

Exhibit 1

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

UNITED STATES OF AMERICA)	
and COMMONWEALTH OF)	
PENNSYLVANIA,)	
)	
Plaintiffs,)	Civil Action No. 10-cv-5049
)	
v.)	
)	
BRISTOL TOWNSHIP,)	
)	
Defendant)	
_____)	

SECOND AMENDMENT OF CONSENT DECREE

WHEREAS, the United States of America (U.S.) acting at the request and on behalf of the United States Environmental Protection Agency (“EPA”), the Commonwealth of Pennsylvania Department of Environmental Protection (“DEP”) (collectively, “Plaintiffs”), and Bristol Township (“Bristol”), constituting all the parties (the “Parties”) to this Consent Decree in the above-captioned matter entered by the Court on January 18, 2011, agree to this Second Modification to the Consent Decree;

WHEREAS, at the Parties’ joint request, on May 18, 2012, the Court entered a First Modification of the Consent Decree;

WHEREAS, the U.S., EPA, and DEP approved the Evaluation of Treatment Facilities Alternatives (“ETFA”) in Paragraph 25.b. of the Consent Decree on February 5, 2019;

WHEREAS, this ETFA was submitted in July 2018, several years after the date originally required by the Consent Decree;

WHEREAS, Bristol has completed some but not all of the work required under the 2011 Consent Decree;

WHEREAS, Bristol has moved toward compliance with its NPDES and other permits;

WHEREAS, due to a combination of factors, Bristol has not yet completed the work contemplated by the 2011 Consent Decree;

WHEREAS, the requirements of Sections B, C, and E of the 2010 Consent Decree that addressed collection system investigation and repair for abatement of wet weather inflow and infiltration (“I&I”) have been substantially completed. However, the Township’s sewer system continues to be hydraulically overloaded. The hydraulic overload, and a corresponding organic overload, were identified by DEP in a letter to the Township dated June 5, 2019. Additional work by the Township is necessary to reduce extraneous wet weather flow in the system;

WHEREAS, in recognition of the persistence of hydraulic overload in the sewer system,

the Township's Official Plan Update (Act 537 Plan) includes a description of the Township's proposed I&I reduction program ("Bristol Township Comprehensive I&I Abatement Plan," revised May 11, 2018). PADEP approved the act 537 Plan Update and the accompanying I&I Abatement Plan on July 3, 2018. The I&I Abatement Plan identifies specific tasks and a schedule for implementation of those tasks that Bristol will conduct through 2023;

WHEREAS, the Delaware River Basin Commission (DRBC) has granted the Township a variance of five years for its loading allocation for Five-day Carbonaceous Biochemical Oxygen Demand (CBOD5) in the treatment plant's effluent. The DRBC's approval is recorded in Docket No. D-1990-098 CP-2, approved by the Commission March 11, 2020. The variance applies to periods when cold weather impacts the plant's treatment efficiency. The Township's reissued NPDES permit (NPDES permit Number PA0026450) (the "Permit") incorporates the variance into its conditions. Both the DRBC and the NPDES permit contain specific reporting requirements relative to the variance;

WHEREAS, for several years prior to the Parties' agreement to enter into this Amendment, the Township strongly raised concerns about the reliability of the standard laboratory test for CBOD20;

WHEREAS, in or about 2019 the DRBC advised the Parties that it would no longer require the laboratory test heretofore used to determine CBOD20, and that determining compliance with the NPDES effluent limitations set forth in Permit for CBOD20 would henceforth be accomplished by use of the CBOD5 test result multiplied by the dimensionless factor of 1.6;

WHEREAS, in January, 2021, the Township awarded a contract to complete the construction of a new clarifier, as detailed in its plans submitted pursuant to Pennsylvania's Act 537 requirements and the Consent Decree's requirements for an Evaluation of Treatment Alternatives and Capital Improvements Plan;

WHEREAS, during the preliminary site analysis for the dewatering system contaminated soils were discovered under the POTW's pipes and structures;

WHEREAS, the contaminated soils are believed by Bristol to be from a prior Rohm & Haas (now Dow Chemicals) landfill that was remediated in 1986 and 1987;

