

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

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UNITED STATES OF AMERICA, )  
 )  
and )  
 )  
STATE OF TEXAS )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
SAN ANTONIO WATER SYSTEM, )  
Defendants. )  
 )  
 )  

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Civil Action No. 5:13-cv-00666-DAE

**MODIFIED CONSENT DECREE**

WHEREAS, on October 15, 2013, the United States District Court for the Western District of Texas approved and entered a Consent Decree between Plaintiffs, the United States of America and the State of Texas, and Defendant San Antonio Water System (“SAWS”). (Doc. No. 8).

WHEREAS, the objective of the Consent Decree is for SAWS to achieve and maintain compliance with the Clean Water Act and the Texas Water Quality Control Act and the regulations promulgated thereunder, including the elimination of Sanitary System Overflows (“SSOs”).

WHEREAS, Section V of the Consent Decree (Compliance Requirements) requires SAWS to conduct a system-wide Condition Assessment to inspect and assess the structural condition of its sewer mains system for the purpose of identifying structural defects that have caused SSOs or may significantly contribute to the future occurrence of SSOs. SAWS is then required to prepare a Condition Remedial Measures Plan and implement remedial measures to remedy the identified structural defects. Section V also requires SAWS to conduct a system-wide Capacity Assessment to identify capacity constraint issues within its sewer system that have caused SSOs, or may significantly contribute to future SSOs. SAWS is required to prepare a Capacity Remedial Measures Plan and implement remedial measures consistent with the objectives of the Consent Decree.

WHEREAS, SAWS completed the Condition Assessment program on July 23, 2017, inspecting over 76,000 manholes and hundreds of miles of sewer lines and is on schedule to implement the Condition Remedial Measures Plan in accordance with the Consent Decree.

WHEREAS, SAWS has completed the system-wide Capacity Assessment and is actively working on implementing the Capacity Remedial Measures Plan, submitted in January 2019, in accordance with the Consent Decree.

WHEREAS, the Capacity Remedial Measures Plan requires SAWS to complete construction projects to alleviate capacity constraints in the system. SAWS developed a Remediation Project List, which includes the W6, W9, and W52 construction projects. The W6 Project consists of six phases of work to replace existing sewer pipeline with approximately 8.8 miles of new or upsized pipes. Phases one to four of the W6 Project have been constructed. Phases five and six of the W6 Project were designed to cross Lackland Air Force Base (or Joint Base San Antonio), replacing existing 54-inch diameter sewer pipes with a new 104-inch diameter sewer main. The W9 and W52 construction projects are located upstream of the final phases of the W6 construction project. In order to minimize the risk of misalignment of active sewer pipelines with newly constructed upstream sewer pipelines, SAWS represents that good engineering practice dictates that construction begin at the lowest elevation and proceed upstream. Therefore, the final phases of the W6 construction project should be completed before the upstream W9 and W52 construction projects.

WHEREAS, SAWS represents that construction of the W9 and W52 construction projects has been delayed due to SAWS' inability to secure an easement from the United States Air Force ("USAF") necessary for the final phases of the W6 construction project, which was designed to route the W6 sewer line through the Lackland Air Force Base.

WHEREAS, SAWS represents that it has engaged in negotiations with the USAF to obtain an easement for the W6 construction project since 2008, prior to the approval of the Consent Decree, but has not secured the easement.

WHEREAS, SAWS represents that it has reviewed more than fifteen alternative routes to achieve the objectives of the final phases of the W6 construction project, without routing the W6 sewer line through the Lackland Air Force Base, with only one alternative route being feasible from an engineering perspective.

WHEREAS, SAWS estimates that its selected alternative route (around Lackland Air Force Base) and new design of the final phases of the W6 construction project will require SAWS to invest approximately \$100 million in additional construction costs.

WHEREAS, SAWS represents that the original route for the W6 sewer line through Lackland Air Force Base was approximately 3.5 miles and would have allowed significant stretches of open-trench excavation for the new piping.

WHEREAS, SAWS represents that the new design of the W6 construction project, requiring the W6 sewer line to be constructed around Lackland Air Force Base, requires approximately 5.3 miles of piping, most of it being installed by tunneling at depths of up to 140 feet.

WHEREAS, SAWS represents that the new design of the W6 sewer line is approximately 1.8 miles longer than the original route through Lackland Air Force Base with significantly more complicated construction.

WHEREAS, SAWS represents that the new design of the W6 sewer line will further alleviate capacity issues within the system and help minimize wet weather SSOs.

WHEREAS, SAWS represents that the new design and route of the final phases of the W6 construction project will require SAWS to obtain over 2,500 linear feet of additional easements.

