

UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS

.....
UNITED STATES OF AMERICA,

Plaintiff,

v.

METROPOLITAN DISTRICT COMMISSION,
et al.,

Defendants.
.....

CIVIL ACTION
No. 85-0489-RGS

.....
CONSERVATION LAW FOUNDATION OF
NEW ENGLAND, INC.,

Plaintiff,

v.

METROPOLITAN DISTRICT COMMISSION,

Defendants.
.....

CIVIL ACTION
No. 83-1614-RGS

MWRA QUARTERLY COMPLIANCE AND
PROGRESS REPORT AS OF SEPTEMBER 13, 2013

The Massachusetts Water Resources Authority (the "Authority") submits the following quarterly compliance report for the period from June 15, 2013 to September 13, 2013 and supplementary compliance information in accordance with the Court's order of December 23, 1985 and subsequent orders of the Court.

I. Schedule Seven.

A list of the activities scheduled for the month of July 2013 on the Court's Schedule Seven, certified by Frederick A. Laskey, Executive Director of the Authority, is attached hereto as Exhibit "A."

A. Activities Completed.

1. Complete Construction of Bulfinch Triangle Sewer Separation.

As previously reported,¹ the Boston Water and Sewer Commission ("BWSC"), under a Memorandum of Understanding and Financial Assistance Agreement with the Authority, attained substantial completion of the \$10 million Bulfinch Triangle Sewer Separation project on July 13, 2010, 36 months ahead of the compliance milestone for completion. The project eliminated combined sewer overflows ("CSO") at Outfall BOS049 and reduced CSO at certain other outfalls that discharge to the Charles River or Boston Inner Harbor, including the Authority's Prison Point CSO treatment facility.

2. Complete Construction of Brookline Sewer Separation.

As previously reported,² the Town of Brookline, under a Memorandum of Understanding and Financial Assistance Agreement with the Authority, attained substantial completion of the \$26 million Brookline Sewer Separation project on April 26, 2013, three months ahead of the compliance milestone for completion. The project has removed stormwater from sewer systems that can overflow to the Charles River and is predicted to reduce CSO at the Authority's

¹ See Compliance and Progress Report, September 15, 2010, p. 4.

² See Compliance and Progress Report, June 14, 2013, pp. 4-6.

Cottage Farm CSO treatment facility, at Outfall MWR010, and at other outfalls along the river.

B. Progress Report.

1. Combined Sewer Overflow Program.

a. Interceptor Connection Relief and Floatables Control at Outfall SOM01A.

On August 30, 2013, the Authority issued the Notice to Proceed with the \$292,300 construction contract for the Interceptor Connection Relief and Floatables Control at Outfall SOM01A project (the "SOM01A project"), ahead of the September 2013 milestone in Schedule Seven. The SOM01A project will upgrade the hydraulic capacity of the connection between the City of Somerville's Tannery Brook Conduit ("TBC") and the Authority's Alewife Brook Conduit to reduce CSO discharges to the Alewife Brook from the TBC at Outfall SOM01A. The project also includes the installation of an underflow baffle within the TBC to provide floatables control for the remaining discharges. The Authority held a construction kickoff meeting with the contractor on September 5, 2013. The contractor's first activities will involve the various early submissions required by the contract, including the health and safety plan and shop drawings. The contract calls for construction to be complete ahead of the June 2014 milestone in Schedule Seven.

b. Control Gate and Floatables Control at Outfall MWR003 and MWRA Rindge Avenue Siphon Relief.

The Authority continues to make progress with the design of the Control Gate and Floatables Control at Outfall MWR003 and Rindge Avenue Siphon

Relief project (the "MWR003 project"). The MWR003 project will upgrade the overflow hydraulic capacity at Outfall MWR003, which discharges to the Alewife Brook. Increasing the overflow capacity is necessary to provide adequate system relief in extreme storms and compensate for the loss of system relief resulting from the planned closing of Cambridge's nearby Outfall CAM004. The design recommendation includes increasing the hydraulic capacity of the Authority's Rindge Avenue Siphon, which delivers overflows to the outfall, by replacing the existing 30-inch pipe with a 48-inch pipe; replacing the existing static overflow weir at MWR003 with an automated gate that, in its lowered position, will provide a higher overflow capacity when needed to mitigate system flooding; and installing an underflow baffle to provide floatables control.

