



AFFORDABILITY AND THE METROPOLITAN SEWER DISTRICT OF CINCINNATI WWIP

Environmental | Toxic Tort | Litigation



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MSD Background



- Approximately 14 billion gallons CSO annually in system serving approximately 250,000 households
- Significant ongoing CSO & SSO work
- Challenging economic trends
- 2004 “Global Consent Decree” required WWIP by 2006 with schedule “as expeditious as practicable”
- 2006 WWIP submittal = \$1.99 billion plan based on affordability and community priorities

MSD WWIP Negotiations



2006 until 2008

- Continuing analysis and discussion of affordability
- Regulators focus on Lower Mill Creek
- Extensive review of green infrastructure, as a potential cost-saving opportunity

—————> Impasse

MSD WWIP Negotiations

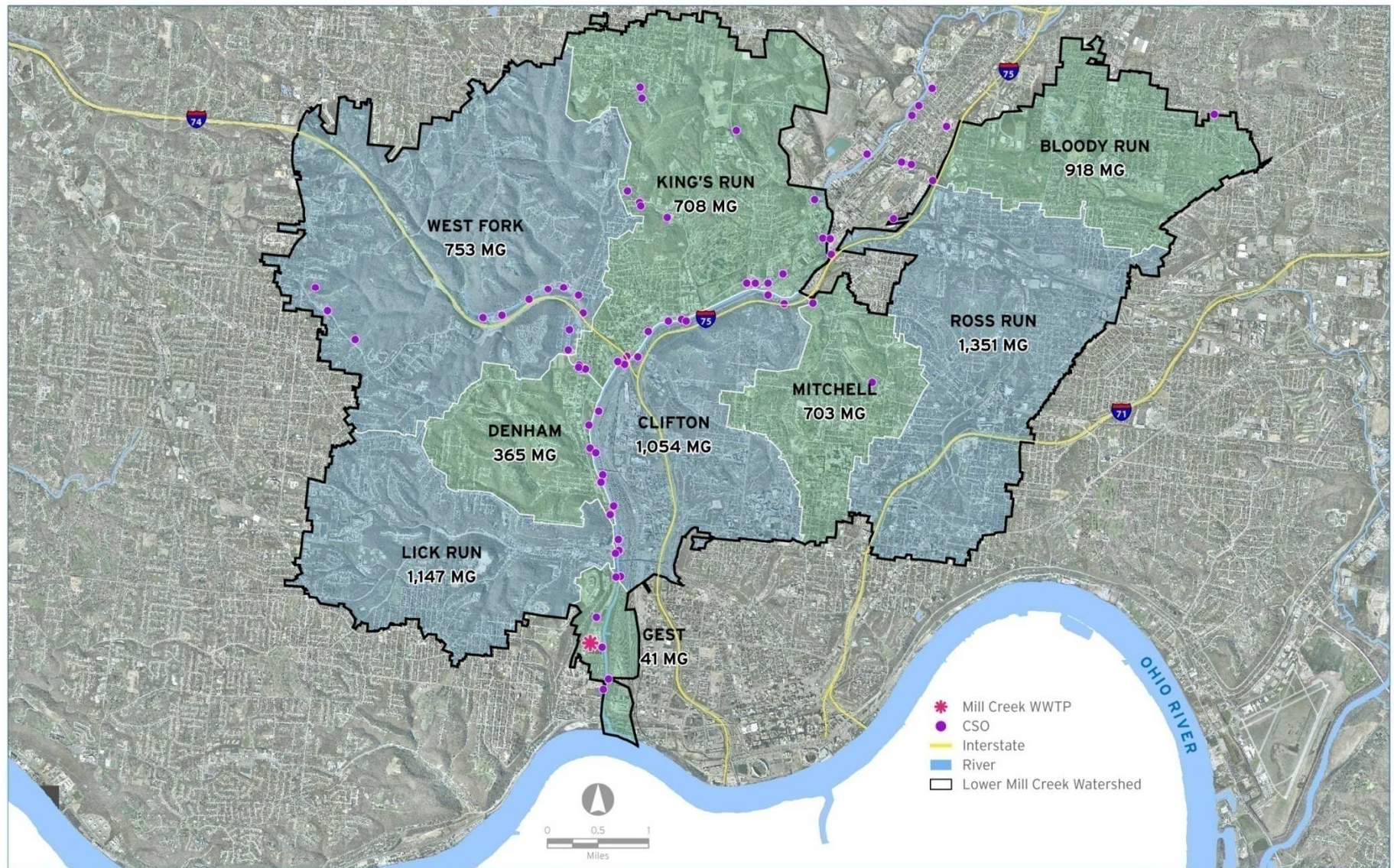


- “September to Remember” 2008
 - ▣ September 14, 2008 Hurricane Ike wind storm
 - ▣ September 15, 2008 Lehman Brothers declares bankruptcy
 - ▣ September 16, 2008 MDS submits “Conceptual Outline”

MSD “Conceptual Outline”

- WWIP with proposed projects for all SSOs and all CSOs in MSD system
- End date to be determined, but at least 30 years
- Financial “firewall” concept to suspend new work when Residential Indicator reached agreed upon limit (unspecified).
- Regulators formally reject November 25, 2008

