

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA, and
STATE OF CONNECTICUT,

Plaintiffs,

V.

THE METROPOLITAN DISTRICT OF
HARTFORD, CONNECTICUT

Defendant.

CIVIL ACTION NO.: 3:06-cv-00728 (VAB)

FIRST MATERIAL MODIFICATION TO 2006 CONSENT DECREE

WHEREAS, The Metropolitan District of Hartford, Connecticut (the “MDC”) is a public not-for-profit municipal corporation chartered by the Connecticut General Assembly in 1929 to provide potable water and sewer systems to the Hartford area;

WHEREAS, the Plaintiff, the United States of America (“United States”), on behalf of the United States Environmental Protection Agency (“EPA”), filed a Complaint on May 11, 2006, alleging that the MDC violated Section 301(a) of the Clean Water Act (“Act” or “CWA”), 33 U.S.C. § 1311(a);

WHEREAS, the State of Connecticut (the “State”), on behalf of the predecessor to the Connecticut Department of Energy and Environmental Protection (“CT DEEP”), joined as a Plaintiff-Intervenor;

WHEREAS, on August 17, 2006, this Court entered a Consent Decree resolving the allegations in the Complaint (the “2006 Consent Decree” or “CD,” ECF No. 15-8);

WHEREAS, the MDC has implemented a number of projects and measures pursuant to the 2006 Consent Decree but has not yet completed all required projects;

WHEREAS, the 2006 Consent Decree specified that the Court retains jurisdiction for the purpose of enforcing and modifying the 2006 Consent Decree;

WHEREAS, for the reasons set forth in detail below, this First Material Modification to the 2006 Consent Decree (“First Modification”) provides for the following: (i) extension of the deadline for eliminating structural sanitary sewer overflow (“SSO”) outfalls from January 3, 2023 to December 31, 2026 and (ii) incorporation of a schedule to complete Inflow and Infiltration elimination projects (“I/I projects”);

WHEREAS, the below facts support modifying the 2006 Consent Decree to extend the deadline for eliminating structural SSO outfalls:

- The 2006 Consent Decree requires the MDC to eliminate all SSO outfall discharges from the MDC’s Collection System serving Newington and West Hartford no later than 10 years from the date of EPA’s and CT DEEP’s approval of the Sanitary Sewer Evaluation Survey Report Implementation Schedule (“SSES Report Implementation Schedule”). *See* CD Section VII.J.
- On January 4, 2013, EPA and CT DEEP approved the SSES Report Implementation Schedule, which established an implementation schedule to eliminate the structural SSO outfalls.
- Five of the eight structural SSO outfalls have already been eliminated through a combination of the reduction of stormwater and groundwater I/I into separated sewers, improvement of conveyance capacity, and the expansion of wet weather treatment capacity.
- The approved SSES Report Implementation Schedule required completion of the South Hartford Conveyance and Storage Tunnel by January 3, 2023. The Parties anticipate that completion of this tunnel will provide enough additional sewage conveyance capacity to eliminate the remaining structural SSO outfalls.

- In a letter dated October 30, 2015, EPA and CT DEEP approved a one-year extension for the completion of the South Hartford Conveyance and Storage Tunnel, from January 3, 2023, to January 3, 2024.
- On June 30, 2022, the MDC submitted a request to extend the schedule for completing the South Hartford Conveyance and Storage Tunnel due to delays in completing the contract to construct the primary tunnel, ultimately requesting to extend the deadline to December 31, 2026

WHEREAS, based on the circumstances described above, the Parties agree that the 2006 Consent Decree deadline for eliminating structural SSO outfalls should be modified—from January 3, 2023 to December 31, 2026—to provide additional time to complete construction of the projects designed to eliminate the remaining structural SSO outfalls.

WHEREAS, the below facts support the incorporation of a schedule to complete I/I projects:

- Inflow and Infiltration (“I/I”) is the process of water from sources other than domestic wastewater entering sanitary sewers. I/I causes dilution in sanitary sewers, which decreases the efficiency of treatment, and may cause SSOs.
- The 2006 Consent Decree requires the MDC to submit proposed control projects to reduce I/I. *See* CD Section VII.I. These projects are to be submitted in Sewer System Evaluation Survey Reports (“SSES Reports”) to EPA and CT DEEP for approval. *See* CD Section VII.H. Upon EPA and CT DEEP’s approval of the SSES Report, the MDC shall implement the recommendations of the SSES Report in accordance with the schedule included in the SSES Report. *See* CD Section VII.J.
- On January 4, 2013, EPA approved I/I projects contained in three SSES Reports submitted by the MDC and made the schedules enforceable under the 2006 Consent Decree.
- The three approved SSES Reports provided recommendations to alleviate local SSO concerns and to provide for a 10% reduction in I/I in areas of the Collection System contributing to SSOs.
- On June 30, 2015, the MDC submitted a “2015 SSO Program Master Plan” that provided a list of 15 I/I projects that incorporated the schedules and 10% I/I reduction in the three approved SSES Reports.