WHEREAS, the discovery of the contaminated soils has significantly delayed the completion of the project;

WHEREAS, the construction activities for the project require the management of excavated soil, waste materials, and groundwater from dewatering;

WHEREAS, during excavations, soil and waste material generated within the project site will require disposal at a permitted offsite site/facility;

WHEREAS, as a result of the discovery of the contaminated soils the cost of the project has potentially doubled to \$11 million dollars;

WHEREAS, the completion date for the project is anticipated to be May 1, 2024;

WHEREAS, in addition to the project, the Township continues to make significant capital improvements to the POTW and collection system, including lining sanitary sewer mains; embarking on a sanitary sewer replacement project, televising, inspecting and repairing miles of sanitary sewer lines; and upgrading pump stations throughout the Township;

WHEREAS, the parties jointly desire to modify the 2011 Consent Decree to allow for the resolution of past stipulated penalties and the completion of substantial work by Bristol with the goal of bringing Bristol into compliance with its NPDES and other permits;

WHEREAS, the 2011 Consent Decree deadlines require modification to allow this work to be completed; and

WHEREAS, therefore, Paragraphs 26, 28, 29, and 39 of the Consent Decree are modified to extend deadlines as agreed to by the Parties, and to update other information;

NOW THEREFORE the United States, Pennsylvania, and Bristol hereby agree that the 2011 Consent Decree, as previously modified by the First Amendment, shall remain in full force and effect in accordance with its terms, except as set forth in this Second Amendment, which shall become effective upon entry by this Court.

AMENDED CONSENT DECREE PROVISIONS

1. As of the execution of this Second Amendment of the Consent Decree, the deadlines set by the original Consent Decree paragraphs 26-29 for planning, submission of deliverables, and completion of construction shall be deemed superseded by the Revised Schedule in Exhibit 1.
2. The Revised Schedule attached hereto as Exhibit 1 (the “Revised Schedule”) shall be added to the Decree Consent as numbered paragraphs following at the end of the consent decree.
3. In accordance with the Revised Schedule, the following paragraphs of the Consent Decree shall be deemed modified as follows:
 - a. Paragraph 26 shall be amended to require submission of a Capital Improvements Plan within 90 days of the lodging of this Second Amendment.
 - b. Paragraph 28 shall be amended to require submission of revised permits within 120 days after the Capital Improvements Plan is submitted.
 - c. Paragraph 29(a) shall be amended to require that if the Parties or the Court determine(s) through the process described in the Revised Schedule at Paragraphs 109-111 that a new treatment plant will have to be constructed, such construction will be completed on the schedule determined by the Parties or the Court through that process.
 - d. Paragraph 29(b) shall be amended, consistent with Paragraph 108 of the Revised Schedule, to require completion of the construction of a new clarifier at the existing

POTW on or before May 1, 2024.

- e. Paragraph 29(b) shall be further amended to require that if the Parties or the Court determine(s) through the process described in the Revised Schedule at Paragraphs 109-111 that additional upgrades to or expansion of the existing POTW is required, such upgrade or expansion shall be completed on the schedule determined by the Parties or the Court through that process.
4. The Revised Schedule shall be treated in all ways as though they had been in the Consent Decree when initially entered, and the stipulated penalties provided in Section X of the Consent Decree shall be applicable to them going forward from the date of this Second Amendment.
5. To the extent that an amendment of the Revised Schedule is required, the parties may – by mutual written consent, including by electronic mail, facsimile, or identical image (.pdf, .tiff) – extend any deadline in the Revised Schedule that does not constitute a major modification of this Order by up to ninety (90) days, without the consent of this Court.
6. The Township shall continue conducting Inflow and Infiltration (I&I) investigations, including continuous flow monitoring at strategic locations, and will continue to perform the work described in the approved I&I Abatement Plan (dated May 2018 and approved by PADEP July 3, 2018). Periodic updates on the progress of I&I abatement work shall be submitted by the Township as part of its Annual Report, in accordance with the requirements of the Consent Decree, Section VI.
7. Paragraph 35 of the Consent Decree shall be replaced with “The Defendant shall retain a qualified individual or individuals, resulting in at least the equivalent of full-time work, designated in the role of pretreatment coordinator. One individual shall be in charge of, and responsible for the pretreatment program. Underlying work on the pretreatment

program may be performed either by these individuals or other qualified contractors retained by Bristol to accomplish this effort, provided that such persons are given appropriate authority and access to complete their duties.”

