07-026

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
and	)	
THE STATE OF OHIO,	)	
Plaintiffs,	)	Civil Action No.:
v.	)	Judge:
CITY OF EUCLID, OHIO,	)	
Defendant.	)	

CONSENT DECREE

TABLE OF CONTENTS

I. JURISDICTION AND VENUE 2

II. APPLICABILITY AND BINDING EFFECT 2

III. OBJECTIVES 3

IV. DEFINITIONS 4

V. COMPLIANCE MEASURES 6

A. COMBINED SEWER SYSTEM 6

B. SANITARY SEWER SYSTEM 9

VI. REPORTING AND PLAINTIFFS' REVIEW AND APPROVAL PROCESS 11

A. REPORTS 11

B. CERTIFICATION AND ADMISSIBILITY 12

C. PLAINTIFFS' REVIEW AND APPROVAL PROCESS 12

VII. FUNDING 14

VIII. CIVIL PENALTY 15

IX. STIPULATED PENALTIES 16

X. EFECT OF SETTLEMENT/RESERVATIONS OF RIGHTS 21

XI. NOT A PERMIT 23

XII. FAILURE OF COMPLIANCE 23

XIII. CONTINGENT LIABILITY OF THE STATE OF OHIO 24

XIV. RIGHT OF ENTRY 24

XV. RECORD RETENTION 25

XVI. NOTICES AND SUBMISSIONS 25

XVII. FORCE MAJEURE BETWEEN THE UNITED STATES AND EUCLID 27

XVIII. POTENTIAL FORCE MAJEURE BETWEEN OHIO AND EUCLID 29

XIX. DISPUTE RESOULUTION 30

XX. RETENTION OF JURISDICTION 31

XXI. MODIFICATION 31

XXII. TERMINATION 31

XXIII. FINAL JUDGMENT 32

XXIV. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT 32

XXV. SIGNATORIES 33

XXVI. EFFECTIVE DATE 33

APPENDICES

APPENDIX A. Euclid's 2004 NPDES Permit

APPENDIX B. Euclid's Current (2010) NPDES Permit

APPENDIX C. LTCP Requirements

APPENDIX D. Separate System Analysis

CONSENT DECREE

WHEREAS, Plaintiff United States of America ("United States"), on behalf of the United States Environmental Protection Agency ("U.S. EPA"), filed a Complaint in this matter against the Defendant, City of Euclid ("Euclid" or "Settling Defendant"), seeking injunctive relief and civil penalties, and alleging, inter alia, that Euclid violated the Clean Water Act (the "CWA"), 33 U.S.C. § 1251 et seq., and certain terms and conditions of the National Pollutant Discharge Elimination System ("NPDES") permit issued to Euclid pursuant to the CWA relating to the municipal wastewater treatment plant ("WWTP") and sewer system owned and operated by Euclid;

WHEREAS, Plaintiff State of Ohio ("Ohio"), on behalf of the Ohio Environmental Protection Agency ("Ohio EPA"), simultaneously filed a separate Complaint against Euclid concerning Euclid's WWTP and sewer system and alleging violations of the CWA and of Chapter 6111 of the Ohio Revised Code ("Ohio Rev. Code.");

WHEREAS, the United States and Ohio moved for consolidation of their actions;

WHEREAS, Euclid consents to such consolidation but denies the allegations in the federal and state Complaints and denies that any violations occurred;

WHEREAS, nothing in this Consent Decree shall be construed as an admission by Euclid of violations of any provisions of the CWA, or of Euclid's current or past NPDES permits, or of Chapter 6111 of the Ohio Revised Code;

WHEREAS, the United States, Ohio, and Euclid (the "Parties") recognize, and this Court by entering this Consent Decree finds, that this Consent Decree has been negotiated in good faith and will avoid prolonged and complicated 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 issue of fact or law except as provided in Section I (Jurisdiction and Venue) below, and with the consent of the Parties, it is hereby ORDERED, ADJUDGED and DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and 28 U.S.C. §§ 1331, 1345, 1355. This Court has supplemental jurisdiction over the State law claims asserted by the State of Ohio pursuant to 28 U.S.C. § 1367. This Court also has personal jurisdiction over the Parties to this action. Venue is proper in this District pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and 28 U.S.C. §§ 1391(b) and 1395(a). The Complaints state claims upon which relief may be granted. Authority for the United States to bring its 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.

2. Euclid waives any and all objections that it might have to the Court's jurisdiction to enter and enforce this Consent Decree and to venue in this District.

II. APPLICABILITY AND BINDING EFFECT

3. This Consent Decree shall apply to and be binding upon the United States, on behalf of U.S. EPA, the State of Ohio, on behalf of Ohio EPA, and upon the City of Euclid, its successors and assigns, or other entities or persons otherwise bound by law.

4. Effective from the date of lodging of this Decree until its termination, in the event that Euclid transfers any ownership or operation of its WWTP, its Sewer System, or any portion

of its WWTP or Sewer System, and proposes to include in such transfer the transfer of any obligations under this Consent Decree, Euclid shall give written notice and a copy of this Consent Decree to any proposed successors in interest at least thirty (30) days prior to such transfer. Euclid shall condition any transfer, in whole or in part, of ownership, operation, or other interest of the WWTP, the Sewer System, or any other portion of its WWTP and/or Sewer System upon the successful performance and compliance with the terms and conditions of this Decree. Simultaneously with such notice, Euclid shall provide written notice of such transfer to the United States and Ohio as provided in Section XVI (Notices and Submissions). In the event of any such transfer of ownership or other interest, Euclid shall not be released from the obligations or liabilities of this Consent Decree unless: (i) the transferee has the financial and technical ability to assume these obligations and liabilities; (ii) the United States and Ohio have agreed to release Euclid from the obligations and liabilities; (iii) the United States, Ohio, and the transferee have jointly moved to substitute the transferee as the defendant to this Consent Decree; and (iv) the Court has approved the substitution.

III. OBJECTIVES

5. It is the express purpose of the Parties in entering into this Consent Decree to further the objectives of the CWA, as enunciated at Section 101 of the CWA, 33 U.S.C. § 1251, and the objectives of Chapter 6111 of the Ohio Revised Code. Specifically, under this Consent Decree, Settling Defendant shall address its handling of Combined Sewer Overflows ("CSOs"), Sanitary Sewer Overflows ("SSOs"), and the operation of its WWTP. 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 ensuring Euclid's full compliance with the CWA and Chapter 6111 of the Ohio Revised Code.

