets the table below (based on the CIWEM Code of Practice for the Hydraulic Modeling of Urban Drainage Systems Version 01, 2017 (previously the WaPUG

Code of Practice for the Hydraulic Modeling of Sewer Systems Version 3.001, December 2002))

for the Final Conditions H&H Model for the majority of events that produce CSOs in the

Starting Conditions H&H Model:

<b>Hydrograph Component</b>	<b>Calibration and Validation Requirement</b>
Timing	The timing of the peaks and troughs of the hydrograph should be +/- 1 hour when comparing the modeled hydrograph to the observed flow meter hydrograph
Flooding	Model shall predict any flooding or Combined Sewer System Release locations and the volume associated with these conditions shall be equivalent to the observed volumes.
CSO Discharges	Model shall predict any CSO Discharges from Peoria's CSO Outfalls and the volume and the peak flow rate from the modeled CSO discharges should be equivalent to the observed CSO discharge volume and peak flow rate. The curve shapes for volume and the flow rate from modeled CSO discharge shall also be equivalent to the curve shapes for volume and flow rate for the observed CSO discharge.
Peak Flow Rate	The Final Conditions H&H Model hydrograph shall be within -15% to +25% of the observed flow meter data or within +/- 0.1 MGD for sewershed locations with very small flow.
Flow Volume	The Final Conditions H&H Model hydrograph shall be within -10% to +20% of the observed flow meter data or within +/- 0.1 MGD for sewershed locations with very small flow.

The calibration and validation of the Final Conditions H&H Model shall not exclude precipitation events because they exceed the Six-Month Design Storm.

e. An analysis that determines which precipitation events during the post-construction monitoring period were equal to or less than Peoria's Six-Month Design Storm's 1-hour, 2-hour, 3-hour, 4-hour, 5-hour, and 6-hour peaks and, if needed, peaks of other durations pursuant to Appendix F. Peoria shall submit the example tabular exhibit in Appendix B and include each precipitation event during the post-construction monitoring period, up until the last

full month before the Post-Construction Compliance Monitoring Report submittal, as part of its analysis.

f. An analysis that determines if any CSO discharge occurred during the precipitation events that were equal to or smaller than Peoria's Six-Month Design Storm's 1-hour, 2-hour, 3-hour, 4-hour, 5-hour, and 6-hour peaks and, if needed, peaks of other durations pursuant to Appendix F.

- i. Peoria shall use the exhibit generated in Paragraph 44.e to determine which storms were equal to or smaller than Peoria's Six-Month Design Storm and then determine if a CSO discharge occurred during those storm events. If a CSO occurred during one of those storm events, Peoria will note the CSO occurrence(s) in its Post-Construction Monitoring Report.
- ii. If a CSO occurred during a precipitation event that, when compared to the rainfall peaks in Appendix F, exceeded only value(s) for durations less than an hour, Peoria shall provide a technical demonstration to EPA and Illinois EPA, through a submission that includes modeling results, to the extent that Peoria contends that the peak exceedance caused the CSO. After consultation with Illinois EPA, EPA shall make a technical determination as to whether Peoria has reasonably demonstrated that the exceedance of the short-duration peaks in that precipitation event caused the CSO, or whether it was caused by any inadequacy in the CSO Remedial Measures or other issue(s) unrelated to the rainfall amount, and thus whether that CSO should be excluded for purposes of compliance with the Final Performance Criteria, subject only to Peoria's right to

pursue Dispute Resolution. In determining whether the exceedance of the short-duration peaks in that precipitation event caused the CSO, EPA may consider the location and magnitude of the exceedance(s); the location and magnitude of the CSO(s); any malfunctions or lack of maintenance in the CSO Remedial Measures; and/or any malfunctions or lack of maintenance in the Combined Sewer System, among other factors.

g. An electronic and executable copy of Peoria's Final Conditions H&H Model input file in the most recent version of SWMM with the modeling runs requested in subparagraph h. If SWMM is no longer supported, Peoria will be required to demonstrate that the replacement modeling software is as robust as SWMM 5 and that the new software can be readily accessed by EPA and Illinois EPA at no cost.

h. Final Condition H&H Model runs of Peoria's Six-Month Design Storm and Peoria's Typical Year with applicable modeling output and analysis, including applicable summary tables, to demonstrate whether or not Peoria's implemented CSO Remedial Measures meet the Final Performance Criteria.

i. Water quality monitoring results, including an analysis of the impact to water quality by discharges from CSO outfalls in the receiving waters in the immediate vicinity of those CSOs.

45. If EPA, after consultation with Illinois EPA, determines that the Post-Construction Monitoring Report does not demonstrate compliance, Peoria shall, within 180 days of receiving notice from EPA, submit for EPA and Illinois EPA review and approval a Supplemental Compliance Plan which describes the additional improvements and/or other



remedial measures that Peoria shall take to achieve compliance, and a proposed schedule for taking such actions. The Supplemental Compliance Plan shall include the following:

- a. Review and consideration of the data and results within the Post-Construction Compliance Monitoring Report.
- b. A detailed discussion of the range of alternatives considered to correct any deficiencies.
- c. Describe in detail the steps Peoria proposes to take to meet the Final Performance Criteria and the applicable water quality standards.
- d. An implementation schedule setting forth the timeframe within which Peoria proposes to complete such steps including dates and major milestones.

46. Upon approval by the EPA, after consultation with Illinois EPA, Peoria shall implement the Supplemental Compliance Plan in accordance with the schedule specified in the approved Plan.

## **5. Miscellaneous Peoria Requirements**

47. Within six months of closing any CSO outfall, Peoria shall petition the Illinois EPA to remove the closed CSO outfall from Peoria's then-effective NPDES permit.

48. Peoria shall not utilize remote treatment of CSOs within the Combined Sewer System to meet the Interim and Final Performance Criteria included in this Consent Decree.

49. CSO Operation and Maintenance Plan. By February 1<sup>st</sup> of each calendar year, commencing in the calendar year following the Effective Date of this Consent Decree, Peoria shall submit, pursuant to Special Condition 8 of Peoria's NPDES Permit No. IL0037800, an annual update to its CSO Operation and Maintenance Plan ("CSO O+M Plan") to EPA and

Illinois EPA for review and comment. Peoria will clearly identify any changes between the annual update and the previous CSO O+M Plan. Peoria shall implement the revised CSO O+M Plan in accordance with any comments provided by EPA or Illinois EPA and the schedule contained in the revised CSO O+M Plan.

**B. GPSSD Requirements**

**1. Combined Sewer System Projects: Riverfront Interceptor, Throttle Pipes, and Regulator Structures**

50. While GPSSD shall not be responsible for achieving the results in Peoria's modeling or Peoria's CSO Remedial Measures Program (including but not limited to, any Peoria long-term control plan, sediment control in Peoria's portion of the CSS, or construction of new Green Infrastructure or new Gray Infrastructure, other than as detailed below), GPSSD shall, in order to demonstrate compliance as it relates to the CSS, including, but not limited to, utilizing the capacity of the equipment and maximizing wastewater and stormwater flow to the WWTP, perform the following projects described in this Subsection VI.B.1.

51. Sediment Removal. By January 1, 2026, GPSSD shall remove substantially all of the existing debris and sediment from the Riverfront Interceptor.

52. Spring Street CSO. By January 1, 2026, GPSSD shall (1) install localized gate control and (2) modify or add Regulator Structures and/or Throttle Pipes to allow for an Unrestricted Design Flow Rate of 40 cubic feet per second.

53. Caroline Street CSO. By January 1, 2026, GPSSD shall (1) install localized gate control and (2) modify or add Regulator Structures and/or Throttle Pipes to allow for an Unrestricted Design Flow Rate of 20 cubic feet per second.

54. Cedar, Fayette, and Eaton Street CSOs. By January 1, 2026, GPSSD shall investigate and modify localized gate controls.

55. South Street CSO. By January 1, 2029, GPSSD shall modify the existing Throttle Pipe or add an additional Throttle Pipe to allow for an overall Unrestricted Design Flow Rate of 80 cubic feet per second. As necessary, GPSSD shall also modify or add Regulator Structures and upgrade the localized gate control.

56. Riverfront Interceptor Between Darst Street and Cedar Street. By January 1, 2029, GPSSD shall investigate the existing Riverfront Interceptor conflict structure and any other unusual and material restriction in the Riverfront Interceptor between Darst Street and Cedar Street and resolve the restrictions.

57. Sanger Street CSO. By January 1, 2032, GPSSD shall modify the existing Throttle Pipe or add an additional Throttle Pipe to allow for an overall Unrestricted Design Flow Rate of 100 cubic feet per second (between the Washington East Regulator, Washington West Regulator, and Sanger Regulator combined). As necessary, GPSSD shall also modify or add Regulator Structures and upgrade the localized gate control.

58. Darst Street CSO. The City and GPSSD agree to review the most effective projects to comply within the Darst sewershed by January 1, 2029. Based on that review, if (i) the City and GPSSD determine that a primarily Green Infrastructure solution will not be most effective within the Darst sewershed, or (ii) the City and GPSSD cannot reach agreement, by January 1, 2032, GPSSD shall modify the existing Throttle Pipe or add an additional Throttle Pipe to allow for an overall Unrestricted Design Flow Rate of 100 cubic feet per second. GPSSD shall also modify or add Regulator Structures and upgrade the localized gate control. By July 1, 2029, the City and GPSSD shall submit a joint report to EPA and Illinois EPA stating how they plan to proceed for the Darst sewershed.

59. GPSSD shall operate and maintain any existing Flow Meters owned by GPSSD or that it is required to operate by agreement that are necessary for compliance with Section VI (Compliance Requirements) of the Consent Decree. Upon becoming aware of a malfunctioning Flow Meter, GPSSD shall timely repair or replace the malfunctioning unit. Repairs of malfunctioning Flow Meters must be completed within 30 Days of GPSSD learning of the malfunction, except that if access to the meter is prohibited by high river stage, GPSSD shall complete the replacement as soon as access is feasible. When repair of a Flow Meter is not possible within 30 Days, GPSSD must purchase and install a new Flow Meter within 60 Days of learning of the malfunction (or as soon as practicable for Flow Meters “M1” and “M2”), except that if access to the meter is prohibited by high river stage, GPSSD shall complete the replacement as soon as access is feasible. Any new Flow Meter, installed pursuant to this Paragraph or otherwise, must have the same or better accuracy and capabilities as the previous Flow Meter. GPSSD shall retain a log that records the date of any malfunction, the steps taken to repair the malfunctioning unit, and initial date that the Flow Meter was returned to service or determined to be in need of replacement.

## **2. Sanitary Sewer System**

60. SSOs occurring from GPSSD’s Sanitary Sewer System are prohibited. GPSSD shall conduct all work necessary to eliminate discharges from its Paramount and Rutledge Remote Treatment Units, such that the Remote Treatment Units shall not cause SSOs within the Sanitary Sewer System. GPSSD has proposed to accomplish this by building storage basins adjacent to the Remote Treatment Units.

61. By July 1, 2027, GPSSD shall submit a Final Design Report to EPA and Illinois EPA for review and approval. GPSSD shall ensure that the proposed alternatives in its Final Design Report are sized to eliminate the discharges from the Paramount and Rutledge Remote Treatment Units through a demonstration with modeling that employs the ten-year, twenty-four-hour precipitation event as defined by the Illinois State Water Survey, Rainfall Frequency Atlas of the Midwest by Floyd A. Huff and James R. Angel dated 1992, Bulletin 71 (MCC Research Report 92-03) with a total rainfall depth of 4.45 inches over 24 hours that utilizes the SCS Type II rainfall distribution. GPSSD shall also provide the capital and the operation and maintenance cost information for its proposal.

62. By January 1, 2030, GPSSD shall

- a. Complete construction of the remedy set forth in the approved Final Design Report; and
- b. Conduct all work necessary to eliminate discharges and close the outfalls at the Remote Treatment Units.

63. After completion of any of the projects approved within GPSSD's Final Design Report, including the closure of the Remote Treatment Unit Outfalls (005 Paramount Road Excess Flow Outfall and 006 Rutledge Excess Flow Outfall) and the elimination of any discharges from the Remote Treatment Units, GPSSD shall take and post a representative picture or pictures of the completed project.

64. GPSSD must continue to implement its Capacity, Management, Operation, and Maintenance ("CMOM") Program, dated August 2011, as approved by Illinois EPA pursuant to Special Condition 22 of GPSSD's NPDES Permit. In addition, the District must also implement

any subsequent revisions to its CMOM Program, as approved by Illinois EPA, when proposed in accordance with GPSSD's NPDES Permit throughout the duration of this Consent Decree.

65. If any discharge from a Remote Treatment Unit occurs before the completion of all projects identified by the Final Design Report, GPSSD shall take all reasonable measures necessary to minimize the impact of the discharge to human health and the environment.

66. Within six months of the completion of the projects identified in the approved Final Design Report, GPSSD shall petition Illinois EPA to remove the two Remote Treatment Unit Outfalls (005 Paramount Road Excess Flow Outfall and 006 Rutledge Excess Flow Outfall) from the District's NPDES permit unless already removed.

