

---

## Background Documentation of WWT Activity through Regulatory Approval of the IOAP

In 2005, the Louisville and Jefferson County Metropolitan Sewer District (MSD) entered into a Consent Decree with the U.S. Environmental Protection Agency (EPA) and the Kentucky Department for Environmental Protection (KDEP) regarding discharges from MSD's sewer system and alleged violations of the federal Clean Water Act. The Consent Decree was amended by Federal Court on April 15, 2009. Like many municipalities nationwide, Louisville has a sewer system that collects rainwater runoff along with sewage and industrial wastewater. During storms and other large wet weather events, the volume of wastewater in the system exceeds the capacity of collection pipes and wastewater treatment plants, resulting in releases of untreated wastewater diluted with stormwater—called combined sewer overflows (CSOs)—directly into nearby water bodies. In addition to CSOs, Louisville has had problems with sanitary sewer overflows (SSOs), which are unintentional discharges of raw sewage from separate sanitary sewers that transport wastewater to treatment plants. SSOs can occur as a result of severe weather events, improper connections to the sewer system, and other sewer operation and maintenance conditions. CSOs and SSOs affect the water quality of local watersheds, can threaten public health, and can cause property damage through, for example, basement back-ups.

Under the terms of the Amended Consent Decree, MSD developed and submitted the Integrated Overflow Abatement Plan (IOAP) by December 31, 2008. This integrated plan contained a Long Term Control Plan (LTCP) for CSOs and a Sanitary Sewer Discharge Plan (SSDP) for SSOs. The Amended Consent Decree, with enthusiastic support from MSD, contained a provision for Stakeholder Group to participate in the development and implementation of these plans. This “Wet Weather Team” (WWT) included MSD personnel as well as community representatives and local elected officials (Stakeholder Group). Under the Amended Consent Decree, the WWT “shall include all entities who have a stake in the program outcome, and should be sufficiently multidisciplinary to address the myriad of engineering, economic, environmental, and institutional issues that will be raised during the implementation of the remedial measures under this Amended Consent Decree.” Recognizing that the IOAP would define a program representing a major community investment, MSD subsequently expanded the role of the WWT Stakeholder Group to assist in developing a framework for decision-making that included consideration of community values, priorities, and level of service in determining required community wet weather management investments.

MSD first chartered the WWT Stakeholder Group in July 2006. The group's charge, as explicitly described in the formal charter, was to assist with the development of the integrated overflow abatement program that complies with the Clean Water Act (CWA) requirements and addresses the community's problems with wet weather sewer overflows. The WWT Stakeholder Group Charter stated that the group would provide guidance on the development of an integrated Wet Weather Program (later referred to as the IOAP) that would comply with applicable regulatory requirements and would minimize the impacts of wet weather discharges on water quality, aquatic biota, and human health. Under the Charter, the WWT Stakeholder Group was further charged with providing input into a plan for funding MSD's Wet Weather Program, and

---

providing input into a program for public information, education, and involvement. Other areas of involvement for the WWT Stakeholder Group included advising MSD on overall investment, policy, and performance choices in the development and implementation of the IOAP, as well as specific components of discharge abatement plans including asset management activities, water quality monitoring, and related wet weather control efforts.

The WWT Stakeholder Group process focused on gaining explicit, consensus-based support of the IOAP program elements. A focused IOAP “vision” was developed in close consultation with the WWT Stakeholder Group members, encompassing nine pages of text and covered the following IOAP elements:

- Expected water quality benefits of the IOAP;
- Review of the values-based performance evaluation framework used to develop the IOAP;
- Control levels for combined and sanitary sewer overflows;
- A high-level description of the project alternatives selected for inclusion in the IOAP;
- A review of the public information, education, and involvement program;
- An outline of the post-construction compliance monitoring program;
- A discussion of future development considerations; and
- An overview of the IOAP funding plan.

In addition to the vision document, the Stakeholder Group indicated their explicit support for the IOAP through the development of a stakeholder transmittal memorandum. This memorandum came from the WWT stakeholder members and was addressed to the MSD Board. The memorandum described the WWT composition and charge and the results of the WWT Stakeholder Group’s deliberations. In particular, the memorandum identified four “pillars” of consensus reached by the WWT Stakeholder Group:

- Support for the community values-based analytic framework that was the underpinning of the IOAP alternatives selection process;
- Support for the application of the analytic process, based on their review of example outputs, in the development of the Final IOAP;
- Support for the overall IOAP vision (covering the anticipated water quality benefits and program funding needs); and
- Support for the overall mix of IOAP wet weather-related projects.