IV. DEFINITIONS

6. Unless otherwise defined herein, terms used in this Decree shall have the meaning given to those terms in the CWA, 33 U.S.C. § 1251 et seq., the regulations promulgated thereunder at 40 C.F.R. Part 122, Chapter 6111 of the Ohio Revised Code, the regulations promulgated under that Chapter, and in Euclid's NPDES Permit No. 3PE00003*ID and any successor permits. The following definitions shall apply to the terms used in the Consent Decree:

a. "Bypass" shall have the meaning set forth in 40 C.F.R. § 122.41 (m).

b. "Combined Sewer System" shall mean the portion of Euclid's Sewer System designed to convey municipal sewage (domestic, commercial, and industrial wastewaters) and stormwater to Euclid's WWTP or to a Combined Sewer Overflow ("CSO") Outfall.

c. "Consent Decree" or "Decree" shall mean this Consent Decree and all appendices attached hereto.

d. "CSO Discharge" or "Combined Sewer Overflow Discharge" shall mean any discharge from Euclid's CSO Outfalls.

e. "CSO Outfall" shall mean a designed outfall in the Combined Sewer System. Euclid's CSO Outfalls are identified as "overflows" in the current NPDES Permit under Part II.E.

f. "Current NPDES Permit" shall mean Permit No. 3PE00003*ID issued to the City of Euclid by Ohio EPA, effective on May 1, 2010, and attached hereto as Appendix B, and any succeeding, amended, or renewal permit thereto.

g. "Date of Lodging" shall mean the date that this Consent Decree is lodged with the Clerk of the Court for the United States District Court for the Northern District of Ohio pending public comment and Court action.

h. "Date of Entry" shall mean the date that this Consent Decree is entered as a judgment by the Clerk of the Court for the United States District Court for the Northern District of Ohio after being signed by a United States District Judge.

i. "Day" shall mean a calendar day unless expressly stated to be a working day. When the day a report or other deliverable is due under this Consent Decree falls on a

Saturday, Sunday, federal holiday, or legal holiday for Euclid, Euclid shall have until the next calendar day that is not one of the aforementioned days for submission of such report or other deliverable.

j. "Dry Weather Overflow" shall mean any discharge or overflow from Euclid's Sewer System that is not caused by stormwater or other wet weather events.

k. "Evaluation of Alternatives Analysis" shall mean the plan that Euclid develops pursuant to Part I.C.C.4 of its 2004 NPDES Permit and Paragraph 12 of this Consent Decree.

l. "Euclid" shall mean the Defendant City of Euclid, Ohio.

m. "Long Term Control Plan" or "LTCP" shall mean the plan that Euclid develops pursuant to Part I.C. of its 2004 NPDES Permit and Section V.A.(b) of this Consent Decree.

n. "MGD" or "mgd" shall mean million gallons per day.

o. "Ohio EPA" shall mean the Ohio Environmental Protection Agency and any successor departments or agencies of the State of Ohio.

p. "Parties" shall mean the United States, the State of Ohio, and the City of Euclid.

q. "Plaintiffs" shall mean the United States and the State of Ohio.

r. "Responsible Official" shall mean a principal executive officer or ranking elected official as provided in 40 C.F.R. 122.22 (a)(3).

s "Sanitary Sewer Overflow" or "SSO" shall mean any discharge to waters of the United States or the State from Euclid's Sanitary Sewer System through sources not specified in any NPDES permit, as well as any release of wastewater from Euclid's Sanitary Sewer System to public or private property regardless of whether it reaches waters of the United States or State.

t. "Sanitary Sewer System" shall mean that portion of the Sewer System intended to carry liquid and water-carried waste to Euclid's WWTP together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

u. "Section" shall mean a portion of this Consent Decree identified by an upper case Roman numeral.

v. "Semi-Annual Progress Report" shall mean the reports due on a semi-annual basis under Section VI.A of this Consent Decree.

w. "Settling Defendant" shall mean the City of Euclid, Ohio.

x. "Sewer System Evaluation Survey" or "SSES" shall mean the study that Euclid performs to identify sources and quantities of clear water infiltration and inflow into all portions of Euclid's sewer system, to identify hydraulic capacity deficiencies in the sewer system, and to identify feasible steps to eliminate clear water infiltration and inflow and prevent sanitary sewer overflows.

y. "Sewer System" shall mean both the "Combined Sewer System" and the "Sanitary Sewer System" owned, operated, and lying within the corporate boundary of Euclid.

z. "U.S. EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

aa. "Waste Water Treatment Plant" or "WWTP" shall mean the waste water treatment plant owned and operated by the City of Euclid and located at 22201 Lakeshore Boulevard, Euclid, Ohio.

bb. "Wet Weather Auxiliary Treatment Facility" or "WWATF" shall mean the facility owned and operated by the City of Euclid at its WWTP, designated as Station Number 3PE00003002 in Euclid's NPDES Permit.

cc. "2004 NPDES Permit" shall mean Permit No. 3PE00003*HD issued to the City of Euclid by Ohio EPA, effective on April 1, 2004, and attached hereto as Appendix A.

V. COMPLIANCE MEASURES

7. Settling Defendant at all times shall comply with all requirements of the NPDES Permit, while implementing Compliance Measures pursuant to this Consent Decree.

A. COMBINED SEWER SYSTEM

(a) CSO Operation and Maintenance Plan

8. Within sixty (60) days of U.S. EPA's and Ohio EPA's approval of Euclid's Long Term Control Plan (LTCP) as set forth in Paragraph 10, below, Euclid shall revise and submit to U.S. EPA and Ohio EPA for approval, its Revised CSO Operation and Maintenance Plan, consistent with the Nine Minimum Controls described in the "Combined Sewer Overflow (CSO) Control Policy," 59 Fed. Reg. 18688 (April 19, 1994), and EPA's May 1995 "Combined Sewer

Overflows; Guidance for Nine Minimum Controls."

9. Upon its approval by U.S. EPA and Ohio EPA, Euclid shall conduct its activities regarding the combined sewer system in conformance with the approved Revised CSO Operation and Maintenance Plan.