**C. General Provisions Applicable To Peoria And GPSSD**

67. A Defendant may only seek relief under Section XI (Force Majeure) of this Consent Decree for a delay in the performance of any obligation of this Consent Decree resulting from a failure to obtain, or a delay in obtaining, any federal, state, or local permit or approval required to fulfill such obligation, if the Defendant seeking relief submitted timely and complete applications and has made best efforts to obtain all required permits or approvals.

68. Subject to Defendants' right to seek relief pursuant to the provisions of Section XI (Force Majeure) of this Decree, the pendency or outcome of any proceeding concerning issuance, reissuance, or modification of any NPDES permit shall not affect or postpone Defendants' respective responsibilities under this Decree.

69. The requirements of this Consent Decree are not conditioned on Defendants' receipt of federal or state grant funds. Any failure or delay in compliance with the requirements of this Consent Decree shall not be excused by the lack of federal or state grant funds, including,

without limitation, construction grants and State revolving loan funds, or any other grants or loans, or by any delay in processing any applications for such funds, subject to Defendants' right to seek relief pursuant to the provisions of Section XI (Force Majeure) of this Decree.

70. Delays caused by inadequate planning or plans and specifications on the part of Defendants shall not be cause for extension of any required compliance date in this Consent Decree.

**VII. STATE SUPPLEMENTAL ENVIRONMENTAL PROJECT**

71. In order to promote the goals of the Illinois Environmental Protection Act, 415 ILCS 5/42 *et seq.* (2018), to restore, protect, and enhance the quality of the environment, Peoria shall perform the following state supplemental environmental project ("SEP"). The settlement value of the SEP is 200,000 dollars (\$200,000.00) and will offset penalties sought by the State in this matter. The State and Peoria agree that this SEP shall consist of the following: stream and gully restoration within Turkey Creek and Springdale Cemetery to reduce stream erosion and ultimately sedimentation into the Illinois River, which will improve water quality, navigation, and habitat. Peoria shall perform the SEP in accordance with Appendix D of this Consent Decree.

a. Peoria shall complete the SEP no later than November 30, 2023 and, within thirty (30) days thereafter, shall submit a project completion report, including a summary of all expenditures, for review and confirmation that the SEP was performed pursuant to this

Order to the following persons:

Ellen O'Laughlin  
Environmental Bureau  
Illinois Attorney General's Office  
69 West Washington Street, Suite 1800  
Chicago, IL 60602

Charles Gunnarson  
Division of Legal Counsel  
Illinois EPA  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

The project completion report shall include the following certification by a responsible official of

Peoria:

I certify under penalty of law that this document 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 inquiry of those persons directly responsible for gathering the information, and that the information submitted in or accompanying this notification of final compliance is to the best of my knowledge true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and or imprisonment for knowing violations.

In the event that the SEP cannot be completed, Peoria shall pay the settlement value of the SEP (\$200,000.00) to the State as an additional penalty pursuant to the procedures of Section V (Civil Penalty) no later than the date by which the SEP should have been completed.

b. By signature on this Consent Order, Peoria certifies that, as of the date of entry of this Order, it is not required to perform or develop any of the foregoing SEP by any federal, state, or local law or regulation, nor is it required to perform or develop the SEP by agreement or injunctive relief in any other case. Peoria further certifies that it has not received, and is not presently negotiating to receive, credit for the SEP in any other enforcement action.

c. Any public statement, oral or written, in print, film or other media, made by Peoria making reference to any SEP shall include the following language:

“This project was undertaken in connection with the settlement of an enforcement action taken by the Illinois Attorney General and the Illinois Environmental Protection Agency for alleged violations of the Illinois Environmental Protection Act and regulations promulgated thereunder.”



**VIII. REVIEW, APPROVAL, AND IMPLEMENTATION OF DELIVERABLES**

72. Review of Deliverables. After review of any Deliverable that is required to be submitted pursuant to this Consent Decree, EPA, after consultation with the State, shall in writing: (a) approve the submission; (b) approve part of the submission and disapprove the remainder; or (c) disapprove the submission.

73. Approved Deliverables. If the Deliverable is approved pursuant to Paragraph 72.a, Defendants shall take all actions required by the Deliverable in accordance with the schedules and requirements of the Deliverable as approved. If the Deliverable is approved only in part pursuant to Paragraph 72.b, the Defendant responsible for the Deliverable shall, upon written direction from EPA, take all actions required by the approved portions of the Deliverable that EPA, after consultation with the State, determines are technically severable from any disapproved portions. Following EPA approval of any submission or portion thereof, such Deliverable or portion thereof so approved shall be incorporated into and become enforceable under this Consent Decree. Implementation of any approved portion of a Deliverable shall not relieve Defendants of any liability for stipulated penalties for any deficient portion of the Deliverable.

74. Disapproved Deliverables. If a Deliverable is disapproved, for the first time, in whole or in part pursuant to Paragraph 72.b or c, Defendants shall, within 45 Days or such other time as the Parties agree to in writing, correct all deficiencies and resubmit to EPA and Illinois EPA the Deliverable, or the disapproved portion thereof, for approval, in accordance with Paragraph 75. If the resubmission is approved in whole or in part, Defendants shall proceed in accordance with Paragraph 73.

75. Resubmitted Deliverables. If a resubmitted Deliverable, or portion thereof, is disapproved in whole or in part, EPA, after consultation with the State, may again require the Defendant responsible for the Deliverable to correct any deficiencies, in accordance with Paragraph 74. EPA also retains the right to modify or develop any disapproved portion of the resubmitted Deliverable. Upon EPA's correction of any such deficiencies, the resubmitted Deliverable, or portion thereof, shall be incorporated into and become enforceable under this Consent Decree and the Defendant responsible for the Deliverable shall take all actions to immediately implement the EPA-corrected Deliverable in accordance with the schedules and/or terms of the Deliverable as approved, subject to Defendants' right to invoke Dispute Resolution under Section XII (Dispute Resolution) of this Consent Decree and the right of EPA and the State to seek stipulated penalties as set forth in Section X (Stipulated Penalties).

76. Any stipulated penalties applicable to the original Deliverable, as provided in Section X (Stipulated Penalties), shall accrue during the time between a Deliverable's disapproval and resubmission. Stipulated penalties that accrue during the time between the Deliverable's disapproval and resubmission are only payable if the resubmitted Deliverable is untimely, or it is disapproved again in whole or in part. This Paragraph does not apply to original submissions that are so deficient as to constitute a material breach of a Defendants' obligations under this Decree and the stipulated penalties applicable to the original submission shall be due and payable notwithstanding any subsequent resubmission.

## **IX. REPORTING REQUIREMENTS**

### **A. Peoria Requirements**

77. Peoria shall submit the following reports:

a. By every March 31 after the Effective Date, until termination of this Consent Decree, Peoria shall submit written status reports (“CSO Annual Report”) for the preceding calendar year to EPA and Illinois EPA for review and comment. The CSO Annual Report shall include at least the following components:

- i. Information on each CSO Remedial Measure (including Green Infrastructure, Gray Infrastructure, improvements to existing structures, etc.) that became operational during the preceding calendar year. For each project Peoria shall provide the description, location, Project ID, operational date, a representative picture or pictures of the completed project, amount of stormwater and wastewater captured, infiltrated, or otherwise addressed, the basis for all performance estimates, testing data, and a description of any problems in implementation and how those problems were resolved. Peoria shall provide the total actual capital cost of CSO Remedial measures that became operational during the preceding calendar year.
- ii. A status report on all CSO Remedial Measures in process that did not yet become operational in the preceding calendar year.
- iii. A list of all CSO Remedial Measures expected to be started in the next calendar year, including location, project type, and estimated volume of stormwater/wastewater to be addressed.

- iv. Performance testing results for all previously-completed GI CSO Remedial Measures.
- v. A description of the O&M performed on previously-completed CSO Remedial Measures, including when routine inspections were conducted and a brief summary of each routine inspection, and any necessary corrective actions for previously-completed CSO Remedial Measures.
- vi. A representative picture or pictures of each Green Infrastructure project that became operational during the preceding calendar year taken between June 1<sup>st</sup> and August 31<sup>st</sup>.
- vii. The percentage of CSO Individual Event and CSO Evaluation Volume reductions from the preceding calendar year compared to the Starting Conditions H&H Model with detailed calculations as set forth in Paragraphs 33.d and 34.d.

b. If Peoria violates or has reason to believe it has or will violate any requirement of this Consent Decree or its effective NPDES Permit, Peoria shall submit written notice of such violation or potential violation, and its likely duration, to EPA and the State within five Business Days of when Peoria first became aware of the violation or potential violation. The notice shall include an explanation of the violation's or potential violation's likely cause and of the remedial steps taken, or planned, to prevent or minimize the violation. If the cause of the violation or potential violation cannot be fully explained at the time of the notice, Peoria shall include a statement to that effect in the notice. Peoria shall investigate to determine the cause of the violation or potential violation and then shall submit an amendment to the notice, including a full explanation of the cause of the violation or potential violation, within 30 Days of the Day

Peoria becomes aware of the cause of the violation or potential violation. Nothing in this Paragraph relieves Peoria of its obligations to provide the requisite notice for purposes of Section XI (Force Majeure).

**B. GPSSD Requirements**

78. GPSSD shall submit the following reports:

a. Within 75 days after completion of each project required by Subsections VI.B.1 and VI.B.2, GPSSD shall submit a completion report for the project(s) at issue for EPA and Illinois EPA review and approval. The completion report shall document that the project satisfies the requirements of the Consent Decree.

b. Within 30 days of discharging from Outfalls 005 and/or 006, until removal of said Outfalls from the GPSSD NPDES permit, GPSSD will submit a report (which may be satisfied with a copy of the relevant portion in GPSSD's Discharge Monitoring Report, provided it contains the information below) to EPA and Illinois EPA with the following information for its NPDES permit effluent compliance by sampling each discharging outfall:

- i. Total discharge volume in million gallons;
- ii. BOD<sub>5</sub> concentration in milligrams per liter for each sample taken;
- iii. Total Suspended Solids concentration in milligrams per liter for each sample taken;
- iv. Fecal Coliform in colony forming units per 100 millimeters for each sample taken;
- v. pH for each sample taken; and

vi. Chlorine Residual in milligrams per liter for each sample taken when using chlorine to disinfect wastewater,

c. By April 1 after the Effective Date and continuing by April 1 each year, until termination of this Consent Decree, GPSSD shall electronically submit a status report (“GPSSD Annual Report”) for the preceding year to EPA and Illinois EPA. In each GPSSD Annual Report, GPSSD shall provide:

i. a tabulation of all SSOs and Building/Property Backups that occurred in or from the Sanitary Sewer System in the preceding year; this tabulation will include the following information:

(a) whether the discharge is an SSO or Building/Property Backup;

(b) the date(s) that the SSO or Building/Property Backup occurred;

(c) the estimated start and end time of the SSO or Building/Property Backup;

(d) the location/address of the SSO or Building/Property Backup;

(e) the reason for the SSO or Building/Property Backup;

(f) the total amount of rainfall (in inches) and the duration of rainfall (including start and end dates and times) if a precipitation event caused or contributed to the SSO or Building/Property Backup;

(g) the estimated volume of water discharged from the Sanitary Sewer System during the SSO or Building/Property Backup event;

(h) a description of the methods and procedures used to remove the discharged water from the affected properties, if applicable;

(i) the disposition of the discharged water (e.g. receiving waters of the SSO, storm sewer discharge location, property address of basement, or location of standing water);

(j) the date(s) and time(s) GPSSD's response crew arrived and left the site of the SSO or the Building/Property Backup; and

(k) the measures used to mitigate environmental harm from any SSO or Building/Property Backup.

ii. an identification of all deadlines that this Consent Decree required GPSSD to meet during the preceding 12-month period, and a statement regarding whether or not and to what extent GPSSD met those requirements, the reasons for any noncompliance, and a general description of the work completed by GPSSD within the preceding 12-month period.

iii. a projection of work to be performed pursuant to this Consent Decree during the next 12-month period (notification to EPA and the State of any anticipated delay in meeting a deadline shall not, by itself, excuse the delay); and

d. GPSSD shall submit to EPA a copy of GPSSD's Annual CMOM Report, which is also provided to Illinois EPA. GPSSD may include some or all information in Paragraph 78.c. above in the Annual CMOM Report in order to avoid duplicative reporting.

e. If GPSSD violates or has reason to believe it has or will violate any requirement of this Consent Decree, GPSSD shall submit written notice of such violation or potential violation, and its likely duration, to the United States and the State within five Business Days of when GPSSD first became aware of the violation or potential violation. The notice shall

include an explanation of the violation's or potential violation's likely cause and of the remedial steps taken, or planned, to prevent or minimize the violation or potential violation. If the cause of the violation or potential violation cannot be fully explained at the time the notice is due, GPSSD shall include a statement to that effect in the notice. GPSSD shall investigate to determine the cause of the violation or potential violation and then shall submit an amendment to the notice, including a full explanation of the cause of the violation or potential violation, within 30 Days of the Day the GPSSD first becomes aware of the cause of the violation or potential violation. Nothing in this Paragraph relieves GPSSD of its obligation to provide the requisite notice for purposes of Section XI (Force Majeure).

