

January 19, 2012

FACTS OF THE CONSENT DECREE (CD), THE LONG TERM CONTROL PLAN (LTCP), AND THE CITY OF JEFFERSONVILLE'S RESPONSIBILITIES

As everyone know, the City of Jeffersonville (the City) entered into a Consent Decree (CD) on November 24, 2009, an executed legal agreement, with the U.S. Department of Justice, the U.S. Environmental Protection Agency (USEPA), and the Indiana Department of Environmental Management (IDEM), to avoid a lawsuit in Federal Court for the City's violations of the Clean Water Act of 1972 (legal citation) as a result of Combined Sewer Overflow (CSO) discharges to the Ohio River. The CD contains a number of improvement projects that must be completed by stipulated deadlines in order to avoid fines and penalties, as well as further litigation.

The CD is a **legal** document in which the approved LTCP is incorporated by reference. The LTCP is the actual **technical** document that describes the necessary projects, and discusses their rationale and estimated costs.

These necessary projects are presented in three (3) phases: **Phase 1** projects include a number of combined sewer separation and overflow point elimination projects which the City completed in the recent past. **Phase 2** includes several system improvements and CSO reduction projects budgeted at \$23.8 million dollars, also includes the final capacity expansion to the Downtown Wastewater Treatment Plant (DWWTP), and increases the pumping capacity of the Tenth Street Pump Station (TSPS), which conveys sanitary and combined flows to the DWWTP from 15.4mgd to 50mgd.

The budget/cost projections also include \$42.3 million dollars for collection and treatment system improvements that are indirectly related to mitigation of CSO's. These include construction of the North Wastewater Treatment Plant (NWWTP), the construction of the Lentzier Creek Pump Station (LCPS), and the extension of the sanitary collection system to serve the areas that were annexed into our City in 2009.

So, up to now, a total of about **\$66 million dollars** worth of projects have been funded by the Wastewater Utility through low interest loans such as SRF, and also through Open Market Bonds.

In order to be able to afford all this, our **sewer rates increased** from an average of \$22.50 per month per typical household to an average of \$46.50 per month per typical household, which is based on a usage of 5,000 gallons per month.

Now we are at a point in time where we have to act on the **Phase 3** projects that are included in the LTCP and are deemed necessary to comply with the reduction of CSO's agreed to by the CD, which require the number of CSO events in the typical year be reduced to one (1) untreated CSO events for the Ohio River CSO's (CSO's #008, 009, 010, 011, 021, and 013), and three (3) untreated CSO events for the Cane Run CSO (CSO#018).

There are two (2) projects identified in the LTCP for **Phase 3**. These are:

1. **Construction of Storage/Conveyance Interceptors** that will reduce the CSO events to the Ohio River and as such, the "sensitive area" of the river classified by the

USEPA. There are a total of six (6) CSO discharge points to the River that will be mitigated. The estimated cost of this project as shown in the LTCP is **\$30.8 million**.

2. **Construction of new storm water conveyance structures**, such as a **Canal** or underground pipes, including some limited combined sewer separation, and an effluent pumping station and force main to accommodate the City's Flood Control System, at an estimated cost of \$46.2 million dollars, which would cover the cost of a "basic" canal.

Therefore, the total cost budgeted in the LTCP for the **Phase 3** projects is **\$77.0 million dollars**, which have to be completed by the year 2025, but are yet to be financially supported by future sewer rate increases.

So, at the completion of the LTCP, the City and its sewer rate payers will have invested about **\$143.0 million dollars** to upgrade the system and comply with the requirements of the CD and the LTCP.

The current plan in the City is to proceed with the construction of project 2 described above, the construction of a canal through western Jeffersonville, at an estimated total cost of \$65.7 million dollars. The project is to be funded in part by the Wastewater Utility and its rate payers, and the balance funded through Tax Increment Finance (TIF) funds.

A FRESH APPROACH

Jeffersonville has come a long way in improving its wastewater collection and treatment system, and has reduced the volume of CSO being discharged to the Ohio River in recent years. We need to continue to make improvements to the system and we need to remain in compliance with the CD and LTCP in order to avoid fines, penalties, and litigation. But, consideration must also be given to the financial burden being placed on our sewer utility rate and tax payers.

Of the two **Phase 3 LTCP projects**, which have been described above, the **one project that must be completed** regardless of whether the other project is constructed is the one that will reduce the CSO discharges to the Ohio River. This is the project that will keep the City in compliance with the CD and LTCP. Furthermore, updated financial projections made by the City's financial advisors indicate that, if the City can continue to secure low interest rate loans through the SRF program, the estimated \$30.8 million dollar cost of this project may be afforded by the current sewer rates and the annual increases that are in place until 2015, and that **future sewer rate increases may not be necessary**.

The attributes and costs of the Canal Project as proposed have been a subject of much debate. The fact remains that the canal project will help solve storm water flooding problems and perhaps spur economic development in Jeffersonville ("If you build it, they will come") and create jobs, but, as it relates to CSO reduction, it will provide only marginal benefit to the number of CSO discharges to Cane Run, which, in fact, is not the primary focus of the USEPA or IDEM.

The City has already invested millions of dollars to improve some of the components that affect CSO emissions to Cane Run. These include:

1. Increasing the maximum pumping capacity of the Tenth Street Pump Station from 15.4mgd to 50mgd, tripling the volume of wet weather flow that will be pumped to the DWWTP to receive treatment first, instead of discharging it to Cane Run untreated.
2. Increasing the peak treatment capacity of our Downtown Wastewater Treatment Plant from 25mgd to 50mgd, doubling its capacity to treat wet weather flow.
3. Construction of a new treated effluent sewer that can discharge up to 50mgd of treated effluent to Mill Creek, diverting it from Cane Run, and increasing the hydraulic capacity of the Cane Run 96" outfall pipe by about 30%.
4. Construction of storm sewers which have separated about 8 acres at 7th and Ohio, about 54 acres on 8th Street, and about 17 acres on 10th Street, totaling approximately a 20% reduction of the total area that drains into the combined sewer system that drains to Cane Run and CSO # 018.

All of these projects except for the storm sewer at 7th and Ohio and at 10th Street are still under construction. While these improvements may or may not solve all of the flooding problems in the area, they will result in significant improvements. They need to be completed, and then observed to see how the improved system is going to perform, keeping in mind that as in the past, extreme storm events may not be accommodated for now.

In Summary, we need to proceed as follows:

1. Put the CSO Conveyance/Storage project estimated at \$30.8 million dollars in motion first. Verify financial bonding capacity to confirm that the current rate structure will cover the project costs.
2. Delay any decision on how to proceed with the Canal Project for now. Further analysis is needed in order to determine if the Canal is the best and most cost-effective storm water conveyance option, how the project can and should be funded, and to obtain private investor commitments and/or create public/private partnerships. The Canal or any other alternate drainage project will be incorporated and analyzed in the Storm Water Master Plan currently underway and being administered by the Drainage Board.

I ask for the cooperation of the City Council, the Sewer Board, the Drainage Board, and the Redevelopment Commission so that we can move forward.