Lower Mill Creek Study Area



Annual CSO Volume: **7.6 billion gallons**

MSD WWIP Negotiations



- November 2008-March 2009
 - Extensive focus on implications of WWIP in bond market
 - EPA hires a “bond expert”
 - ‘Early phase’ Lower Mill Creek options

- “Interest Penalty”
 - Acknowledgement that “full program” would lead to highest RI of any major sewer utility in US.
 - Could imperil bond rating beginning with Year 1 after approval of WWIP

MSD Final WWIP



- “Phased” Approach
 - Projects for all CSOs & SSOs set out
 - Phase I scheduled to be completed by 2018
 - Phase II to be scheduled after 2017
 - “As expeditious as practicable”
 - Based, in part, on affordability
 - May be in multiple sub-phases
 - Agreed upon RI/MHI mechanism

MSD Final WWIP



□ Bond Protection Provisions

■ Outer Boundary Cap

- No Phase 2 work if exceed RI of 2.8%
- “This cap is solely an outer boundary, not-to-exceed, percentage established to assist in obtaining financing by providing some financial certainty *and shall not create an inference or suggestion as to what constitutes “as expeditious as practicable”* [emphasis added].

■ Potential modification if bond covenants imperiled

MSD Final WWIP



- Adaptive management provisions to allow evolving technology to be evaluated.
- Protection of Asset Management spending.