**C. General Reporting Requirements**

79. In the case of any violation of this Consent Decree or any of the applicable permit limitations or any other event affecting a Defendant's performance under this Decree, or the performance of its respective portion of the Combined Sewer System, Sanitary Sewer System, and/or POTW, that may pose an immediate threat to the public health or welfare or the environment, that Defendant shall notify EPA and Illinois EPA orally or by email as soon as possible, but not later than 24 hours after the Defendant first knew of, or should have known of, the violation or event. This procedure is in addition to the requirements set forth in the preceding Paragraphs.

80. Each report that Defendants submit pursuant to this Section shall be signed by an appropriate official or authorized agent 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 either by me personally or under my direction or



supervision in a manner designed to ensure that qualified and knowledgeable personnel properly gathered and presented the information contained therein. I further certify, based on my personal knowledge or on my inquiry of those individuals immediately responsible for obtaining the information, 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 for knowing and willful submission of materially false statements.

The certification requirement does not apply to emergency or similar notifications where compliance would be impractical.

81. The reporting requirements of this Consent Decree do not relieve Defendants of any reporting obligations required by the Clean Water Act or implementing regulations, or by any other federal, state, or local law, regulation, permit, or other requirement.

82. The United States and the State may use any information generated or provided pursuant to this Consent Decree in any proceeding to enforce the provisions of this Consent Decree, in any proceeding pursuant to Section XII (Dispute Resolution) of this Decree, and as otherwise permitted by law. In any of the proceedings described in the preceding sentence, Defendants shall not object to the admissibility into evidence of information submitted by Defendants or its agents.

## **X. STIPULATED PENALTIES**

83. Defendants shall be liable for stipulated penalties to be paid to the United States and the State as specified below, unless excused under Section XI (Force Majeure) of this Decree. A violation includes failing to perform any obligation required of the respective Defendant by this Decree, according to all applicable requirements of this Decree and the appendices and within the specified time schedules established by or approved under this Decree.

84. Civil Penalty. If a Defendant fails to pay its civil penalty pursuant to Section V (Civil Penalty) of this Decree when due, the Defendant shall pay a stipulated penalty of \$1,000 per Day for each Day that the payment is late.

85. Peoria: Submittals. The following stipulated penalties shall accrue against Peoria per violation per day for each failure to comply with any deadline for submission of the following: the CSO Remedial Measures Program, any Revised CSO Remedial Measures Program, any Starting Conditions Model Replacement Report, Interim Performance Criteria Reports, Post-Construction Compliance Monitoring Plan, Post-Construction Compliance Monitoring Report, any Interim Performance Criteria Corrective Action Plan, any Supplemental Compliance Plan, and the Annual Reports:

<u>Period of noncompliance:</u>	<u>Penalty per Day of violation:</u>
Days 1-30	\$ 500
Days 31-60	\$ 750
Days 61-90	\$ 1,000
Days 91 and over	\$ 1,250

86. Peoria: Interim Performance Criteria. The following stipulated penalties shall accrue against Peoria per violation per day for each failure to comply with (i) an aspect of the Interim Performance Criteria until agency approval of the associated Interim Performance Criteria Corrective Action Plan; or (ii) a requirement of the Interim Performance Criteria Report:

<u>Period of noncompliance:</u>	<u>Penalty per Day of violation:</u>
Days 1-30	\$750
Days 31-60	\$1,000
Days 61-90	\$2,000
Days 91 and over	\$3,000

87. Peoria: CSO Remedial Measures Operations & Maintenance Plan. Stipulated penalties shall accrue against Peoria at the rate of \$1,000 per violation per day for failure to implement any provision of the CSO Remedial Measures Operations and Maintenance Plan, or

any violation of a requirement contained in the CSO Remedial Measures Operations and Maintenance Plan.

88. Peoria: CSO Discharges After December 31, 2039. The following stipulated penalties shall accrue against Peoria per violation per day for any CSO discharge from any of Peoria’s CSO Outfalls that occurs after December 31, 2039, during a precipitation event equal to or less than Peoria’s Six-Month Design Storm, pursuant to the analysis in Paragraph 44.f, unless Peoria demonstrates that the discharge results from (i) GPSSD’s failure to construct or carry out an infrastructure improvement required by Subsection VI.B.1 to the required Unrestricted Design Flow Rate or (ii) conditions in a portion of the Combined Sewer System not owned by Peoria: \$10,000 per Day per discharge.

89. Peoria: Final Performance Criteria. The following stipulated penalty shall accrue against Peoria if Peoria does not meet any of the conditions of its Final Performance Criteria, as defined in Paragraph 9.u: \$250 a day, until Peoria submits its Supplemental Compliance Plan pursuant to Paragraph 45. If the Supplemental Compliance Plan is disapproved in whole or in part pursuant to Paragraph 74, a \$250 a day stipulated penalty shall accrue against Peoria during the time between the Supplemental Compliance Plan’s disapproval and resubmission.

90. Peoria: Combined Sewer System Releases. The following stipulated penalties shall accrue against Peoria per violation per day for any Combined Sewer System Release within the Combined Sewer System:

<u>Volume of CSS Release:</u>	<u>Penalty per Day of violation:</u>
Less than 1,000 gallons	\$1,000
1,000 to 10,000 gallons	\$2,000
Greater than 10,000 gallons	\$4,000

91. Peoria: Dry Weather Overflows. Stipulated penalties shall accrue against Peoria at the rate of \$3,000 per discharge per day for any CSOs during dry weather.

92. GPSSD: Combined Sewer System Projects. The following stipulated penalties shall accrue against GPSSD per violation per day for each failure to comply with the requirements of Subsection VI.B.1:

<u>Period of noncompliance:</u>	<u>Penalty per Day of violation:</u>
Days 1-30	\$750
Days 31-60	\$1,000
Days 61-90	\$2,000
Days 91 and over	\$3,000

93. GPSSD: CSO Discharges After December 31, 2039. The following stipulated penalties shall accrue against GPSSD per violation per day for any CSO discharge from any of Peoria's CSO Outfalls when that discharge occurs after December 31, 2039, during a precipitation event equal or less than Peoria's Six-Month Design Storm, pursuant to the analysis in Paragraph 44.f of this Consent Decree, if the discharge occurs as a result of GPSSD's failure to construct an infrastructure improvement identified in Subsection VI.B.1 to the required Unrestricted Design Flow Rate: \$10,000 per day per discharge.

94. GPSSD: Unpermitted Discharges. Stipulated penalties shall accrue against GPSSD at the rate of \$3,000 per discharge per day for any unpermitted discharges in the Sanitary Sewer System.

95. GPSSD: Submittals. The following stipulated penalties shall accrue against GPSSD per violation per day for each failure to comply with any deadline for submission of the following: Project completion reports, Final Design Report and the Annual Reports:

<u>Period of noncompliance:</u>	<u>Penalty per Day of violation:</u>
Days 1-30	\$ 500
Days 31-60	\$ 750
Days 61-90	\$ 1,000
Days 91 and over	\$ 1,250

96. GPSSD: Outfall Elimination. The following stipulated penalties shall accrue against GPSSD per violation per day for failure to meet the schedule in the approved Final Design Reports projects to eliminate discharges and eliminate the outfalls from the Remote Treatment Units:

<u>Period of noncompliance:</u>	<u>Penalty per Day of violation:</u>
Days 1-30	\$ 750
Days 31-60	\$ 1,000
Days 61-90	\$ 2,000
Days 91 and over	\$ 3,000

97. GPSSD: CMOM Violations. Stipulated penalties shall accrue against GPSSD at the rate of \$1,000 per violation per day for each noncompliance with any requirement in its CMOM during the duration of this Decree.

98. The following Stipulated Penalty shall accrue for each noncompliance with any other requirement of this Decree for which no Stipulated Penalty is specified: \$500 per Day.

99. Stipulated penalties pursuant to this Section shall begin to accrue on the Day after 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. Stipulated penalties shall accrue simultaneously for separate violations of this Consent Decree. Multiple penalties may accrue on any one Day for different violations of different requirements of this Consent Decree even if such violations are caused by the same set of circumstances.

100. A Defendant shall pay stipulated penalties within 30 Days of the date of a written demand made to that Defendant for payment. Either EPA or Illinois EPA, or both, may elect to

demand stipulated penalties under this Section, however, EPA and Illinois EPA shall consult with each other before making any demand. Where both agencies demand stipulated penalties, any such penalties determined to be owing shall be paid 50 percent to the United States and 50 percent to the State of Illinois. Where only one Plaintiff demands stipulated penalties, the entire amount of stipulated penalties shall be payable to that sovereign. The Plaintiff making a demand for payment of a Stipulated Penalty shall simultaneously send a copy of the demand to the other Plaintiff. In no case shall the determination by one sovereign not to seek stipulated penalties preclude the other sovereign from seeking stipulated penalties in accordance with the Decree.

101. Either Plaintiff may in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Consent Decree.

102. Stipulated penalties shall continue to accrue as provided in Paragraph 99 during any Dispute Resolution but need not be paid until the following:

a. if the dispute is resolved in favor of Plaintiffs by a written agreement or by a decision of EPA or Illinois EPA that is not appealed to this Court, a Defendant shall pay accrued penalties determined to be owing, together with interest, within 30 Days of the date that the Defendant signs the written agreement or receipt of EPA's or Illinois EPA's decision or order;

b. if a Defendant seeks judicial review pursuant to Paragraph 116 of this Decree and either the United States or the State prevails in whole or in part, that Defendant shall pay all accrued penalties that the court determines to be owing, together with interest, within 60 Days of the date of the court's decision or order, except as provided in subparagraph c of this Paragraph; or

c. if any Party appeals the district court's decision, the Defendant shall pay, within 20 Days of the date of the final appellate court decision, all accrued penalties that the appellate court determines to be owing, together with interest.

103. Defendants shall pay stipulated penalties owing to the United States and the State in the manner set forth and with the confirmation notices required by Paragraph 11, except that the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violations the penalties are being paid.

104. If a Defendant fails to pay stipulated penalties according to the terms of this Consent Decree, that Defendant shall be liable for interest on such penalties, as provided for in 28 U.S.C. Section 1961, accruing as of the date payment became due. Nothing in this Paragraph shall be construed to limit the United States or the State from seeking any remedy otherwise provided by law for a Defendant's failure to pay any stipulated penalties.

105. Subject to the provisions of Section XIV (Effect of Settlement/Reservation of Rights), the stipulated penalties provided for in this Consent Decree shall be in addition to any other rights, remedies, or sanctions available to the United States or the State for a Defendant's violation of this Consent Decree or applicable law. Where a violation of this Consent Decree is also a violation of the CWA, the applicable regulations or State law, that Defendant shall be allowed a credit, for any stipulated penalties paid, against any statutory penalties imposed for such violation.

## **XI. FORCE MAJEURE**

106. A "Force Majeure Event" is any event beyond the control of Defendants, their contractors, or any entity controlled by Defendants that delays or prevents the performance of any obligation under this Consent Decree despite Defendants' best efforts to fulfill the

obligation. “Best efforts” includes anticipating any potential Force Majeure Event and addressing 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. “Force Majeure Event” does not include Defendants’ financial inability to perform any obligation under this Consent Decree.

107. If any event occurs or has occurred that may delay or prevent the performance of any obligation under this Consent Decree, whether or not caused by a Force Majeure Event, the Defendant responsible for the obligation shall provide notice orally or by email to EPA and Illinois EPA within five Business Days of when Defendant first knew that the event might cause a delay. Within seven Days thereafter, the Defendant responsible for the obligation shall provide in writing to EPA and Illinois EPA an explanation and description of (a) the reasons for the delay or prevention of performance; (b) the anticipated duration of the delay or prevention of performance; (c) all actions taken or to be taken to prevent or minimize the delay or prevention of performance; (d) a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay or prevention of performance; (e) Defendant’s rationale for attributing such delay or prevention of performance to a Force Majeure Event if it intends to assert such a claim; and (f) a statement as to whether, in the opinion of Defendant, such event may cause or contribute to an endangerment to public health, welfare, or the environment. The Defendant responsible for the obligation shall include with any notice all available documentation supporting the claim that the delay or prevention of performance was attributable to a Force Majeure Event. Failure to comply with the above requirements shall preclude Defendant from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay or prevention of performance caused



by such failure. Defendants shall be deemed to know of any circumstance of which Defendants, any entity controlled by Defendants, or Defendants' contractors knew or should have known.

108. If EPA, after consultation with the State, agrees that a Force Majeure Event has occurred, the United States and the State may agree to extend the time for Defendant to perform the affected requirements for the time necessary to complete those obligations. An extension of time to perform obligations affected by a Force Majeure Event shall not, by itself, extend the time to perform any other obligation. EPA will notify Defendant in writing of the length of the extension, if any, for performance of the obligations affected by the Force Majeure Event. Defendants shall not be liable for stipulated penalties or other remedies Plaintiffs would otherwise have under this Consent Decree for the period of the extension.

