

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**ANACOSTIA WATERSHED SOCIETY, et al.,)
Plaintiffs,)**

v.)

**DISTRICT OF COLUMBIA WATER AND)
SEWER AUTHORITY, and THE DISTRICT)
OF COLUMBIA,)
Defendants,)**

**Consolidated
Civil Action No. 1:00CV00183TFH**

and)

**THE UNITED STATES OF AMERICA,)
Plaintiff,)**

v.)

**DISTRICT OF COLUMBIA WATER AND)
SEWER AUTHORITY, et al., and THE)
DISTRICT OF COLUMBIA,)
Defendants.)**

**JOINT STIPULATION OF NON-MATERIAL MODIFICATION
TO THE CONSENT DECREE**

WHEREAS, the United States of America (hereinafter “the United States”), the District of Columbia, and D.C. Water (hereinafter “Parties”) are parties to a Consent Decree entered by the United States District Court for the District of Columbia, Civil Action No. 1:00CV00183TFH, on October 10, 2003 and as subsequently amended on January 14, 2016 (hereinafter the “Consent Decree”);

WHEREAS, pursuant to Section II.D of Appendix F to the Decree, DC Water has constructed Green Infrastructure (“GI”) Project No. 1 in the CSO 049 sewershed of Rock Creek, performed post construction monitoring and submitted to U.S. Environmental Protection Agency

(“EPA”) and the District “Post Construction Monitoring Report No. 1” for the Rock Creek sewershed projects (“Rock Creek Report No.1”);

WHEREAS, DC Water determined in Post Construction Monitoring Report No. 1 that the All GI Approach was impracticable. However, DC Water also determined that it would be practicable to achieve the required storage volume (9.5 million gallons) in the CSO 049 sewershed by the March 23, 2030 deadline with a combination of GI and a storage facility (the “Hybrid Approach”) consisting of (1) a 4.2 million gallon storage facility, (2) GI, targeted sewer separation, and downspout disconnection controlling at least 92 acres to the 1.2” Retention Standard (3.0 million gallons), and (3) credit for other GI-controlled acres in the CSO 049 sewershed as permitted by Section II.E of Appendix F (2.3 million gallons). The Report requested that EPA approve the Hybrid Approach;

WHEREAS, EPA has approved the Hybrid Approach;

WHEREAS, the Hybrid Approach represents a modification to the non-material terms of Appendix F to the Consent Decree because it changes only the means and methods for achieving the required level of control for CSO 049 sewershed, not the level of control nor the deadline for achieving it;

WHEREAS, the non-material terms of the Decree may be modified by a subsequent written agreement signed by all the Parties;

WHEREAS, the Parties have provided an opportunity beyond the requirements of the Decree for interested non-governmental groups, including representatives from Citizen Plaintiffs in this action, to provide written comments on the DC Water Green Infrastructure Practicability Assessment, and meet and discuss those comments with the Parties;

WHEREAS, in accordance with Paragraph 102 of the Decree, the Parties agree that the proposed amendments to Appendix F of the Decree constitute a modification to the non-material terms of the Decree;

NOW THEREFORE,

1. The Parties agree upon and stipulate to the terms and conditions in the First Amended Appendix F to the Decree, which is Attachment A to this Joint Stipulation of Non-Material Modification to Consent Decree (“Joint Stipulation”).
2. The undersigned representatives are fully authorized to enter into the terms and conditions of this joint Stipulation. This Joint Stipulation may be executed in several counterparts, each of which will be considered an original.
3. This Joint Stipulation shall be effective after the Joint Stipulation is signed by the Deputy Section Chief for the Environmental Enforcement Section.

WE HEREBY CONSENT to the foregoing Joint Stipulation of Non-material Modification to the Consent Decree entered in United States of America v. District of Columbia Water and Sewer Authority et al. and the District of Columbia, Civil Action No. 1:00CV00183TFH, on October 10, 2003.

FOR PLAINTIFF THE UNITED STATES OF AMERICA:

Respectfully submitted,

12/22/20
DATE

Nathaniel Douglas
NATHANIEL DOUGLAS
Deputy Section Chief
Environmental Enforcement Section
Environment & Natural Resources Division

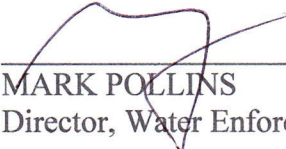
12/22/20
DATE

/s/ Bradley L. Levine
BRADLEY L. LEVINE (DC Bar No. 974925)
Senior Attorney
Environmental Enforcement Section
Environment & Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044
Phone: 202-514-1513

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FOR PLAINTIFF THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

12/3/2020
DATE



MARK POLLINS
Director, Water Enforcement Division

SUSHILA NANDA
Attorney-Advisor
Water Enforcement Division
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

WE HEREBY CONSENT to the foregoing Joint Stipulation of Non-material Modification to the Consent Decree entered in United States of America v. District of Columbia Water and Sewer Authority et al. and the District of Columbia. Civil Action No. 1:00CV00183TFH, on October 10, 2003.

FOR DEFENDANT DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY:

12.4.2020
DATE



Kishia L. Powell, PE
Chief Operating Officer
District of Columbia Water
and Sewer Authority

DAVID L. GADIS
CEO and General Manager
District of Columbia Water and Sewer Authority
1385 Canal Street, SE
Washington, D.C. 20003

12-04-20
DATE



MARC K. BATTLE, ESQ.
Chief Legal Officer & EVP, Government and Legal Affairs
District of Columbia Water and Sewer Authority
1385 Canal Street, SE
Washington, D.C. 20003

12/03/2020
DATE



DALE G. MULLEN
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Richmond, Virginia 23219
Counsel to District of Columbia Water and Sewer Authority

WE HEREBY CONSENT to the foregoing Joint Stipulation of Non-material Modification to The Consent Decree entered in United States of America v. District of Columbia Water and Sewer Authority et al. and the District of Columbia, Civil Action No. 1:00CV00183TFH, on October 10, 2003.

FOR DEFENDANT DISTRICT OF COLUMBIA:

KARL A. RACINE
Attorney General for the District of Columbia

12/22/2020

DATE

/s/ Toni Michelle Jackson
TONI MICHELLE JACKSON
Deputy Attorney General
Public Interest Division

/s/ Fernando Amarillas
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Chief, Equity Section

/s/ Andrew J. Saindon
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