

City of Colorado Springs

Stormwater Enterprise (SWENT)



What does SWENT do?

- Drainage Operations and Maintenance Program
- Stormwater Plan Review Program
- Stormwater Capital Project Delivery Program
- MS4 Permit Administration
- SWENT Business Administration and Customer Services Program

Consent Decree Summary / Progress

15 year decree (some components may be relieved in accordance with pre-negotiated milestones) – About \$45M of additional expenditures above the \$460M from the City of Colorado Springs/Pueblo County IGA

- Injunctive Relief
 - Construction Sites Program
 - New Development and Redevelopment Program
 - Audits
 - Water Quality Credit Program
- Mitigation Projects
- Documentation, Tracking, and Reporting

Consent Decree Summary / Progress

Injunctive Relief – Construction Sites Program

- New Stormwater Construction Manual for grading and erosion control
 - New GEC Permit process
 - Enforcement process changes
- Changes to grading and erosion control review
 - GEC Plan – phasing requirements, CCM requirements
 - CSWMP – changed from GEC Narrative to resemble State SWMP
- Staff Training

Consent Decree Summary / Progress

Injunctive Relief – New Development and Redevelopment Program

- Municipally Owned Structure Inspection, Tracking, and Maintenance
 - Conveyance infrastructure (pipes, inlets, manholes), open channels, detention-only facilities
- Public Permanent Control Measure Inspection, Tracking, and Maintenance
 - Updated inspection and maintenance requirements
 - Updated City acceptance process
- Private Permanent Control Measure Inspection, Tracking, and Enforcement
 - Updated enforcement process
 - Updated City acceptance and oversight processes

Consent Decree Summary / Progress

Injunctive Relief – Audits

Audit Type	Start	Duration	Reporting Requirement
Internal Grading and Erosion Control Inspection Audits	9/8/2021	4.5 years	Quarterly
Internal Permanent Control Measure Inspection and Maintenance Audits	1/11/2024	1.5 years	Quarterly
Third-Party Grading and Erosion Control Document Review Audits	1/1/2022	3 years	Annually
Third-Party Newly Construction Permanent Control Measure Audits	1/1/2022	3 years	Annually

Consent Decree Summary / Progress

Injunctive relief – Water Quality Credit Program

- Credit/Debit system for required WQ volume (71 acre-ft) - city wide (Total WQ value required from about 2003) (Approx. \$30M)
 - Intended to cover city wide damage from WQ waivers
 - Inspect, assess, and repair all public and private permanent water quality facilities within the development window (approximately 200 private, 120 public)
 - Construct new or reconstruct existing facilities. Pre-negotiated list of qualifiable project types
 - Annual meeting to discuss project planning
- Progress
 - Initial meeting for project planning complete
 - Currently writing SOP for WQ Credit Program
 - Evaluation of Existing Control Measure (Verification of Functionality) will begin June 2022

Consent Decree Summary Cont.

- **Mitigation Projects**

- Addresses the prudent line methodology, mitigate for city-wide damage from non-compliance
- Channel study/restoration projects (\$11.5M)
 - Can not count City/Pueblo County IGA projects
- Complete City/Pueblo County IGA projects

- **Progress**

- Initial draft of geomorphological study plan complete
- Final draft in progress
- Completion of City/Pueblo County IGA projects ongoing. First 5 years of project list complete or in construction.

Consent Decree Summary Cont.

- **Documentation, Tracking, and Reporting (\$2.7M)**
 - Plan review and permitting processing requiring additional software
 - System is in place and operating smoothly
 - Additional tracking requirements for stormwater infrastructure
 - Utilizing asset management software
 - Software has been implemented
 - Annual reporting. Including detailed documentation of budget, expenditures, staffing levels, training, project completion, auditing results, and progress toward other CD requirements

Consent Decree Summary Cont.

- **Civil Penalty (\$2.125M)**
 - \$1M towards SEP projects for LAWCD
 - Paid in full
- **Stipulated penalties**
- **Specific implementation timeframes**