109. If EPA, after consultation with the State, does not agree that the delay or anticipated delay has been or will be caused by a Force Majeure Event, EPA will notify Defendant in writing of its decision.

110. If the Defendant responsible for the obligation elects to invoke the dispute resolution procedures set forth in Section XII (Dispute Resolution), it shall do so no later than 30 Days after receipt of the notice. In any such proceeding, Defendants shall have the burden of demonstrating by a preponderance of the evidence that (a) the delay or anticipated delay or prevention of performance has been or will be caused by a Force Majeure Event, (b) the duration of the delay or the extension or excuse sought was or will be warranted under the circumstances, (c) best efforts were exercised to avoid and mitigate the effects of the delay or prevention of performance, and (d) Defendants complied with the requirements of Paragraphs 106 and 107. If Defendants carry this burden, the delay or prevention of performance at issue shall be deemed

not to be a violation by Defendants of the affected obligation of this Consent Decree identified to EPA, Illinois EPA, and the Court.

## **XII. DISPUTE RESOLUTION**

111. 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. A Defendant's failure to seek resolution of a dispute under this Section shall preclude that Defendant from raising any such issue as a defense to an action by the United States or the State to enforce any obligation of the respective Defendant under this Decree.

112. Informal Dispute Resolution. Any dispute subject to dispute resolution under this Consent Decree shall in the first instance be the subject of informal negotiations. A dispute shall be considered to have arisen when a Defendant sends the United States and the State a written Notice of Dispute clearly stating the matter in dispute. The period of informal negotiations shall not exceed 30 Days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States shall be considered binding, unless within 30 Days after the conclusion of the informal negotiation period, the Defendant invokes formal dispute resolution as set forth below.

113. Formal Dispute Resolution. A Defendant shall invoke the formal dispute resolution procedures within the time period provided in the preceding Paragraph, by serving on the United States and the State a written Statement of Position on the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or

opinion supporting the Defendant's position and any supporting documentation relied upon by the Defendant.

114. The United States, after consultation with the State, shall serve its Statement of Position within 45 Days of receipt of a Defendant's Statement of Position. The United States' Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the United States. The Statement of Position by the United States shall be binding on the respective Defendant, unless that Defendant files a motion for judicial review of the dispute in accordance with Paragraph 116.

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

116. A Defendant may seek judicial review of the dispute by filing with this Court and serving the United States and the State in accordance with Section XVI (Notices) a motion requesting judicial resolution of the dispute. The motion must be filed within 20 Days of the receipt of the United States' Statement of Position pursuant to Paragraph 114. The motion shall contain a written statement of the 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.

117. The United States, after consultation with the State, shall respond to a Defendant's motion within the time period allowed by the Local Rules of this Court.

118. Standard of Review

a. Disputes Concerning Matters Accorded Record Review. Except as otherwise provided in this Consent Decree, in any dispute requiring Formal Dispute Resolution pertaining to (a) the adequacy or appropriateness of plans, procedures to implement plans, schedules, or any other items requiring approval by the United States and/or the State under this Consent Decree; (ii) the adequacy of the performance of work undertaken pursuant to this Consent Decree; and (iii) all other disputes that are accorded review on the administrative record under applicable principles of administrative law, the disputing Defendant(s) shall have the burden of demonstrating, based on the administrative record, that the position of the United States, after consultation with the State, is arbitrary and capricious or otherwise not in accordance with law.

b. Other Disputes. Except as otherwise provided in this Consent Decree, in any other dispute brought under Paragraph 116, the disputing Defendant(s) shall bear the burden of demonstrating that its position complies with this Consent Decree and better furthers the objective of the Consent Decree.

119. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of a Defendant under this Consent Decree, unless and until the final resolution of the dispute so provides. 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 102. If a Defendant does not prevail on the disputed issue, any stipulated penalties determined to be owed shall be assessed and paid as provided in Section X (Stipulated Penalties).

### **XIII. INFORMATION COLLECTION AND RETENTION**

120. The United States, the State, and their representatives, including attorneys, contractors, and consultants, shall have the right of entry to the WWTP, Riverfront Interceptor, Remote Treatment Units, Combined Sewer System, Sanitary Sewer System, and all Outfalls covered by this Consent Decree, at all reasonable times, upon presentation of credentials, 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 this Consent Decree, Defendants' NPDES Permits, the Clean Water Act, or State law;
- c. obtain samples and, upon request, splits of any samples taken by Defendants or their representatives, contractors, or consultants;
- d. obtain documentary evidence, including photographs and similar data; and
- e. assess Defendants' compliance with this Consent Decree, Defendants' NPDES Permits, the Clean Water Act, or State law.

121. Upon request, Defendants shall provide EPA and Illinois EPA or their authorized representatives splits of any samples taken by Defendants. Upon request, EPA and the State shall provide Defendants splits of any samples taken by EPA or the State.

122. Until five years after termination of this Consent Decree, each Defendant shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all records and documents (including records or documents in electronic form) in its possession, custody, or control, or that come into the possession, custody, or control of that Defendant or its contractors or agents, and that relate in any manner to that Defendant's performance of its obligations pursuant to this Consent Decree. This record retention requirement shall apply regardless of any corporate or institutional document-retention policy to the contrary. At any

time during this record-retention period, the United States or the State may request copies of any documents or records required to be maintained under this Paragraph.

123. At the conclusion of the information-retention period provided in the preceding Paragraph, each Defendant shall notify the United States and the State at least 90 Days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph, and, upon request by the United States or the State, the notifying Defendant shall deliver any such documents, records, or other information to EPA or the State. A Defendant may assert that certain documents, records, or other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If a Defendant asserts such a privilege, it shall provide the following: (a) the title of the document, record, or information; (b) the date of the document, record, or information; (c) the name and title of each author of the document, record, or information; (d) the name and title of each addressee and recipient; (e) a description of the subject of the document, record, or information; and (f) the privilege asserted by the Defendant. However, no documents, records, or other information created or generated pursuant to the requirements of this Consent Decree shall be withheld on grounds of privilege. A Defendant also may assert that information required to be provided pursuant to this Section is protected as Confidential Business Information (“CBI”) under 40 C.F.R. Part 2. As to any information that a Defendant seeks to protect as CBI, that Defendant shall follow the procedures set forth in 40 C.F.R. Part 2. However, no documents, records, or other information created or generated pursuant to the requirements of this Consent Decree shall be withheld on the grounds that CBI protection is claimed.

124. This Consent Decree in no way limits or affects any right of entry and inspection, or any right to obtain information or documents, held by the United States or the State pursuant

to applicable federal or state laws, regulations, or permits, nor does this Decree limit or affect any respective duty or obligation of each Defendant to maintain documents, records, or information imposed by applicable federal or state laws, regulations, or permits.

#### **XIV. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS**

125. This Consent Decree resolves the civil claims of the United States and the State for the violations alleged in the Complaint filed in this case and/or described in the preamble of this Consent Decree through the date of lodging.

126. The United States and the State reserve all legal and equitable remedies available to enforce the provisions of this Consent Decree except as expressly stated in Paragraph 125. This Consent Decree shall not be construed to limit the rights of the United States or the State to obtain penalties or injunctive relief under the Act or implementing regulations, or under other federal or state laws, regulations or permit conditions, except as expressly specified in Paragraph 125. The United States and the State further reserve all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare of the environment, whether related to the violations addressed in this Consent Decree or otherwise.

127. In any subsequent administrative or judicial proceeding initiated by the United States or the State for injunctive relief, civil penalties, or other appropriate relief relating to a Defendant's violations, that Defendant shall not assert, and may not maintain, any defense or claim based on the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based on any contention that the claims raised by the United States or the State in the subsequent proceeding were or should have been brought in this case, except with respect to claims that specifically were resolved pursuant to Paragraph 125 of this Decree.

128. This Consent Decree is not a permit, or a modification of any permit, under any federal, State, or local law or regulation. Defendants are responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations and permits; and Defendants' compliance with this Consent Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits except as set forth herein. The United States and the State do not by their consent to the entry of this Consent Decree, warrant or aver in any manner that Defendants' compliance with any aspect of this Consent Decree will result in compliance with the provisions of Section 301(a) of the Act, 33 U.S.C. 1311, *et seq.*, or with any other provisions of federal, State or local laws, regulations, or permits.

129. This Consent Decree does not limit or affect the rights of the United States, the State, or Defendants against any third parties that are not Parties to this Decree, nor does the Decree limit the rights of such third parties against Defendants, except as otherwise provided by law.

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

#### **XV. COSTS AND ATTORNEYS' FEES**

131. The Parties shall bear their own costs and attorneys' fees in this case and all other matters related to this Consent Decree, except that the United States and the State shall be entitled to collect the costs and attorneys' fees incurred in any action necessary to collect any portion of the civil penalties or any portion of any stipulated penalties due but not paid timely by Defendants.



## XVI. NOTICES

132. Unless otherwise specified in this Decree, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing and addressed as described below. All notifications, submissions, or communications to the United States and/or EPA; the State of Illinois and/or Illinois EPA; and GPSSD shall be submitted, to the extent possible, via e-mail.

**If required to be sent to the United States and/or DOJ  
(any method below with copy to EPA, email preferred):**

*If sent by United States Mail:*

Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
United States Department of Justice  
Post Office Box 7611, Ben Franklin Station  
Washington, D.C. 20044-7611  
Re: DJ # 90-5-1-1-08724

*If sent by Courier:*

Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
150 M St. NW  
Room 2.900  
Washington, DC 20002  
Re: DJ # 90-5-1-1-08724

*If sent by email:*

EESCDCopy.ENRD@usdoj.gov  
Re: DJ # 90-5-1-1-08724

**As to EPA (either method below, email preferred):**

*If sent by mail or courier:*

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

*If sent by email:*  
middleton.keith@epa.gov

*and*

r5weca@epa.gov

**As to the State and/or the Illinois Attorney General (either method below, email preferred):**

*If sent by mail or courier:*  
Ellen O’Laughlin (or designee)  
Environmental Bureau  
Illinois Attorney General’s Office  
69 West Washington Street, Suite 1800  
Chicago, IL 60602

*If sent by email:*  
EOLaughlin@atg.state.il.us

**As to Illinois EPA (either method below, email preferred):**

*If sent by mail or courier:*  
Todd Bennett (or designee)  
Illinois Environmental Protection Agency  
Peoria Regional Office  
412 S. Washington Street, Suite D  
Peoria, IL 61602

*If sent by email:*  
Todd.Bennett@Illinois.gov

**As to Peoria:**

The Honorable James Ardis  
Mayor, City of Peoria  
419 Fulton Street  
Peoria, IL 61602-1277

*and*

*If sent by mail or courier:*  
Erika K. Powers  
Barnes & Thornburg LLP  
1 N. Wacker Dr., Ste 4400  
Chicago, IL 60606

*If sent by email:*  
[epowers@btlaw.com](mailto:epowers@btlaw.com)

**As to the District:**

Executive Director  
Greater Peoria Sanitary District  
2322 S. Darst Street  
Peoria, IL 61607-2093  
bjohnson@gpsd.org

Roy M. Harsch  
209 S River Ln  
Geneva, IL 60134  
roymharsch@gmail.com

133. Any Party may, by written notice to the other Parties, change its designated recipient or address set forth above.

134. All electronic submittals made to EPA and Illinois EPA must be in Portable Document Format (“pdf”) or similar format that is text searchable. If data are submitted in electronic spreadsheet form, the Defendant will provide the data and corresponding information in editable Excel format and not in image format. If Excel format is not available, then the electronic format should allow for data to be used in calculations by a standard spreadsheet program similar to Excel. The subject of the email correspondence must include the Defendant’s name, the name of the deliverable, and the Court’s case number. If a Defendant is unable to submit a notification, submission, or communication to EPA and Illinois EPA by email, the Defendant shall provide the notification, submission, or communication to the mailing addresses listed above in Paragraph 132 and include electronic format of the notification, submission, or communication on physical media such as compact disk, flash drive, or a similar storage device.

135. Notices submitted pursuant to this Section shall be deemed submitted on the date they are mailed or emailed unless otherwise provided by mutual agreement of the Parties in writing.

#### **XVII. EFFECTIVE DATE**

136. The Effective Date of this Consent Decree shall be the date on which this Consent Decree is entered by the Court or a motion to enter the Consent Decree is granted, whichever occurs first, as recorded on the Court's docket.

#### **XVIII. RETENTION OF JURISDICTION**

137. The Court shall retain jurisdiction over this case until termination of this Consent Decree for the purpose of resolving disputes arising under this Decree or entering orders modifying this Decree, pursuant to Sections XII (Dispute Resolution) and XIX (Modification) of this Decree, or effectuating or enforcing compliance with the terms of this Decree.

