



CITY OF FORT WAYNE

THOMAS C. HENRY, MAYOR

September 28, 2023

VIA OVERNIGHT DELIVERY

Chief
Water Enforcement and Compliance Assurance Branch
Water Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, IL 60604
Re: DJ# 90-5-1-1-07653

Chief, Compliance Branch
Office of Water Quality
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, IN 46206

Chief, Enforcement Branch
Enforcement Section
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, IN 46206

**Re: Consent Decree, Case # 2:07 cv 00445
Status Report 31**

Dear Sir/Madam:

The City of Fort Wayne (the "City") is pleased to submit the enclosed Six-Month Status Report ("Status Report") pursuant to Section XII, Paragraph 33 of the Consent Decree (Case # 2:07 cv 00445) entered on April 1, 2008 and modified on January 26, 2015 and May 23, 2019. The Status Report concerns the period from March 1, 2023, through August 31, 2023 (the "Reporting Period"). As you will see, the City is on schedule to meet all Consent Decree milestone deadlines.

The City continues to electronically accomplish its DMR/MRO reporting. Because electronic submissions through netDMR are (and will be) already possessed by U.S. EPA, the City does not believe Consent Decree paragraph 35 necessitates duplicative hardcopy submission with this or future reports. If U.S. EPA nonetheless desires hardcopies of the electronically submitted DMRs/MROs, please so advise us.

The City believes the enclosed Status Report is consistent with, and fulfills, the reporting requirements of the Consent Decree. Should you have any questions or concerns regarding the Status Report, kindly contact me at (260) 427- 6050 or Kristen Buell at (260) 427-2583.

Very truly yours,

Kumar Menon,
Director of City Utilities

Enclosures

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City of Fort Wayne Six-Month Status Report

Consent Decree Case # 2:07 cv 00445

Report #31 (March 1, 2023–August 31, 2023)



Report Submitted to the following:	
U.S. EPA	Chief Water Enforcement and Compliance Assurance Branch Water Division U.S. Environmental Protection Agency, Region 5 77 West Jackson Boulevard Chicago, IL 60604
IDEM	Chief, Compliance Branch Office of Water Quality Indiana Department of Environmental Management 100 North Senate Avenue P.O. Box 6015 Indianapolis, IN 46206 Chief, Enforcement Section Office of Legal Counsel Indiana Department of Environmental Management 100 North Senate Avenue P.O. Box 6015 Indianapolis, IN 46206
From:	
City of Fort Wayne	City of Fort Wayne Fort Wayne City Utilities, Suite 270 Citizens Square 200 East Berry Street Fort Wayne, IN 46802

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APPENDIX 1

Summary to include the following:

1. Consent Decree Requirements for Reporting Period (3/1/2023-8/31/2023)
2. General Description of Work Completed during the Reporting Period (3/1/2023-8/31/2023)
3. Description of Projected Work to be Performed in the Next Six-Months (3/1/2023-8/31/2023)

APPENDIX 2 – Reports submitted to IDEM during the Reporting Period

APPENDIX 3 – Operations and Maintenance Report on Collection System Activity

1. CONSENT DECREE COMPLIANCE (Section XII, Paragraph 34 (a))

A statement setting forth (i) the deadlines and other terms that Fort Wayne has been required by this Consent Decree to meet since the date of the last statement; (ii) whether and to what extent Fort Wayne has met those requirements; and (iii) the reasons for any noncompliance.

The attached Appendix 1 includes a summary of the City of Fort Wayne's (the "City's") compliance with applicable Consent Decree deadlines and terms from March 1, 2023 to August 31, 2023 (the "Reporting Period"). The City believes that it has met all Consent Decree deadlines during the Reporting Period. The City believes that it also met other terms required by the Consent Decree, but did experience the discharges described at item 6 below during the Reporting Period. Explanations for those discharges are provided at item 6.

2. GENERAL DESCRIPTION OF WORK (Section XII, Paragraph 34 (b))

(i) A general description of the work completed within the prior six-month period; (ii) to the extent known, a statement as to whether the work completed in that period meets applicable Design Criteria; and (iii) a projection of work to be performed pursuant to this Consent Decree during the next six-month period.

The attached Appendix 1 includes a general description of work completed during the Reporting Period and statements as to whether the completed work met applicable Design Criteria.

3. REQUEST FOR WATER QUALITY STANDARDS REVISION (Section XII, Paragraph 34 (c))

A statement as to Fort Wayne's understanding regarding the status of IDEM's response to the City's request for a revision to water quality standards in accordance with Section 5 of the City's Long-Term Control Plan.

As previously reported, the City held two public participation meetings on February 17, 2010. A 30-day public comment period followed and concluded March 17, 2010. The only written comment received was from a Fort Wayne citizen in support of the proposed UAA.

