

FILED
TIME: _____

NOV 17 2004

JAMES BONINI, Clerk
COLUMBUS, OHIO

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

United States of America,
et al.,

Plaintiffs

v.

Case No. 2:01-cv-1064
JUDGE GRAHAM

City of Cambridge, Ohio,

Defendant.

REVISED ORDER FOR ENTRY OF CONSENT DECREE

Now, on this 17th day of November, 2004, pursuant to the United States' Motion for Entry of Consent Decree (Doc. No. 43), it is hereby ordered that the motion is granted. The Consent Decree is hereby entered.

It is so ORDERED.


JAMES L. GRAHAM
United States District Judge

DATE: November 17, 2004

TABLE OF CONTENTS

I.	<u>BACKGROUND .</u>	4
	<u>JURISDICTION AND VENUE .</u>	6
III.	<u>APPLICATION AND SCOPE.</u>	7
IV.	<u>OBJECTIVES</u>	9
V.	<u>DEFINITIONS. . .</u>	9
VI	<u>CIVIL PENALTIES .</u>	14
	<u>INJUNCTIVE RELIEF</u>	17
VIII.	<u>CERTIFICATE OF SUBMISSIONS .</u>	27
IX.	<u>REPORTING</u>	28
X.	<u>SUBMISSIONS REQUIRING EPA/OEPA APPROVAL. . .</u>	31
XI.	<u>STIPULATED PENALTIES .</u>	33
	<u>POTENTIAL FORCE MAJEURE. .</u>	41
XIII.	<u>DISPUTE RESOLUTION .</u>	43
	<u>INFORMATION COLLECTION AND RETENTION . .</u>	46
XV	<u>EFFECT OF SETTLEMENT . .</u>	48
	<u>COSTS OF SUIT .</u>	51
XVII.	<u>FORM OF NOTICE</u>	51
XVIII.	<u>MODIFICATION</u>	53
	<u>PUBLIC PARTICIPATION . .</u>	53
XX.	<u>CONTINUING JURISDICTION OF THE COURT</u>	54
	<u>EFFECTIVE DATE</u>	54
XXII.	<u>TERMINATION</u>	54
XXIII.	<u>SIGNATORIES/SERVICE</u>	. . . 55

XXIV.	<u>INTEGRATION</u>	56
XXV.	<u>FINAL JUDGMENT</u>	56

I. BACKGROUND

WHEREAS, the United States of America, on behalf of the Administrator of the Environmental Protection Agency ("EPA") filed a complaint in this action on October 29, 2001, alleging that the City of Cambridge, Ohio, "Cambridge" or "the City") violated the Clean Water Act (the "Act"), 33 U.S.C. § 1251 et seq., regulations implementing the Act, and the terms and conditions of Cambridge's 1990, 1996 and 2001 National Pollutant Discharge Elimination System ("NPDES") Permits;

WHEREAS, the City of Cambridge denies the violations alleged in the Complaint of the United States and the Cross-Claim/Complaint of the State of Ohio;

WHEREAS, the United States named the State of Ohio ("Ohio") as a party pursuant to section 309(e) of the Clean Water Act, 33 U.S.C. 1319(e) and the Court has realigned the State of Ohio as a Plaintiff

WHEREAS, the City of Cambridge is a municipal corporation, organized and existing under the laws of the State of Ohio;

WHEREAS, the City owns, operates and maintains the Cambridge Water Pollution Control Center, a publicly owned treatment works treatment plant "POTW Treatment Plant") located at 1000 North Water Street, Cambridge, Ohio, and the City owns, operates and maintains a sewage collection system that conveys wastewater produced in and around Cambridge to the POTW Treatment Plant for

treatment, which collectively comprise a Publicly Owned Treatment Works ("POTW");

WHEREAS, Cambridge's POTW was subject to the terms and conditions of Ohio Environmental Protection Agency ("OEPA") Permit No. OPD00020*FD, an NPDES Permit issued in 1990 and OEPA Permit No. OPD00020*HD, an NPDES Permit issued in 1996, and is subject to the terms and conditions of OEPA Permit No. OPD00020*ID, an NPDES Permit issued in 2001

WHEREAS, the United States, the State of Ohio and the City ("the Parties" have agreed that it is in the public interest to resolve the issues in this matter in accordance with the terms of this Consent Decree and hereby stipulate to the Court that this Consent Decree should be entered;

WHEREAS the United States, the State of Ohio and the City recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties 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; and

NOW THEREFORE, upon consent and agreement of the Parties to this Consent Decree, and without the adjudication or admission of any issue of fact or law, except as otherwise provided in Section II below, it is hereby **ORDERED, ADJUDGED AND DECREED** as follows:

II. JURISDICTION AND VENUE

1 This Court has jurisdiction over the subject matter of this action, and over the Parties hereto, pursuant to 28 U.S.C §§ 1331, 1345, and 1355 and Section 309(b) of the Act, 33 U.S.C § 1319(b). The State's claims are also properly before the Court under the Court's supplemental jurisdiction pursuant to 28 U § 1367. Venue is proper in the Southern District of Ohio, Eastern Division, pursuant to 28 U.S.C. §§ 1391(b) and (c), 1395(a), and Section 309(b) of the Act, 33 U.S.C. § 1319(b), because the City and the POTW operated by the City are located in this judicial district and the violations alleged in the complaint are alleged to have occurred in this judicial district. For the purposes of this Consent Decree, the City does not contest the Court's jurisdiction over this action or over the City, and does not contest venue in this judicial district

2 The United States' complaint states claims upon which relief may be granted pursuant to Sections 301(a), 309(b) and (d), and 405(d) and (e) of the Clean Water Act, 33 U.S.C. §§ 1311(a), 1319(b) and (d), and 1345(d) and (e), and the regulations implementing these Sections of the Act

3. Ohio's Complaint states claims upon which relief may be granted pursuant to Sections 301(a), 309(b) and (d), and 405(d) and (e) of the Clean Water Act, 33 U.S.C. §§ 1311(a), 1319(b) (d), and 1345(d) and (e), and the regulations implementing these

Sections of the Act, and R.C. 6111 and the Ohio Administrative (O.A.C. provisions implementing R.C. 6111.

4. Notice of the commencement of this action has been given to the State of Ohio as required by Section 309(b) of the Act, 33 U.S.C § 1319(b), and the State has been joined as a Party to this action as required by Section 309(e) of the Act, 33 U.S.C. § 1319(e)

III. APPLICATION AND SCOPE

5. 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 OEPA), and upon the City of Cambridge, its successors and assigns, and its officers, directors, employees, and agents in their capacities as such, all persons, firms, consultants and contractors acting through, for or under the control or direction of the City to the extent they perform, or have responsibility to perform, any responsibilities of the City under this Consent Decree, and all other persons and entities as provided for in

R. Civ. P. 65(d)

6. No later than thirty (30) days after the date of entry of this Consent Decree, or thirty (30) days after selection or retention, whichever is later, the City shall provide a copy of Consent Decree to each person, firm, consultant or contractor selected or retained to perform any activity required by this Consent Decree. The City shall condition all contracts

entered into hereunder upon performance of the work in conformity with the terms of this Consent Decree.

7 No later than thirty (30) days after the date of entry of this Consent Decree, Cambridge shall provide a copy of this Consent Decree to the Mayor, members of the Cambridge City Council, the Cambridge Utilities Director, the Cambridge Attorney and the Cambridge City Clerk. Copies of the Consent Decree shall be available in the City's offices for inspection by members of the public.