The Authority received the Draft Hydraulic Modeling Technical Report from its design consultant on June 21, 2013, the 50-percent design plans on July 23, 2013, and the Final Wetlands Delineation Report on August 22, 2013. The Authority expects to receive 100-percent design plans and construction contract specifications from its design consultant later this month. With the 100 percent design plans, the Authority will seek a wetlands order of conditions from the Cambridge Conservation Commission and a construction permit from the Massachusetts Department of Conservation and Recreation which owns the Alewife Brook Reservation where the project is located. The Authority also plans to share its hydraulic evaluations and design plans with the City of Cambridge in part to confirm the hydraulic interrelationships

between this project and the CAM004 sewer separation project. The Authority expects to commence construction by August 2014, in compliance with Schedule Seven.

c. CAM004 Sewer Separation.

During the last quarter, Cambridge continued to make progress with the three contracts comprising the remaining work of the CAM004 sewer separation project – continuing with construction of Contract 8A, moving Contract 8B into construction, and continuing with design of Contract 9. At the same time, Cambridge continues to manage and coordinate all three contracts and related utility relocations and traffic management to bring the project to completion by December 2015 in compliance with Schedule Seven.

Construction of the \$17 million Contract 8A (the Authority's share is \$10.6 million) is approximately 65 percent complete. Contract 8A includes the installation of approximately 14,700 linear feet of sanitary sewer and storm drain pipe up to 54-inch diameter in Huron Avenue and several intersecting streets and 7,200 linear feet of smaller diameter drain pipe for building, catch basin and other connections in a 68-acre area immediately east of Fresh Pond Parkway, from Fresh Pond to Brattle Street. During the last quarter, Cambridge's contractor made progress with catch basin installations and road base paving on Grozier, Lexington, Hawthorne and Poplar streets after completing the installation of storm drains, sewers and water mains in these streets. Final paving, sidewalks and porous pavement remain to be completed on these streets. The contractor also completed water main installation on

Standish Street and additional storm drain, sewer and water main installations on Vassal Lane (now approximately 80 percent complete). Private inflow removal work is approximately 50 percent complete over the contract area, with approximately 25 percent completed during the last quarter. Cambridge expects to complete all main-line storm drain, sewer and water line installations later this year, attain substantial completion of Contract 8A in May 2014, and complete surface restoration work by December 2014.

Cambridge also completed design of Contract 8B, advertised the construction documents in April, and received bids on June 13, 2013. Cambridge awarded the \$30 million contract (the Authority's share is \$16.7 million) on August 30, 2013, and held a preconstruction meeting on September 9, 2013. Cambridge issued the Notice to Proceed with construction of Contract 8B on September 12, 2013. Contract 8B will separate combined sewers in an 83-acre area east of the Contract 8A area, extending as far east and north as Concord Avenue and as far south as Brattle Street. Contract 8B includes approximately 19,300 linear feet of new sanitary sewer and storm drain in Huron Avenue and several intersecting streets, approximately 2,800 linear feet of trenchless pipe rehabilitation and approximately 13,230 linear feet of ductile iron water main.

Design of Contract 9, which includes the installation of new sanitary sewers and storm drains in Concord Avenue and several intersecting streets to separate combined sewers in a 60-acre area north of Contracts 8A and 8B and extending from Fresh Pond Parkway in the west to the intersection of Concord

Avenue and Huron Avenue in the east, is 90 percent complete. Cambridge has scheduled a community meeting for September 17, 2013, to present the 90 percent design plans. Recent design efforts include the final sizing and layout of new subsurface infrastructure, final design of streetscape improvements, and an assessment of City and private utility conflicts and required relocations and upgrades. Cambridge plans to commence construction of Contract 9 in January 2014 and complete all work for the CAM004 Sewer Separation project by December 2015, in compliance with Schedule Seven.

d. Reserved Channel Sewer Separation.