Subsequently, on May 6, 2010, a final version of the UAA proposal was submitted to IDEM. The submittal was followed by a meeting on June 8, 2010 between the City and IDEM to discuss future steps in the rule change process. On August 30, 2010 IDEM issued the City a letter stating, in relevant part:

“Based on the information contained in the City's UAA, IDEM finds that Fort Wayne has provided sufficient information to propose changing the

designated recreational use for the above mentioned waters from ‘full body contact’ to the ‘Combined Sewer Overflow (CSO) Wet Weather Limited Use’ subcategory of Indiana’s recreational use designation as provided in IC 13-18-3-2.5 during storm events that exceed the level of control in the City’s approved Long-Term Control Plan (LTCP).”

Notwithstanding EPA’s involvement in the UAA throughout its development, EPA posed new questions regarding the City’s UAA in late 2010 requesting additional information. The City, IDEM and EPA met to discuss EPA’s request on January 11, 2011. Additional meetings and dialog with EPA have followed, including on January 26, 2012, February 21, 2012, June 13, 2012 and February 27, 2013. Following additional dialog with IDEM and EPA, the City provided updated UAA submissions on September 24, 2019, March 6, 2020, and June 5, 2020. IDEM’s subsequent approval of the City’s updated UAA was reflected in a letter to the City dated July 9, 2020 which states as follows:

IDEM finds that Fort Wayne has provided sufficient information to initiate changing the designated recreational use for the above mentioned waters from “full body contact” to the “CSO wet weather limited use” subcategory of Indiana’s recreational use designation as provided in IC 13-18-3-2.5. In accordance with the requirements of IC 13-14-9-14, IDEM will draft a rule that establishes the CSO wet weather limited use subcategory for the above-mentioned streams. The UAA prepared by Fort Wayne will serve as the technical justification for the proposed rule. The proposed rule will be posted to the Indiana Register for a minimum of 30 days for public review and written comment. Following the public comment period, the Environmental Rules Board (ERB) will hold a public hearing on the rulemaking and vote on adoption of the rule. The rule will then go through the standard promulgation process of review and approval by the Office of the Attorney General, signature by the Governor, and filing with the publisher of the Indiana Administrative Code. It becomes effective 30 days after filing with the publisher, unless a later date is specified within the rule. IDEM will submit the rule to the Environmental Protection Agency (EPA) as a new or revised water quality standard for review and approval under Section 303(c) of the Clean Water Act. The rule will become effective for Clean Water Act purposes when it is approved by EPA. However, the CSO wet weather limited use subcategory will apply to the listed stream reaches only when Fort Wayne has fully implemented the approved LTCP in accordance with IC 13-18-3-2.5.

The proposed rule was publicly noticed on May 21, 2021 and approved by the Indiana Environmental Rules Board at its meeting on November 10, 2021. The final rule was published in the Indiana Register on March 25, 2022 and then became effective. IDEM submitted the final rule to EPA for its approval on May 11, 2022. EPA subsequently expressed reservations regarding IDEM’s submission and asked whether IDEM and the City would be willing to engage in further discussions. By way of a letter dated February 16, 2023, the City expressed its willingness to do so. The Regional Administrator for EPA Region V responded to the City’s letter via email on February 23, 2023 advising

that “EPA is reviewing the letter. My staff will contact you once our review is complete.” No such contact from EPA staff has occurred through September 26, 2023.

As required by the Consent Decree, the City timely submitted its latest 6-Year Capital Cost Report to EPA and IDEM on December 20, 2019.

4. CSO CONTROL MEASURES NOTICE TO PROCEED (Section XII, Paragraph 34 (d))

A description of any notices to proceed for any CSO Control Measure or measures specified in Appendix 3 that Fort Wayne has revoked in the prior six-month period, and a description of the status of Fort Wayne’s compliance with Section XXI.F with regard to issuance of a new notice to proceed.

The City did not revoke a notice to proceed during this reporting period.

5. POST-CONSTRUCTION MONITORING PROGRAM (Section XII, Paragraph 34 (e))

Information generated in accordance with the Post-Construction Monitoring Program.

Ongoing monitoring programs have continued as outlined in Appendix 4 of the Consent Decree.

Post-Construction monitoring for CSO Control Measures 7 & 8 – St. Joseph Relief Sewers has been completed, as has the post-construction compliance assessment as outlined in Appendix 4 of the Consent Decree. That assessment is summarized in the Milestone Report for the St. Joseph Watershed timely submitted to EPA by September 1, 2017.

6. REPORTS SUBMITTED TO IDEM IN PREVIOUS SIX MONTHS (Section XII, Paragraph 35)

Fort Wayne shall also submit, with each written status report, copies (to EPA only) of all Monthly Monitoring Reports and other reports pertaining to CSOs, SSDs, and bypasses that Fort Wayne submitted to IDEM in the previous six months.