(b) **Long Term Control Plan**

10. Euclid shall develop and submit to U.S. EPA and Ohio EPA for their approval a LTCP which addresses the construction and implementation of all WWTP and Combined Sewer System improvements and other measures necessary to: (i) minimize the number, duration, and volume of wet weather CSO discharges and (ii) ensure that wet weather CSO discharges that do occur comply with the technology and water quality-based requirements of the CWA, state law and regulations, and the current NPDES Permit. The Parties acknowledge that on March 31, 2010, Euclid submitted to U.S. EPA and Ohio EPA its proposed LTCP pursuant to this requirement. U.S. EPA and Ohio EPA will review Euclid's LTCP in accordance with Section VI of this Consent Decree (Reporting and Plaintiffs' Review and Approval Process). In the event that, pursuant to Section VI C. of this Decree, U.S. EPA does not approve the LTCP submitted by Euclid, Euclid must re-submit the LTCP in accordance with, and under the terms provided for, in Section VI C.

11. Euclid shall include in its LTCP all requirements of the "Combined Sewer Overflow Long-Term Control Plan Schedule" contained in its 2004 NPDES Permit, pp. 10 through 12, the requirements for a long term control plan identified in U.S. EPA's "Combined Sewer Overflow Control Policy," 59 Fed. Reg. 18688 (April 19, 1994), and the requirements as set forth in the attached Appendix C, which is incorporated into and made enforceable under this Consent Decree.

12. Upon approval by U.S. EPA and Ohio EPA of the LTCP, the LTCP shall be incorporated into and made an enforceable part of this Consent Decree, and Euclid shall implement the approved LTCP in accordance with the Implementation Schedule included in the approved LTCP. Euclid shall complete all construction required by the approved LTCP no later than December 31, 2025. Euclid shall achieve full operation of all measures required under the approved LTCP no later than December 31, 2026.

13. As part of Euclid's LTCP, Euclid shall submit for approval by U.S. EPA and Ohio EPA, a Post-Construction Monitoring Plan to verify and document the measures that will be taken following the completion of construction of the LTCP measures, to ascertain the effectiveness of Euclid's controls and to assess compliance with the criteria and standards described in Appendix C, Section VII. The Post-Construction Monitoring Plan shall be developed in accordance with the requirements of Appendix C, Section IX. Review of the proposed Plan by U.S. EPA and Ohio EPA, and any reports submitted pursuant to the approved Plan, will be governed by the provisions of Section VI.C. of the Consent Decree.

14. Upon approval by U.S. EPA and Ohio EPA under Section VI.C. (Review and Approval Procedures), or upon decision of the Court under Section XIX (Dispute Resolution) pertaining to the Post-Construction Monitoring Program provided to U.S. EPA and Ohio EPA under Paragraph 13, Settling Defendant shall perform the Post-Construction Monitoring Program in accordance with the provisions and schedules set forth therein.

15. By the specified date for achievement of full operation of all performance measures required under the approved LTCP, Euclid shall achieve the performance criteria and standards described in Appendix C, Section VII (Recommended Plan). If, after achievement of full operation of the measures identified in the approved LTCP, information becomes available at

any time before the Consent Decree terminates, including information developed as a result of the Post-Construction Monitoring Program described in Appendix C, Section IX, that Euclid: (a) did not construct all equipment required under the LTCP in full compliance with the terms of this Consent Decree; (b) has not achieved the performance criteria and standards described in Appendix C, Section VII for those measures performed as required under the LTCP; or (c) is not complying with all requirements of its NPDES Permit in effect at the time, then Euclid shall, within 150 days of receipt of notice from either U.S. EPA or Ohio EPA pursuant to Section VI of this Consent Decree (Reporting), submit to U.S. EPA and Ohio EPA a Supplemental Compliance Plan that includes the remedial measures that Euclid shall take to achieve compliance and a schedule that is as expeditious as possible for taking such actions. Upon approval by the United States and the Ohio EPA pursuant to Section VI of this Consent Decree, or upon decision by the Court under Section XIX (Dispute Resolution) pertaining to the Supplemental Compliance Plan provided to U.S. EPA and Ohio EPA under this paragraph, Euclid shall implement the Supplemental Compliance Plan in accordance with the schedule specified in the approved Plan.

B. **SANITARY SEWER SYSTEM**

16. Sanitary Sewer Overflows ("SSOs") are prohibited under the CWA and the current NPDES Permit and shall constitute violations of the Decree. Euclid shall prevent the occurrence of SSOs by conducting a Sewer System Evaluation Survey ("SSES") and developing and implementing a Sewer System Overflow Elimination Plan ("SSOEP") as set forth in the attached Appendix D, which is incorporated into and made enforceable under this Consent Decree.

17. Euclid shall evaluate its sewer system in accordance with the requirements of Appendix D, Section I.A. Euclid's SSES report shall be submitted in accordance with the

requirements provided in Appendix D, Section I B, detailing the activities conducted as part of the SSES, and documenting the findings and conclusions regarding all remedial measures necessary to achieve the objectives of this Consent Decree. The Parties acknowledge that on March 31, 2010, Euclid submitted its proposed SSES report to U.S. EPA and Ohio EPA. U.S. EPA and Ohio EPA will review Euclid's SSES report in accordance with Section VI of this Consent Decree (Reporting and Plaintiff's Review and Approval Process).

18. Euclid shall develop its SSOEP for the Sanitary Sewer System in accordance with the attached Appendix D, Section II. The Parties acknowledge that on March 31, 2010, Euclid submitted its proposed SSOEP to U.S. EPA and Ohio EPA. U.S. EPA and Ohio EPA will review Euclid's SSOEP in accordance with Section VI of this Consent Decree.

19. Euclid shall include in the SSOEP a schedule for the design, construction, and implementation of all remedial measures necessary to eliminate its SSOs and achieve the objectives of the CWA, in accordance with Appendix D, Section II B. The schedule shall require all construction and implementation of the SSOEP measures to be completed no later than December 31, 2020.

20. Upon approval by U.S. EPA and Ohio EPA of the SSES and SSOEP, each shall be incorporated into and made an enforceable part of this Consent Decree. Euclid shall implement all remedial measures set forth in its approved SSOEP in accordance with the schedules set forth therein.

21. No later than two years following completion of construction of the remedial measures identified in Euclid's approved SSOEP, Euclid shall implement a Post Construction Monitoring Program to verify and ascertain the effectiveness of Euclid's controls carried out as a consequence of the SSOEP in accordance with Section IX of Appendix C to this Consent

Decree.

22. Euclid shall eliminate all points where Euclid knows SSOs may occur by December 31, 2020. Following that date, Euclid shall have no SSOs. However, in the event that prior to the termination of this Consent Decree Euclid discovers a new SSO, or determines that conditions in areas where SSOs are known to exist are more extensive than originally anticipated, U.S. EPA and Ohio EPA may, upon request of Euclid, approve a plan and schedule proposed by Euclid to remedy those conditions and may agree in writing to extend the deadlines for elimination of SSOs set forth in this Paragraph.