8. In any action to enforce this Consent Decree, Cambridge shall not raise as a defense the failure of any of its elected officials, officers, directors, employees, agents, consultants or contractors to take any actions necessary to comply with provisions of this Consent Decree

9. No later than forty-five (45) days prior to the sale or transfer of any ownership or operation interest in the POTW, the City shall provide a copy of this Consent Decree to any prospective purchaser or transferee and shall simultaneously verify such by a written notice to EPA Region 5, the United States Attorney for the Southern District of Ohio, Eastern Division, the United States Department of Justice, the State of Ohio and OEPA, in accordance with Section XVII (Form of Notice) of this Consent Decree. Such a sale or transfer shall not relieve the City of its obligation to ensure that the terms of

this Consent Decree are met

IV. OBJECTIVES

10. It is the express purpose of the Parties entering into this Consent Decree to (1) achieve and maintain compliance with the Act, as enunciated at Section 101 of the Act, 33 U.S.C § 1251, and Chapter 6111 of the Ohio Revised Code, (2) maintain compliance with Cambridge's NPDES Permit, (3) eliminate SSOs from the Cambridge collection system, and (4) eliminate all Bypasses at the Cambridge POTW Treatment Plant.

V. DEFINITIONS

11 Unless otherwise defined herein, terms used in this Consent Decree that are defined in the Act or in regulations promulgated pursuant to the Act, shall have the same meaning given to those terms in the Clean Water Act, 33 U.S.C. § 1251 et seq., the federal regulations promulgated to implement the Act, including 40 C.F.R. Part 403, and in Cambridge's NPDES applicable permit. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

- a. "Bypass" shall have the meaning given to that term by 40 C.F.R. § 122.41(m)(1)(i). This shall include, but not be limited to, the discharge of any wastewater from the POTW Treatment Plant that has not received Secondary Treatment;
- b. "Calendar Quarter" shall mean the three-month periods

ending on March 31st, June 30th, September 30th, and December 31st;

- c. "City" shall mean the City of Cambridge, Ohio;
- d. "Collection System," as part of the Publicly Owned Treatment Works, shall mean all portions of the Sanitary Sewer System owned or operated by the City of Cambridge for the collection and transport of wastewater from residences, buildings, commercial establishments and manufacturing facilities to the Treatment Plant, including interceptor sewers, pump stations, force mains, gravity sewers, manholes and other appurtenances associated with the City's sanitary sewer system;
- e. "Complaint(s)" shall mean the Complaint(s) filed by United States and the State of Ohio in this action;
- f. "Consent Decree" or "Decree" shall mean this Consent Decree;
- g. "Cross Connection" for purposes of this Consent Decree shall mean any connection between Cambridge's sanitary sewer system and any storm drainage system, which permits sanitary wastewater to migrate into the storm drainage system;
- h. "Date of Entry" shall mean the date the Consent Decree is approved and signed by a United States District

Court Judge after satisfaction of the public notice and comment procedures of 28 U.S.C. § 50.7;

- i. "Date of Lodging" shall mean the date the Consent Decree is filed for lodging with the Clerk of the Court the United States District Court for the Southern District of Ohio, Eastern Division;
- j. "Day" or "Days" as used herein shall mean a calendar or calendar days, unless otherwise indicated. In computing any period of time under this Consent Decree where the last day falls on a Saturday, Sunday, federal holiday or legal holiday for the City, the period shall until the close of business on the next calendar day that is not a Saturday, Sunday, federal holiday or legal holiday for the City;
- k. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States;
- l. "Infiltration" shall mean water entering the Collection System from the ground through such means as leaking or defective pipes, pipe joints, connections, or manhole walls;
- m. "Inflow" shall mean storm water entering the City's Sanitary Sewer System from such sources as, but not limited to: roof leaders; cellar, yard and area drains;

- foundation drains; drains from springs and swampy areas; defective or missing manhole covers; storm water entering sanitary sewers from storm sewers; surface run-off; or street wash waters; or drainage that occur through manholes that are located in low lying areas;
- n "I/I" shall mean the total quantity of water from both Infiltration and Inflow without distinguishing the source;
- o "NPDES PERMIT" shall mean Cambridge's National Pollutant Discharge Elimination System Permit No OPD00020*ID, which became effective on August 1, 2001, and any such effective permit that succeeds Permit No OPD00020*ID, including modifications and renewals thereof.
- p. "OEPA" shall mean the State of Ohio Environmental Protection Agency and any successor departments or agencies of the State of Ohio;
- q. "Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral;
- r. "Parties" shall mean the United States, the State of Ohio and the City of Cambridge;
- s. "POTW Treatment Plant" shall have the same meaning given to that term by 40 C.F.R. Section 403.3 and shall mean the Cambridge Wastewater Pollution Control Center

- located at 1000 North Water Street, Cambridge, Ohio;
- t. "Publicly Owned Treatment Works" and "POTW" shall have the meaning given to those terms by 40 C.F.R. § 403.3 and shall include, without limitation, the City of Cambridge's Collection System and POTW Treatment Plant;
- u "Sanitary Sewer Overflow," "Sewer Overflow" and "SSO" shall mean any discharge to waters of the State or United States from the City's Sanitary Sewer System through point sources not specified in any NPDES permit, as well as any release of wastewater from the City's Sanitary Sewer System to public or private property that does not reach waters of the United States or the State, such as a release to a land surface or structure;
- v. "Sanitary Sewer System" and "Sewer System" shall mean all portions of the Collection System owned or operated by the City and designed to collect and convey wastewater (domestic, commercial and industrial) to the City's POTW Treatment Plant;
- w. "Secondary Treatment" shall mean biological treatment for the oxidation of carbonaceous material and ammonia nitrogen, followed by secondary clarification;
- x. "Section" shall mean a portion of this Consent Decree identified by an uppercase Roman number

- y. "Sewer System Evaluation Study" or "SSES" shall mean all phases of the Sanitary Sewer System Evaluation Survey that was completed in 2002 and performed for the City of Cambridge;
- z. "State" shall mean the State of Ohio;
- aa. "Stress Test" shall mean Cambridge's test of the hydraulic capacity of the POTW Treatment Plant that began approximately in May 2001 and ended April 2002;
- bb. "United States" shall mean the United States of America, acting on behalf of EPA; and
- cc. "Unpermitted Discharge Point(s)" shall mean any pipe, opening, or channel that allows or could allow wastewater to leave the Collection System but is not identified as a permitted outfall in Cambridge's NPDES Permit. This definition shall include, but not be limited to, any constructed overflow points from pump stations, gravity sewers, or junction boxes, intended to relieve high flow conditions; but shall not include pick holes, manhole openings, or other openings intended to provide access to the Collection System for maintenance purposes

VI. CIVIL PENALTIES

12. Cambridge shall collectively pay civil penalties to the United States and the State of Ohio totaling \$70,000.

Specifically, Cambridge will pay to each the United States and the State of Ohio civil penalties in the amount of \$35,000. Cambridge's civil penalty payments to the United States and to the State of Ohio shall be made in three installments: thirty (30) days after the effective date of this Consent Decree, Cambridge shall pay \$17,500 each to the United States and the State of Ohio; one year after the effective date of this Consent Decree, Cambridge shall pay \$8,750.00 each to the United States and the State of Ohio; and two years after the effective date of this Consent Decree, Cambridge shall pay \$8,750.00 each to the United States and the State of Ohio.

13. The civil penalty payments to the United States shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice in accordance with instructions to be provided to Cambridge upon entry of the Consent Decree by the Financial Management Unit of the U.S. Attorney's Office for the Southern District of Ohio, Eastern Division. Any EFTs received at the DOJ lockbox bank after 11:00 a.m. Eastern Time will be credited on the next business day. At the time of payment, Cambridge shall simultaneously send written notice of payment and a copy of any transmittal documentation (which shall reference Civil Action No. C2-01-1064 (S.D. Ohio), United States Attorney Office ("USAO" file number 2003Z00626, DOJ case number 90-5-1-1-06501, and U.S. EPA Region 5) to the United States in accordance

with Section XVII of this Decree (Form of Notice).