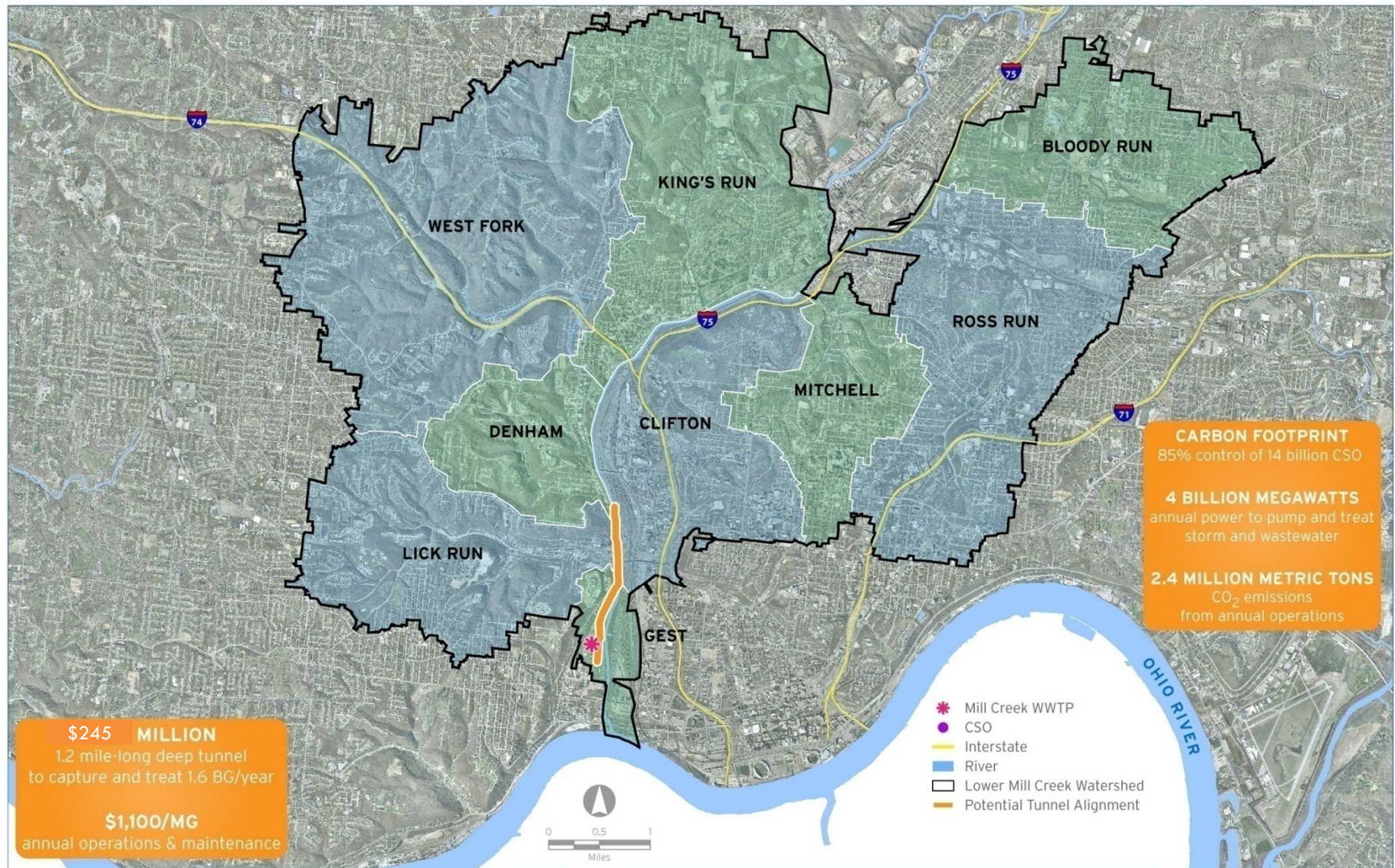
MSD Final WWIP



- LMC provisions

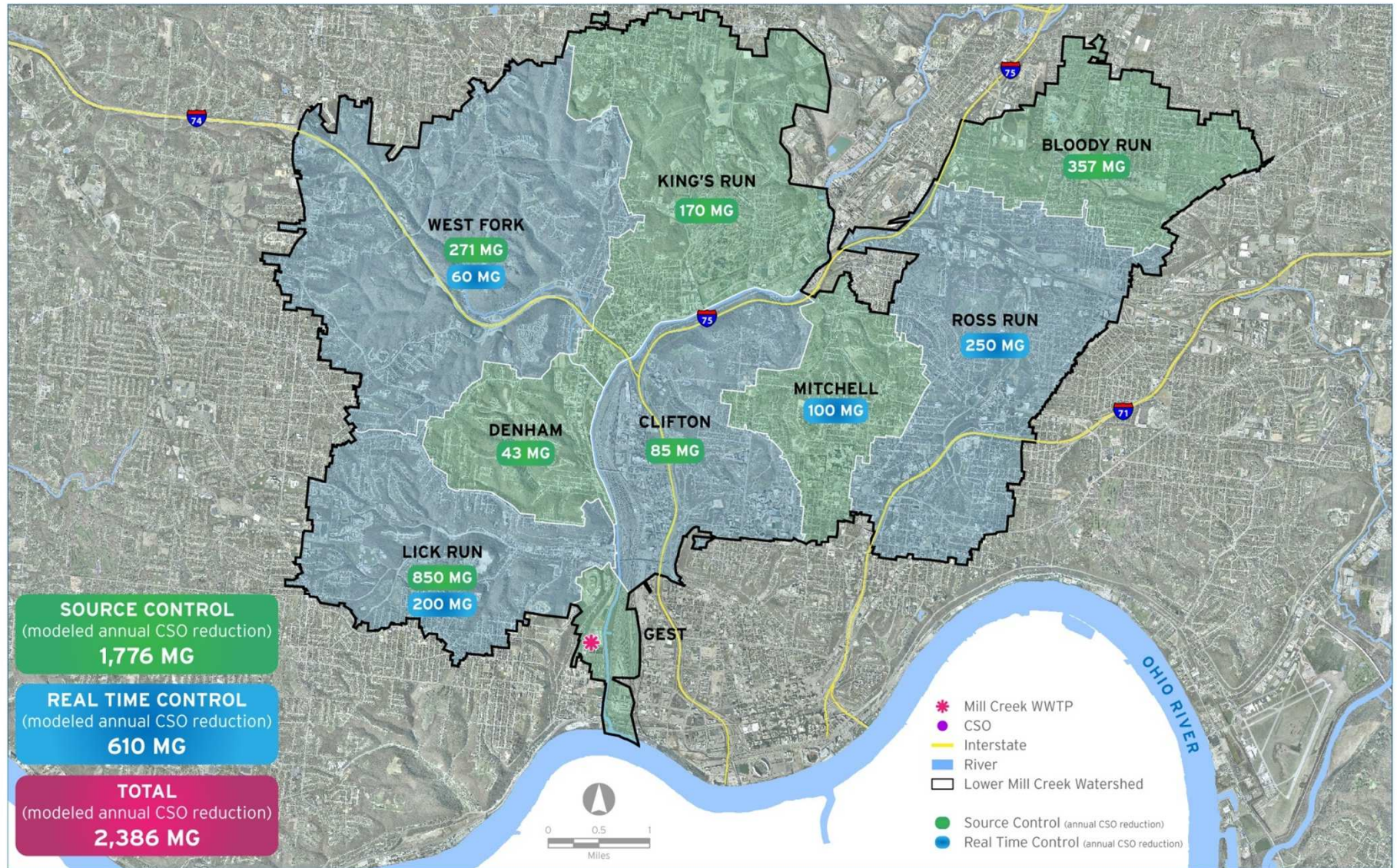
- Additional time until 2012 to study green, sustainable or other alternatives to LMC Partial Remedy default project
- Specific schedule protections should LMCPR default remedy exceed specified cost levels.

Lower Mill Creek Default Solution



Default Solution is a Deep Tunnel to convey and treat 1.6 BG
Opportunity to submit an alternative by December 2012

Source Control & Real Time Preliminary Alternative Estimates



MSD WWIP-Lessons Learned

- Economic argument very compelling
 - ▣ Especially bond market implications: “interest penalty”
- Regulators loathe to set RI/MHI precedent
 - ▣ Phased approach avoided precedent of “firewall”
 - ▣ Preserved “as expeditious as practicable” as scheduling guide, including affordability factors
- Specific protections based on affordability concerns
 - ▣ Bonds and Phase 1 schedule
- Flexibility to realize savings based on green or other changes in technology or control measure approaches



**“As God is my witness, I thought
turkeys could fly”**

Comments? Questions? Thank You!



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