8. A new paragraph 55 shall be inserted as follows:

55. Payment of the civil penalty to the United States shall be made by Electronic Funds Transfer (“EFT”) to the U.S. Department of Justice (“DOJ”) lockbox bank, referencing DOJ No. 90-5-1-1-4402/2. Payment shall be made in accordance with instructions provided by the United States to Defendant following execution of this Consent Decree. Any EFT received at the DOJ lockbox bank after 11:00 A.M. Eastern Time will be credited on the next business day. Notice of the EFT shall simultaneously be electronically mailed to the following:

Regional Hearing Clerk (3RC00)
U.S. EPA - Region III
4 Penn Center
Philadelphia, PA 19103
R3_Hearing_Clerk@epa.gov

Pamela J. Lazos (3RC20)
U.S. EPA - Region III
4 Penn Center
Philadelphia, PA 1910; and
Lazos.Pamela@epa.gov

Paul Kaufman
Assistant U.S. Attorney
Chief, Civil Division Eastern District of Pennsylvania
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106-4476
paul.kaufman2@usdoj.gov

The transmittal letter forwarding such notice shall include the caption, civil action number and judicial district of this action.

Defendant shall send electronic notice of payment to:

- (a) EPA via email to the U.S. EPA Regional Hearing Clerk at CINWD_AcctsReceivable@epa.gov;
- (b) EPA via email to the U.S. EPA Regional Hearing Clerk at R3_Hearing_Clerk@epa.gov;
- (c) the United States via email in accordance with Section XVIII (Form of Notice); and
- (d) PADEP in accordance with Section XVIII (Form of Notice).

Such notice shall state the Defendant's name, street/P.O. Box address, email address and telephone number; the name of the case; the docket number or civil action number of the case; the Consolidated Debt Collection System ("CDCS") Number and DOJ case number; the amount of the payment; and the method of the payment.

In the event that individuals to receive notice change, that the preferred form of required notice changes, or that the email addresses to which notice should be sent change, the plaintiffs may advise Bristol of that change in writing, and such individuals shall be substituted without further order of the Court.

- 9. In Paragraphs 56 and 97, the words "Steve O'Neil" shall be replaced by "Robert Bauer." In Paragraph 97, the words "Jeffrey Bartlett" shall be replaced by "Ranee Elton."
- 10. The latter three sentences of Paragraph 67 of the Consent Decree shall be stricken, eliminating the requirement that Bristol escrow disputed penalties and interest during the resolution of the dispute over those penalties.
- 11. Plaintiffs allege that Bristol has incurred penalties between the entrance of the Consent Decree in 2011 and February 15, 2021 that have not yet been paid for the following: (1) delay in completing and submitting the ETFA; (2) delay in submitting for renewal its NPDES permit; (3) effluent violations, including but not limited to CBOD20 violations;

and (4) Sanitary Sewer Overflows (SSOs). Bristol neither admits nor denies these violations. By agreement of the parties, within thirty (30) days of this Order, the Township shall pay a penalty of \$99,800 in resolution and satisfaction of these stipulated penalties. The Court makes no finding on these allegations, consistent with the Parties' agreement to resolve them amicably.

12. The Table of Deliverables in Exhibit 2 hereto shall replace the previous Table of Deliverables in Appendix F to the Consent Decree and shall be incorporated into the Consent Decree. The Table of Deliverables sets forth the milestones and timelines for completion of the outstanding work under the Consent Decree.
13. These amendments shall be effective as of the date that this Second Amendment is ordered by this Court.

SO ORDERED.