VI. REPORTING AND PLAINTIFFS' REVIEW AND APPROVAL PROCESS

A. REPORTS

23. After entry of this Consent Decree and until this Consent Decree is terminated pursuant to Section XXII, Euclid shall submit to U.S. EPA and Ohio EPA semi-annual progress reports regarding the implementation of the requirements of this Decree in the previous six month period. The report shall be denominated a "Semi-Annual Progress Report" and shall be submitted to U.S. EPA and Ohio EPA within thirty (30) days after the end of each semi-annual calendar year period (i.e. July 31and January 31). Each Semi-Annual Progress Report shall include at a minimum:

a. A description of the projects and activities conducted during the preceding six months to comply with the requirements of this Decree;
b. A summary of all problems or potential problems encountered during the preceding six months, and the actions taken to rectify the problems;
c. A summary of all contacts with U.S. EPA and Ohio EPA during the preceding six months, including but not limited to the date deliverables under this Decree were sent to U.S. EPA and Ohio EPA; and
d. A statement of any exceedances of NPDES permit limitations.

24. This Section does not limit or affect any duty or obligation of Euclid to maintain

records or information or reports required by its NPDES Permit or other applicable statute or rule.

B. CERTIFICATION AND ADMISSIBILITY

25. All reports and deliverables required to be submitted by Euclid pursuant to this Consent Decree shall contain a certification signed by a Responsible Official of Euclid. The certification shall read as follows:

> "I certify that the information contained in or accompanying this (submission/document) is true, accurate and complete. As to (the/those) identified portion(s) of this (submission/document) for which I cannot personally verify (its/their) truth and accuracy, I certify as the official having supervisory responsibility for the person(s) who, acting under my direct instructions, made the verification, that this is true, accurate and complete."

26. Euclid shall not object to the admissibility into evidence of any information provided under the requirements this Consent Decree or the current NPDES Permit in any proceeding to enforce this Consent Decree.

C. PLAINTIFFS' REVIEW AND APPROVAL OF ANY REPORT OR PLAN PREPARED PURSUANT TO THIS CONSENT DECREE

27. For any report or plan required by this Consent Decree for which Euclid must obtain U.S. EPA's and Ohio EPA's approval, Plaintiffs may: (i) approve the report/plan, in whole or in part; (ii) disapprove the report/plan, in whole or in part; (iii) approve the report/plan upon specified conditions, directing that Euclid modify its submission; or (iv) any combination of the above. Within sixty (60) days following receipt of a notice of disapproval or direction to modify the submission from Plaintiffs (or within a longer time if set forth in the notice), Euclid shall submit a modified plan that addresses Plaintiffs' concerns. Any stipulated penalties applicable to the submission shall accrue during the 60-day period, or such additional period as Plaintiffs and Euclid may agree to in writing, but shall not be payable unless the resubmission(s)

is (are) disapproved in whole or in part due to a defect identified in Plaintiffs' response to Euclid's earlier plan submission.

28. Notwithstanding the receipt of a notice of disapproval pursuant to the preceding Paragraph, Euclid shall proceed, if directed by Plaintiffs, to take any action required by any nondeficient portion of Euclid's submission, if such action can be undertaken independent of the deficient portion of Euclid's submission. Implementation of any nondeficient portion of a submission shall not relieve Euclid of any liability for stipulated penalties.

29. In the event that a resubmitted plan/report or portion thereof is disapproved in whole or in part, or is approved with conditions by Plaintiffs, Plaintiffs may again require Euclid to correct the deficiencies or conditions in accordance with the preceding Paragraphs, or Plaintiffs may modify or develop any disapproved or conditioned portion of the resubmitted plan or report. Euclid shall implement any such plan/report as modified or developed by Plaintiffs, subject only to Euclid's right to invoke the dispute resolution procedures set forth in Section XIX (Dispute Resolution).

30. If upon resubmission, a plan or report is disapproved or modified in whole or in part by Plaintiffs due to a material defect previously identified and not corrected, Euclid shall be deemed to have failed to submit its plan or report in timely and adequate fashion, unless Euclid invokes the dispute resolution procedures set forth in Section XIX (Dispute Resolution), and either: (i) Plaintiffs agree to modify their earlier position; or (ii) the Court fails to adopt Plaintiffs' position. If Plaintiffs' disapproval or modification is upheld by the Court, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required. Whether Plaintiffs disapprove of Euclid's submissions or approve the submissions with modifications shall not affect the burden of proof or the standard of review set

forth in Section XIX (Dispute Resolution) of this Consent Decree. If the Plaintiffs disapprove the resubmitted report due to a material defect not previously identified by the Plaintiffs, Euclid shall resubmit a new modified plan within 60 days. Stipulated penalties shall accrue in accordance with Paragraph 27, but shall be payable in accordance with the provisions of this Paragraph.

31. Upon the approval by Plaintiffs of any report/plan, said report/plan shall be incorporated herein as part of this Consent Decree and enforceable hereunder.

VII. FUNDING

32. In evaluating the financial impact of implementing any of the alternatives evaluated and the alternatives proposed for implementation in any plan submitted pursuant to this Consent Decree and the current NPDES Permit, Euclid shall evaluate not only residential and commercial water and sewer rates but also possible alternative funding mechanisms, including, but not limited to, commercial and industrial user fees and rate structures, bond revenues, and grant and loan availability.

33. In order for U.S. EPA and Ohio EPA to consider Euclid's economic capabilities to perform the alternatives evaluated and the alternatives proposed for implementation in any plan submitted pursuant to this Consent Decree, Euclid shall provide a certified statement regarding the then current sewer rates (exclusive of water), a certification of the average annual sewer bill for a household in Euclid, and the three previous years of Euclid's Annual Financial Reports as a supplement to such submitted plan. In addition, Euclid shall provide any other information relevant to its economic capabilities that U.S. EPA or Ohio EPA requests.

34. Compliance with the terms of this Consent Decree by Euclid is not conditioned on the receipt of federal or state grant or loan funds. Failure to comply is not excused by the lack

of federal or state grant or loan funds or by the processing of any applications for such funds.