14. The civil penalty payments made to the State of Ohio shall be paid by certified check for the appropriate amount, made payable to "Treasurer, State of Ohio," which check shall be delivered by mail, or otherwise, to Jena Suhadolnik, Administrative Assistant, or her successor, at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400. The transmittal letter accompanying the check shall specify the caption and docket number of this action and shall include reference to the civil penalty payment obligations pursuant to this Consent Decree

15 A. In accordance with the Debt Collection Act of 1982 31 U.S.C. § 3717, and 40 C.F.R. § 13.11, Cambridge shall be subject to three forms of late charges in the event of late payment of the civil penalty required to be paid under this Section or stipulated penalties required to be paid under Section XI (Stipulated Penalties) of this Consent Decree: 1. Cambridge shall pay an interest charge on any unpaid penalties that are due and payable under this Section or Section XI (Stipulated Penalties) at the rate of the current value of funds to the U.S. Treasury (i.e., the Treasury tax and loan account rate), accruing from the date payment was due and payable beginning on the 31st day after payment was due, unless paid prior to that date;

2. Cambridge shall pay an administrative costs (handling) charge of fifteen dollars (\$15) for each month past the due date specified by this Consent Decree that it does not pay the penalty in full; and 3. in addition to the previous two charges, Cambridge shall pay late fees on any unpaid penalty amount still due and payable more than ninety (90) days past the date due. Late fees shall accrue at the rate of six (6) percent per annum and shall be assessed monthly. Interest and handling charges as provided for in this Paragraph shall be tendered along with any late penalty payments in the manner specified above. The United States shall be entitled to collect the costs (including attorneys fees) incurred in any action necessary to collect any portion of the civil penalty, stipulated penalty, interest, or late payment costs or fees.

15B. Upon entry of this Decree, this Decree shall constitute an enforceable judgment for purposes of post-judgment collection in accordance with Ohio Revised Code § 1343.03. The State of Ohio shall be deemed a judgment creditor pursuant to Ohio Revised Code § 1343.03 for purposes of collection of any unpaid amounts of the civil and stipulated penalties and interest.

INJUNCTIVE RELIEF

A. Compliance with Permit Conditions

16. No later than the Date of Entry of this Consent Decree,

Cambridge shall achieve and maintain full compliance with the terms and conditions of its NPDES Permit related to effluent limits, reporting requirements, prohibition of unpermitted discharges, and the prohibition on Bypass unless the conditions of 40 C.F.R. Section 122.41(m)(4) are met. Cambridge shall achieve and maintain compliance with all other terms and conditions of its NPDES Permit at all times except as expressly provided in Section VII (Injunctive Relief) of this Consent Decree

B. SEWER SYSTEM EVALUATION STUDY

17. Cambridge, through its consultants, has conducted a two part sewer system evaluation study (SSES), which included a comprehensive review of its entire sewer Collection System. Cambridge shall use the completed SSES as an engineering tool for the continued operation and maintenance of its sewer Collection System, including the identification of excessive I/I areas in its Collection System.

C. REMOVAL OF CROSS CONNECTIONS

18. No later than thirty days after the Date of Entry of this Consent Decree, Cambridge shall locate and certify that it has located all Cross Connections in its Collection System, including but not limited to, all Cross Connections previously identified at any time by Cambridge or Cambridge's contractors or consultants. Within 120 days from the date of entry of this

Consent Decree, Cambridge shall submit a work action plan for the elimination of any such Cross Connections found

19. During the life of this Consent Decree, if Cambridge obtains information indicating the existence of any additional Cross Connections subsequent to the submission of the certification required by Paragraph 18. above, Cambridge shall immediately notify EPA and OEPA of such Cross Connections. Additionally, Cambridge shall either immediately submit to EPA and OEPA a work plan of action for remedying the additional Cross Connections found, or it shall immediately submit to the agencies written notification that such Cross Connections have been eliminated.

20. As set forth in Section IX (Reporting), Cambridge shall notify EPA and OEPA of any activities related to any Cross Connections identified pursuant to Paragraphs 18 and 19, above.

D. FLOW REDUCTION PROJECTS

21. No later than thirty days after the Date of Entry of this Consent Decree, Cambridge shall submit to EPA and OEPA a report that details the work implemented throughout the City's Collection System. The report will include a list of tasks completed as identified in the SSES parts I and II, the date of task completed as identified in the SSES parts I and II, the date of task completion, and projected versus observed/measured flow reduction(s). Cambridge shall include with its submittal the

certification required under Section VIII of the Consent Decree

22. By December 31, 2005, Cambridge shall implement the additional sewer Collection System projects listed in Appendix "A" to this Consent Decree.

23. No later than thirty days after the completion of implementation of each work project listed in Appendix "A," Cambridge shall submit to EPA and OEPA a report that details the work implemented, the date of task completion and projected versus observed/measured flow reduction(s). Cambridge shall include with its submittal the certification required under Section VIII of the Consent Decree.

E. OPERATIONS AND MAINTENANCE MEASURES

24. No later than sixty (60) days after the Date of Entry of this Consent decree, Cambridge shall revise and submit to EPA and OEPA for review and approval its POTW Treatment Plant and Collection System Operation & Maintenance Manual ("O&M" Manual). The O&M Manual shall be organized in one or more volumes such that the information is readily available to POTW Treatment Plant and Collection System personnel responsible for operation and maintenance activities. A complete copy of the O&M Manual shall be kept at the POTW Treatment Plant. In addition, Cambridge shall make those portions of the O&M Manual that pertain to operation and maintenance of the Collection System readily available to personnel responsible for operation and maintenance of the

Collection System by storing copies of those portions of the O&M in Collection System service vehicles or such other locations where Collection System operations and maintenance personnel may have ready access to the information.

25. The O&M Manual shall provide standard operational procedures for: (1) sludge wasting from primary clarifiers, (2) operation of the aeration basins, (3) adjusting secondary clarifier RAS rates and sludge blanket levels to optimize flow rates, (4) polymer addition or other interim measures during high flow conditions, (5) sludge handling procedures, and (6) proper land application procedures for sludge

26. Preventive and routine maintenance schedules and procedures shall include, at a minimum (1) periodic service and calibration of all instrumentation such as flow meters, (2) routine inspection and service for all operating equipment including pumps, motors, valves, check valves and generators, (3) inspection and cleaning of all gravity-flow portions of the Sanitary Sewer System and manholes; (4) routine inspection of all sewer and force main right-of-ways; and (5) an inventory management system for replacement of pumps, motors, necessary spare parts for all operating equipment including pumps, motors, valves, check valves and generators, and emergency equipment which shall be used to prevent, minimize, or contain, any discharges from the Collection System.

27. Any physical inspection and testing procedure for the Collection System and POTW Treatment Plant that is carried out by the City under this Consent Decree shall be documented in a written report, and, where appropriate, representative photographs or videos of appurtenances being inspected.

28 Beginning, no later than sixty (60) days after approval by OEPA of the O & M Manual, Cambridge shall implement and comply with the O & M Manual in accordance with the procedures and schedules therein. As part of the implementation, Cambridge shall provide training to POTW Treatment Plant and Collection System operators and maintenance personnel in the revised procedures so that operators and maintenance staff will know the requirements for proper operation and maintenance of the POTW

29. No later than sixty (60) days after the State's issuance of any subsequent NPDES Permit or Permit Modification to Cambridge, Cambridge shall update its O & M Manual as necessary to comply with the terms and conditions of such NPDES Permit or Permit Modification.

