Guidance Pertaining to Consideration of Any Proposed Revised Original Lower Mill Creek Partial Remedy Defendants May Choose to Submit in Accordance With Paragraph A.2 of the Wet Weather Improvement Program
Draft for Discussion

Under the consent decrees between the United States, State of Ohio and Ohio River Water Sanitation Commission (the Regulators); and the Board of County Commissioners for Hamilton County and City of Cincinnati (Defendants), Defendants are required under to construct the Lower Mill Creek Partial Remedy (LMCPR) described in Attachment 1C to the Wet Weather Improvement Program (WWIP); in accordance with the schedule, performance criteria and design criteria set forth in Attachments 1A and 1B of the WWIP.

Paragraph A.2.a of the WWIP provides:

> Phase 1 will include a 3-year study/detailed design period to examine green measures and other measures to refine the Original LMCPR approach and cost estimates. Defendants may submit to the Regulators proposed changes to, or improvements on, the Original LMCPR remedy as a result of this study, provided the proposed revised remedy ("Revised Original LMCPR") provides equal or greater control of CSO annual volume as the Original LMCPR and is completed by the Phase 1 End Date. Defendants shall submit to the Regulators a LMCPR Study Report and any proposal for a Revised Original LMCPR by December 31, 2012.

The purpose of this document is to provide the Metropolitan Sewer District of Great Cincinnati (MSDGC) with guidance on certain issues that Defendants should consider if they choose to submit a proposed Revised Original LMCPR to the Regulators in accordance with Paragraph A.2.a of the WWIP. This document does not replace, revise, or amend the WWIP itself, or the consent decrees.

1. The primary means of determining if green control measures are equivalent to a planned grey infrastructure control measure will be model runs. The Hydrology and Hydraulic Model would be used to simulate the effects of the source control and green infrastructure measures (along with grey infrastructure elements that would be built) and provide specific information on the volume of overflows in a typical year. The Regulators will need to have a good understanding of the assumptions that were used in the model run, e.g., adjustments to the Hydrology inputs to reflect the source control/green infrastructure projects in order to conduct a review and concur on the model run results.

2. In addition to the model runs, a proposed Revised Original LMCPR should include the following:

(a) A detailed description of the source control/green infrastructure project(s), including specific technologies to be employed, project dimensions and configurations, material specifications and characteristics, project drawings that include the drainage area tributary to the proposed project, intended mode(s) of operation, and any other available information that may aid the Regulators in their assessment of the proposed project.

(b) An identification of all tasks required to implement the proposed project, a cost proposal, and a schedule for completion of this work and implementation of the project that is consistent with the approved WWIP.

(c) A specific identification of the grey infrastructure components or projects to be modified or eliminated. Also an analysis of how the downsizing or elimination of planned grey infrastructure projects could potentially affect other elements of the overall conveyance and treatment system.

(d) A description of the source control/green infrastructure maintenance activities to be carried out, including responsible organizations and schedules for maintenance, and a description of the legal authority that will be used to ensure that those activities will be carried out. This description could include, for example, a description (1) of a public entity e.g., (MSDGC, the City, the County) that would be responsible for meeting the legal requirements for operation of the systems; (2) how such public entity would retain legal authority to have permanent access and sufficient control over the land devoted to the green infrastructure measures; (3) how the public entity would acquire ownership of land parcels, or obtain legally-binding agreements, to retain permanent access and sufficient control of the parcels. (The point here is to demonstrate how the source control/green infrastructure control measures would be held/preserved for the long term, with no changes to the site/area that would reduce performance and with access and control so that maintenance activities can be carried out.)

(e) A description of stakeholder outreach and public participation, implemented and planned, associated with the proposed green infrastructure measures. The public participation for proposed green-for grey substitutions should include, but not be limited to, people, households, and neighborhoods in the service area that have low household incomes, poor educational attainment, or concentrated minority populations.

(f) A description of how MSDGC or the responsible public entity would track implementation, operation, and maintenance of the source control/green infrastructure measures, report on such activities and accomplishments as part of regular reporting.

(g) A description of any unique issues that could arise in the context of developing the Post-