Lessons Learned

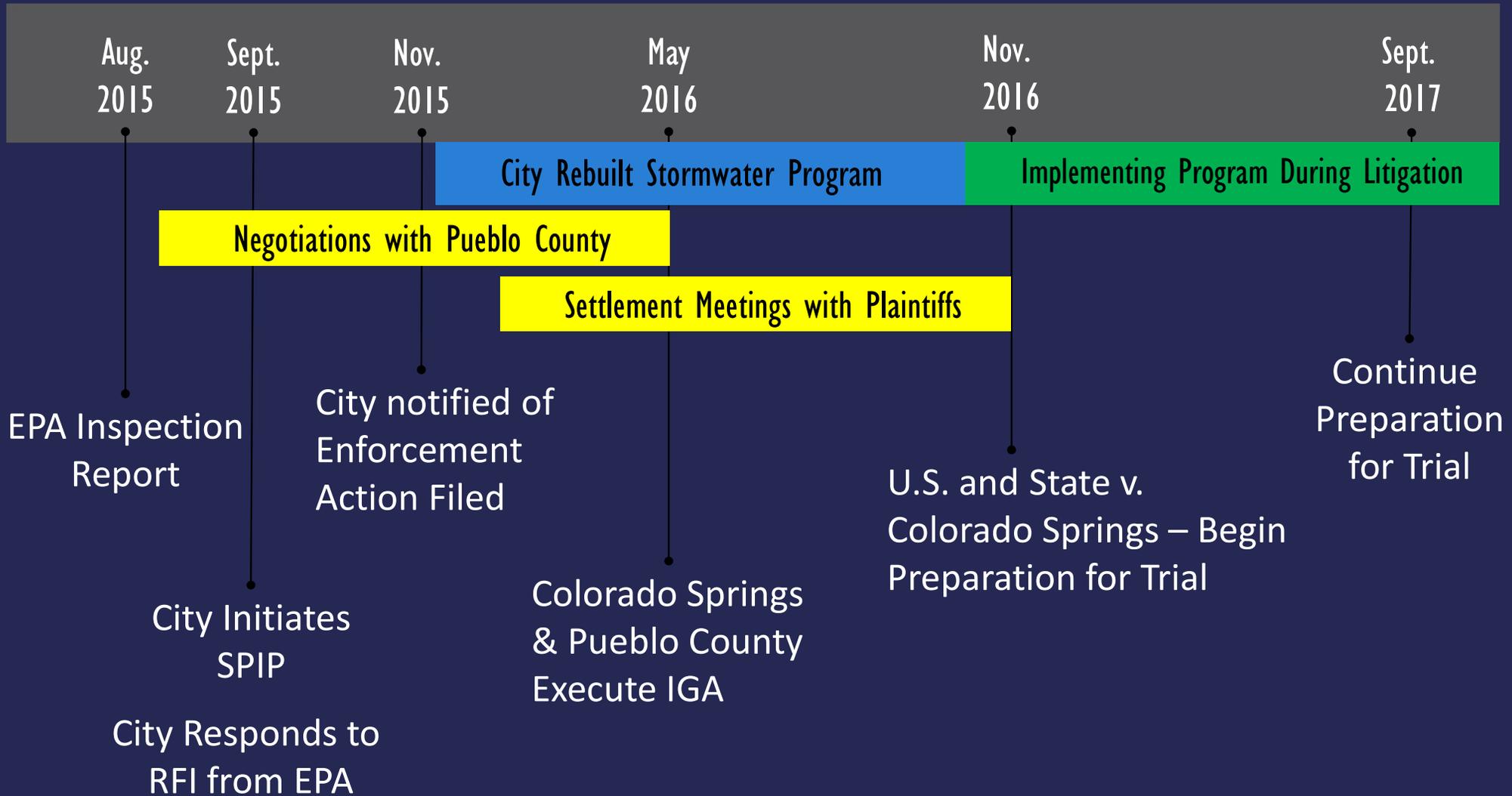
- Fractured approach to MS4 program compliance was not a good approach for the City of Colorado Springs
 - Specific stormwater review group and grading and erosion control inspection group have proven to be critical
- Specific language in permit, criteria, and code matter greatly. The exact language must be followed. There is little to no room for engineering interpretation
- Issues never go away. Time does not fix mistakes or overlooked issues
- The City must follow enforcement procedures to the exact letter of the criteria and City Code
- Stormwater plan reviews must be detailed and correct
- You must respond to audit finds and communicate with the State as much as possible
- The City must adequately fund and staff the stormwater program
- Private and public permanent control measures must be designed, built, and maintained correctly. The City is ultimately responsible