This memorandum acted as the stakeholder support final documentation of for the IOAP and sent a clear, concise, and firm message of support to the MSD Board and the Louisville community.

The participation the WWT Stakeholder Group in developing a project selection and prioritization process was directly responsible for MSD achieving regulatory compliance with a plan that could easily have cost us considerably more, if we had followed the approach used by other communities. The process utilized has been cited by USEPA Region 4 as a model for other communities to follow.

---

## **Original Composition and Role of the WWT**

MSD structured the WWT Stakeholder Group to include a subgroup of individual Stakeholder Group recognized as community “opinion leaders” associated with environmental advocacy, business and industry, elected official, local government agency, community neighborhood, recreation, public health, environmental justice, and organized labor interests. It was explicitly stated in the Group charter that members of the WWT Stakeholder Group do not formally represent their specific affiliated organization (formal representation can inhibit the input and timeliness of participation), but rather seek to provide input reflective of the broad interest area in which they lead.

MSD sought guidance from the WWT Stakeholder Group on investment choices in the design of an integrated Wet Weather Program that complies with all applicable regulatory requirements and minimizes the impacts of wet weather discharges on water quality, aquatic biota, and human health. MSD and the Louisville and Jefferson County community will be investing substantial amounts of money in wet weather controls and management efforts to meet our compliance obligations under the Amended Consent Decree and the Clean Water Act. The WWT Stakeholder Group helped to ensure that these investments will be made wisely and in ways that best meet the needs of the local community.

## **Original WWT Stakeholder Group Process**

A values-based risk management process was utilized to obtain input from the WWT Stakeholder Group on MSD’s investment decisions for the IOAP. This structured process allowed the WWT Stakeholder Group members to systematically consider the importance of potentially competing community values and the technical and management options available to achieve compliance and address community needs. The process was open and consensus seeking. However, the schedule to complete the IOAP, as required by the Amended Consent Decree, necessitated clear agreement between MSD and the WWT Stakeholder Group that decisions would be made in a timely manner with the plan completed in strict accordance with Amended Consent Decree deadlines. An important result of this agreement was MSD’s establishment of the group as a “consensus seeking” body. The overall desired outcome was full Stakeholder Group support of the IOAP, but group members understood that MSD would need to move forward and make decisions even in the absence of consensus. The Charter made clear that, whenever consensus was lacking, the full range of views would be documented and made available to the MSD Board.

Under the guidance of professional facilitation, MSD and the WWT Stakeholder Group met 22 times between July 2006 and December 2008. Each meeting - which typically ran from 4:30 to 8:30 PM - had a set agenda that included presentations from MSD, the technical team, and the facilitators. The content of presentations included the most recent developments and progress on projects, rates issues, and other relevant topics. Each meeting also afforded the opportunity for the WWT Stakeholder Group to engage each other in discussion and pose questions and raise issues to MSD and the consultant team.

---

All meetings were open to the public, and attended at various times by MSD staff and contractors, neighborhood representatives, members of the press, and other interested parties. These guests were allowed to observe the WWT Stakeholder Group meeting, and were afforded the opportunity to provide comments at designated times. WWT Stakeholder Group meeting summaries, presentations, handouts, and documents are posted on the Project WIN website under the WWT Document Repository. Documents are named and organized consistent with the WWT meeting in which the document was provided.

### **WWT Stakeholder Group Expectations Moving Forward**

At the last regularly scheduled WWT Stakeholder Group meeting in December 2008, it was assumed that the group's work was complete. However, there is an additional opportunity and need to continue active participation. While it was believed the WWT Stakeholder Group had served the purpose of its original charter with the successful completion of the IOAP, the language in the Amended Consent Decree requires continuation of the WWT through the entire implementation phase, thereby implying continuing some form of a WWT Stakeholder Group.