WHEREAS, the Consent Decree requires that Capacity Remedial Measures Plan projects that require the acquisition of easements or property be completed within 6 ½ years after EPA's written approval of the Capacity Remedial Measures Plan.

WHEREAS, EPA approved the Capacity Remedial Measure Plan on March 25, 2020 thereby requiring all Capacity Remedial Plan projects that require the acquisition of easements or property to be completed by September 25, 2026.

WHEREAS, SAWS has requested a modification of the Consent Decree to extend the deadline for the completion of the W9 and W52 construction projects to July 22, 2027.

WHEREAS, the modified deadline to complete the W9 and W52 construction projects will not increase the likelihood of SSOs because SAWS will continue to use and operate the existing sewer pipelines while constructing the replacement sewer pipelines.

WHEREAS, SAWS has met all Consent Decree deadlines, and is projected to complete 99% of all Remedial Plan projects no later than the original September 25, 2026 deadline.

WHEREAS, The Parties agree that the requested modification is fair, reasonable, and in the public interest.

WHEREAS, Paragraph 110 of the Consent Decree requires that any material modification of the Consent Decree, and any attached appendices, be effective only upon the approval of the Court. The Parties have determined that a modification to the implementation deadlines of the Capacity Remedial Measure Plan is a material modification.

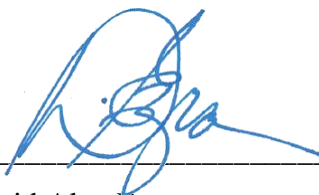
NOW THEREFORE, upon the consent and agreement of the Parties IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

Paragraph 42 of the Consent Decree is now replaced as follows:

42. Capacity Remedial Measures Implementation. In general, SAWS shall plan and implement the approved Capacity Remedial Measures in accordance with the process and guidelines identified in Appendix D. Following receipt of EPA's written approval, SAWS shall begin implementation of the Capacity Remedial Measures Plan on a balanced annual basis. SAWS shall complete all approved Small Diameter and Large Diameter Gravity Sewer Main Capacity Remedial Measures within four (4) and a half (1/2) years of receipt of EPA's written approval of the Capacity Remedial Measures Plan. Should a specific Large Diameter Capacity Remedial Measure project require SAWS to obtain new easements and/or acquire land for more than twenty-five (25) percent of the length of that project or more than 2,500 feet, whichever is less, SAWS may at its option elect to complete that Large Diameter Capacity Remedial Measures project ~~within six (6) and a half (1/2) years of receipt of EPA's written approval of the Condition Remedial Measures Plan~~ **by no later than July 22, 2027**. SAWS shall have advised EPA in the Capacity Remedial Measures Plan of any Large Diameter Capacity Remedial Measures projects that SAWS wishes to complete ~~in a maximum of six (6) and a half (1/2) years instead of four (4) and a half (1/2) years~~ **by no later than July 22, 2027**. For those projects that SAWS wishes to complete ~~within six (6) and a half (1/2) years~~ **by no later than July 22, 2027**, SAWS has advised in the Capacity Remedial Measures Plan the reasons why the need for new easements or land acquisition could not be avoided. Any modifications to the

approved Capacity Remedial measures Plan shall be in accordance with Section XVIII (Modification).

SO ORDERED this 2nd day of August 2021.

A handwritten signature in blue ink, appearing to read "D. Ezra", is written over a horizontal line.

David Alan Ezra  
Senior United States District Judge

Signature Page for Amended Consent Decree in the matter of United States and State of Texas v. San Antonio Water System

FOR THE UNITED STATES OF AMERICA:

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Acting Assistant Attorney General  
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United States Department of Justice

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Signature Page for Amended Consent Decree in the matter of United States and State of Texas v. San Antonio Water System

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Dated: 11-16-2020




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MARK POLLINS, Director  
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Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
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Signature Page for Amended Consent Decree in the matter of United States and State of Texas v. San Antonio Water System

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Dated: February 11, 2021



Digitally signed by CHERYL SEAGER  
DN: c=US, o=U.S. Government, ou=Environmental  
Protection Agency, cn=CHERYL SEAGER,  
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CHERYL T. SEAGER  
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Dated: \_\_\_\_\_

EFREN ORDONEZ Digitally signed by EFREN ORDONEZ  
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Signature Page for Amended Consent Decree in the matter of United States and State of Texas v. San Antonio Water System

FOR THE STATE OF TEXAS ON BEHALF OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

Dated: March 8, 2021

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/s/ Phillip Ledbetter

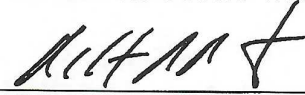
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Signature Page for Amended Consent Decree in the matter of United States and State of Texas v. San Antonio Water System

Dated: 9-1-2020

FOR SAN ANTONIO WATER SYSTEM



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