VIII. CIVIL PENALTY

35. No later than thirty (30) days following entry of this Consent Decree, Euclid shall pay to the United States a civil penalty in the amount of $75,000 subject to Section X of this Decree (Effect of Settlement/Reservations of Rights). Payment shall be made by Fed Wire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice according to the instructions provided to Euclid following lodging of the Consent Decree by the Financial Litigation Unit of the U.S. Attorney's Office for the Northern District of Ohio. At the time of payment, Euclid shall simultaneously send written notice of payment and a copy of the transmittal documentation to the United States in accordance with Section XVI of this Decree (Notices and Submissions) by email to acctsreceivable.CINWD@epa.gov; and by mail to:

EPA Cincinnati Finance Office
26 Martin Luther King Drive
Cincinnati, OH 45268

36. No later than thirty (30) Days following entry of this Decree, Euclid shall pay to the State of Ohio a civil penalty in the amount of $75,000 subject to Section X of this Decree (Effect of Settlement/Reservation of Rights). Payment shall be made by cashier's check or certified funds, payable to "Treasurer, State of Ohio," and shall be sent to:

Karen Pierson, Paralegal (or successor)
Attorney General's Office
Environmental Enforcement Section
30 East Broad St., 25th Floor
Columbus, OH 43215-3400

37. Euclid shall pay interest on any unpaid balance of the civil penalty owed to the United States, which shall begin to accrue at the end of the 30-day period described above, at the rate established by the Department of the Treasury under 31 U.S.C. § 3717. Euclid shall pay

interest on any unpaid balance of the civil penalty owed to Ohio, which shall begin to accrue at the end of the 30-day period described above, utilizing the calculation method set forth in Ohio Rev. Code 5703.47.

38. Upon entry of this Decree, this Decree shall constitute an enforceable judgment for purposes of post-judgment collection in accordance with Rule 69 of the Federal Rules of Civil Procedure, the Federal Debt Collection Procedure Act, 28 U.S.C. § 3001-3308, and other applicable federal authority. The United States and the State of Ohio will be deemed judgment creditors for purposes of collection of any unpaid amounts of the civil and stipulated penalties and interest.

IX. STIPULATED PENALTIES

39. Euclid shall pay to the United States and the State of Ohio stipulated penalties as set forth in Paragraphs 40 through 49 below for each violation and/or period of noncompliance listed therein.

40. Failure to Comply with NPDES Permit. Stipulated penalties for any noncompliance with Euclid's NPDES Permit's discharge limitations shall accrue as follows:

Parameter	Stipulated Penalty
Daily concentration or mass limits	$800 per day per parameter
Weekly average concentration or mass limits	$1,600 per week per parameter
Monthly average concentration or mass limits	$2,400 per month per parameter.
Except as otherwise specified in this Consent Decree, any other violation of the current NPDES Permit	$1,000 per violation

41. SSO Discharges. Except for the SSOs addressed by Section V.B of this Consent Decree, the following stipulated penalties shall accrue per day for any SSO Discharge:

Period of Noncompliance	Stipulated Penalty
1st to 3rd day of violation	$1,000 per day per violation
4th to 10th day of violation	$2,000 per day per violation
After 10 days of violation	$3,000 per day per violation

42. Dry Weather Overflows. The following stipulated penalties shall accrue per day for any Dry Weather Overflow whenever there has been no precipitation or snow melt in the relevant geographic area during the discharge or overflow, or within the 24 hours immediately preceding the discharge or overflow:

Period of Noncompliance	Stipulated Penalty
1st to 3rd day of Dry Weather Overflow	$ 1,000 per each Dry Weather Overflow per day
4th to 10th day of Dry Weather Overflow	$ 2,000 per each Dry Weather Overflow per day
After 10 days of Dry Weather Overflow	$ 3,000 per each Dry Weather Overflow per day

43. LTCP Report and LTCP Submittals. For failure to comply with any deadlines for submission of an approvable LTCP Report and approvable LTCP deliverables specified in Paragraphs 10 through 15 of this Consent Decree, Euclid shall pay the following stipulated penalties:

Period of Noncompliance	Stipulated Penalty
1st to 30th day of violation	$1,000 per day per violation
31st to 60th day of violation	$2,400 per day per violation
After 60 days of violation	$4,000 per day per violation

44. Implementation of Approved LTCP. For Euclid's failure to implement any requirements specified in the approved LTCP, the following stipulated penalty shall accrue:

Period of noncompliance	Stipulated Penalty

1st to 30th day of violation	$1,000 per day per violation
31st to 60th day of violation	$2,400 per day per violation
After 60 days of violation	$4,000 per day per violation

45. Submittal of SSES and SSOEP Reports. For Euclid's failure to comply with requirements to submit approvable Reports under requirements of Paragraphs 17-19 of this Consent Decree, the following stipulated penalties shall accrue for each such violation:

Period of noncompliance	Stipulated Penalty
1st to 30th day of violation	$1,000 per day per violation
31st to 60th day of violation	$2,400 per day per violation
After 60 days of violation	$4,000 per day per violation

46. Implementation of Approved SSES Report . For Euclid's failure to implement the measures required in the approved SSOEP Report under Paragraphs 18-19, as required under Paragraph 20, and elimination of all known SSOs as set forth in paragraph 22 of this Consent Decree, the following stipulated penalties shall accrue for each such violation:

Period of noncompliance	Stipulated Penalty
1st to 30th day of violation	$1,000 per day per violation
31st to 60th day of violation	$2,400 per day per violation
After 60 days of violation	$4,000 per day per violation

47. Submittal of Revised CSO Operation and Maintenance Plan. For Euclid's failure to revise and submit an approvable Revised CSO Operation and Maintenance Plan pursuant to Paragraph 8 of this Consent Decree, the following stipulated penalties shall accrue:

Period of noncompliance	Stipulated Penalty
1st to 30th day of violation	$800 per day per violation

31st to 60th day of violation	$1,600 per day per violation
After 60 days of violation	$3,200 per day per violation

48. Implementation of Revised CSO Operation and Maintenance Plan. For Euclid's failure to implement the provisions of the Revised CSO Operation and Maintenance Plan, the following stipulated penalties shall accrue:

Period of noncompliance	Stipulated Penalty
1st to 30th day of violation	$800 per day per violation
31st to 60th day of violation	$1,600 per day per violation
After 60 days of violation	$3,200 per day per violation

49. For failure to comply with any of the reporting requirements set forth in Section VI. A. and B. of this Consent Decree, Euclid shall pay the following stipulated penalties:

Period of noncompliance	Stipulated Penalty
1st to 30th day of violation	$800 per day per violation
31st to 60th day of violation	$1,600 per day per violation
After 60th day of violation	$2,400 per day per violation

50. Payment of stipulated penalties as set forth above shall be in addition to any other rights, remedies, or sanctions available to the United States or the State of Ohio for Euclid's violations of this Consent Decree or applicable law.