BY THE COURT:

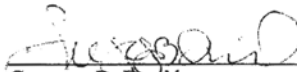
United States District Judge

WE HEREBY CONSENT to the entry of the Second Amendment to the Consent Decree in the United States v. Bristol Township, Civil Action No. 10-cv-5049, subject to the public notice and comment requirements of 28 C.F.R. § 50.7.

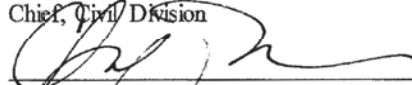
THE UNITED STATES OF AMERICA

Date: June 29, 2022

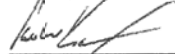
JACQUELINE C. ROMERO
United States Attorney
United States Attorney's Office for the Eastern
District of Pennsylvania



Gregory B. David
Assistant United States Attorney
Chief, Civil Division




Charlene Keller Fullmer
Assistant United States Attorney
Deputy Chief, Civil Division



Paul W. Kaufman
Assistant United States Attorney

Date: June 29, 2022

TODD KIM
ASSISTANT ATTORNEY GENERAL
Environment & Natural Resources Division
U.S. Department of Justice



BRADLEY C. LEVINE
Senior Attorney
Environmental Enforcement Section
Environment & Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
Bradley.Levine@usdoj.gov

DATED: _____

**JOSEPH
THEIS**

Digitally signed by
JOSEPH THEIS
Date: 2022.05.26
18:11:13 -04'00'

JOSEPH THEIS
Acting Director, Water Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
theis.joseph@epa.gov

DATED: _____

Diana Esher

Digitally signed by Diana Esher
Date: 2022.05.16 09:56:52
-04'00'

ADAM ORTIZ (3RA00)
Regional Administrator
U.S. Environmental Protection Agency
1650 Arch St.
Philadelphia, PA 19103
ortiz.adam@epa.gov

DATED: 04/22/2022

**DONNA
MASTRO**

Digitally signed by
DONNA MASTRO
Date: 2022.04.22
09:02:15 -04'00'

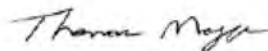
DONNA MASTRO (3RC00)
Acting Regional Counsel
U.S. Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103-2029
mastro.donna@epa.gov

WE HEREBY CONSENT to the entry of the Second Amendment to the Consent Decree in the United States v. Bristol Township, Civil Action No. 10-cv-5049, subject to the public notice and comment requirements of 28 C.F.R. § 50.7.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL PROTECTION

March 15, 2022

Dated



THOMAS L. MAGGE
Regional Manager
Clean Water Program
Department of Environmental Protection
Southeast Regional Office
2 E. Main Street
Norristown, PA 19401

March 15, 2022

Dated

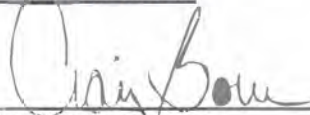


WILLIAM H. GELLES
Supervisory Counsel
Department of Environmental Protection
Southeast Regional Office
2 E. Main Street
Norristown, PA 19401

WE HEREBY CONSENT to the entry of the Second Amendment to the Consent Decree in the United States v. Bristol Township, Civil Action No. 10-cv-5049, subject to the public notice and comment requirements of 28 C.F.R. § 50.7.

BRISTOL TOWNSHIP

DATED: 3/10/2022



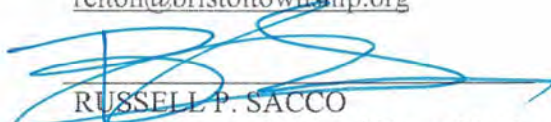
CRAIG BOWEN
Bristol Township
Council President
cbowen@bristoltownship.org

DATED: 3/18/2022



RANDEE J. ELTON
Bristol Township
Township Manager
relton@bristoltownship.org

DATED: 3/21/2022



RUSSELL P. SACCO
Special Counsel, Bristol Township Sewer
Department
rsacco@saccolawfirm.com