#### **XIX. MODIFICATION**

138. The terms of this Consent Decree, including the appendices, may be modified only by a subsequent written agreement signed by all the Parties. A Defendant's request for modification may be based, among other things, on: (1) an integrated plan developed in accordance with EPA's Integrated Municipal Stormwater and Wastewater Planning Approach Framework, issued on June 5, 2012; or (2) a current Financial Capability Assessment (per EPA's Financial Capability Assessment Framework, issued on November 24, 2014). If either the Integrated Municipal Stormwater and Wastewater Planning Approach Framework or the Financial Capability Assessment Framework is modified after the Effective Date, the

Defendant's request for modification shall be based on the version of the Framework(s) that is in effect on the Day that the request for modification is submitted to the Plaintiffs.

139. Absent a demonstration by Peoria or GPSSD that completion of a Consent Decree Remedial Measure is not economically achievable, any modification of this Consent Decree requested by either Peoria, GPSSD, or both shall be based on a demonstration that the modification will result in an equal or greater environmental benefit compared to the compliance requirements under this Consent Decree as of the Effective Date and shall meet the requirements set forth in the CWA.

140. Any modification of this Consent Decree, or of any documents that are developed pursuant to the requirements of this Decree and that become a part of the Decree, that effects a material change to the terms of the Decree shall become effective upon a subsequent written agreement signed by all Parties and approved by the Court. Any non-material change may be made by written agreement of the Parties, without Court approval. Any schedule that is included in this Decree or in any document developed pursuant to the Decree may be extended, modified, or revised upon written agreement of the Parties, without Court approval, unless the schedule extension effects a material change to the terms of this Decree.

141. Any disputes concerning the modification of this Decree shall be resolved pursuant to Section XII (Dispute Resolution), provided, however, that, instead of the burden of proof provided by Paragraph 118, the party seeking the modification of the Decree bears the burden of demonstrating that it is entitled to the requested modification in accordance with Fed. R. Civ. P. 60(b) and Paragraph 139.

**XX. TERMINATION**

142. After a Defendant has completed its respective requirements in Section VI (Compliance Requirements), has thereafter maintained continuous satisfactory compliance with this Consent Decree for a period of 12 consecutive months, and has paid the civil penalty and any accrued stipulated penalties as required by this Consent Decree, that Defendant may serve upon the United States and the State a Request for Termination, stating that the Defendant has satisfied those requirements, together with all necessary supporting documentation.

143. Following receipt by the United States and the State of a Defendant's Request for Termination, the Parties shall confer informally concerning the Request and any disagreement the Parties may have as to whether the Defendant has satisfactorily complied with the requirements for termination of this Consent Decree. If the United States, after consultation with the State, agrees that the portions of this Consent Decree applicable to the requesting Defendant can be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Decree as to that Defendant.

144. If the United States, after consultation with the State, does not agree that the Decree may be terminated, Defendant may invoke Dispute Resolution under Section XII of this Decree. However, a Defendant shall not seek Dispute Resolution of any dispute regarding termination until receipt of Plaintiffs' decision regarding termination or 120 Days after service of its Request for Termination, whichever is earlier.

145. Regardless of whether Defendant has requested termination of the Consent Decree pursuant to Paragraph 142, the United States and the State may seek the Court's approval to terminate this Consent Decree based upon the United States and the State's determination that Defendant has met the requirements for termination in accordance with this Section.

**XXI. PUBLIC PARTICIPATION**

146. This Consent Decree shall 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 or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, inadequate, or inconsistent with the purposes of the Clean Water Act. Defendants consent to entry of this Consent Decree by the Court without further notice and agree not to withdraw from or oppose entry of this Consent Decree by the Court or to challenge any provision of this Consent Decree, unless the United States has notified Defendants in writing that it no longer supports entry of the Consent Decree.

**XXII. SIGNATORIES/SERVICE**

147. The Assistant Attorney General for the Environment and Natural Resources Division of the United States Department of Justice, or his designee, the Assistant Attorney General of the Office of the Illinois Attorney General, and the undersigned representatives of Peoria and the District each certify that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally the Party he or she represents to this document.

148. Defendants agree 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 Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court, including, but not limited to, service of a summons. The Parties agree that the Defendants need not file an answer to the Complaint in this action unless or until the Court expressly declines to enter this Consent Decree.

149. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis.

### **XXIII. INTEGRATION**

150. 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 supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. Other than any submittals subsequently approved by EPA pursuant to this Consent 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 Decree.

### **XXIV. FINAL JUDGMENT**

151. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute the final judgment of the Court as to the United States, the State, and Defendants.

### **XXV. APPENDICES**

152. The following appendices are attached to and are part of this Consent Decree:

- Appendix A: Interim Performance Criteria Tabular Exhibit
- Appendix B: Final Performance Criteria Tabular Exhibit
- Appendix C: Peoria's Typical Year Precipitation Events



- Appendix D: State SEP Requirements
- Appendix E: Six Month Design Storm Description
- Appendix F: Six-Month Design Storm and Typical Year Peak Rainfall  
Depths

SO ORDERED this \_\_\_\_\_ Day of \_\_\_\_\_, 2021

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United States District Judge

*Signature page for Consent Decree  
United States, et al. v. City of Peoria, et al.*

FOR THE UNITED STATES OF AMERICA:

JONATHAN D. BRIGHTBILL  
Principal Deputy Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice



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THOMAS A. BENSON  
NICHOLAS McDANIEL  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
Washington, DC 20044-7611

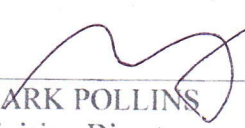
JOHN C. MILHISER  
United States Attorney  
Central District of Illinois


JOSHUA I. GRANT  
Assistant United States Attorney  
Central District of Illinois  
318 S. Sixth Street  
Springfield, IL 62701

*Signature page for Consent Decree  
United States, et al. v. City of Peoria, et al.*

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

12-16-2020  
Date

  
\_\_\_\_\_  
MARK POLLINS  
Division Director  
Water Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
United States Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460

  
\_\_\_\_\_  
JAMES VINCI  
Attorney  
Water Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
United States Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460

*Signature page for Consent Decree  
United States, et al. v. City of Peoria, et al.*

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

**T. Leverett Nelson** Digitally signed by T. Leverett Nelson  
Date: 2020.12.17 14:50:47 -06'00'

Date

T. LEVERETT NELSON  
Regional Counsel  
U.S. Environmental Protection Agency, Region 5

**MATTHEW  
DAWSON** Digitally signed by  
MATTHEW DAWSON  
Date: 2020.12.17 15:01:48  
-06'00'

MATTHEW DAWSON  
LUIS OVIEDO  
Associate Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Blvd.  
Chicago, IL 60604


*Signature page for Consent Decree  
United States, et al. v. City of Peoria, et al.*

FOR THE STATE OF ILLINOIS:

---

KWAME RAOUL, Attorney General


MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos Litigation Division

  
STEPHEN J. SYLVESTER, Chief  
Environmental Bureau  
Assistant Attorney General  
69 West Washington Street, Suite 1800  
Chicago, Illinois 60602

DATED: 12/18/20

THE ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

JOHN KIM, Director  
Illinois Environmental Protection Agency

  
CHARLES W. GUNNARSON  
Chief Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

DATED: 12/18/2020

*Signature page for Consent Decree  
United States, et al. v. City of Peoria, et al.*

FOR THE CITY OF PEORIA:

12/15/2020  
Date

A handwritten signature in purple ink, appearing to read "James White", is written over a horizontal line.

*Signature page for Consent Decree  
United States, et al. v. City of Peoria, et al.*

FOR THE GREATER PEORIA SANITARY SEWER DISTRICT:

\_\_\_\_\_  
Date

By: 

\_\_\_\_\_  
ROBERT C. GATES

President of the Board of Trustees

**Appendix A: Interim Performance Criteria Tabular Exhibit**

	Date	Duration of Storm (hours)	Rain Gauge	Computed 2-Hour Peak (inches)	Computed 3-Hour Peak (inches)	Computed 6-Hour Peak (inches)
ex. 1	1/1/2000	20	Hardee	0.5	0.6	0.9
ex. 1	1/1/2000	20	Glen Oaks	0.55	0.72	0.78
ex. 1	1/1/2000	20	Darst	0.52	0.65	0.85
ex. 1	1/1/2000	20	Bradley	0.56	0.66	1.01
ex. 1	1/1/2000	20	Rain Gauge #1	0.6	0.67	0.77
ex. 2	1/5/2000	8	Hardee	0.8	0.91	1.05
ex. 2	1/5/2000	8	Glen Oaks	0.99	1.04	1.16
ex. 2	1/5/2000	8	Darst	1.25	1.45	1.5
ex. 2	1/5/2000	8	Bradley	1.18	1.32	1.51
ex. 2	1/5/2000	8	Rain Gauge #1	0.85	0.88	1.2
<b>Six-Month Design Storm Peaks</b>				<b>1.11</b>	<b>1.29</b>	<b>1.53</b>

Notes:

**Example Storm #1 would be used in the Interim Performance Criteria Analysis.**

**Example Storm #2 would not be used in the Interim Performance Criteria Analysis.**

1) Peoria will use this table to evaluate whether the precipitation event that occur during the interim performance criteria period (on or before December 31, 2039), pursuant to the requirements in Paragraphs 33.c. and 34.c. of this Consent Decree.

2) Peoria will supply the names of the real rain gauges being used (the rain gauges above were used for example purposes)

3) A precipitation event will be included in the interim performance criteria period analysis, pursuant to the requirements in Paragraphs 33.c. and 34.c. of this Consent Decree, if the storm event's 2-hour, 3-hour, and 6-hour peaks are all less than or equal to the criteria.



**Appendix B: Final Performance Criteria Tabular Exhibit**

	Date	Duration of Storm (hours)	Rain Gauge	Computed 5-Min Peak (inches)	Computed 10-Min Peak (inches)	Computed 15-Min Peak (inches)	Computed 30-Min Peak (inches)	Computed 1-Hour Peak (inches)	Computed 2-Hour Peak (inches)	Computed 3-Hour Peak (inches)	Computed 4-Hour Peak (inches)
ex. 1	1/1/2000	20	Hardee	0.04	0.06	0.09	0.14	0.26	0.5	0.6	0.75
ex. 1	1/1/2000	20	Glen Oaks	0.04	0.07	0.1	0.15	0.29	0.55	0.72	0.73
ex. 1	1/1/2000	20	Darst	0.03	0.07	0.1	0.15	0.27	0.52	0.65	0.68
ex. 1	1/1/2000	20	Bradley	0.04	0.06	0.08	0.16	0.3	0.56	0.66	0.7
ex. 1	1/1/2000	20	Rain Gauge #1	0.03	0.07	0.09	0.17	0.32	0.6	0.67	0.7
<b>Appendix F Storm Peaks</b>				<b>0.06*</b>	<b>0.11*</b>	<b>0.17*</b>	<b>0.33*</b>	<b>0.66</b>	<b>1.11</b>	<b>1.29</b>	<b>1.39</b>
	Date	Duration of Storm (hours)	Rain Gauge	Computed 5-Hour Peak (inches)	Computed 6-Hour Peak (inches)	Computed 12-Hour Peak (inches)	Computed 18-Hour Peak (inches)	Computed 24-Hour Peak (inches)	Computed 48-Hour Peak (inches)	Computed 72-Hour Peak (inches)	Computed 85-Hour Peak (inches)
ex. 1	1/1/2000	20	Hardee	0.84	0.9	0.93	0.96	0.97	N/A	N/A	N/A
ex. 1	1/1/2000	20	Glen Oaks	0.74	0.78	0.8	0.88	0.9	N/A	N/A	N/A
ex. 1	1/1/2000	20	Darst	0.8	0.85	0.86	0.88	0.89	N/A	N/A	N/A
ex. 1	1/1/2000	20	Bradley	0.77	1.01	1.02	1.04	1.05	N/A	N/A	N/A
ex. 1	1/1/2000	20	Rain Gauge #1	0.76	0.77	0.8	0.86	0.88	N/A	N/A	N/A
<b>Appendix F Storm Peaks</b>				<b>1.46</b>	<b>1.53</b>	<b>1.71</b>	<b>1.71</b>	<b>1.71</b>	<b>2.05</b>	<b>2.06</b>	<b>2.28</b>

Notes:**Example Storm #1 would be used in the Final Performance Criteria Analysis.**

\* Peoria may need to conduct further analysis for these peaks, pursuant to Paragraph 44.f.ii of this Consent Decree.

- 1) Peoria will use this table to evaluate its precipitation events that occur during the post-construction monitoring period (after December 31, 2039), pursuant to the requirements in Paragraph 44.e. of this Consent Decree.
- 2) Peoria will supply the names of the real rain gauges being used (the rain gauges above were used for example purposes).
- 3) A precipitation event will be included in the post-construction monitoring analysis, pursuant to the requirements in Paragraphs 44.f. of this Consent Decree, if the precipitation event's peaks above are all less than or equal to the Appendix F criteria.
- 4) Peoria will include each precipitation event's 1-6 hour peaks (as applicable) within the post-construction monitoring period and will only include the other peaks if relevant to the analysis, as required in Paragraph 44.e.

