

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA, and
COMMONWEALTH OF
PENNSYLVANIA
DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Plaintiffs,

LOWER SUSQUEHANNA
RIVERKEEPER ASSOCIATION,

Plaintiff-Intervenor,

v.

CAPITAL REGION WATER, and
THE CITY OF HARRISBURG, PA,

Defendants.

Civil Action No. 1:15-cv-00291-CCC

(Judge Christopher C. Conner)

**UNITED STATES' NOTICE OF LODGING OF MODIFICATION TO
PARTIAL CONSENT DECREE**

Plaintiff the United States of America, on behalf of the Environmental Protection Agency, hereby provides notice that it is lodging with the Court a proposed Modification to Partial Consent Decree that updates the Partial Consent Decree entered on August 24, 2015 (ECF No. 11). The Modification is attached as Exhibit 1. The United States is lodging the Modification to seek public comment on the proposed agreement. **No action is required by the Court at this time.**

The proposed Modification refines the 2015 Partial Consent Decree to ensure that CRW’s sewer system is functioning well enough to support capture goals for long-term control of combined sewer overflows (“CSO”). Among other requirements, the proposed Modification requires CRW to complete priority remedial work required to bring its system to a functional baseline; provide robust public notification of CSO events, including real-time monitoring of certain CSO outfalls; and submit a Long-Term Control Plan that complies with EPA’s Combined Sewer Overflow Control Policy, 59 Fed. Reg. 18688 (Apr. 19, 1994), no later than December 31, 2024. The proposed Modification also describes work that CRW has done pursuant to the 2015 Partial Consent Decree, and removes requirements already completed by CRW. The resolution provisions remain the same—like the 2015 Partial Consent Decree, the proposed Modification resolves all claims against the City and nearly all claims against CRW. Just as with the 2015 Partial Consent Decree, the Modification does not resolve claims against CRW related to implementation of the Long-Term Control Plan or civil penalties.¹

The United States provided working drafts and the final version of the proposed Modification to Plaintiff-Intervenor Lower Susquehanna Riverkeeper

¹ The attached redline, Exhibit 2, which is filed for transparency to ease the Court’s and the public’s review, captures all changes that the proposed Modification makes to the body of the 2015 Partial Consent Decree.

Association (“LSRA”) in advance of lodging. The parties also met with LSRA on several occasions to discuss feedback on the proposed Modification.

As noted above, **no action by the Court is required at this time.** Under Department of Justice regulations codified at 28 C.F.R. § 50.7, the United States is required to publish a notice in the *Federal Register* that the proposed Modification has been lodged with the Court. The notice will solicit public comments for a period of 30 days. After the 30-day comment period closes, the United States will evaluate any comments received and will ask the Court to take appropriate action regarding the proposed Modification to Partial Consent Decree.

Respectfully submitted,

TODD KIM
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

Dated: February 13, 2023

/s/ Devon A. Ahearn
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CERTIFICATE OF SERVICE

I certify that on this date, a true and correct copy of the foregoing *Notice of Lodging of Modification to Partial Consent Decree* was filed using the CM/ECF system, which will provide service to the counsel of record registered on the CM/ECF system in this case.

Dated: February 13, 2023

/s/ Devon A. Ahearn

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