F. SEWER OVERFLOW ACTION PLAN

30 No later than thirty (30) days after the Date of Entry of this Consent Decree, Cambridge shall develop and submit to EPA and OEPA for approval a Sewer Overflow Action Plan. The Sewer Overflow Action Plan shall be designed to

ensure that, should a Sewer Overflow from the Collection System occur, the volume of untreated wastewater discharged to the environment and the impact of the discharge on the environment and public health will be minimized. The Sewer Overflow Action Plan shall include, at a minimum:

- a. procedures and public notice requirements to limit public access to and contact with areas affected by a discharge;
- b. procedures to provide timely notice to EPA and OEPA in accordance with Section XVII (Form of Notice);
- c. a program to ensure the rapid dispatch of personnel and equipment to correct or repair the condition causing or contributing to the discharge, minimize the volume of the discharge and contain and remediate floatables and/or other pollutants discharged during Sewer Overflow events.
- d. a program to ensure the training of Cambridge's employees and contractors necessary for the effective implementation of the Sewer Overflow Action Plan;
- e. an investigative approach to determine the cause(s) of a discharge and to identify and

implement measures to prevent a re-occurrence,
and an implementation schedule for the
investigation.

31. No later than thirty (30) days after approval by OEPA of the Sewer Overflow Action Plan, Cambridge shall implement and comply with the Plan in accordance with the procedures and schedules therein.

G. DIGESTER REPAIRS OR REPLACEMENT

32. Cambridge has received a Permit to Install (PTI) (PTI # 90-762) to modify the digester for aerobic operation or sequencing facultative digestion. The City shall complete such modification within 180 days of the Date of Entry of this Consent Decree

H. PUMP STATION IMPROVEMENTS

33 No later than thirty (30) days after entry of this Consent Decree, Cambridge shall submit to EPA and OEPA for review and approval the final schedule for the repair and upgrade of its pump stations. A current draft of the pump station work schedule is included in this Consent Decree as Appendix "B". The repair and/or upgrade work to be done on Cambridge's pump stations shall be completed by December 31 2005 and, at a minimum, all pump stations shall meet the following requirements of the most recent edition of Recommended Standards for Wastewater Facilities, 1997 Edition

(10 State Standards):

- a. In accordance with Chapter 40, Section 41.1, pump station structures and electrical and mechanical equipment shall be protected from physical damage by a 100-year flood. Wastewater pumping stations must remain fully operational, with minimal inflow, during flood conditions up to the 25-year recurrence flood event;
- b. In accordance with Chapter 40, Section 42.31, Cambridge shall provide multiple pumps at each pumping station. Where only two pumps are provided they shall be of the same size. There shall be sufficient pumping capacity at all pump stations to insure that the peak hourly flow rate can be transferred with the largest pump out of service;
- c. In accordance with Chapter 40, Section 45, all pumps shall be equipped with an alarm system. The alarm shall be activated in cases of power failure, sump pump failure, pump failure. Pumping station alarms shall be telemetered to a municipal facility that is manned 24 hours a day;
- d. In accordance with Chapter 40, Section 46.2, a riser from the force main with rapid connection capabilities and appropriate valving shall be provided for all lift stations that hook up to portable pumps; and
- e. In accordance with Chapter 40, Section 46.433, all pump stations shall be equipped with special electrical connections and double throw switches for connecting portable generating equipment.

34. If, however, a pump station is completely replaced (rather than upgraded), Cambridge shall comply with the applicable provisions of the most recent edition of the 10 State Standards in accordance with OEPA PTI review process for

pump stations.

I. UNPERMITTED DISCHARGES

35. No later than forty-five (45) days after the Date of Entry of this Consent Decree, Cambridge shall locate and certify that it has located all Unpermitted Discharge Points previously identified at any time by Cambridge or Cambridge's contractors or consultants. If Cambridge or any of Cambridge's contractors or consultants identifies any Unpermitted Discharge Points, Cambridge shall either immediately submit to EPA and OEPA a work plan of action for the elimination of any such Unpermitted Discharge Points, or it shall immediately submit to the agencies written notification that such Unpermitted Discharge Points were eliminated.

36 During the life of this Consent Decree, if Cambridge obtains information indicating the existence of any additional Unpermitted Discharge Points subsequent to the submission of the certification required by Paragraph 35 above, Cambridge shall immediately notify EPA and OEPA of such Unpermitted Discharge Points. Additionally, Cambridge shall either immediately submit to EPA and OEPA a work plan of action for eliminating the additional Unpermitted Discharge Points found, or it shall immediately submit written documentation that the Unpermitted Discharge Points have been

eliminated.

As set forth in Section IX (Reporting), Cambridge shall notify EPA and OEPA of any activities related to any Unpermitted Discharge Points identified pursuant to Paragraphs 35 and 36 above.

J. REMOVAL OF EXCESSIVE I/I

One year after Cambridge's implementation of all the work relating to both Flow Reduction Projects and the Pump Station Improvements that are outlined in Appendices "A" and "B" of this Consent Decree, Cambridge shall evaluate its Collection System to determine whether excessive I/I is entering the POTW. If excessive I/I is entering the POTW, Cambridge shall submit a work plan to both EPA and OEPA to remove the excessive I/I. The work plan submitted shall include Cambridge's schedule for completing additional work projects to eliminate the excessive I/I from its Collection System, and it shall either identify these additional work projects from the SSES Phase I and Phase II or from other investigations or studies conducted by Cambridge

VIII. CERTIFICATION OF SUBMISSIONS

39. All plans, reports, manuals, documents and other items submitted by Cambridge to EPA Region 5 and OEPA pursuant to this Consent Decree shall include the following certification by an authorized representative of the City:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that this document and its attachments were prepared under my direction or supervision in a manner designed to ensure that qualified and knowledgeable personnel properly gather and present the information contained therein. I further certify, based on my inquiry of those individuals immediately responsible for obtaining the information, that I believe that the information is true, accurate and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fines and imprisonment.

IX. REPORTING

40. Following the first full month after entry of this Consent Decree and until the termination of this Decree, Cambridge shall submit to EPA and OEPA no later than the fifteenth (15) day of each month, along with monthly operating reports and other documents required by its NPDES permit, a monthly report containing a summary of compliance with and activities related to:

- A. Identification and elimination of Cross Connections as specified in Section VII (Injunctive Relief);
- B. Implementation of the Operation and Maintenance Requirements and Sewer Overflow Action Plan as set forth in Section VII (Injunctive Relief);
- C. Progress on the construction and/or implementation

of the Flow Reduction Projects as specified in Section VII(Injunctive Relief);

- D. Progress on the upgrade of pump stations as specified in Section VII(Injunctive Relief); and
- E. Identification of any bypass at the plant, including dates and duration, wastewater flow data, and circumstances requiring the bypass.

41. Following the first full month after entry of this Consent Decree, and until the termination of this Decree, Cambridge shall submit to EPA and OEPA no later than the fifteenth (15) day of each month a summary report of all SSOs and discharges from Unpermitted Discharge Points that occurred during the previous calendar month. Cambridge shall report to EPA and OEPA within 24 hours, in writing via fax or email, any or discharges from Unpermitted Discharge Points that may endanger public health or the environment. All reports under Paragraph shall contain the following information

- a. The specific (and general) location of the SSO or discharge (i.e. street address or geographic area);
- b. The estimated duration of the SSO or discharge (including the beginning and end dates and times);
- c. An estimate of the volume of the SSO or discharge;
- d. The specific cause(s) of the SSO or discharge, if known;

- e. Any and all measures taken by Cambridge to minimize the duration and/or impacts of the SSO or discharge, including compliance information under an approved Sewer Overflow Action Plan required under Section VII (Injunctive Relief);
 - f. The specific measures taken to eliminate the SSO or discharge;
 - g. The specific measures Cambridge intends to use to prevent recurrence of the SSO or discharge; and
 - h. The date and time a repair crew arrived on-site
- If no SSO or an unpermitted discharge occurs in a particular month, Cambridge shall not be required to submit the summary report required under this Paragraph for that month

42. If Cambridge violates any requirement of this Consent Decree or its applicable NPDES Permit, Cambridge shall notify the United States and the State in writing of such violation and its likely duration no later than five (5) working days after the day Cambridge first becomes aware of the violation, with an explanation of the violation's likely cause and of the remedial steps taken, and/or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the report is due, Cambridge shall include a statement to that effect in the

report. Cambridge shall immediately investigate to determine the cause of the violation and then shall submit an amendment to the report, including a full explanation of the cause of the violation, no later than thirty (30) days after the day Cambridge becomes aware of the cause of the violation.

