

DAVID BRILEY
MAYOR



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

DEPARTMENT OF WATER AND SEWERAGE SERVICES
1600 SECOND AVENUE, NORTH
NASHVILLE, TENNESSEE 37208-2206

March 6, 2019

Ms. Jeaneanne M. Gettle
Director, Water Protection Division
U.S. EPA, Region 4
61 Forsyth Street
Atlanta, GA 30303-8960

RE: Metro Nashville *Long Term Control Plan*
Consent Decree, Civil Action No. 3:07-cv-01056
Response to EPA's February 11, 2019, Letter

Dear Ms. Gettle:

Metro received your February 11, 2019 letter concerning the referenced Consent Decree and offers the following response. The Consent Decree requires Metro to submit a *Long-Term Control Plan* (LTCP) for bringing its CSOs into compliance with applicable Tennessee water quality standards (WQS) within eleven years after approval of the LTCP by EPA and TDEC.

Working closely with EPA and TDEC, Metro developed its LTCP over a thirty-month span and submitted it for approval in September of 2011. Some five years later, EPA raised a question about TDEC's interpretation of a WQS that, in EPA's view, prohibited any CSO discharge regardless of underlying weather conditions. Metro met with EPA and TDEC in April of 2018 to discuss how to move forward on approval of the LTCP. At the urging of the TDEC Commissioner, EPA agreed that it would approve the LTCP for four of the existing CSO discharge locations while withholding approval for Washington and Kerrigan based on Metro's submission of an addendum to the LTCP and a letter from TDEC reflecting its plans to revise the WQS. At the time the issue was identified in 2016, everyone expected the WQS to be revised during the triennial review process that was just getting underway. At this point, however, the current triennial review period is almost over, and it does not appear that the WQS will be revised until the next triennial review, a delay of over three years.

Instead of reflecting the agreement reached in the April 2018 meeting, your letter would require completion of the remedial measures required to bring all six of Metro's CSOs into full compliance with the WQS by February 11, 2030. Given the time taken for review of the LTCP to date and the uncertainty about when the WQS will be revised, agreeing to a fixed completion deadline would put Metro in an impossible position. Any completion deadline must instead be tied to the date of EPA's approval of the revised LTCP as the Consent Decree provides.

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Metro will agree to the following:

1. Implement the recommended improvements at the Central WWTP identified in the *Basis of Design Report* (BODR), approved by TDEC on May 16, 2017, including any BODR modifications that may be subsequently approved by TDEC. The design for the Central improvements project is 60% complete, and the estimated construction cost is currently \$400 million.
2. Implement the selected control measures identified in the LTCP and subsequent addendum for the Boscobel and Driftwood CSO outfalls. As noted in the addendum to the LTCP, Metro will continue to evaluate and implement as appropriate partial to full separation for the Boscobel, Benedict & Crutcher, and Schrader CSO outfalls. The improvements for the Driftwood CSO system have been completed since submittal of the LTCP.
3. Submit a revised LTCP within twelve months after the expected revision of the applicable WQS is finalized.
4. Implement the remedial measures identified in the revised LTCP within five years after approval or modification of the revised LTCP, provided the remaining cost to implement the plan does not exceed \$200 million. If the cost exceeds \$200 million, then the duration to implement the remedial measures would extend beyond five years.

Sincerely,



Scott A. Potter, P.E.

Director, Metro Water Services

cc: Mr. Tom Cross, Associate Director, Metro Department of Law
Ms. Jennifer Dodd, Director, Division of Water Resources, TDEC