**Appendix C: Peoria's Typical Year Precipitation Events**

Date	Start Hour	Duration (hr)	Volume (in)	Avg Intensity (in/hr)	Max Intensity (in/hr)	Interevent (hr)
1/3/1949	3	1	0.02	0.02	0.02	111
1/3/1949	22	2	0.02	0.01	0.01	18
1/4/1949	11	6	0.2	0.03	0.13	11
1/9/1949	18	11	0.62	0.06	0.12	121
1/10/1949	18	4	0.03	0.01	0.01	13
1/11/1949	8	9	0.4	0.04	0.08	10
1/14/1949	23	10	0.07	0.01	0.02	78
1/15/1949	16	3	0.1	0.03	0.07	7
1/18/1949	4	20	1.01	0.05	0.1	57
1/23/1949	6	9	0.75	0.08	0.12	102
1/24/1949	0	1	0.01	0.01	0.01	9
1/25/1949	15	15	0.32	0.02	0.04	38
1/27/1949	6	14	0.85	0.06	0.17	24
1/28/1949	16	1	0.01	0.01	0.01	20
1/31/1949	3	3	0.02	0.01	0.01	58
2/3/1949	7	15	0.27	0.02	0.08	73
2/6/1949	5	3	0.03	0.01	0.01	55
2/12/1949	18	9	0.5	0.06	0.17	154
2/14/1949	7	15	0.3	0.02	0.05	28
2/21/1949	3	13	0.3	0.02	0.07	149
2/24/1949	5	8	0.13	0.02	0.04	61
2/27/1949	3	9	0.1	0.01	0.02	62
3/7/1949	23	1	0.01	0.01	0.01	203
3/8/1949	12	6	0.07	0.01	0.03	12
3/17/1949	21	1	0.01	0.01	0.01	219
3/21/1949	16	15	0.64	0.04	0.18	90
3/25/1949	23	20	0.94	0.05	0.51	88
3/30/1949	7	16	0.86	0.05	0.19	84
3/31/1949	17	2	0.04	0.02	0.02	18
4/5/1949	14	4	0.15	0.04	0.13	115
4/10/1949	16	6	0.04	0.01	0.02	118
4/14/1949	11	34	1.13	0.03	0.3	85
4/16/1949	23	7	0.13	0.02	0.06	26
4/21/1949	22	3	0.45	0.15	0.33	112
4/22/1949	17	4	0.15	0.04	0.07	16
4/26/1949	12	7	0.7	0.1	0.27	87
5/1/1949	7	9	0.14	0.02	0.07	108
5/8/1949	23	1	0.01	0.01	0.01	175
5/9/1949	6	3	0.38	0.13	0.2	6

Date	Start Hour	Duration (hr)	Volume (in)	Avg Intensity (in/hr)	Max Intensity (in/hr)	Interevent (hr)
5/16/1949	6	2	0.05	0.03	0.04	165
5/16/1949	16	1	0.03	0.03	0.03	8
5/18/1949	9	1	0.02	0.02	0.02	40
5/19/1949	8	4	0.3	0.08	0.17	22
5/23/1949	10	10	0.17	0.02	0.14	94
5/25/1949	12	6	0.07	0.01	0.04	40
6/2/1949	9	3	0.11	0.04	0.1	183
6/11/1949	11	7	0.22	0.03	0.18	215
6/12/1949	22	1	0.01	0.01	0.01	28
6/13/1949	8	8	0.91	0.11	0.76	9
6/13/1949	22	4	0.28	0.07	0.24	6
6/14/1949	12	12	0.86	0.07	0.31	10
6/23/1949	1	12	0.09	0.01	0.02	193
6/24/1949	17	2	0.17	0.09	0.15	28
6/25/1949	2	2	0.52	0.26	0.49	7
6/25/1949	21	1	0.01	0.01	0.01	17
6/26/1949	12	2	0.06	0.03	0.04	14
6/28/1949	3	1	0.01	0.01	0.01	37
7/5/1949	18	1	0.04	0.04	0.04	182
7/7/1949	4	7	0.02	0	0.01	33
7/7/1949	21	1	0.1	0.1	0.1	10
7/8/1949	14	12	1.71	0.14	0.44	16
7/12/1949	14	1	0.02	0.02	0.02	84
7/18/1949	9	2	0.12	0.06	0.1	138
7/20/1949	9	3	0.05	0.02	0.03	46
7/21/1949	6	5	2	0.4	1.29	18
7/21/1949	23	1	0.06	0.06	0.06	12
7/22/1949	6	1	0.03	0.03	0.03	6
7/23/1949	7	3	0.1	0.03	0.05	24
7/23/1949	16	2	0.42	0.21	0.31	6
7/25/1949	14	1	0.15	0.15	0.15	44
7/29/1949	1	1	0.04	0.04	0.04	82
7/30/1949	1	3	0.07	0.02	0.05	23
8/1/1949	19	4	0.58	0.15	0.26	63
8/11/1949	20	7	0.09	0.01	0.05	237
8/14/1949	17	1	0.02	0.02	0.02	62
8/17/1949	10	2	0.16	0.08	0.13	64
8/19/1949	4	12	0.37	0.03	0.1	40
8/27/1949	21	9	0.05	0.01	0.02	197
8/29/1949	23	1	0.01	0.01	0.01	41

Date	Start Hour	Duration (hr)	Volume (in)	Avg Intensity (in/hr)	Max Intensity (in/hr)	Interevent (hr)
9/11/1949	5	10	0.2	0.02	0.07	293
9/12/1949	2	7	0.64	0.09	0.35	11
9/12/1949	22	6	0.09	0.02	0.06	13
9/18/1949	1	3	0.62	0.21	0.56	117
9/21/1949	4	2	0.07	0.04	0.06	72
10/3/1949	0	6	0.06	0.01	0.04	282
10/4/1949	16	1	0.01	0.01	0.01	34
10/5/1949	22	14	1.35	0.1	0.44	29
10/8/1949	6	1	0.19	0.19	0.19	42
10/10/1949	12	2	0.1	0.05	0.08	53
10/11/1949	12	2	0.03	0.02	0.02	22
10/20/1949	7	3	0.24	0.08	0.11	209
10/21/1949	0	7	0.46	0.07	0.17	14
10/21/1949	20	1	0.06	0.06	0.06	13
11/12/1949	16	3	0.21	0.07	0.12	523
11/13/1949	2	2	0.05	0.03	0.03	7
11/13/1949	13	5	0.15	0.03	0.11	9
11/14/1949	15	1	0.02	0.02	0.02	21
11/24/1949	3	5	0.17	0.03	0.1	227
11/24/1949	14	6	0.05	0.01	0.01	6
12/3/1949	15	2	0.09	0.05	0.08	211
12/9/1949	17	3	0.05	0.02	0.03	144
12/10/1949	20	20	1.18	0.06	0.53	24
12/17/1949	18	8	0.45	0.06	0.18	146
12/22/1949	11	6	0.02	0	0.01	13
12/25/1949	8	25	0.77	0.03	0.12	63
12/31/1949	6	11	0.24	0.02	0.05	117

**City of Peoria**

**Turkey Creek SEP**

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**City of Peoria, Illinois**

**Proposed Supplemental Environmental Project (SEP)**

**Springdale Cemetery Stream Restoration**

## Introduction

Like over 700 other communities in the United States, the City of Peoria continues to utilize combined sewers in the older portions of the City. While significant reductions in combined sewer overflow (CSO) occurrences have been achieved in the last several decades, the City continues to work with the Illinois Environmental Protection Agency (IEPA) to develop a long-term control plan to minimize the occurrence of future overflows to the nearby Illinois River. As the City and the Agency continue to negotiate the settlement terms, the City of Peoria has identified a Supplemental Environmental Project (SEP) for inclusion into the settlement agreement. The proposed SEP is an environmentally beneficial project with the specific purpose of improving downstream water quality, protecting environmental and cultural resources, and reducing both the continued degradation of existing waterways and sedimentation in the Illinois River.

## Background

The City of Peoria is located along the western bluffs of the Illinois River in central Illinois. A Location Map is provided in Figure 1. Downtown Peoria and many of the City's older neighborhoods lie below the bluff nearest to the Illinois River and Peoria Lakes. The areas of the City that remain served by combined sewers are largely below the bluff as well (Figure 2). As the City has grown, development occurred along and above the bluff, with most recent growth occurring in the City's growth cells on the north and west sides of the City's corporate limits.

The City of Peoria is served by the Greater Peoria Sanitary District (GPSD) which owns and operates the majority of the sanitary sewers within the City of Peoria. The wastewater is conveyed to the GPSD treatment plant at the far southern end of the City where it is treated and discharged, under permit, to the Illinois River. During heavy rain or snowmelt, combined sewer overflows (CSOs) can occur at up to 16 permitted outfalls, with the majority occurring at an average of only 5 locations. The City, GPSD, and the EPA continue to work together to reduce these overflows that can impact the water quality of the Illinois River.

Additionally, the Illinois River and Peoria Lakes have received significant attention in recent decades regarding sedimentation and its impacts to water quality, habitat, capacity for flood conveyance, and navigation. Numerous studies have identified the impacts that development and agriculture on both the uplands and the bluffs have had on the rates of sedimentation from the local friable soils into the Peoria Lakes (e.g. *Mossville Bluffs Watershed Restoration Master Plan*, Tri County Regional Planning Commission, City of Peoria, and Peoria County, October 2002). Sedimentation has been shown to significantly impact the main navigation channel as well as overall water quality, fisheries, and riparian habitat throughout the Peoria Lakes.

The City of Peoria, Peoria County, the Tri-County Regional Planning Commission, Peoria Park District and many other agencies, stakeholders, and citizens have continually sought opportunities to protect natural resources, implement sustainable solutions, stabilize eroding uplands and waterways, and reduce local sediment loads into the Illinois River. Studies have been conducted and multiple projects initiated throughout the region to begin to address the problem. Native plantings, woodland management, stormwater management, ravine stabilization and general best management practices have been implemented at local levels in a variety of small projects. Particular attention has been given to identifying and stabilizing or protecting highly erodible tributaries along the bluffs within the City of Peoria.

## City of Peoria

## Turkey Creek SEP

Within the City of Peoria, Springdale Cemetery consists of 227 acres of rolling hills and valleys along the City's East Bluff, immediately north of downtown Peoria (Figure 2). It was founded in 1854 and is the final resting place to more than 70,000 people, with room for many more (Figure 3). Springdale Cemetery is listed on the National Register of Historic Places and was designed and serves as both a cemetery and popular public park for the citizens of greater Peoria. It is nationally recognized for its history, topography, ecology, and natural beauty. The NRCS soil survey identifies the dominant soils within the hills and valleys of Springdale as 857G-Strawn Hennepin loams, 35-60 percent slopes and 280gC2 – Fayette silt loam, glaciated 5 to 10 percent slopes, eroded.

Springdale Cemetery is bisected from north to south by Turkey Creek, sometimes referred to as Springdale Creek (Figure 4). The creek has a watershed of approximately 360 acres as it passes beneath War Memorial Drive at the northern extent of the Cemetery property and 610 acres as it passes beneath Black Bridge at the cemetery's southern extent. Turkey Creek then continues south along Perry Avenue before turning southeast, being passed below Jefferson and Adams Streets in large box culverts before discharging to the Illinois River just south of the Komatsu Manufacturing Plant on the River's western shore. The total watershed of the creek at its mouth is 1,434 acres (2.24 square miles). The creek is shown to have an average slope of 1.5% or 79 feet per mile at the downstream extent of the cemetery with a 100-year peak flow rate of 2,330 cubic feet per second (cfs) according to the IDNR's Streamstats estimation module, when including the adjustments for an urban watershed. The FEMA floodplain map does show that the reach has been studied and within the cemetery the mapped 100-year floodplain appears to be fairly narrow in relation to the channel itself (Figure 5).

The formation of small deltas from similar local creeks like Farm Creek, Funk's Run, Ten Mile Creek and Blue Creek in East Peoria and Kickapoo Creek, Senachwine Creek, Mossville Creek and Dickison Run in the Peoria Lakes region are often cited as obvious examples of the high sediment loads from such tributaries. Erosion rates from Turkey Creek or its sedimentation into the Illinois River are not known to have been measured directly, however several past studies by the Illinois State Water Survey and others have shown that the creeks and steep ravines along the local bluffs can be significant contributors to the overall sedimentation in the Peoria Lakes and Illinois River navigation channel. One study estimated the annual sediment load from small watersheds directly tributary to the lake averaged 3 tons of sediment per acre of watershed. The same publication cites the major factors of this sedimentation as watershed erosion, stream bank erosion and gully erosion along the bluff that surrounds the lake. It specifically recommends best management practices in the watershed and waterways to control erosion, including protecting streambanks and gulleys in the bluffs immediately adjacent to the Illinois River.