43. All reports that are required to be submitted to EPA and/or OEPA by this Consent Decree, shall be sent pursuant to Section XVII (Form of Notice) of this Consent Decree

44. Cambridge shall retain all underlying documents from which it has compiled any report or other submission required by this Consent Decree until five years after termination of the Consent Decree.

45. Each Report submitted by the City under this Section shall contain a certification as provided in Section VIII (Certification of Submissions).

46. The reporting requirements of this Consent Decree do not relieve Cambridge of any reporting obligations required by Cambridge's NPDES Permit

47. Any information provided pursuant to this Consent Decree may be used by the United States or the State in any proceeding to enforce the provisions of this Consent Decree.

X. SUBMISSIONS REQUIRING EPA/OEPA APPROVAL

48. Upon review of any plan, report, manual, document, or other item which Cambridge is required to submit for

approval by EPA and OEPA pursuant to this Consent Decree, EPA and OEPA may approve the submission or decline to approve the submission and provide comments.

No later than thirty (30) days after receiving comments from EPA and OEPA, Cambridge shall modify the submission consistent with those comments and resubmit to EPA and OEPA for final approval the plan, report, manual, document, or other item, or invoke the dispute resolution provisions of Part XIII of this Consent Decree

If the City fails to modify the submission consistent with the comments of EPA and OEPA and resubmits it to EPA and OEPA within thirty (30) days of receiving comments under Paragraph 49 above, EPA and OEPA may (a) approve the plan, in whole or in part; (b) disapprove the plan, in whole or in part; (c) approve the plan upon specified conditions, directing that Cambridge modify its submission; or (d) any combination of the above. In such an event, the City may invoke the dispute resolution provisions of Part XIII of this Consent Decree.

51. The City may have additional time to modify and resubmit its plan, pursuant to Paragraph 49 above, if all Parties have agreed in writing.

Approval of any submission in whole or in part, or upon specified conditions, by either EPA or OEPA, or

completion of any submission in whole or in part, or upon specified conditions, under this Consent Decree shall not be construed as compliance with the Clean Water Act, Ohio Revised Chapter 6111 or OEPA NPDES Permit No. OPD00020*ID.

53. Upon the approval of a submission by EPA and OEPA, the City shall immediately proceed to take any action required by the plan, report, manual, document, or other item as approved by EPA and OEPA.

54. All plans, reports, manuals, document, and other items required to be submitted to EPA and OEPA for review and approval under this Consent Decree, shall be enforceable under this Consent Decree upon approval by EPA and OEPA

XI. STIPULATED PENALTIES

55. If Cambridge fails to comply with any requirement of this Consent Decree, EPA and OEPA may impose stipulated penalties as follows:

56a. Effluent Limitations. This Paragraph shall apply to failure to comply with the effluent limitations applicable to Outfall 001 (or any future outfalls that may serve as principal discharge points for the POTW Treatment Plant)

b. Daily Limitations. For each exceedance of a daily effluent limitation for any parameter in its applicable NPDES Permit, Cambridge shall pay:

<u>Period of Noncompliance</u>	<u>Penalty per Exceedance of the Daily Limit</u>
i. For each of the first five exceedances of a parameter	\$ 200.00
ii. For each of the second five exceedances of the same parameter	\$ 400.00
iii. For the eleventh and any subsequent exceedance of the same parameter	\$ 600.00

Seven-Day Average Limitations. For each exceedance of a seven-day average effluent limitation for any parameter in its applicable NPDES Permit, Cambridge shall pay:

<u>Period of Noncompliance</u>	<u>Penalty per Exceedance of the 7 day average</u>
i. For the first exceedance of a parameter	\$ 400.00
ii. For the second exceedance of the same parameter	\$ 800.00
iii. For the third and subsequent exceedances of the same parameter	\$ 1200.00

d. **Monthly Average Limitations.** For each exceedance of a monthly average effluent limitation for any parameter in its applicable NPDES Permit, Cambridge shall pay:

<u>Period of Noncompliance</u>	<u>Penalty per Exceedance of the Monthly Average</u>
i. For the first exceedance of a parameter	\$ 500.00
ii. For the second exceedance of the same parameter	\$ 1000.00
iii. For the third and subsequent exceedences of the same parameter	\$ 2,000.00
e. For purposes of calculating stipulated	

penalties pursuant to this Paragraph, an exceedance of a seven-day average effluent limitation shall constitute one exceedance, not seven exceedances; and an exceedance of a monthly average effluent limitation shall constitute one exceedance, not thirty exceedances.

57. Stipulated Penalties for Bypasses and Sewer Overflows. Cambridge shall be subject to a stipulated penalty of \$3,500 for each calendar day on which a Bypass or Sewer Overflow occurs.

58. Elimination of Unpermitted Discharge Points. The following stipulated penalties shall accrue per day per violation for any noncompliance with the requirements of this Consent Decree relating to the inspection, identification and elimination of all Unpermitted Discharge Points as set forth in Section VII (Injunctive Relief) of this Consent Decree:

<u>Period of Noncompliance</u>	<u>Penalty</u>
1-30 days	\$ 500/day

31-60 days	\$ 1500/day
over 60 days	\$ 3000/day

59. Other Terms and Conditions in NPDES Permit. For each failure to comply with the terms and conditions of Cambridge's current NPDES Permit and any modifications or renewals to that Permit, the failures of which are not subject to stipulated penalties pursuant to specific provisions of this Section, Cambridge shall pay stipulated penalties as follows:

a. Non-continuous Discrete Violations of the NPDES Permit.

For each non-continuous, discrete failure to comply with a specific term or condition of its NPDES Permit, Cambridge shall pay a stipulated penalty of \$500.00 per violation

b. For Continuous Violations of the Same Term or Condition of the NPDES Permit.

<u>Period of Noncompliance</u>	<u>Penalty per Each 7-Day Period or Portion thereof</u>
First 7-Day Period	\$ 250.00
Second and Third 7-Day Period	\$ 750.00
Fourth, Fifth, Sixth, and Seventh Period	\$ 1,000.00
7-Day Period after the Seventh 7-Day Period	\$ 1,250.00

For example, for purposes of calculating stipulated penalties pursuant to this Subparagraph, the first seven (7) days of a continuing violation of the same term or condition shall result in a total penalty of \$500.00. If, for example, a continuing violation lasts for twenty-five (25) days, total penalty shall be \$3,000, calculated as follows: (\$500.00 for the first seven days) + (2 x \$750.00 for the next seven-day periods) + (\$1,000.00 for the carryover into the fourth seven-day period)

60. Violations of Section VII (Injunctive Relief).

Cambridge shall pay stipulated penalties, as set forth below, for each day that Cambridge fails to meet a milestone date specified in Paragraphs 16 through 37, above, of this Consent Decree. The stipulated penalties for failure to meet milestone date shall be as follows:

<u>Period of Noncompliance</u>	<u>Penalty per Day per Violation</u>
Days 1 to 30	\$ 225.00
Days 31 to 60	\$ 450.00
Days 61 and over	\$ 1,350.00

Provided that Cambridge begins construction of a project at or before the construction start date required in an approved implementation schedule, meets the construction completion date required in an approved implementation schedule and begins operation at or before the date required in an approved

implementation schedule, Cambridge shall not be required to pay stipulated penalties for failure to meet an interim construction deadline.

