



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

FEB 1 1 2019

CERTIFIED MAIL 7018 2290 0000 9993 5170
RETURN RECEIPT REQUESTED

Mr. Scott A. Potter, P.E.
Director
Metro Water Services
1600 2nd Avenue North
Nashville, Tennessee 37208

Re: Long-Term Control Plan
Consent Decree, *United States of America and the State of Tennessee v. Metropolitan Government of Nashville and Davidson County*, Civil Action No. 3:07-cv-01056

Dear Mr. Potter:

The U.S. Environmental Protection Agency Region 4 has completed its review of Metropolitan Government of Nashville and Davidson County's (Metro's) "*Long-Term Control Plan for Metro Nashville Combined Sewer Overflows*" submitted pursuant to the above-referenced Consent Decree (CD) dated September 09, 2011. Subsequent Metro submittals incorporated into this review include:

- "*Updated Combined Sewer Overflow Water Quality Modeling Data Analysis*" dated November 25, 2014;
- "*Central WWTP Capacity Improvements and CSO Reduction Project*" report (Metro Water Service Project Number 14-SC-0153) dated December 19, 2014; and
- "*Addendum to the LTCP*" dated June 18, 2018.

The EPA's *Combined Sewer Overflow (CSO) Control Policy*, 59 Fed. Reg. 18,688 (Apr. 19, 1994) (the Policy), outlines criteria for two approaches for Long-Term Control Plan (LTCP) development – "presumption" and "demonstration." Metro developed the LTCP under a demonstration approach and therefore is required to demonstrate that its "... selected control program . . . is adequate to meet the water quality-based requirements of the CWA [Clean Water Act]." (See the Policy II.C.4.b.). Section 402 of Federal Water Pollution Control Act (33 U.S.C. §1342(q)(1)) requires permits, orders, and decrees for CSO discharges to conform with the Policy.

Section VII.D.2 of the CD requires that the LTCP has "... remedial measures that will be designed to bring Metro's CSOs into full compliance with the water quality standards criteria..." The current State of Tennessee Water Quality Standards (WQS) allow for neither mixing zones nor variances for pathogens such as E. coli found in discharges of sewage. As a result, compliance with Tennessee WQS for E. coli must be met by Metro's CSOs at each discharge point (*i.e.*, end of pipe).

However, the Tennessee Department of Environment and Conservation (TDEC) notified the EPA in a letter dated January 17, 2019 that TDEC is assessing revisions to its WQS related to CSO discharges, which could have impact upon the control measures necessary to achieve compliance with WQS. We also understand from discussions with TDEC and Metro that the proposed controls set forth in the LTCP for the Central Wastewater Treatment Plant (CWWTP) will affect the quantity and nature of the flow to the Washington and Kerrigan CSO Outfalls. As a result, a final decision on control measures necessary to achieve compliance would best be deferred until after potential water quality revisions are enacted and CWWTP control measures are implemented.

Therefore, based on the forgoing and pursuant to Section VI.B.1.b of the CD, the EPA approves in part certain portions of Metro's LTCP contingent upon specific conditions, as more particularly set forth below, and defers its decision to approve or disapprove the remaining portions of Metro's LTCP. Therefore, Section VI.B.3.b does not apply to the LTCP.

The EPA approves the following parts of the LTCP subject to the conditions set forth below:

- a. Metro shall implement the control measures discussed in the LTCP as part of the "Central WWTP Optimization Study" and subsequently updated in the "*Central WWTP Capacity Improvements and CSO Reduction Project*" report dated December 19, 2014; and
- b. Metro shall implement the selected control measures identified in the LTCP to achieve the designed level of control (zero events during typical year) for the Boscobel CSO Outfall; and
- c. Metro shall implement the selected control measures identified in the LTCP to achieve the designed level of control (zero events during typical year) for the Driftwood CSO Outfall.

The EPA's approval in part is conditioned upon the following:

- a. Metro shall submit to the EPA, in accordance with the requirements of the CD and the Policy, a revised LTCP setting forth the necessary control measures designed to bring the Benedict & Crutcher, Schrader, Washington, and Kerrigan CSO outfalls into full compliance with Tennessee WQS criteria in effect at the time of the submittal as soon as practicable but no later than February 11, 2027. Until the submittal of the revised LTCP, the EPA defers its decision to approve or disapprove parts of the LTCP related to implementation of control measures to achieve WQS criteria for the Benedict & Crutcher, Schrader, Washington, and Kerrigan CSO outfalls; and
- b. In accordance with Section VII.D.2. of the CD and the EPA's August 11, 2010 *force majeure* letter, Metro shall complete remedial measures that will bring all of Metro's CSOs (Boscobel, Driftwood, Benedict & Crutcher, Schrader, Washington, and Kerrigan) into full compliance with WQS criteria no later than February 11, 2030; and
- c. Metro shall provide to the EPA in writing its acceptance of these conditions no later than thirty (30) days after receipt of this letter.

The EPA appreciates your cooperation and ongoing efforts. If you have any questions concerning this letter, please contact Ms. Mary Jo Bragan at (404) 562-9275.

Sincerely,



Jeaneanne M. Gettle
Director
Water Protection Division

cc: Ms. Jennifer Dodd, Director
Tennessee Department of Environment and Conservation

Mr. Chris Rhodes
Tennessee Department of Environment and Conservation

Ms. Jessica Murphy
Tennessee Department of Environment and Conservation