The attached Appendix 2 contains numbered copies of monthly monitoring and other reports submitted to IDEM concerning the Reporting Period pertaining to CSOs, discharges from the City’s separate sanitary sewer system, and bypasses. Additional information regarding the discharges described on the reports included within Appendix 2 follows.

Twenty of the 33 reports submitted during the Reporting Period concerned discharges which did not reach a regulated waterbody but were nonetheless reported for information

purposes (report numbers 3, 4, 5, 6, 8, 10, 12, 15, 16, 17, 19, 22, 23, 25, 26, 28, 29, 30, 32, and 33). Twelve of those 20 reports concerning discharges which did not reach a regulated waterbody (report numbers 3, 5, 6, 15, 16, 17, 22, 23, 28, 29, 32, and 33) concerned apparent basement backup events which the City reported in an abundance of caution and at IDEM's request for information purposes even though they may not have arisen due to the City's sewer system.

Four reports (reports 2, 13, and 24) regard extraordinary wet weather.

Two reports (reports 1 and 21) were submitted with respect to incidents caused by unauthorized actions of a INDOT contractor. The City worked to remind the contractor about its IDEM reporting and response responsibilities but is not aware whether it achieved compliance with applicable state and federal requirements.

Other mostly minor discharges from sanitary sewer system locations are described in reports 7, 9, 11, 14, 18, 20, 27, and 31. All incidents occurred notwithstanding the City's timely accomplishment of all CMOM requirements, compliance with applicable NPDES permit provisions, and customary best efforts.

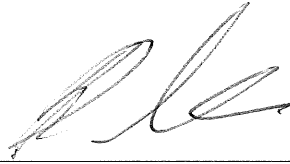
In addition to responsive activities identified in the submitted reports, the City continues to distribute numerous grease control kits to residents in areas proximate to identified blockages, college residence halls, apartment complexes, and neighborhood associations. The kits include educational materials (translated when appropriate) and lids to facilitate home grease collection.

7. OPERATIONS AND MAINTENANCE REPORT ON COLLECTION SYSTEM ACTIVITY

Although not required by the Consent Decree, the City is pleased to include tables at Appendix 3 respectively depicting the City's general progress towards its operations and maintenance activities goals as well as a listing of completed regulator and lift station inspections March 1, 2023 to August 31, 2023.

8. CERTIFICATION STATEMENT (Section XII, Paragraph 38)

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.



Kumar Menon, Director of City Utilities

9-28-2023

Date

APPENDIX 1

APPENDIX 1
Six-Month Status Report #31 (03/1/2023 – 08/31/2023)

APPENDIX 1

Below are general descriptions of the following (I) Consent Decree compliance requirements for Reporting Period; (II) work completed during the Reporting Period; and (III) work anticipated to be performed during the next Reporting Period.

I. CONSENT DECREE COMPLIANCE FOR THIS REPORTING PERIOD

No critical milestone dates of Appendix 3 or Appendix 5 of the Consent Decree occurred during this Reporting Period. A summary of work completed during this Reporting Period to achieve forthcoming critical milestone dates is provided in part II below.

II. WORK CONTEMPLATED BY CONSENT DECREE APPENDIX 3 AND APPENDIX 5 COMPLETED DURING THIS REPORTING PERIOD

CSO Control Measures 11 & 12 – 3RPORT and Foster Park Relief Sewer – (Deep Rock Tunnel and near surface relief sewer) formally known as Wayne Street & St. Mary’s Parallel Interceptors – (Parallel interceptors to capture combined sewer overflows for conveyance to WPCP/Wet Weather Ponds). As the agencies are aware, the City’s submittal to modify these Control Measures to provide further improved CSO control was approved via a Consent Decree modification. As IDEM and EPA are aware, the City submitted a Notice of Force Majeure Event on May 27, 2022 concerning CSO Control Measure 11. By way of a letter dated November 2, 2022, EPA stated that it agreed that a force majeure event had occurred and extended the achievement of full operations deadline for CSO Control Measure 11 to December 31, 2024.

- Wayne Street (West of WPCP)/3RPORT
 - Public outreach continued
 - Tunnel & Drop Shafts Package – Project substantially complete.
 - Consolidation Sewers Package(s) –
 - CSO 013 – Thieme and Berry Consolidation Sewer - Construction continues
 - CSO 028 – Griswold Pump Station Consolidation Sewer –Construction began.
 - CSO 11/12 – Nebraska Pump Station Consolidation Sewer – Construction continues
 - CSO 7/56 – Brown Street Consolidation Sewer – Construction continues..
 - CSO 23/24/25 W of Fairfield Consolidation Sewers – Construction continues.
 - CSO 18 Consolidation Sewer – Construction continues.
 - Deep Dewatering Pump Station Package – Construction continues.
- St. Mary’s (Foster Park Relief Sewer)
 - CSO 05 – Indian Village – Design completed, and construction procurement began.
 - CSO 20 – Hartman Road – Design completed, and construction procurement began.
 - CSO 21 – Old Mill Rd -
 - Gravity Sewers - Design continues.
 - Pump Station – Design continues.
 - Force Main – Design continues.