Reporting Violations. Cambridge shall pay stipulated penalties, as set forth below, for each day that Cambridge fails to submit any report required under Section IX (Reporting) of this Consent Decree. The stipulated penalties for failure to meet such reporting dates shall be as follows:

<u>Period of Noncompliance</u>	<u>Penalty per Day per Violation</u>
Days 1 to 30	\$ 150.00
Days 31 to 90	\$ 300.00
Days 91 and over	\$ 1,000.00

Payment of stipulated civil penalties as set forth above shall be in addition to any other rights or remedies that may be available to the United States, the State, or their agencies by reason of Cambridge's failure to comply with requirements of this Consent Decree, or all applicable federal, state or local laws, regulations, the applicable NPDES permit and all other applicable permits. The payment of such stipulated penalties shall not be construed to relieve Cambridge from specific compliance with this Consent Decree applicable federal or state law or regulations, nor shall it limit the authority of EPA or OEPA 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.

63. Stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Consent Decree, regardless of whether or not U.S. EPA or OEPA has made a written demand for payment of such penalties. Fifty percent (50%) of such penalties shall be paid to the United States and fifty percent (50%) of such penalties shall be paid to the State of Ohio.

64. Stipulated penalties owed to the United States shall, as directed by the United States, be paid by EFT or by certified or cashier's check in the amount due payable to the "U.S. Department of Justice," referencing DOJ No. 90-5-1-1-06501 and USAO file number 2003Z00626, and delivered to the Financial Litigation Unit of the United States Attorney, Southern District of Ohio, Eastern Division, 303 Marconi Boulevard, Suite 200, Columbus, Ohio 43215. The transmittal letter accompanying the EFT or check shall reference Civil Action No. C2-01-1064 (S.D. Ohio), USAO file number 2003Z00626, DOJ case number 90-5-1-1-06501, and U.S. EPA Region 5, and shall include a description of the violation(s) of the Consent Decree or NPDES Permit, including the date of violation(s), for which stipulated penalties are being paid.

65. Stipulated penalties owed to the State shall be paid by certified check for the appropriate amount, made payable to

"Treasurer, State of Ohio," which check shall be delivered by mail, or otherwise, to Jena Suhadolnik, Administrative Assistant, or her successor, at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400. The transmittal letter accompanying the check shall specify the caption and docket number of this action and shall include a description of the violation(s) of the Consent Decree or NPDES Permit, including the date of violation(s), for which stipulated penalties are being paid.

The existence of a dispute shall not excuse, toll or suspend any obligation or deadline established by this Consent Decree or the accrual of any stipulated penalties as a result of a failure to meet any requirement of this Consent Decree.

All stipulated penalties must be paid within forty-five (45) days of the date of violation. At the same time that stipulated penalties are paid, Cambridge shall transmit a copy of any payment made pursuant to Paragraphs 55 through 61 of this Consent Decree and the transmittal letter accompanying payment to the United States and the State of Ohio at the addresses set forth in Section XVII (Form of Notice).

68. Upon the Date of Entry of this Consent Decree stipulated penalties for violations of applicable NPDES permit requirements, missed deadlines, or other noncompliance

occurring between the Date of Lodging and the Date of Entry of Consent Decree shall be payable pursuant to the terms of Section.

69 Should Cambridge fail to pay stipulated penalties in accordance with the terms of this Consent Decree, the United States shall be entitled to collect interest on such penalties, as provided for in 28 U.S.C. § 1961, together with the costs (including attorneys fees) incurred in any action necessary to collect any such stipulated penalties or interest thereon.

XII. POTENTIAL FORCE MAJEURE

70. If any event occurs that causes, or may cause, the delay of completion of any requirement of this Consent Decree or causes or is likely to cause Cambridge to violate any provision of this Consent Decree, whether or not due to a Potential Force Majeure event, Cambridge shall so notify the United States and the State of Ohio pursuant to Section XVII (Form of Notice) of this Consent Decree, in writing, within

(10) business days of the event. The notice shall reference this Section of the Consent Decree and shall describe in detail the bases for Cambridge's contention that it experienced a Potential Force Majeure event, the nature and causes of the violation or delay, all measures taken or to be taken by Cambridge to prevent or minimize the noncompliance,

delay or event, and the timetable by which those measures will be implemented. Failure to so notify the United States and the State of Ohio shall constitute a waiver of any claim of Potential Force Majeure as to the event in question.

71. Subject to the notice requirements of Paragraph 70, in any action by the United States and the State of Ohio to enforce any of the provisions of this Consent Decree, Cambridge may raise at that time that it is entitled to a defense that its failure to comply with this Consent Decree was caused by reasons entirely beyond its control or the control of any entity controlled by Cambridge, including its consultants and contractors. While the State of Ohio does not agree that such a defense exists, it is, however, hereby agreed upon by Cambridge and the plaintiff parties that the appropriate time at which to adjudicate the existence of such a defense is at the time that an enforcement action is commenced by the United States and the State of Ohio. At that time the burden of proving that any potential force majeure event was or will be caused by circumstances entirely beyond Cambridge's control or the control of any entity controlled by Cambridge, including its consultants and contractors shall rest with Cambridge. Nothing in this Section is intended to relieve Cambridge of its duty to use all due diligence to complete the requirements of this Consent Decree in a timely

matter or of Cambridge's obligation to meet all discharge limitations and other obligations contained in Cambridge's NPDES Permit. Unanticipated or increased costs or expenses associated with the implementation of this Consent Decree, technical infeasibility, or changed financial circumstances are not Potential 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 necessary to meet the requirements of this Decree, are not Potential Force Majeure events. An extension of one compliance date based on a particular event does not extend the time for performance of any other obligation. Cambridge must make an individual showing of proof regarding each incremental step or other requirement for which an extension is sought

XIII. DISPUTE RESOLUTION

72. A. 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) are not subject to dispute resolution under this Decree but, rather, shall be subject to challenge under Chapter 3745, Ohio Revised Code. The term "actions of the Director of Environmental Protection" shall be consistent with the definitions set forth in Chapter 3745, Ohio Revised Code.

B. Except as provided in Paragraph 72A, above, any dispute which arises with respect to the meaning, application, implementation, interpretation, amendment or modification of

Consent Decree, or with respect to the City's compliance herewith (including the adequacy of the City's performance of the remedial measures and adequacy of any submittals required under this Consent Decree) shall be, in the first instance, the subject of informal negotiations. If any Party believes it has a dispute with any other Party, it shall notify all the other Parties in writing, which shall include notice to the

Department of Justice and the Ohio Attorney General's Office, pursuant to Section XVII (Form of Notice), setting forth the matter in dispute, and the Parties will proceed initially to resolve the matter in dispute by informal means. Such period of informal negotiations shall not exceed thirty

days from the date the notice is sent, unless the Parties agree otherwise.

C If the informal negotiations are unsuccessful, the position of the United States and the State shall control unless, within twenty (20) days after the conclusion of the informal negotiation period, the City invokes the formal dispute resolution procedures of this Section by serving on the United States and the State a written statement of position on the matter in dispute

D. Within thirty (30) days of receiving the City's statement of position, the United States and the State will serve on the Defendants their written statement of position.