51. The payment of stipulated penalties shall not be construed so as to relieve Euclid from specific compliance with this Decree or federal or state law, or to limit the authority of U.S. EPA or Ohio EPA to require compliance with such laws. The United States and State of Ohio are specifically authorized to seek injunctive relief in this civil action to address any violation of this Consent Decree.

52. Stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Consent Decree, but shall not be payable until demand. Payment of stipulated penalties shall be made within thirty (30) days of the date of a written demand for payment. Either the United States, or the State of Ohio, or both may elect to demand stipulated penalties under this Section; however, the United States and the State of Ohio shall consult with each other before making any demand. Where both sovereigns demand stipulated penalties, any such penalties determined to be owing shall be paid 50% to the United States and 50% to the State of Ohio. Where only the United States or the State of Ohio demands stipulated penalties, the entire amount of stipulated penalties determined to be owing shall be payable to that sovereign. The sovereign making a demand for payment of a stipulated penalty shall simultaneously send a copy of the demand to the other sovereign. 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 this Consent Decree. A decision by the United States or the State of Ohio to waive, in whole or in part, penalties otherwise due under this Section shall not be subject to judicial review.

53. If any stipulated penalties payable under this Decree to the United States are not paid when due, interest shall accrue on any amounts overdue to the United States from the first day after the civil or stipulated penalties are due through the date of payment at the rate of interest established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. If any stipulated penalties payable under this Decree to Ohio are not paid when due, interest shall accrue on any amounts overdue to the State of Ohio from the first day after the stipulated penalties are due through the date of payment utilizing the calculation method set forth in Ohio Rev. Code 5703.47 .

54. Euclid shall pay any interest owed or stipulated penalties owing to the United States in the manner set forth and with the confirmation notices required by Paragraph 35 except that the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violation(s) the penalties are being paid.

55. Any interest owed or stipulated penalties incurred by Euclid to the State of Ohio shall be paid by certified or cashier's check payable to "Treasurer, State of Ohio," accompanied by a copy of the same letter submitted to the United States pursuant to the immediately preceding Paragraph, and shall be sent to:

Karen Pierson (or successor)
Attorney General's Office
Environmental Enforcement Section
30 East Broad St., 25th Floor
Columbus, OH 43215-3400

X. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

56. This Consent Decree is entered into as full and final settlement of this action for all Parties to the following extent: the Consent Decree resolves the civil claims of the United States for the violations alleged in the United States' Complaint through the Date of Lodging of this Decree and the civil claims of the State of Ohio for the violations alleged in Ohio's Complaint through the Date of Lodging of this Decree.

57. The Parties agree that Euclid is responsible for achieving and maintaining complete compliance with all applicable federal and state laws, regulations, and permits, and that compliance with this Consent Decree shall be no defense to any actions commenced pursuant to said laws, regulations, or permits. Nothing in the Consent Decree, however, shall preclude Euclid from raising defenses available under its current NPDES Permit, or any renewals or modifications thereof, in any such actions.

58. The United States and the State of Ohio expressly reserve all remedies available to them for all violations of the CWA not specifically addressed by Paragraph 56 of this Consent Decree.

59. Nothing herein shall be construed to limit the authority of the United States or the State of Ohio to undertake any action against any person, including Euclid, in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

60. Nothing herein shall be construed to limit the authority of the United States to act under Section 308 of the CWA, 33 U.S.C. § 1318.

61. The United States and the State of Ohio reserve any and all legal and equitable remedies available to enforce the provisions of this Decree.

62. This Consent Decree does not limit or affect the rights of Euclid, the State of Ohio, or the United States as against any third parties.

63. The Consent Decree shall not limit any authority of U.S. EPA or Ohio EPA under any applicable statute, including the authority to seek information from Euclid or to seek access to the property of Euclid.

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

Paragraph 56 of this Section.

XI. NOT A PERMIT

65. This Consent Decree is not and shall not be construed as a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, or Ohio Rev. Code § 6111.03, nor as a modification of any existing permit so issued, nor shall it in any way relieve Euclid of its obligations to obtain a permit for its WWTP, its Sewer System or any other part of its waste water treatment and Sewer System or facilities and to comply with the requirements of any NPDES permit or with any other applicable federal or state law or regulation. Euclid shall comply with any new permit, or modification of existing permits in accordance with applicable federal and state laws and regulations.

66. Nothing herein shall be construed as relieving Euclid of the duty to comply with the CWA, the regulations promulgated under the CWA, and all applicable permits issued under the CWA and its regulations.

XII. FAILURE OF COMPLIANCE

67. The United States and Ohio do not, by their consent to the entry of this Consent Decree, warrant or aver in any manner that Euclid's complete compliance with this Consent Decree will result in compliance with the provisions of the CWA, 33 U.S.C. §§ 1251 et seq., or with Euclid's NPDES Permit or any future modifications or renewals. Notwithstanding U.S. EPA's and Ohio EPA's review or approval of any plans, reports, policies, or procedures formulated pursuant to this Consent Decree, Euclid shall remain solely responsible for any noncompliance with the terms of this Consent Decree, all applicable permits, the CWA, and regulations promulgated under the CWA. The pendency or outcome of any proceeding concerning issuance, reissuance, or modification of any NPDES permit shall neither affect nor

postpone Euclid's duties and obligations set forth in this Consent Decree.

XIII. CONTINGENT LIABILITY OF THE STATE OF OHIO

68. Ohio is a party plaintiff hereto pursuant to Section 309(e) of the CWA, 33 U.S.C. § 1319(e). Ohio will have no liability under this Consent Decree, except as required by Section 309(e) of the CWA in the event that the laws of Ohio prevent Euclid from raising revenues needed to comply with this Consent Decree. The Attorney General of the State of Ohio hereby certifies that the present laws of Ohio do not prevent Euclid from raising revenues needed to comply with this Consent Decree.

XIV. RIGHT OF ENTRY

69. U.S. EPA and Ohio EPA, and their representatives, contractors, consultants, and attorneys will have the right of entry into and upon Euclid's WWTP, WWATF and Sewer System, at all reasonable times, upon proper presentation of credentials, for the purposes of:

a. Monitoring the progress of activities required by this Consent Decree;

b. Verifying any data or information required to be submitted pursuant to this Consent Decree;

c. Obtaining samples and, upon request, splits of any samples taken by Euclid or its consultants;

d. Inspecting and evaluating any portions of Euclid's WWTP, WWATF and Sewer System;

e. Inspecting and reviewing any records required to be kept under the terms and conditions of the Consent Decree, the current NPDES Permit, any future modifications or renewals thereof, and the CWA; and

f. Otherwise assessing Euclid's compliance with this Consent Decree.