CSO Control Measure 13 – Late Floatables Control – (Overflow-specific solids and floatables controls)

- CSO Outfall 005 – Design complete, and construction procurement began.
- CSO Outfall 20 - Design complete, and construction procurement began.

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- CSO Outfall 21 - Design complete, and construction procurement began.
- CSO Outfall 023 – Construction started.
- CSO Outfall 024 – Construction started.
- CSO Outfall 025 – Construction started.
- CSO Outfall 029 – Construction completed.
- CSO Outfall 028 – Construction started.
- CSO Outfall 011/012 – Construction completed.
- CSO Outfall 007/056 – Construction started and completed.

CSO Control Measure 14 – Satellite Storage – (Satellite storage facilities)

- CSO Outfall 064 – Advanced facilities planning continued to optimize final control technologies accounting for improvements in area and flow reductions resulting from implementation of CSSCIP under CSO Control Measure 4.

Warfield SSD System – Outfalls 070 & 071

- Although not required by the Consent Decree, the City is working to further improve the collection system in this area.

Rothman SSD System – Outfalls 072, 073, 074, 075, 076

- Although not required by the Consent Decree, the City is working to further improve the collection system in this area.
- Began to construct a third siphon barrel under the St. Joseph River.
- Began design on a relief force main and lift station to redirect wet weather flow.

North Maumee SSD System – Outfalls 077 & 078

- Although not required by the Consent Decree, the City is working to further improve the collection system in this area.

III. WORK CONTEMPLATED BY CONSENT DECREE APPENDIX 3 AND APPENDIX 5 ANTICIPATED FOR COMPLETION DURING THE NEXT REPORTING PERIOD

CSO Control Measures 11 & 12 – 3RPORT and Foster Park Relief Sewer – (Deep Rock Tunnel and near surface relief sewer) formally known as Wayne Street and St. Mary’s Parallel Interceptors – (Parallel interceptors to capture combined sewer overflows for conveyance to WPCP/Wet Weather Ponds)

- Wayne Street (West of WPCP)/3RPORT
 - Public outreach to continue
 - Tunnel & Drop Shafts Package – Complete construction.
 - Consolidation Sewers Package(s) –
 - CSO 13 – Thieme and Berry Consolidation Sewer – Complete construction.
 - CSO 28 – Griswold Pump Station – Complete construction.
 - CSO 23/24/25 W of Fairfield Consolidation Sewers – Complete construction.
 - CSO 11 & 12 – Nebraska Street Pump Station – Complete construction.
 - CSO 007 & 56 – Brown Street Pump Station – Complete construction
 - CSO 18 Consolidation Sewer – Construction to continue
 - Deep Dewatering Pump Station Package – Construction to continue
- St. Mary’s (Foster Park Relief Sewer)
 -
 - CSO 05 – Indian Village – Complete construction procurement and begin construction.

APPENDIX 1
Six-Month Status Report #31 (03/1/2023 – 08/31/2023)

- CSO 20 – Hartman Road – Complete construction procurement and begin construction.
- CSO 21 – Old Mill Rd –
 - Gravity Sewers - Complete design and construction procurement.
 - Pump Station – Complete design and construction procurement.
 - Force Main – Complete design and construction procurement.
-

CSO Control Measure 13 – Late Floatables Control – (Overflow-specific solids and floatables controls)

- CSO Outfall 023 – Complete Construction.
- CSO Outfall 024 – Complete Construction.
- CSO Outfall 025 – Complete Construction.
- CSO Outfall 028 – Complete Construction.
- CSO Outfall 005 – Construction to begin.
- CSO Outfall 020 – Construction to begin.
- CSO Outfall 021 – Construction to begin.

CSO Control Measure 14 – Satellite Storage – (Satellite storage facilities)

CSO Outfall 064 – Advanced facilities planning to continue to optimize final control technologies accounting for flow reductions resulting from improvements in area and implementation of CSSCIP under CSO Control Measure 4.

Warfield SSD System – Outfalls 070 & 071

- Evaluate possible additional system improvement projects.

Rothman SSD System – Outfalls 072, 073, 074, 075, 076

- Continue I/I removal projects.
- Complete construction of additional siphon barrel under the St. Joseph River.
- Continue design on a new relief lift station and force main system to divert wet weather flow to the St. Joe Interceptor.
- Evaluate possible additional system improvement projects.

North Maumee SSD System – Outfalls 077 & 078

- Evaluate possible additional system improvement projects.