E. The United States' and the State's statement of position shall be binding upon the City unless the City files a petition with the Court describing the nature of the dispute and a proposal for its resolution. The City's petition must be filed no more than twenty (20) days after receipt of the United States' and the State's statement of position. The United States and State shall then have thirty (30) days to file a response setting forth their position and a proposal for resolution. In any such dispute, the City shall have the burden of proof, and the standard of review shall be that provided by applicable law.

F. The invocation of dispute resolution procedures under this Section shall not extend, postpone or affect in any way any obligation of Cambridge under this Consent Decree not directly in dispute. For ongoing violations, stipulated penalties with respect to the disputed matter shall continue to accrue but payment to the United States and the State shall be stayed pending resolution of the dispute. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Consent Decree until such noncompliance ceases. In

the event that Cambridge does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in the "Stipulated Penalties" Section of this Consent Decree.

G. If the United States and the State provide the City with materially different or irreconcilable positions on the issue(s) in dispute, the City's obligation to perform an action necessarily affected by the materially different or irreconcilable positions (and the City's liability for stipulated penalties concerning such obligation) shall be stayed until the dispute is resolved.

XIV. INFORMATION COLLECTION AND RETENTION

The United States, the State, and their representatives, including attorneys, contractors, and consultants, shall have the right of entry to any portion of the POTW, at all reasonable times, upon presentation of credentials, to:

- a. monitor the progress of activities required under this Consent Decree;
- b. verify any data or information submitted to the United States or the State in accordance with the terms of this Consent Decree;

- c. obtain samples and, upon request, splits of samples taken by Cambridge or its representatives, contractors, or consultants; and
- d. assess Cambridge's compliance with this Consent Decree

74 Upon request, Defendant shall allow split or duplicate samples to be taken by EPA and the State or their authorized representatives. Upon request, EPA and OEPA shall allow Cambridge to take split or duplicate samples of samples they take.

75. Until five (5) years after the termination of this Consent Decree, Cambridge shall retain, and shall instruct its representatives, contractors and consultants to preserve, copies of all records and documents (including records or documents in electronic form) now in its or its representatives', contractors' or consultants' possession or control, or that come into its or its representatives' contractors' or consultants' possession or control, and that relate in any manner to the City's performance of its obligations under this Consent Decree. This record retention requirement shall apply regardless of any document-retention policy of the City to the contrary.

76. At the conclusion of the document-retention period provided in the preceding Paragraph, Cambridge shall notify

the United States and the State at least ninety (90) days prior to the destruction of any records or documents subject to the requirements of the preceding Paragraph, and, upon request by the United States or the State, Cambridge shall deliver any such records or documents to EPA or OEPA. Defendant may assert that certain documents, records, or other information are privileged under the attorney-client privilege or any other privilege recognized by federal or state law. If Defendant asserts such a privilege, it shall provide the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the subject of the document, record, or information; and (6) the privilege asserted by Defendant. However, no documents, reports, or other information generated or received pursuant to the requirements of this Consent Decree shall be withheld on the grounds that they are privileged.

77. This Consent Decree in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States or the State pursuant to applicable federal or state laws, regulations, or permits.

XV. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

78. This Consent Decree resolves the civil claims of the United States and the State for the violations alleged in the Complaints filed in this action through the Date of Lodging.

79. This Decree is not and shall not be construed as a NPDES permit; nor does this Decree limit the City pursuing modifications to its issued permit in compliance with federal and state laws and regulations, including 40 C.F.R. § 122.41(m) (1 (i)).

80. By entering into this Consent Decree, the United States and the State do not warrant or aver in any manner that Cambridge's compliance with any aspect of this Consent Decree will result in compliance with the provisions of the Clean Water Act, 33 U.S.C § 1251 et seq., regulations promulgated thereunder, or with State or local laws.

81. Except as is specifically provided herein, this Consent Decree shall not affect Cambridge's obligation to achieve and maintain complete compliance with its NPDES permit. The Consent Decree does not relieve Cambridge of its obligation to obtain all required permits and approvals under state, federal and local law, including obtaining permits to install and/or plan approvals from OEPA. This Consent Decree does not authorize or approve the construction of any physical structure or facilities, the modification of any existing treatment works or sewerage system, or the extension or

expansion of the sewerage system or treatment works. Approval of such construction or modification shall be in accordance with applicable federal, state or local laws or regulations.

82. The United States and the State expressly reserve, and nothing herein shall be construed to limit, their rights to pursue all remedies available for violations of any federal or state laws or regulations not specifically pleaded in the Complaint filed in this matter. The City expressly reserves and nothing herein shall be construed to limit, its right to pursue all remedies and defenses available for violation of federal or state laws or regulations not specifically pleaded in the Complaint filed in this matter, or raised in the City's Answer thereto

83. This Consent Decree shall not be construed to limit rights of the United States or the State to undertake any criminal enforcement activity against any person or entity.

84. This Consent Decree shall not be construed to limit the authority of the United States or the State or the City to undertake any actions in response to conditions that may present an imminent and substantial endangerment to the public health, welfare or the environment.

85. Cambridge's execution of this Consent Decree shall not be construed as an admission by Cambridge of any facts

that would limit or affect any right Cambridge may have to seek or receive State or Federal loan funds or grant funds.

86. This Consent Decree does not limit or affect the rights of the City or of the United States or the State against any third parties, not party to this Consent Decree.

This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party who is not a party to this Consent Decree

88. The United States, the State and the City reserve any and all legal and equitable remedies available to enforce the provisions of this Consent Decree, except as expressly stated herein

XVI. COSTS OF SUIT

The United States, the State and the City shall bear their own costs in the litigation of this action, including attorneys fees, except as provided in Paragraphs 15 and 69, above

XVII. FORM OF NOTICE

90. Unless otherwise specified herein, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing and addressed as follows:

As to the United States:

Chief, Environmental Enforcement Section

Environment and Natural Resources Division
United States Department of Justice
Post Office Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611

Chief, Water Enforcement and Compliance
Assurance Section 1 (WC-15J)
Water Division
U.S. EPA Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Office of the United States Attorney
for the Southern District of Ohio,
Eastern Division
2 Nationwide Plaza
280 North High Street, 4th Floor
Columbus, Ohio 43215

As to the City of Cambridge:

City Engineer
City of Cambridge
1131 Steubenville Avenue
Cambridge, Ohio 43725

City Law Director
City of Cambridge
1131 Steubenville Avenue
Cambridge, Ohio 43725

As to the State of Ohio:

Chief, Environmental Enforcement Section
Ohio Attorney General's Office
30 East Broad Street, 25th Floor
Columbus, Ohio 43215

As to Ohio EPA:

Enforcement Coordinator

Ohio EPA Central Office
Lazarus Government Center
P.O. Box 1049
122 South Front Street
Columbus, Ohio 43216-1049

Enforcement Group Leader
Ohio EPA Southeast District
2195 Front Street
Logan, Ohio 43138

91. Notifications to or communications with EPA, the United States, the State of Ohio, OEPA, or the City of Cambridge shall be deemed submitted on the date they are postmarked and/or sent by first class, overnight or facsimile mail, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing

XVIII. MODIFICATION

92. The terms of this Consent Decree may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to any term of this Decree, it shall be effective only upon approval by the Court.

XIX. PUBLIC PARTICIPATION

93. This Consent Decree shall 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 and the State of Ohio reserve the right to withdraw or withhold their consent if the comments regarding

the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. Defendant consents to entry of this Consent Decree without further notice.

XX. CONTINUING JURISDICTION OF THE COURT

94. The Court shall retain jurisdiction of this case until termination of this Consent Decree, for the purpose of enabling any of the Parties to apply to the Court for such further order, direction, or relief as may be necessary or appropriate for the construction or modification of this Consent Decree, or to effectuate or enforce compliance with its terms, or to resolve disputes

XXI. EFFECTIVE DATE

95. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court

XXII. TERMINATION

96. Upon motion filed with the Court by the United States, State or the City, the Court may terminate the terms of this Consent Decree after each of the following has occurred:

A. The City has achieved compliance with all provisions contained in this Consent Decree, and has maintained

compliance with each and every provision of this Consent Decree for twelve consecutive months;

B. The City has paid all penalties and other monetary obligations due hereunder and no penalties or other monetary obligations due hereunder are outstanding or owed to the United States or State.