70. This Section in no way limits or affects any right of entry and inspection held by the United States, U.S. EPA, Ohio, and Ohio EPA pursuant to applicable federal or state laws, regulations, or permits.

XV. RECORD RETENTION

71. Euclid shall maintain copies of any underlying research and data in its possession, custody or control for any and all documents, reports, plans, or studies submitted to U.S. EPA or Ohio EPA pursuant to this Consent Decree for a period of ten (10) years from date of submission or five years following termination of the Consent Decree, whichever event occurs later. Euclid shall require any independent contractor implementing any portion of this Consent Decree to also retain such materials for a period of ten (10) years from date of submission or five years following termination of the Consent Decree, whichever event occurs later. Euclid shall submit such supporting documents to U.S. EPA and/or Ohio EPA upon request. Euclid shall provide U.S. EPA and Ohio EPA with written notification 90 days prior to the destruction of any documents required to be retained under this Decree and, upon request by the U.S. EPA or Ohio EPA, Euclid shall deliver any such records or documents to U.S. EPA or Ohio EPA.

XVI. NOTICES AND SUBMISSIONS

72. Except as specified otherwise, when written notification (including all reports) or communication with the United States, U.S. EPA, the United States Department of Justice, the State of Ohio, Ohio EPA, and Euclid is required by the terms of this Consent Decree, it shall be addressed as follows:

As to the United States Department of Justice:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Post Office Box 7611
Washington, D.C. 20044-7611
Reference Case No. 90-5-1-1-08727

Steven J. Paffilas
Office of the United States Attorney
801 West Superior Avenue
Suite 400
Cleveland, OH 44113

As to Region 5 of U.S. EPA:

Chief
Water Enforcement and Compliance Assurance Branch
Water Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd
Chicago, Illinois, 60604

Joseph Williams
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson, Blvd.
Chicago, Illinois 60604

As to the State of Ohio:

Manager, Division of Surface Water
Northeast District Office
Ohio Environmental Protection Agency
2110 E. Aurora Road
Twinsburg, Ohio 44087

Dale Vitale, Chief
Environmental Enforcement Section
State of Ohio Office of Attorney General
30 East Broad Street, 25th Floor
Columbus, Ohio 43215

As to Euclid:

Chris Frey
Law Director
585 East 222 Street
Euclid, OH 44123-2099

Randy L. Smith
Public Service Director
585 East 222 Street
Euclid, OH 44123-2099

All notifications or communications shall be deemed submitted on the date they are postmarked and sent by first class mail or certified mail.

XVII. FORCE MAJEURE BETWEEN THE UNITED STATES AND EUCLID

73. "*Force Majeure*" for the purposes of this Consent Decree is defined as an event arising from causes beyond the control of Euclid or the control of any entity controlled by Euclid, including its agents, consultants and contractors, which delays or prevents the performance of any obligation under this Consent Decree despite Euclid's best efforts to fulfill the obligation. The requirement that Euclid exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential *force majeure* event and best efforts to address 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. Unanticipated or increased costs or expenses associated with implementation of this Consent Decree and changed financial circumstances shall not, in any event, be considered *force majeure* events. Failure to apply for a required-permit or approval or to provide in a timely manner all information required to obtain a permit or approval that is necessary to meet the requirements of this Consent Decree, or failure of the City to approve contracts, shall not, in any event, be considered *force majeure* events.

74. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a *force majeure* event, Euclid shall provide notice orally or by electronic or facsimile transmission to U.S. EPA within 72 hours of when Euclid first knew that the event might cause a delay. Within seven (7) days thereafter, Euclid shall provide in writing to U.S. EPA an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Euclid's rationale for attributing such delay to a *force majeure* event if it intends to assert such a claim; and a statement as to whether, in the opinion of Euclid, such event may cause or contribute to an endangerment to public health, welfare or the environment. Euclid shall include with any notice all available documentation supporting the claim that the delay was attributable to *a force majeure*. Failure to comply with the above requirements shall preclude Euclid 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 caused by such failure. Euclid shall be deemed to know of any circumstance of which Euclid, any entity controlled by Euclid, or Euclid's contractors knew or should have known.

75. If U.S. EPA finds that a delay in performance is, or was, caused by a *force majeure* event, it shall extend the time for performance, in writing, for a period equivalent to the delay resulting from such event and stipulated penalties shall not be due to the United States for such period. In proceedings on any dispute regarding a delay in performance, the dispute resolution provisions of Section XIX (Dispute Resolution) shall apply, and Euclid shall have the burden of proving that the delay is, or was, caused by a *force majeure* event and the amount of time equivalent to the delay resulting from such an event.

76. An extension of one compliance date based on a particular event shall not extend any other compliance date. Euclid must make an individual showing of proof regarding the cause of each delayed incremental step or other requirement for which an extension is sought.

XVIII. POTENTIAL *FORCE MAJEURE* BETWEEN OHIO AND EUCLID

77. If any event occurs that causes or may cause Euclid to violate any requirement of this Consent Decree, whether or not due to a *force majeure* event, Euclid shall so notify Ohio EPA, in writing, within fourteen (14) days after Euclid knew, or in the exercise of due diligence should have known of the event. The notice shall describe in detail the bases for Euclid's contention (if any) that it experienced a *force majeure* event, the precise cause or causes of the event, the measures taken or to be taken to prevent or minimize the noncompliance or event, and the timetable by which those measures shall be implemented. Euclid shall adopt all reasonable measures to avoid or minimize any such violation.

78. In any action by the State of Ohio to enforce any of the provisions of this Consent Decree, Euclid may raise at that time the question of whether it is entitled to a defense that its conduct was caused by circumstances beyond its control such as, by way of example and not limitation, acts of God, strikes, acts of war or civil disturbances. While the State of Ohio does not agree that such a defense exists, it is, however, hereby agreed by Euclid and the State of Ohio that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time, if ever, that a proceeding to enforce this Consent Decree is commenced by the State. At that time, Euclid shall bear the burden of proving that any delay was or will be caused by circumstances beyond the control of Euclid. Failure by Euclid to fully and timely comply with the notice requirements of the preceding Paragraph may, at Ohio EPA's discretion, be deemed a waiver by Euclid of any

right it may have to raise such a defense. Changed financial circumstances or increased costs associated with the implementation of any action required by this Consent Decree shall not in any event constitute circumstances beyond the control of Euclid or serve as a basis for an extension of time under this Decree.