- Under the 2015 SSO Program Master Plan, the 15 I/I projects are estimated to cost of approximately \$136 million in total and are scheduled to be completed by the end of calendar year 2022.
- In December 2018, pursuant to a 2006 administrative Consent Order with CT DEEP, the MDC submitted an Integrated and Long-Term Control Plan (“Integrated Plan”) to CT DEEP to address sewage overflow and other sewer collection system needs.
- The MDC updated the Integrated Plan in May 2020, providing for reprioritization of many I/I projects included in the 2015 SSO Program Master Plan.
- On August 31, 2022, the MDC submitted a request to EPA to extend the schedule for six of the I/I projects described in the 2015 SSO Program Master Plan, to be completed by the end of calendar year 2045, rather than 2022.
- On September 19, 2022, the MDC and CT DEEP entered into an administrative Consent Order (“2022 Consent Order”) memorializing select projects described in the Integrated Plan to be completed by the end of calendar year 2029.
- On July 24, 2023, the MDC and CT DEEP modified the 2022 Consent Order to prioritize projects in northern Hartford. EPA supported this modification to benefit those communities.
- Since 2005 to present, MDC has spent over \$1.2 billion in removing 550 million gallons (from an annual average CSO volume of 1,040 million gallons) of CSOs from its collection system. These improvements include upgrading the Hartford Wastewater Treatment Plant, rehabilitation of over 700 acres consisting of sewer separation, lining and cleanout work to create capacity, cleaning out pipes to remove residue, and re-lining old pipes to be more hydraulically sealed. This work also includes the installation of more than 25 miles of new sanitary sewer and drain pipes.
- On May 24, 2024, the MDC submitted a copy to EPA of a memorandum from the MDC’s engineering contractor, CDM Smith, entitled “SSO Elimination Master Plan Status Update” describing the remaining projects planned pursuant to the Sewer System Evaluation Survey Scope of Work required by Section VII.H of the 2006 Consent Decree.
- The Parties have reviewed the SSO Elimination Master Plan Status Update and agree to the updated implementation schedule provided in Table 2 of Appendix A of this First Modification.

WHEREAS, based on the circumstances described above, the Parties agree that the 2006 Consent Decree should be modified to incorporate a schedule for the completion of the I/I projects required by Section VII.J of the 2006 Consent Decree, as specifically described in the SSO Elimination Master Plan Update;

WHEREAS, Section XXI.A of the 2006 Consent Decree provides that “[a]ny material modification to the terms of this Consent Decree shall be by written agreement of the Parties and approval of the Court;”

WHEREAS, the Parties have agreed that pursuant to Section XXI.A of the 2006 Consent Decree, the proposed modifications as set forth herein constitute material modifications to the 2006 Consent Decree, which require written approval of the Parties and approval of the Court;

WHEREAS, the Parties recognize, and the Court by entering this First Modification finds, without admission of facts or law except as expressly stated herein and without admission of liability by the MDC, that this First Modification has been negotiated at arms-length and in good faith and that this First Modification is fair, reasonable, and in the public interest, and that entry of this Consent Decree without further litigation is an appropriate resolution of the disputes.

NOW, THEREFORE, upon the consent of the Parties, it is hereby ordered, adjudged, and decreed as follows:

MODIFIED CONSENT DECREE PROVISIONS

1. The 2006 Consent Decree shall remain in full force and effect in accordance with its terms with the exception of the revisions to the numbered Paragraphs below which correspond to the Paragraph numbering of the 2006 Consent Decree:

Section VII.J shall be amended as follows:

The MDC shall implement the projects listed in Table 2 of Appendix A of the First Material Modification to this Consent Decree according to the schedule provided, in which all I/I projects are completed by no later than the end of 2040.

By December 31, 2028, the MDC shall provide to EPA and CTDEEP, either as an update to its CSO Long Term Control Plan/Integrated Plan or as a separate document, specific starting and completion dates for the projects described in Table 2 of Appendix A, subject to Review and Approval under Part VI of the Consent Decree, and implement them upon submission, subject to any changes as a result of the Review and Approval process.

