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**ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

AARON B. KEATLEY
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300 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601

November 3, 2016

CERTIFIED MAIL 7012 3460 0002 3647 6238

Return Receipt Requested

Mr. James A. Parrott
Executive Director
Louisville and Jefferson County Metropolitan Sewer District
700 West Liberty Street
Louisville, Kentucky 40203

Re: Approval of MSD's Integrated Overflow Abatement Plan
Project Modifications Request
Amended Consent Decree, Civil Action No. 3:08-cv-00608-CRS
DOJ Case No. 90-5-1-1-08254

Dear Mr. Parrott:

The Kentucky Department for Environmental Protection (KDEP) and the U.S. Environmental Protection Agency (EPA) have reviewed the Metropolitan Sewer District (MSD)'s letters, dated September 28 and October 17, 2016, requesting approval of project modifications listed below.

Project modifications requested from the letter dated September 28, 2016:

1. Logan Street and Breckenridge Street CSO Basin. This modification requests to change the elevation of basin from an above ground structure to a below ground structure to allow community-accessible space. Design volume capture criteria remains the same.
2. Bells Lane Wet Weather Treatment Facility. This modification requests to change the completion date from December 31, 2016, to September 30, 2017, primarily due to delays in obtaining railroad easements and unexpected soil conditions for tunnel boring under the railroad tracks.
3. Nightingale Pump Station Replacement and Storage. This modification requests to change the completion date from December 31, 2016, to June 30, 2017, due to delays brought on by legal issues to obtain right of entry, unexpected soil type discovery and extreme weather events.



4. Southern Outfall Inline Storage (SOR2). This modification requests to eliminate the SOR2 project due to unavoidable risks of increasing the potential for surface flooding and basement backups that was discovered during the design process. Mitigation of overflow volumes intended to be captured by the SOR2 project to be made through flow control at the Main Diversion Structure and through the rehabilitation project at the Morris Forman Water Quality Treatment Center Headworks.

Project modifications requested from the letter dated October 17, 2016:

1. 13th Street and Rowan Street CSO Storage Basin. This modification requests to replace this underground storage basin with the Ohio River Tunnel project.
2. Story Avenue and Main Street Storage Basin. This modification requests to replace this underground storage basin with the Ohio River Tunnel project.
3. Lexington Road and Payne Street Storage Basin. This modification requests to replace this underground storage basin with the Ohio River Tunnel project.
4. Ohio River Tunnel Project. This modification requests to replace 1 through 3 above with a deep rock storage tunnel approximately 20 feet in diameter and 13,200 feet in length that is designed to capture the volumes of combined sewage from the projects listed above.

The proposed project modifications are hereby approved and will supersede and/or replace the projects listed in the Integrated Overflow Abatement Plan (IOAP) under the same title and IOAP Project Numbers provided for in the letters. These project modifications are thus integrated into the IOAP as an enforceable requirement of the Amended Consent Decree in accordance with Paragraphs 25.a.(3) and 25.b.(2) therein.

These project modifications do not significantly alter the requirements of the IOAP, and we therefore agree that such change is a non-material modification to the Amended Consent Decree pursuant to Paragraph 60 of the Amended Consent Decree. Please note that it will be necessary to update the District Court of these revisions to ensure the Court's record is up to date. If you have any questions, you may contact Courtney Seitz of KDEP at (502) 782-7066, or you may contact Mr. Dennis Sayre of EPA at (404) 562-9756.

Sincerely,



Jeff Cummins, Director
Division of Enforcement
KY Department for Environmental Protection

for 

Denisse Diaz, Chief
NPDES Permitting and Enforcement Branch
Water Protection Division
USEPA, Region 4