Progress in the City of Colorado Springs

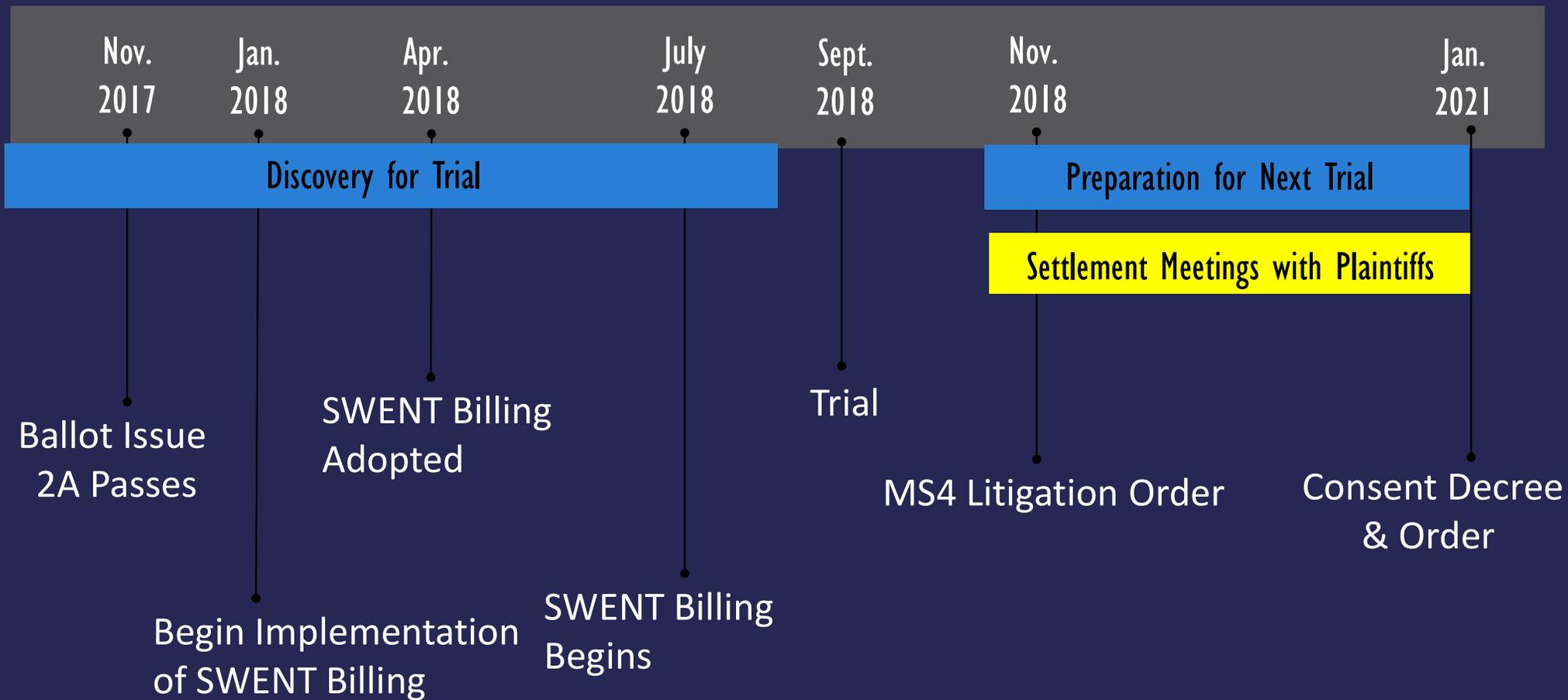
Claimed Expenditures

(Actual Expenditures and Encumbered Funds)	Total (2016-2020)	2021
Drainage O&M/MS4 Program	\$41,301,035	\$7,160,556
Stormwater Capital Projects	\$56,280,278	\$13,100,000
Colorado Springs Utilities (SSCC Program)	\$15,846,580	\$3,340,083
Total	\$113,427,893	\$23,600,639

Timeline



Timeline



Plaintiffs

- United States EPA, Represented by the United States Department of Justice
- Colorado Department of Public Health and Environment, Represented by the Colorado Attorney Generals Office
- Pueblo County
- Lower Arkansas Valley Water Conservancy District (Pueblo, Crowley, Otero, Bent, and Prowers Counties)

Plaintiffs' Claims in Amended Complaint

- 10 claims for relief in the amended complaint
 - Inadequate Program Funding and Staffing
 - Adoption of 2000 Cottonwood Creek DBPS and “Prudent Line” Concept
 - Water Quality Controls Placed in State Water
 - Stormwater Controls and WQCV (Waivers for water quality requirements and entitlements on residential developments)

Plaintiffs' Claims (continued)

- Post-Construction Private Permanent BMPs – Design, Approval, Installation
- Post-Construction Private Permanent BMPs – Long-term Operation, Maintenance, Tracking (Ensure Program)
- Municipally-Owned Structural Controls and Facilities (Did not maintain our facilities effectively)
- Construction Sites Stormwater Quality Control Plans (Design, Review, Updating throughout construction)
- Construction Sites Stormwater Quality Control Plans – Implementation (Erosion control oversight and inspections)
- Construction Sites Stormwater Quality Control Plans – Enforcement

Litigation and Settlement Negotiation

- Several years of detailed and intense negotiations
- Depositions, interviews, discovery (\$750K, 1200 boxes, 4 TBs of information)
- Two week trial in Federal District Court (Exemplar sites to determine MS4 violation)
- Subsequent trial planning
- Approximately \$5M in legal and expert fees
- Consent decree drafting and negotiation
- Consent decree approval process

Thank you!!