As previously reported, BWSC has completed four of the nine planned contracts for the \$64.8 million Reserved Channel Sewer Separation project - the \$4.2 million Contract 1 that rehabilitated all four BWSC CSO outfalls that discharge to the Reserved Channel so as to provide long-term reliability and adequate capacity to carry the separated stormwater flows; the \$5.9 million Contract 2 that separated the combined sewers in a 55-acre area tributary to Outfall BOS080; the \$1.1 million Contract 7, which was the first of two sequential pavement restoration contracts; and the \$10.2 million Contract 3A, which involved sewer separation in a 33-acre area tributary to outfall BOS076 bounded approximately by West First Street, G Street, West Broadway and E Street.

BWSC has continued to make significant design and construction progress on the remaining five contracts. The \$10.8 million Contract 3B,

which involves sewer separation in two areas tributary to outfalls BOS078 and BOS079 totaling 66 acres, is now 80 percent complete. During the last quarter, the contractor completed the sewer and drain installations along East Second Street. Work continues on East First, K, Powerhouse and Elkin streets. Contract 3B has a completion date of October 2014.

The \$9.1 million Contract 4, the last of the major Reserved Channel Sewer Separation contracts, is now 70 percent complete. Contract 4 involves sewer separation in two areas totaling 182 acres tributary to outfalls BOS076, BOS078 and BOS079. During the last quarter, the contractor completed the installation of storm drains on D Street, West Broadway and East Broadway, as well as water mains on East Broadway and B Street. Contract 4 has a completion date of August 2015.

The \$6.8 million Contract 8, the second of two pavement restoration contracts that follow the work of the various sewer separation contracts as sections of work are completed, is 30 percent complete. During the last quarter, permanent pavement restoration was completed on East First Street associated with outfall reconstruction (Contract 1).

BWSC also continues to make progress with the design of Contract 5 (existing sewer cleaning and lining) and repackaging of Contract 6 (downspout disconnections) and plans to advertise and award these contracts this year. BWSC expects to complete all work for the Reserved Channel Sewer Separation project by December 2015, in compliance with Schedule Seven.

C. Statement of Counsel

Earlier this year, with the approach of my 70th birthday, I retired from the day-to-day practice of law. I retained an appearance herein because, over the years, I have derived great professional satisfaction from this case and our City's consequent and transformative embrace of its beautiful harbor. Like, I suspect, a number of others, I wished to see through to its end the task on which so many of us have so long been engaged.

Of course, in a matter of legal and public significance, the Authority requires representation by counsel who is available to it on a daily basis. I am very pleased that the Commonwealth's Attorney General has appointed as a special assistant to fill this role a colleague with whom I have long worked closely, Jonathan Ettinger. I am also pleased that the Attorney General is continuing my appointment as a special assistant so that, if there is occasion in the future for proceedings before the Court, I may appear on behalf of the Authority should it or the Court wish me to do so.

Respectfully submitted,

/s/ John M. Stevens

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of this document, which was filed via the Court's ECF system, will be sent electronically by the ECF system to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on September 13, 2013.

/s/ John M. Stevens

John M. Stevens (BBO No. 480140)
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Dated: September 13, 2013

EXHIBIT A

SCHEDULE SEVEN

MWRA MONTHLY COMPLIANCE REPORT
Schedule Seven Milestones for July 2013

EXHIBIT "A"

LONG-TERM

NEW BOSTON HARBOR

MONTH/YEAR

CSO CONTROL

SLUDGE MANAGEMENT

TREATMENT PLANT


July 2013

MWRA, in cooperation with BW/SC, to complete construction of Bulfinch Triangle sewer separation. MWRA, in cooperation with Brookline, to complete construction of Brookline sewer separation.²⁶

(Completed – See September 16, 2013 Compliance and Progress Report.)

Certification of Completed Activities

By:


Frederick A. Laskey
Executive Director, MWRA

Date: September 16, 2013