Section VII.K.2 shall be amended as follows:

2. Newington and West Hartford. All Structural SSO outfall discharges from the MDC's Collection System serving Newington and West Hartford (i.e., Hartford Avenue Siphon Overflow Chamber, Hillcrest Overflow Chamber, Center Trunk Overflow to Trout Brook (CTS-2), and Center Trunk Overflow at Talcott Street (CTS-3)) shall be eliminated by December 31, 2026.

2. The Effective Date of this First Modification shall be the date upon which this First Modification is entered by the Court or a motion to enter this First Modification is granted, whichever occurs first, as recorded on the Court's docket.

3. The Court shall retain jurisdiction to modify and enforce the terms and conditions of the 2006 Consent Decree and this First Modification, and to resolve disputes arising hereunder as may be necessary or appropriate for the construction or execution of the 2006 Consent Decree and this First Modification.

4. This First Modification shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments received disclose facts or considerations that indicate that this First Modification is inappropriate, improper, or inadequate. The MDC consents to the entry of this First Modification without further notice and agrees not to withdraw from or oppose entry of this First Modification by the Court or to

challenge any provision of this First Modification, unless the United States has notified the Parties in writing that it no longer supports entry of this First Modification.

5. Each undersigned representative certifies that he or she is fully authorized to enter into the terms and conditions of this First Modification and to execute and legally bind the Party he or she represents to this document.

6. This First Modification may be signed in counterparts, and its validity shall not be challenged on that basis.

7. This First Modification, in conjunction with the 2006 Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied in this First Modification.

APPROVED AND ENTERED THIS 26TH DAY OF JUNE, 2025.

/s/ Victor A. Bolden

VICTOR A. BOLDEN
UNITED STATES DISTRICT JUDGE
District of Connecticut

FOR THE UNITED STATES OF AMERICA:

TODD KIM
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice



KATHERINE M. ROMERO
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20044-7611
(202) 514-2746

1/16/2025

Date

FOR THE UNITED STATES OF AMERICA, continued:

VANESSA ROBERTS AVERY
United States Attorney District of Connecticut

A handwritten signature in blue ink that reads "Anne F. Thidemann". The signature is written in a cursive style with a horizontal line underneath.

ANNE F. THIDEMANN
Assistant United States Attorney
Federal Bar No. ct28028
1000 Lafayette Boulevard
Bridgeport, Connecticut 06604
(203) 696-3000 (phone)
(203) 579-5575 (fax)
Anne.Thidemann@usdoj.gov

A handwritten date in blue ink that reads "11/27/2024". The date is written in a cursive style with a horizontal line underneath.
Date

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:



JOSEPH G. THEIS

Acting Director

Water Enforcement Division

Office of Civil Enforcement

Office of Enforcement and Compliance Assurance

United States Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

Washington, D.C. 20460

1/16/25
Date



HANNAH C. ANDERSON

Attorney-Advisor

Water Enforcement Division

Office of Civil Enforcement

Office of Enforcement and Compliance Assurance


United States Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

Washington, D.C. 20460

1/15/25
Date

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, continued:


CARL DIERKER

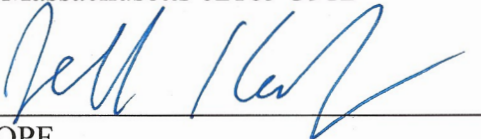
Dec. 5, 2024
Date

Regional Counsel

United States Environmental Protection Agency, Region 1

5 Post Office Square, Suite 100

Boston, Massachusetts 02109-3912


JEFF KOPF

Dec 5 2024
Date

Senior Enforcement Counsel

United States Environmental Protection Agency, Region 1

5 Post Office Square, Suite 100

Boston, Massachusetts 02109-3912

FOR THE STATE OF CONNECTICUT:

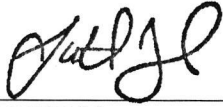
WILLIAM TONG
Attorney General

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

DANIEL M. SALTON
Assistant Attorney General
Office of the Attorney General
165 Capitol Avenue
Hartford, Connecticut 06106

01/18/2025
Date

FOR THE METROPOLITAN DISTRICT OF HARTFORD, CONNECTICUT



SCOTT JELLISON
Chief Executive Officer
The Metropolitan District
555 Main Street
Hartford, Connecticut 06104

1-16-25

Date