

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

UNITED STATES OF AMERICA,	)	
STATE OF ILLINOIS,	)	
	)	Case No. 1:11-cv-08859
Plaintiffs,	)	
	)	Hon. George M. Marovich
NATURAL RESOURCES DEFENSE	)	
COUNCIL, INC., et al.,	)	
	)	
Plaintiff-Intervenors,	)	
	)	
v.	)	
	)	
METROPOLITAN WATER	)	
RECLAMATION DISTRICT OF	)	
GREATER CHICAGO,	)	
	)	
Defendant.	)	
	)	
	)	
_____	)	

**UNITED STATES’ AND STATE OF ILLINOIS’  
MOTION TO ENTER CONSENT DECREE**

The United States, on behalf of the United States Environmental Protection Agency, and the State of Illinois (“State”), on behalf of the Illinois Environmental Protection Agency (“Plaintiffs”), respectfully move this Court to approve and enter the proposed Consent Decree between the Plaintiffs and the Defendant, the Metropolitan Water Reclamation District of Greater Chicago (“MWRD”), lodged on December 14, 2011 (Docket Nos. 3 through 3-6). The proposed Consent Decree would resolve the Plaintiffs’ claims against MWRD for violations alleged in the Complaint in this civil action pursuant to the Clean Water Act (“CWA”), 33 U.S.C. § 1311, and analogous State laws. The Complaint alleges that MWRD’s

combined sewer overflow (“CSO”) discharges violated provisions of its CWA permits that prohibit the discharge of pollutants into waters of the United States that cause or contribute to violations of applicable water quality standards for dissolved oxygen, solids, and floatables. (See Complaint ¶¶ 48-59, Dkt. No. 1). The United States also alleges that MWRD violated the requirement of its CWA permits that prohibits CSO discharges without first providing the equivalent of primary treatment for at least ten times the average dry weather flow for the design year. (See *Id.* at ¶¶ 60-69).

To remedy these alleged violations, the Consent Decree requires MWRD to implement a comprehensive program to capture high flows in its combined sewers after precipitation, and store the wastewater until it can be treated in MWRD’s water reclamation plants. The centerpiece of this remedial program is to put MWRD on an enforceable schedule for completion of the partially implemented Tunnel and Reservoir Plan (“TARP”), MWRD’s plan approved pursuant to the CWA for abating CSOs, part of which is also a longstanding Army Corps of Engineers major public works project. (Consent Decree Section VI, Dkt. No. 3-1). The Consent Decree also requires MWRD to perform extensive post construction compliance monitoring following completion of TARP; implement enforceable measures to control floatables in response to rain events that cause CSO discharges; pay a civil penalty of \$675,000; and perform a wide ranging “green infrastructure” program consisting of measures such as permeable pavement and rain gardens.

In accordance with 28 C.F.R. § 50.7 and Section XXIV of the Consent Decree, on December 22, 2011, the Department of Justice published notice of lodging of the proposed Consent Decree in the *Federal Register*, and invited the public to submit comments on the settlement for a period of thirty days. 76 Fed. Reg. 79,710 (Dec. 22, 2011). In response to

requests by various citizen groups for an extension to the comment period, the United States extended the comment period until March 21, 2012. 77 Fed. Reg. 2,319 (Jan. 17, 2012). The notice described the principal terms of the settlement and provided an opportunity to comment on the Decree. The United States received ten sets of public comments, including from the Plaintiff-Intervenors in this action.<sup>1</sup> The United States, in consultation with the State, has carefully considered the comments and has determined that the Consent Decree is fair, reasonable, and in the public interest.

WHEREFORE, for the reasons stated in the accompanying Memorandum in Support of the United States' and the State of Illinois' Motion to Enter the Proposed Consent Decree, the United States and the State request that the Court sign the proposed Consent Decree and enter it as a final judgment. MWRD does not oppose entry. As to the Plaintiff-Intervenors, the Alliance, NRDC, the Prairie Rivers Network and the Sierra Club stated that they cannot take a position on the motion to enter the consent decree until reading the Governments' moving papers; ELPC did not indicate whether it would oppose the motion.

Respectfully submitted,

FOR THE UNITED STATES:

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s/Catherine Banerjee Rojko  
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<sup>1</sup> The Plaintiff-Intervenors in this action consist of the Alliance for the Great Lakes ("Alliance"); Environmental Law & Policy Center ("ELPC"); Natural Resources Defense Council, Inc. ("NRDC"); Prairie Rivers Network; and Sierra Club, Inc. ("Sierra Club").

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CERTIFICATE OF SERVICE

I hereby certify that on June 7, 2013, a copy of the foregoing United States' and State of Illinois' Motion to Enter Consent Decree and memorandum in support thereof were filed electronically. Notice of the filing will be sent to the parties by operation of the Court's CM/ECF system, in accordance with the Administrative Procedures for the Case Management/Electronic Case Filing System for the Northern District of Illinois.

/s/Catherine Banerjee Rojko  
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