Exhibit 1

XXV. REVISED SCHEDULE

107. A Water Quality Management Permit (0920403) was issued to the Township on July 16, 2020 which approves the construction, modification, and operation of sewage facilities.
108. On or before May 1, 2024, the Township shall complete construction of a new clarifier for the POTW, as detailed in its plans submitted pursuant to Pennsylvania's Act 537 requirements and the Consent Decree's requirements for an Evaluation of Treatment Alternatives and Capital Improvements Plan.
109. On or before September 30, 2026, the Township shall submit to the Plaintiffs a report on the efficacy of its efforts to remediate the issues with its POTW between 2019 and 2026 (the "Final Report"). The submission of the Final Report shall be in addition to any other report requirements under this Decree. The Final Report shall include:
 - a. Treatment plant effluent monitoring data sufficient to show whether the plant is able to achieve compliance with effluent limits. A summary of DMR data in tabular format is the preferred format from January 2021 through June 2026.
 - b. Treatment plant influent data sufficient to illustrate how influent CBOD concentration affects the plant's ability to meet the requirements for CBOD percent removal. A summary of influent data in tabular format is the preferred format from January 2021 through June 2026.
 - c. Tabulated daily total precipitation volumes from January 2021 through June 2026.
 - d. Tabulated daily average air temperatures from January 2021 through June 2026.
 - e. A section addressing the cold weather variance for CBOD5 loading, documenting whether the plant was in compliance with its CBOD5 loading requirements and, if so, whether it would have been in compliance with the CBOD5 loading requirements pre-variance or whether the compliance only because of the DRBC variance. The section shall provide an analysis based on monitoring data to show the effect of temperature on CBOD removal efficiency.
 - f. An evaluation by the Township's professional sewer engineer of the ability of the treatment plant to treat the waste it receives while meeting permit effluent limits. This evaluation should include a table showing five years of monthly

average flows to the plant (in million gallons per day) and five years of monthly average BOD loadings (in pounds per day). These data should be compared to the plant's hydraulic and organic capacities as given in the NPDES permit and should also be compared to the plant's record of effluent limit compliance.

- g. If the POTW is not in compliance with its permit or not projected to be in compliance with its permit based on the certification of its engineer, a new Evaluation of Treatment Alternatives meeting the requirements of Paragraph 25 of the Consent Decree, examining each alternative for bringing the POTW into full compliance and identifying a proposed alternative.
- 110. If the Final Report shows that its POTW is in compliance with all NPDES and other permitting requirements:
 - a. Plaintiffs shall accept the Final Report or to reject it.
 - b. If Plaintiffs accept the Final Report, this Consent Decree shall terminate effective the date the latter of the Plaintiffs accepts the report.
 - c. If Plaintiffs do not accept the Final Report, Defendant shall initiate the Dispute Resolution process provided in Article XII of the Consent Decree within sixty (60) days of the decision to reject the Final Report.
- 111. If the Final Report shows that the POTW is non-compliant with its NPDES and other permit requirements or is projected to become non-compliant with those requirements, *or* if a judicial authority so determines pursuant to the Dispute Resolution process provided in Article XII of the Consent Decree:
 - a. Within ninety (90) days, the Township shall provide the Plaintiffs with a comprehensive plan and schedule for improvement (the "Remediation Plan").
 - b. The Remediation Plan shall, at least, contain all of the information required by and the recommended actions contained in the Facilities and Alternatives Plan described in ¶ 25 of this Consent Decree.
 - c. Plaintiffs will review the Remediation Plan and confer with the Township in accordance with the advice, comment, and approval processes of this Consent Decree.
 - d. If, following this process, the Parties agree on the Remediation Plan or an amended Remediation Plan, they may reduce it to a further Amendment to this Consent Decree or the United States may return enforcement of the Remediation Plan to the administrative processes of the Environmental Protection Agency or the

Pennsylvania Department of Environmental Protection. This decision will be at the sole election of the United States.

- e. If the Parties are unable to reach agreement on a Remediation Plan, they will undergo the informal and formal Dispute Resolution Procedures of Article XII of this Consent Decree, 77-81.

Exhibit 2

LIST OF DELIVERABLES

Month from 537 Approval	Milestone
May 1, 2024	Complete construction of wastewater treatment plant upgrades