*"The best results will be achieved if most of the effort and money is spend to control the input of sediment from the tributary streams to the lake."*

-Peoria Lake Sedimentation Investigation, Demissie and Bhowmik, 1986

Of additional interest as background to the proposed SEP are the unique features of Springdale Cemetery, the protection of which provides ancillary benefit to the health and viability of both bluff habitats and community wellbeing in addition to water quality improvements in the Illinois River. Being set aside as a cemetery and recreational preserve more than 170 years ago, Springdale Cemetery maintains unique woodland, prairie, and riparian habitat within a 227-acre preserve surrounded by the urban core of the City of Peoria. Many ongoing efforts continue by the Peoria Park District, Springdale Historic Preservation Foundation and various non-profit stakeholder groups to perform restoration and preservation projects, understanding the unique opportunities to protect and provide habitat and ecosystem diversity. Furthermore, from its inception in the mid 1800's Springdale Cemetery has held the mission of being both a burial place *and* a community asset – providing an urban setting for

**City of Peoria****Turkey Creek SEP**

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recreation, reflection, escape and the enjoyment of its unique setting in the City. Local historical archives are rich with photographs and account of citizens, often families, spending days in the park-like setting, appreciating the many roads and trails to provide access to the hills and valleys, streams and bluffs within the Cemetery. Opportunities for education, exposure to nature, community well-being, recreation, and social interaction survive to this day.

**Project Objective**

The City of Peoria recognizes the importance of a clean, viable Illinois River and Peoria Lakes to human health and the environment. The City proposes to implement stream restoration practices within Turkey Creek and Springdale Cemetery to reduce bluff and stream erosion and, ultimately, sedimentation into the Illinois River to improve water quality, navigation, and habitat. A conceptual summary of the SEP is provided in Figure 6. The City of Peoria has no legal requirement to improve Turkey Creek within Springdale Cemetery. Neither does it have any obligation to control/reduce sedimentation, nutrient, or Total Suspended Solids (TSS) loading in the Illinois River from Turkey Creek. The City acknowledges that the proposed Supplemental Environmental Project will provide benefit to the water quality of the Illinois River. The City is considering a stream restoration project with total costs estimated at approximately \$200,000 for which the City proposes acceptance as an SEP for addition to the settlement agreement.

**Project Description**

As Turkey Creek bisects Springdale Cemetery it passes beneath what is colloquially known as White Bridge running down the main north-south valley in the center of the cemetery, before passing below Black Bridge and exiting at its southern extent. The creek is well defined, with very shallow water during baseflows. Many small tributaries and ravine gullies enter the channel throughout the cemetery, with the occasional area drain, or roadside gutter or storm sewer entering the creek. In portions of the channel, concerted efforts to provide both grade control and/or streambank stabilization (usually in the form of large stone or gabion baskets) have been completed.

One segment of the creek, upstream of Black Bridge, remains unprotected and is exhibiting signs of downcutting, streambank erosion, and habitat loss. Some efforts to stabilize selected sections of the bank by dumping some riprap or large boulders have occurred in the past, but portions of the channel remain unstable, with areas of deep cutting along the banks, which are beginning to threaten some burial plots. Photographs are provided.

The City's proposed Supplemental Environmental Project focuses on addressing portions of Turkey Creek to provide grade control and restoration of a natural streambank on both sides of the creek. The proposed project would include a pool and riffle complex with Newbury or cross vane weirs and the reconstruction of both sides of the channel bank with a base of rock armament or a similarly suited gabion or green gabion system, as recommended by the NRCS with a focus on enhancing the natural bank and providing a restored streambank through green practices. Conceptual diagrams of the alternatives proposed are provided in Figures 7 and typical details of the possible treatment to be used are included in Figures 8 and 9. Additional design features would be included to focus on the restoration of habitat and preservation of native species in addition to the bank armament.

The SEP would focus efforts on green armament methods of providing grade controls and profile/habitat restoration to protect the soft soils in the ravine. Approximately 400 lineal feet is proposed for treatment where the gulley erosion has been identified as the most extreme. The project scope will be limited to providing grade control and erosion protection, and the existing sidewalk will remain.



**City of Peoria****Turkey Creek SEP**

Particular attention will be paid to restoring and protecting existing habitat and minimizing impacts to adjacent woodland species and develop sustainable, natural solutions, context sensitive to the natural areas in which they are proposed. A conceptual plan is provided in Figure 7 and details of typical treatments are provided in Figures 8 & 9.

To estimate the benefits of the proposed restoration projects on the downstream sediment and nutrient loading, the USEPA EPA Region 5 equations were utilized to estimate load reductions resulting from the implementation of the BMP's identified above. While these spreadsheets are based on general assumptions and utilize typical values for reductions that may differ depending on the treatment selected, the method provides an opportunity to evaluate the relative impacts of the project and show where resources might be most effectively applied. The Region 5 equations have identified that significant annual reductions in sediment and nutrients can be achieved by implementing the proposed BMPs in Springdale. The streambank restoration effort is shown to reduce downtown sediment loads approximately 44 tons/year with reductions of 36 and 74 lbs/year in phosphorous and nitrogen, respectively.

The proposed project has been reviewed for potential challenges with respect to various environmental and regulatory requirements. While a deeper analysis may be required during preliminary design and entitlements, a cursory screen is appropriate for review at the conceptual level to determine applicability for SEP.

- Section 6(f) Land and Water Conservation Fund Act Spaces (LAWCON) protected properties are not anticipated to be impacted by the bank stabilization proposed in this SEP.
- Open Space Lands Acquisition and Development (OSLAD) land conversion issues are not anticipated to be encountered as part of the proposed SEP, as the scope is limited to maintenance and protection of existing resources and no open spaces, parklands, or recreational areas are anticipated to be impacted, converted, or developed as part of the project.
- The proposed work in Turkey Creek will require coordination with the US Army Corps of Engineers to obtain Nationwide Permits for Bank Stabilization and Maintenance as it would qualify as waterway subject to permitting under Section 404 of the Clean Water Act. As proposed filling would be limited to rock and natural armament for the grade control and bank protection measures, generally coordination with the Corps (Rock Island District) early in the project allows for scope and design revisions to minimize impacts and qualify for minimal appropriate permitting.
- While Springdale Cemetery is on the National Historic Register and coordination will be critical, the proposed SEP would not involve direct impacts to existing historic infrastructure. Early and continual communication with the IHPA and other authorities will need to be necessary to maintain compliance with all applicable regulations and obtain appropriate signoff. However, the scope is limited to providing protection within existing waterways to mitigate ongoing impacts to historical infrastructure and approval by IHPA and other authorities having jurisdiction over historical resources is anticipated.
- With work being proposed in a cemetery, careful coordination with the IHPA and other entities will be critical to identifying any concerns regarding cultural resources and addressing them both in design and during construction. On-call monitoring by archeological professionals during construction might need to be considered for specific reaches where erosion and bank cutting

**City of Peoria****Turkey Creek SEP**

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has begun to encroach upon existing grave plots, although project scoping and design will be carefully completed to avoid such known impacts.

- With the unique bluff habitat, woodlands, and adjacent ongoing restorations, it is anticipated that a higher level of investigation *may* be encountered with respect to bat habitat or other sensitive receptors during project scoping and permitting. Although the project scope will focus on maintenance and stabilization of existing waterways and tree clearing will be minimized, care will need to be taken during design and construction to identify, protect and preserve any sensitive habitats that are identified.
- The Turkey Creek watershed at the project site has been shown to be less than a square mile in the urban Peoria core. Therefore, floodway construction permitting from the Illinois Department of Natural Resources (IDNR) is not anticipated to be required. However, coordination with the Agency will be necessary as any impacts to the effective FEMA flood maps result from the proposed improvements, as the City of Peoria participates in the National Flood Insurance Program and is responsible for maintaining updated maps when infrastructure projects result in changes to the mapped flood profiles. At this time, the IDNR is working with FEMA to update the aging City of Peoria flood maps and, if accepted and initiated quickly, any revisions could be included in this ongoing remapping effort.
- Best Management Practices regarding erosion control and water quality protection will be implemented throughout the project, however coordination with the EPA regarding NPDES non-point source water pollution control will be necessary through the City's ongoing MS4 designation and applicable permit.
- The SEP is not anticipated to have impacts to either farmland conversion, special or hazardous wastes, navigable waterways or other environmental issues not described above.

**Project Closeout**

Within 30 days of the completion of post-construction monitoring, the City will submit a SEP Completion Report to the IEPA that will include:

- a. a detailed description of the SEP as implemented.
- b. a description of any problems encountered in completing the SEP and the solutions thereto.
- c. an itemized list of all eligible SEP costs expended.
- d. certification that the SEP has been fully implemented pursuant to the provisions of the Decree.
- e. a description of the environmental and public health benefits resulting from implementation of the SEP (with a final quantification or estimation of the benefits).

**City of Peoria****Turkey Creek SEP****Project Costs**

Many design details, including detailed surveys, soil testing, hydraulic modeling, and identification of specific site challenges unique to construction in a cemetery will be necessary to define specific project costs. However, a review of the literature has shown similar bank and gulley restoration costs in the range of \$50 - \$400 per lineal foot, depending on levels of treatment, access, monitoring, types of vegetation or other green elements, and levels of habitat restoration. Here, \$240/lf is assumed in Turkey Creek, in addition to the individual grade control structures. A contingency of 20% is provided to acknowledge that the project will likely include sensitive construction methods to identify, avoid, and monitor potential impacts to adjacent gravesites. Preliminary project budgets for the two alternative projects are included here:

**BUDGETARY COST ESTIMATE**

	UNIT	QTY	UNIT PRICE	TOTAL
<b>Turkey Creek Restoration</b>				
Monitoring (Pre and Post)	EA	1	\$ 10,000	\$ 10,000
Grade Control Structures	EA	2	\$ 12,000	\$ 24,000
Streambank Armorment	LF	400	\$ 240	\$ 96,000
Natural Restoration	LF	400	\$ 15	\$ 6,000

Construction Total	\$ 136,000
Contingency (20%)	\$ 27,200
Design/Permitting/Monitoring(25%)	\$ 40,800
<b>TOTAL PROJECT COST ESTIMATE</b>	<b>\$ 204,000</b>

**Project Schedule**

Upon approval of the SEP, the City of Peoria is prepared to begin baseline monitoring to identify bank geometry and estimate current sediment losses prior to beginning design and permitting. With its potentially sensitive location, permitting may require additional effort and coordination with IHPA and the IDNR before final design and construction can be performed. A preliminary project schedule is provided:

PROJECT SCHEDULE																													
	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22	Jan-23	Feb-23	Mar-23	Apr-23	May-23	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23
SEP Approval	█																												
Baseline Monitoring		█	█																										
Preliminary Study and Design				█	█	█																							
Permitting							█	█																					
Final Design										█	█	█																	
Bidding and Award													█	█															
Construction															█	█	█	█	█	█	█	█							
Post Construction Monitoring																							█	█	█	█	█	█	█

**Bank Stabilization**

Please fill in the gray areas below. If estimating for just one bank, put "0" in areas for Bank #2.

	<b>Example</b>	
Project Manager:	Lott	WWS
Project Number:	WO 18-12	95-992
Landowner Initials:	COP	HJK
Date practices completed:	12/20/2019	8/8/1999

Please select a soil textural class:

<input type="checkbox"/> Sands, loamy sands	<input type="checkbox"/> Silty clay loam, silty clay
<input type="checkbox"/> Sandy loam	<input type="checkbox"/> Clay loam
<input type="checkbox"/> Fine sandy loam	<input type="checkbox"/> Clay
<input type="checkbox"/> Loams, sandy clay loams, sandy clay	<input type="checkbox"/> Organic
<input type="checkbox"/> Silt loam	

Parameter	Bank #1	Bank #2	Example
Length (ft)	200	200	500
Height (ft)	8	8	15
Lateral Recession Rate (ft/yr)*	0.3	0.3	0.5
Soil P Conc (lb/lb soil)**	DEFAULT	0.0005	0.0005
Soil N Conc (lb/lb soil)**	DEFAULT	0.001	0.001

\*\* indicates default values for Total P and Total N soil concentrations

\*Lateral Recession Rate (LRR) is the rate at which bank deterioration has taken place and is measured in feet per year. This rate may not be easily determined by direct measurement. Therefore best professional judgement may be required to estimate the LRR. Please refer to the narrative descriptions in Table 1.

**Table 1**

LRR (ft/yr)	Category	Description
0.01 - 0.05	Slight	Some bare bank but active erosion not readily apparent. Some rills but no vegetative
0.06 - 0.2	Moderate	Bank is predominantly bare with some rills and vegetative overhang.
0.3 - 0.5	Severe	Bank is bare with rills and severe vegetative overhang. Many exposed tree roots and some fallen trees and slumps or slips. Some changes in cultural features such as fence corners missing and realignment of roads or trails. Channel cross-section becomes more U-shaped as opposed to V-shaped.
0.5+	Very Severe	Bank is bare with gullies and severe vegetative overhang. Many fallen trees, drains and culverts eroding out and changes in cultural features as above. Massive slips or washouts common. Channel cross-section is U-shaped and streamcourse or gully may be meandering.

