

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
<b>and</b>	)	
	)	
<b>THE STATE OF OHIO,</b>	)	
	)	
<b>Plaintiffs,</b>	)	<b>Civil Action No. 1:10-cv-02895-DCN</b>
	)	
<b>v.</b>	)	<b>Judge Donald C. Nugent</b>
	)	
<b>NORTHEAST OHIO REGIONAL SEWER</b>	)	
<b>DISTRICT,</b>	)	
	)	
<b>Defendant.</b>	)	
<hr/>		

**NOTICE OF LODGING OF FIFTH AMENDMENT TO CONSENT DECREE  
AND CONSOLIDATED FIFTH AMENDED CONSENT DECREE**

The United States, on behalf of the U.S. Environmental Protection Agency, and the State of Ohio (“Ohio”), on behalf of the Ohio Environmental Protection Agency (collectively the “Plaintiffs”), lodge a Fifth Amendment to Consent Decree (“Fifth Amendment”), modifying a Consent Decree in this civil action originally entered by this Court on July 7, 2011. ECF Doc. No. 23. The Fifth Amendment, attached hereto, provides a narrative summary of each of the modifications and explains the background behind the modifications. In addition, the Plaintiffs lodge a Consolidated Fifth Amended Consent Decree (Attachment A to the Fifth Amendment), which include all the changes that have been made to the Consent Decree following the filing of the original Consent Decree up to the proposed Fifth Amendment. The main body of the Consolidated Fifth Amended Consent Decree document and Appendices 1-2 to the Consolidated

Fifth Amended Consent Decree are each accompanied by separate redline versions showing the proposed changes to each document as outlined herein, comparing the new documents to the last-filed version of the document. Appendix 3 replaces the entirety of the last filed version of Appendix 3 and so no redline version is attached. Appendices 4-6 have not been changed since the Consent Decree was entered and are included as part of the Consolidated Fifth Amended Consent Decree.

Section XX (Modification), Paragraph 103, of the Consent Decree provides that the Consent Decree may be modified only by a subsequent written agreement signed by all the Parties and, where the modification would constitute a material change to the Decree, approval by the Court. The Parties agree that changes embodied in the Fifth Amendment and Consolidated Fifth Amended Consent Decree constitute material changes to the Consent Decree and thereby require Court approval.

Pursuant to U.S. Department of Justice policy, the United States will publish notice of the lodging of the proposed Fifth Amendment and Consolidated Fifth Amended Consent Decree in the Federal Register to commence a thirty (30)-day public comment period. **The Court should not sign the proposed Fifth Amendment or the Consolidated Fifth Amended Consent Decree until the public has had an opportunity to comment and the United States has addressed those comments, if any.** The United States may withhold its consent to the proposed Fifth Amendment and the Consolidated Fifth Amended Consent Decree if the comments disclose facts or considerations which indicate that the proposed Fifth Amendment is improper, inappropriate, inadequate, or not in the public interest. At the conclusion of the public comment period, the United States will: (1) file with the Court any written comments received pertaining to the proposed Fifth Amendment; and (2) either notify the Court of its withdrawal of the

proposed Fifth Amendment and Consolidated Fifth Amended Consent Decree, or respond to comments received and request this Court to approve and enter the proposed Fifth Amendment and Consolidated Fifth Amended Consent Decree.

Date: July 10, 2024

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA:

PATRICIA MCKENNA, Deputy Chief  
Environmental Enforcement Section  
Environment and Natural Resources Division  
United States Department of Justice

s/ Steven D. Ellis  
STEVEN D. ELLIS  
Senior Counsel  
Environmental Enforcement Section  
Environment and Natural Resources Division  
United States Department of Justice  
Telephone: (202) 514-3163  
[Steven.Ellis@usdoj.gov](mailto:Steven.Ellis@usdoj.gov)

REBECCA C. LUTZKO  
United States Attorney  
for the Northern District of Ohio

J. JACKSON FROLIKLONG  
Assistant United States Attorney  
United States Courthouse  
801 West Superior Ave.  
Cleveland, OH 44113  
Telephone: (216) 622-3818  
Facsimile: (216) 522-2404  
Email: [joseph.froliklong@usdoj.gov](mailto:joseph.froliklong@usdoj.gov)

OF COUNSEL:

GARY PRICHARD  
Associate Regional Counsel  
U.S. Environmental Protection Agency  
Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

CHRISNA BAPTISTA  
Attorney Advisor  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue  
Washington, DC 20460

FOR THE STATE OF OHIO

DAVE YOST  
OHIO ATTORNEY GENERAL

s/ Mark J. Navarre  
MARK J. NAVARRE  
Principal Assistant Attorney General  
Environmental Enforcement Section  
30 E. Broad Street - 25th Floor  
Columbus, Ohio 43215-3400

**CERTIFICATE OF SERVICE**

I hereby certify that on this 10th day of July, 2024, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ Steven D. Ellis  
Steven D. Ellis