C. The City has submitted to both U.S. EPA and OEPA a certification of compliance with Subparagraphs A. and B. above; and

D. The United States and/or the State, within sixty (60) days of receiving such certification from the City, not contested, in writing, that such compliance has been achieved

97. If the United States and/or State dispute(s) the City's compliance with this Consent Decree, this Consent Decree shall remain in effect pending final resolution of dispute by the Court

XXIII. SIGNATORIES/SERVICE

98. Each undersigned representative executing this Consent Decree on behalf of the a Party certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

99. Cambridge hereby agrees not to oppose entry of

Consent Decree by the Court or to challenge any provision of the Decree, unless the United States or the State of Ohio has notified Cambridge in writing that it no longer supports entry of the Decree.

100. Cambridge hereby agrees to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons

XXIV. INTEGRATION

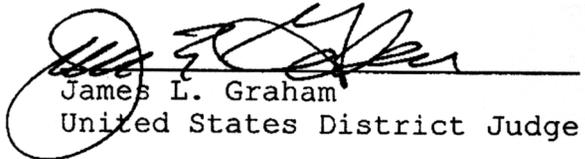
101. This Consent Decree constitutes the final complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Consent Decree and supersedes all prior agreements and understandings, whether oral or written. No other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Consent Decree or the settlement it represents, nor shall it be used in construing the terms of this Consent Decree

XXV. FINAL JUDGMENT

102. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment binding upon the United States, the State, and the

City. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS 17TH DAY OF NOVEMBER, 2004,


James L. Graham
United States District Judge

DATE: November 17, 2004

FOR THE UNITED STATES:

Date: 7.22.04

Tom Sansonetti

THOMAS L. SANSONETTI
Assistant Attorney General
Environment and Natural
Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Date: 7/29/04

J. Anderson

ESPERANZA ANDERSON
Attorney
Environmental Enforcement
Section
Environment and Natural
Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
202 514-4059

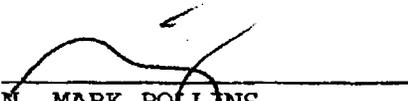
Date: 7/2/04


for
BHARAT MATHUR
Acting Regional Administrator
Region 5
United States Environmental
Protection Agency
77 W. Jackson Blvd.
(Mail Code R-19J)
Chicago, IL 60604

Date: JUNE 29, 2004


BERTRAM C. FREY
Acting Regional Counsel
United States Environmental
Protection Agency, Region 5
77 W. Jackson Blvd. (C-14J)
Chicago, IL 60604

Date: July 16, 2004


N. MARK POLLINS
Director, Water Enforcement Division
Office of Regulatory Enforcement,
Office of Enforcement and Compliance
Assurance
United States Environmental
Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

FOR THE STATE OF OHIO:

FOR THE STATE OF OHIO

JIM PETRO
Attorney General of Ohio

Date: 01/15/04

By: Margaret A. Malone
MARGARET A. MALONE (# 0021770)
Assistant Attorney General
Environmental Enforcement Section
Office of the Attorney General
30 East Broad Street/25th Floor
Columbus, Ohio 43215-3400
(614) 466-2766

FOR DEFENDANT CITY OF CAMBRIDGE:

DATE: 6-10-04


Name SAM SALKO
Position Mayor, City of Cambridge
Address 1131 Steubenville Ave.
Cambridge, OH 43725

Telephone Number: (740) 439-1050

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Mr. Paul Sherry
City Engineer
1131 Steubenville Ave
Cambridge, OH 43725
(740) 432-3601

Appendix A

City of Cambridge I/I Reduction Projects

1. Reduce I/I from private property

Clean water contributions to the sanitary sewer are prohibited by city ordinance 64-92 dated August 10, 1992. The City will send letters directly to residents and/or property owners that have been identified to be a possible source of I/I via the SSES report. The City has broken these items into 3 categories: the property has down spouts connected; the property is missing a clean-out cap; or the property may have a broken service lateral. The City will track compliance of the particular customer with the provisions of the ordinance. The City will take appropriate action to obtain compliance with the ordinance. The City will follow up with additional smoke testing to document the effect of this program. Every six months while the Consent Decree is in effect, the City will provide a certified report describing the progress on this program to USEPA and OEPA.

2. I/I in the area of Taylor and 9th

The City will do additional smoke testing and dye testing in this area in an attempt to identify source(s) of I/I and to determine what can be done to remedy the situation. Cambridge will submit testing results, together with a description of the proposed remedy and the basis for its selection, to Ohio EPA for review and concurrence. The City will develop and implement remedies based on physical condition and/or cost effectiveness. The City will include the details of the work performed in the report submitted to USEPA and OEPA.

3. I/I in the area of North 16th Street

The City will do additional smoke testing and dye testing in this area in an attempt to identify source(s) of I/I and to determine what can be done to remedy the situation. Cambridge will submit testing results, together with a description of the proposed remedy and the basis for its selection, to Ohio EPA for review and concurrence. The City will develop and implement remedies based on physical condition and/or cost effectiveness. The City will include the details of the work performed in the report submitted to USEPA and OEPA.

4. Raise manholes that become submerged

The City has identified five manholes (MHs) that are located in an area that collects surface water during heavy rain events. These manholes are located in the SR 209 industrial park area. Three are identified as numbers 1027B, 1032, 1032A and 1033. The other is not numbered but

is located between the lift station and the Dunning Motors sales lot. For the sake of clarity, the City has numbered this manhole as 1028B. The status of raising these MH's is as follows:

1027B	Needs to be raised. To be completed by 8/04.
1032	Raised in September 2003.
1032A	Raised in September 2003.
1033	Raised in September 2003.
1028B	Needs to be raised. To be completed by 8/04.

The City will document the raising of the two remaining MH's to USEPA and OEPA within 30 days of completion.

Appendix B

Priority	Name	Description
1	Shield Alloy	Add generator connection and make autodialer operational by 7/04.
2	Bennet's	Add 2 nd pump, bypass pump connection & generator connections, new control panel by 8/04. Install autodialer or add SCADA by 7/05.
3	Odd Lots	Add 3 rd pump and flood proof by 9/04, make autodialer operational/SCADA.
4	Park Circle	Replace stairs, add generator connection by 10/04. Install autodialer/SCADA.
5	Kmart	Flood proofing by 2/05, make autodialer operational or add SCADA.
6	Parkway	Apply for abandonment by 4/05.
7	Silvercliff	To be replaced in 2005.
8	Highway	Add autodialer or SCADA by 7/05. To be replaced in 2006.
9	Elm Street	To be replaced in 2006.
10	Ohio Ave	Make autodialer operational or add SCADA.
11	Dunning	Make autodialer operational or add SCADA.
12	Red Carpet	Make autodialer operational or add SCADA.
13	Dr. Vora's	Make autodialer operational or add SCADA.
14	Hospital	Make autodialer operational or add SCADA.
15	Cedar Hills	Make autodialer operational or add SCADA.
16	Wills Creek	Make autodialer operational or add SCADA.
17	DO Hall	Make autodialer operational when pump station is put into service.
18	Campbell	Make autodialer operational or add SCADA.

1. All stations to have bypass pump connection and generator connections.
2. Unless otherwise noted, autodialers or SCADA to be operational by January 2007. SCADA replaces A/V alarms.
3. Staff to correct improper check valve installation on bypass pump connections.