The challenges facing the community over the next few years include developing and gaining approval for a modification to the IOAP that will improve overflow abatement performance at the same estimated cost. In addition, three quarters of all the IOAP projects will move into the construction phase over the next few years. A smaller group of the original WWT Stakeholder Group will provide considerable value by serving as a sounding board to ensure the modifications to the plan and specific project designs remain true to the values, priorities and financial plan previously developed and approved by the regulators. Another critical area where the WWT Stakeholder Group will help is in guiding our continually evolving public education, outreach and input approach. In the past the WWT Stakeholder Group gave us valuable insights into how to reach the public. As the implementation phases change, continued input in this very important area will be needed.

It is in the best interest of the community to continue working with the same people to leverage the 2 ½ year education process that occurred during development of the IOAP. There simply is not time in the schedule to bring new members up to speed on all that has previously occurred to meet the schedule commitments identified in the IOAP.

Prior to submittal of the IOAP 2012 Modifications to EPA and KDEP by late 2012/early 2013, MSD will need to provide final draft plans to the MSD Board for consideration and adoption. The MSD Board consists of eight citizens appointed to represent the interests of MSD customers in Louisville and Jefferson County.

A third-party engineering contractor will support the WWT Stakeholder Group process, while MSD staff will facilitate and provide analytic support and other technical resources. This same values-based risk management decision-making process will be used to develop the IOAP 2012 Modifications. The WWT Stakeholder Group will be a "consensus seeking" body, although progress and ultimate MSD decision-making will not be strictly tied to consensus. The

---

facilitation team will ensure that the WWT Stakeholder Group member perspectives—particularly in cases where consensus is lacking—are gathered throughout the plan modification process and made available to the MSD Board to ensure a balanced and well-informed final decision process.

Under the Amended Consent Decree, MSD faces strict deadlines for producing deliverables and noncompliance will result in significant penalties. The WWT Stakeholder Group process must, as a result, move forward at a regular, steady pace for it to be successful. It is anticipated that the WWT meetings will occur twice per year. The majority of meetings will take place from 5:30 PM to 8:30 PM.

### **Wet Weather Team Stakeholder Group Membership Moving Forward**

Per the Amended Consent Decree, the WWT includes “MSD personnel such as wastewater treatment plant operators and engineering personnel, local political officials, the general public, including rate payers and environmental interests. Private consulting resources are also included.” Since the WWT will remain active through the year 2024, it is likely that attrition of members will occur. If any of the categories required by the Amended Consent Decree become under-represented, MSD will replace them to ensure that all requirements are met.

If replacement of the Wet Weather Team members is required, under Paragraph 23 of the Amended Consent Decree it is the responsibility of the Regulatory Services Director to select those replacements. Consistent with the original selection criteria, a replacement should be a recognized community opinion leader associated with the specific interest group needing representation. The replacement should also be free of any personal or organizational conflict of interest per the MSD Ethics Policy governing MSD staff. (Even though the Stakeholder Group members are not MSD staff, it is deemed important for the credibility of the group that no real or perceived conflicts of interest exist). In addition the replacement should not be a party to any active legal action against MSD or any other members of the WWT, or in the last 10 years have been a party to a legal action against MSD or any other member of the WWT which was lost, dismissed, or voluntarily abandoned without a settlement.

At the time of this update, the following WWT Stakeholder Group members are continuing their active involvement.

<b>Name</b>	<b>Organization/Interest</b>
Steve Barger	Labor (retired)
Susan Barto	Mayor of Lyndon
Stuart Benson	Louisville Metro Councilman, District 20
Allan Dittmer	University of Louisville Provost Office
Arnita Gadson	Kentucky Environmental Quality Commission
Mike Heitz	Louisville Metro Parks
Tom Herman	Zeon Chemicals
Rick Johnstone	Deputy Mayor, Louisville Metro Mayor's Office (Retired)
Bob Marrett	CMB Development Company, LLC
Kurt Mason	Jefferson County Soil and Water Conservation
Jim Mims	Department of Codes and Regulations
Lisa Santos	Irish Hill Neighborhood Association
Bruce Scott	Kentucky Waterways Alliance
David Tollerud	University of Louisville, School of Public Health and Environmental Sciences
Tina Ward-Pugh	Louisville Metro Councilwoman, District 9
David Wicks	Jefferson County Public Schools (retired)

**For More Information**

For more information about MSD's WWT Stakeholder Group process, please contact Angela Akridge ([AKRIDGE@msdlouky.org](mailto:AKRIDGE@msdlouky.org)) at MSD at (502) 540-6136.