XIX. DISPUTE RESOLUTION

79. Any dispute that arises between Euclid and Plaintiffs with respect to the meaning or application of any of the requirements of this Consent Decree shall be, in the first instance, the subject of informal negotiations between Plaintiffs and Euclid in an attempt to resolve any such dispute. Such period of informal negotiations shall not extend beyond forty-five (45) days of the date when a written notice of a dispute is given by one Party to the other, unless the Parties have agreed in writing to extend that period. After informal negotiations, if Euclid and Plaintiffs are unable to agree upon the meaning or application of the requirements of this Consent Decree, then Euclid shall comply with the position taken by Plaintiffs, subject only to Euclid's right to petition the Court as set forth in Paragraph 81 below. This dispute resolution process shall not apply to the issuance, renewal, modification, denial or revocation of a permit and the issuance of orders or other actions of the Director of Environmental Protection (Ohio EPA).

80. Within forty-five (45) days of the end of the informal negotiations period for resolution of the dispute set forth in Paragraph 80 above, Euclid may petition the Court for relief. Such petition shall set forth the nature of the dispute and a proposal for its resolution. Plaintiffs will have forty-five (45) days to respond to the petition and propose an alternate resolution. In any such dispute, Euclid will bear the burden of proof. The standard of review shall be determined by applicable principles of law.

81. The filing of a petition asking the Court to resolve a dispute shall not in and of itself

extend or postpone any obligation of Euclid under this Consent Decree, provided that payment of any stipulated penalties with respect to the disputed matter shall be stayed pending resolution of the dispute. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of any failure or refusal to comply with any term or condition of this Consent Decree. In the event that Euclid does not prevail on the disputed issue, stipulated penalties, if applicable and demanded, shall be assessed and paid as provided in Section IX (Stipulated Penalties).

XX. RETENTION OF JURISDICTION

82. This Court will retain jurisdiction of this matter for the purposes of construing, implementing, administering, and enforcing the terms and conditions of this Consent Decree and for the purpose of adjudicating all disputes among the parties that may arise under the provisions of this Consent Decree.

XXI. MODIFICATION

83. Any non-material modification of this Decree by agreement of the Parties shall be in writing and shall be filed with the Court. Any material modification of this Decree by agreement of the Parties shall be in writing and shall be filed with the Court for approval. Nothing in this Decree shall be deemed to alter the Court's power to enforce, supervise or approve modifications to this Consent Decree.

XXII. TERMINATION

84. Two years after the City of Euclid has completed all construction required by its final, approved LTCP in accordance with Paragraph 12 of this Decree, and all construction required by Paragraphs 15, 20 and 22 of this Decree, Euclid may serve upon the United States and the State a request for termination stating that Euclid has satisfied the requirements for termination of the Decree, together with all necessary supporting documentation. Such request

must include Euclid's certification that: all required construction is complete and that at least twelve (12) months of post-construction compliance monitoring demonstrates the effectiveness of Euclid's CSO controls; all required construction as required by Paragraphs 12, 15, 20, and 22 is complete and proven effective; that Euclid is and has been in compliance with its NPDES Permit for at least twelve (12) months; that all civil penalties due and all stipulated penalties demanded under this Decree have been paid; and that Euclid has complied with all other requirements of this Decree.

85. Following receipt by the United States and the State of Euclid's request for termination, the Parties shall confer informally concerning the request and any disagreement that the Parties may have as to whether Defendant has satisfactorily complied with the requirements for termination of this Consent Decree. If the United States and the State agree that the Decree may be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Decree.

86. If the United States and the State do not agree that the Decree may be terminated, Euclid may invoke Dispute Resolution under Section XIX of this Decree. However, Euclid shall not seek Dispute Resolution of any dispute regarding termination, under Paragraph 80 of Section XIX, until ninety (90) days after service of its request for termination.

XXIII. FINAL JUDGMENT

87. Entry of this Decree constitutes Final Judgment under Rule 54 of the Federal Rules of Civil Procedure.

XXIV. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

88. This Consent Decree will be lodged with the Court for a period of not less than thirty (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 public comments regarding this Decree disclose facts or considerations which indicate that this Decree is inappropriate, improper, or inadequate. Euclid shall not withdraw its consent to this Decree during the period of governmental and judicial review that occurs between lodging and entry of this Decree, and Euclid hereby consents to the entry of this Decree without further notice.

89. If for any reason the Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any Party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

XXV. SIGNATORIES

90. The undersigned representative of Euclid, the State of Ohio and the Assistant Attorney General of the Environment and Natural Resources Division of the U.S. Department of Justice each certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally to this document the Party whom he or she represents.

XXVI. EFFECTIVE DATE

91. The effective date of this Decree shall be the date of entry by this Court.

SO ORDERED THIS 14th DAY OF October, 2011.

s/ James S. Gwin
United States District Judge

The undersigned party hereby consents to the Consent Decree in the matter of United States and State of Ohio v. City of Euclid (N.D. Ohio).

FOR THE UNITED STATES:

IGNACIA S. MORENO
Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice

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The undersigned party hereby consents to the Consent Decree in the matter of United States and State of Ohio v. City of Euclid (N.D. Ohio).

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

ADAM M. KUSHNER, Director
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency

SUSAN HEDMAN
Regional Administrator
U.S. Environmental Protection Agency
Region 5

for MARK POLLINS, Director
Water Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency

ROBERT A. KAPLAN
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Region 5

GINNY PHILLIPS, Attorney
Water Enforcement Division
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U.S. Environmental Protection Agency

JOSEPH WILLIAMS
Associate Regional Counsel
U.S. Environmental Protection Agency
Region 5

The undersigned party hereby consents to the Consent Decree in the matter of United States and State of Ohio v. City of Euclid (N.D. Ohio).

FOR THE STATE OF OHIO

OHIO ATTORNEY GENERAL
MICHAEL DEWINE

By: _____

DAVID H. DOKKO
Assistant Attorney General
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Attorneys for the State of Ohio

The undersigned party hereby consents to the Consent Decree in the matter of United States and State of Ohio v. City of Euclid (N.D. Ohio).

FOR THE CITY OF EUCLID:

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