Source: Steffen, L.J. 1982. Channel Erosion (personal communication), as printed in "Pollutants Controlled Calculation and Documentation for Section 319 Watersheds Training Manual," June 1999 Revision; Michigan Department of Environmental Quality - Surface Water Quality Division - Nonpoint Source Unit. EQP 5841 (6/99).

**Estimated Load Reductions**

	Bank #1	Bank #2	Example
Sediment Load Reduction (ton/year)	22	22	150
Phosphorus Load Reduction (lb/year)	18	18	150
Nitrogen Load Reduction (lb/yr)	37	37	300

City of Peoria

Turkey Creek SEP



Existing grade control structure at upstream end of project reach.

Looking Downstream along project reach from upstream grade control structure



City of Peoria

Turkey Creek SEP

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Looking upstream of project reach from downstream extent



Looking Downstream of downstream extent at Turkey Creek below Black Bridge

**City of Peoria**

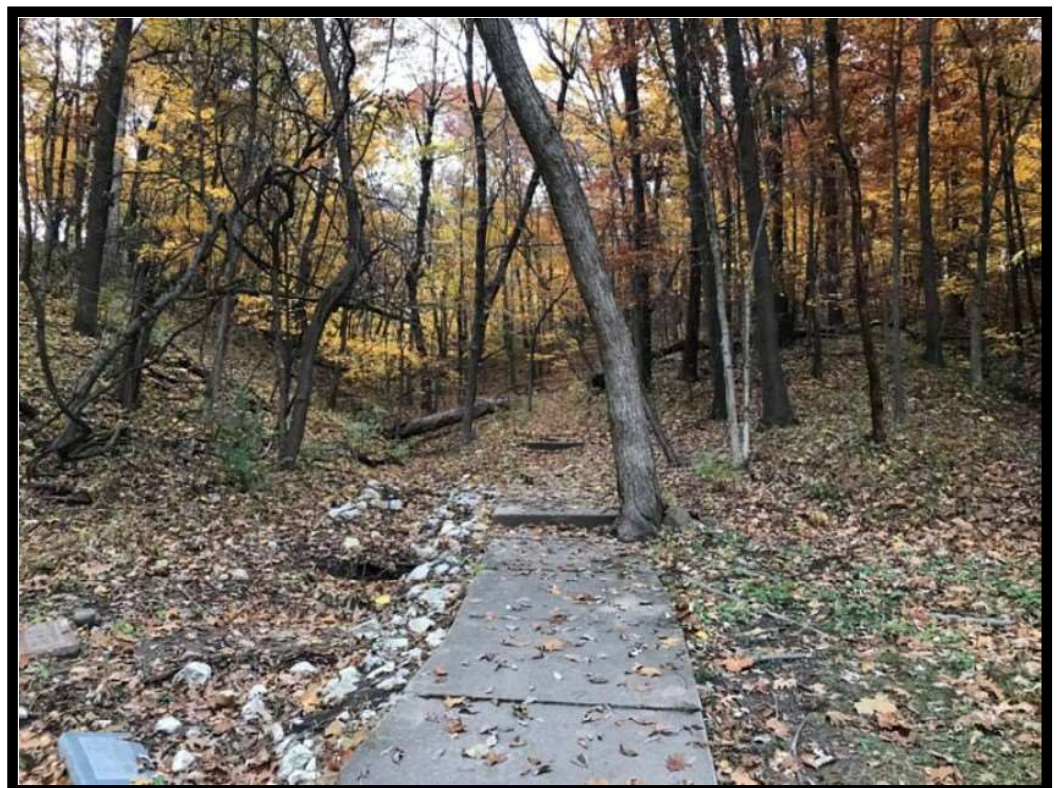
**Turkey Creek SEP**

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Looking upstream of project reach from downstream of Black Bridge where ravine discharges into Turkey Creek.

Looking up Ravine from near Turkey Creek







Area along Turkey Creek project reach where erosion is threatening existing plots

Example of successful channel stabilization project elsewhere in Springdale.



**Appendix E: Six-Month Design Storm Description**

Hour	Rainfall Depth (inches)	Hour	Rainfall Depth (inches)	Hour	Rainfall Depth (inches)	Hour	Rainfall Depth (inches)	Hour	Rainfall Depth (inches)
0:00	0.0102	0:43	0.01105	1:26	0.00935	2:09	0.0034	2:52	0.00255
0:01	0.0102	0:44	0.01105	1:27	0.00935	2:10	0.0034	2:53	0.00255
0:02	0.0102	0:45	0.01105	1:28	0.00935	2:11	0.0034	2:54	0.00255
0:03	0.0102	0:46	0.01105	1:29	0.00935	2:12	0.0034	2:55	0.00255
0:04	0.0102	0:47	0.01105	1:30	0.00595	2:13	0.0034	2:56	0.00255
0:05	0.0102	0:48	0.01105	1:31	0.00595	2:14	0.0034	2:57	0.00255
0:06	0.0102	0:49	0.01105	1:32	0.00595	2:15	0.0034	2:58	0.00255
0:07	0.0102	0:50	0.01105	1:33	0.00595	2:16	0.0034	2:59	0.00255
0:08	0.0102	0:51	0.01105	1:34	0.00595	2:17	0.0034	3:00	0.0017
0:09	0.0102	0:52	0.01105	1:35	0.00595	2:18	0.0034	3:01	0.0017
0:10	0.0102	0:53	0.01105	1:36	0.00595	2:19	0.0034	3:02	0.0017
0:11	0.0102	0:54	0.01105	1:37	0.00595	2:20	0.0034	3:03	0.0017
0:12	0.0102	0:55	0.01105	1:38	0.00595	2:21	0.0034	3:04	0.0017
0:13	0.0102	0:56	0.01105	1:39	0.00595	2:22	0.0034	3:05	0.0017
0:14	0.0102	0:57	0.01105	1:40	0.00595	2:23	0.0034	3:06	0.0017
0:15	0.0102	0:58	0.01105	1:41	0.00595	2:24	0.00255	3:07	0.0017
0:16	0.0102	0:59	0.01105	1:42	0.00595	2:25	0.00255	3:08	0.0017
0:17	0.0102	1:00	0.01105	1:43	0.00595	2:26	0.00255	3:09	0.0017
0:18	0.01105	1:01	0.01105	1:44	0.00595	2:27	0.00255	3:10	0.0017
0:19	0.01105	1:02	0.01105	1:45	0.00595	2:28	0.00255	3:11	0.0017
0:20	0.01105	1:03	0.01105	1:46	0.00595	2:29	0.00255	3:12	0.0017
0:21	0.01105	1:04	0.01105	1:47	0.00595	2:30	0.00255	3:13	0.0017
0:22	0.01105	1:05	0.01105	1:48	0.00425	2:31	0.00255	3:14	0.0017
0:23	0.01105	1:06	0.01105	1:49	0.00425	2:32	0.00255	3:15	0.0017
0:24	0.01105	1:07	0.01105	1:50	0.00425	2:33	0.00255	3:16	0.0017
0:25	0.01105	1:08	0.01105	1:51	0.00425	2:34	0.00255	3:17	0.0017
0:26	0.01105	1:09	0.01105	1:52	0.00425	2:35	0.00255	3:18	0.0017
0:27	0.01105	1:10	0.01105	1:53	0.00425	2:36	0.00255	3:19	0.0017
0:28	0.01105	1:11	0.01105	1:54	0.00425	2:37	0.00255	3:20	0.0017
0:29	0.01105	1:12	0.00935	1:55	0.00425	2:38	0.00255	3:21	0.0017
0:30	0.01105	1:13	0.00935	1:56	0.00425	2:39	0.00255	3:22	0.0017
0:31	0.01105	1:14	0.00935	1:57	0.00425	2:40	0.00255	3:23	0.0017
0:32	0.01105	1:15	0.00935	1:58	0.00425	2:41	0.00255	3:24	0.0017
0:33	0.01105	1:16	0.00935	1:59	0.00425	2:42	0.00255	3:25	0.0017
0:34	0.01105	1:17	0.00935	2:00	0.00425	2:43	0.00255	3:26	0.0017
0:35	0.01105	1:18	0.00935	2:01	0.00425	2:44	0.00255	3:27	0.0017
0:36	0.01105	1:19	0.00935	2:02	0.00425	2:45	0.00255	3:28	0.0017
0:37	0.01105	1:20	0.00935	2:03	0.00425	2:46	0.00255	3:29	0.0017
0:38	0.01105	1:21	0.00935	2:04	0.00425	2:47	0.00255	3:30	0.0017
0:39	0.01105	1:22	0.00935	2:05	0.00425	2:48	0.00255	3:31	0.0017
0:40	0.01105	1:23	0.00935	2:06	0.0034	2:49	0.00255	3:32	0.0017
0:41	0.01105	1:24	0.00935	2:07	0.0034	2:50	0.00255	3:33	0.0017
0:42	0.01105	1:25	0.00935	2:08	0.0034	2:51	0.00255	3:34	0.0017

Hour	Rainfall Depth (inches)	Hour	Rainfall Depth (inches)	Hour	Rainfall Depth (inches)	Hour	Rainfall Depth (inches)
3:35	0.0017	4:19	0.0017	5:03	0.00085	5:47	0.0017
3:36	0.0017	4:20	0.0017	5:04	0.00085	5:48	0.0017
3:37	0.0017	4:21	0.0017	5:05	0.00085	5:49	0.0017
3:38	0.0017	4:22	0.0017	5:06	0.00085	5:50	0.0017
3:39	0.0017	4:23	0.0017	5:07	0.00085	5:51	0.0017
3:40	0.0017	4:24	0.0017	5:08	0.00085	5:52	0.0017
3:41	0.0017	4:25	0.0017	5:09	0.00085	5:53	0.0017
3:42	0.0017	4:26	0.0017	5:10	0.00085	5:54	0.0017
3:43	0.0017	4:27	0.0017	5:11	0.00085	5:55	0.0017
3:44	0.0017	4:28	0.0017	5:12	0.00085	5:56	0.0017
3:45	0.0017	4:29	0.0017	5:13	0.00085	5:57	0.0017
3:46	0.0017	4:30	0.00085	5:14	0.00085	5:58	0.0017
3:47	0.0017	4:31	0.00085	5:15	0.00085	5:59	0.0017
3:48	0.0017	4:32	0.00085	5:16	0.00085		
3:49	0.0017	4:33	0.00085	5:17	0.00085		
3:50	0.0017	4:34	0.00085	5:18	0.00085		
3:51	0.0017	4:35	0.00085	5:19	0.00085		
3:52	0.0017	4:36	0.00085	5:20	0.00085		
3:53	0.0017	4:37	0.00085	5:21	0.00085		
3:54	0.0017	4:38	0.00085	5:22	0.00085		
3:55	0.0017	4:39	0.00085	5:23	0.00085		
3:56	0.0017	4:40	0.00085	5:24	0.00085		
3:57	0.0017	4:41	0.00085	5:25	0.00085		
3:58	0.0017	4:42	0.00085	5:26	0.00085		
3:59	0.0017	4:43	0.00085	5:27	0.00085		
4:00	0.0017	4:44	0.00085	5:28	0.00085		
4:01	0.0017	4:45	0.00085	5:29	0.00085		
4:02	0.0017	4:46	0.00085	5:30	0.00085		
4:03	0.0017	4:47	0.00085	5:31	0.00085		
4:04	0.0017	4:48	0.00085	5:32	0.00085		
4:05	0.0017	4:49	0.00085	5:33	0.00085		
4:06	0.0017	4:50	0.00085	5:34	0.00085		
4:07	0.0017	4:51	0.00085	5:35	0.00085		
4:08	0.0017	4:52	0.00085	5:36	0.00085		
4:09	0.0017	4:53	0.00085	5:37	0.00085		
4:10	0.0017	4:54	0.00085	5:38	0.00085		
4:11	0.0017	4:55	0.00085	5:39	0.00085		
4:12	0.0017	4:56	0.00085	5:40	0.00085		
4:13	0.0017	4:57	0.00085	5:41	0.00085		
4:14	0.0017	4:58	0.00085	5:42	0.0017		
4:15	0.0017	4:59	0.00085	5:43	0.0017		
4:16	0.0017	5:00	0.00085	5:44	0.0017		
4:17	0.0017	5:01	0.00085	5:45	0.0017		
4:18	0.0017	5:02	0.00085	5:46	0.0017		

**Appendix F: Six-Month Design Storm and Typical Year Peak Rainfall Depths**

<b>Duration (minutes)</b>	<b>Peak Rainfall Depth (inches)</b>
5	0.06*
10	0.11*
15	0.17*
30	0.33*
<b>Duration (hours)</b>	<b>Peak Rainfall Depth (inches)</b>
1	0.66
2	1.11
3	1.29
4	1.39
5	1.46
6	1.53
12	1.71
18	1.71
24	1.71
48	2.05
72	2.06
85	2.28

Note:

\* Peoria may need to conduct further analysis for these peaks, pursuant to Paragraph 44.f.ii of this Consent Decree

1. The peak rainfall depths associated with the July 21, 1949 event in Peoria's Typical Year are not included in this table