

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 15, 2014 (AS CORRECTED)¹

The Massachusetts Water Resources Authority (the "Authority") submits the following quarterly compliance report for the period from June 17, 2014 to September 15, 2014 and supplementary compliance information in accordance

¹ This corrected filing includes Exhibit A, which was inadvertently omitted from the initial filing.

with the Court's order of December 23, 1985 and subsequent orders of the Court.

I. Schedule Seven.

Schedule Seven activities for the months of June 2014 and August 2014 on the Court's Schedule Seven, certified by Frederick A. Laskey, Executive Director of the Authority, are attached hereto as Exhibit "A."

A. Activities Completed.

1. Complete Construction of Interceptor Connection Relief and Floatables Control at Outfall SOM01A.

As previously reported, the Authority attained substantial completion of the Interceptor Connection Relief and Floatables Control at Outfall SOM01A project on December 27, 2013, ahead of the June 2014 milestone in Schedule Seven.² The project provided a means to enlarge the connection from the City of Somerville's Tannery Brook Conduit to the Authority's interceptor system and to moderately raise the overflow weir at this connection. These improvements will provide the intended long-term level of CSO control at Outfall SOM01A once stormwater flows are removed from the Authority's system with the completion of the CAM004 sewer separation project in December 2015. The project also included the installation of an underflow baffle that controls the release of floatable materials in remaining discharges.

2. Commence Construction of Control Gate and Floatables Control at Outfall MWR003 and MWRA Rindge Avenue Siphon Relief.

² Compliance and Progress Report, March 15, 2014, p. 2-3 and its Exhibit A, pp. 6 and 8.

The Authority issued the Notice to Proceed with the \$2,674,800 construction contract for the Gate, Siphon and Floatables Control at MWR003 CSO Outfall (the "MWR003 project") on August 28, 2014, in compliance with Schedule Seven. The contract completion date is October 28, 2015.

The MWR003 project is the last of the six projects in the Authority's approved long-term CSO control plan for the Alewife Brook to move into construction (four of the projects are now complete, and the City of Cambridge's construction of the CAM004 sewer separation project is well underway).

The MWR003 project will support attainment of the long-term levels of CSO control along Alewife Brook and upgrade the overflow hydraulic capacity at Outfall MWR003 to provide adequate system relief and control of upstream system flooding in extreme storms. The project also includes the installation of an underflow baffle in the weir structure to control the discharge of floatable materials.

The project will increase the hydraulic capacity of the Authority's Rindge Avenue Siphon, located at Outfall MWR003, which provides a hydraulic interconnection and sharing of flow between the Authority's two, parallel, Alewife Brook interceptors: the Alewife Brook Sewer ("ABS"), constructed in 1893, and the Alewife Brook Conduit ("ABC"), constructed in 1949, to provide hydraulic relief to the ABS and upgrade service to the communities of Somerville, Cambridge, Arlington and Belmont. The project will replace the existing 30-inch diameter siphon with a 48-inch siphon at a lower elevation, allowing a greater transfer of flow between the interceptors, especially wet

weather flow. This has the intended benefit of optimizing the hydraulic performance of the ABS and ABC to help lower CSO discharges.

The Rindge Avenue Siphon also serves to carry overflows from the ABS to the ABC and to Outfall MWR003 in larger storms, and upgrading the siphon will provide a higher overflow capacity at Outfall MWR003 that is necessary in part to compensate for the planned closing of nearby Outfall CAM004 with completion of the CAM004 sewer separation project in December 2015. The project will also replace the existing static overflow weir at the outfall with an automated, electric-powered weir gate that in its lowered position will further increase overflow capacity to mitigate upstream system flooding. The weir gate will be programmed to drop when metered flow levels in the Authority's system approach critical levels, while maintaining the higher overflow elevation in most storms to attain the long-term level of CSO control.

The MWR003 project is located mostly on land under the control of the Department of Conservation and Recreation ("DCR") within its Alewife Brook Reservation. In addition to a DCR construction permit, the Authority has secured an Order of Conditions from the Cambridge Conservation Commission and license agreements with the MBTA and a private property owner for rights of entry for the portions of work within their properties, including the MBTA Alewife Station.

The Authority reported last quarter that it was also evaluating the feasibility of installing a City of Cambridge requested backflow prevention device (flap gate) upstream of the MWR003 project within a 48-inch interceptor

owned by the Authority that serves areas of Cambridge only. While the flap gate is not a component of the Authority's approved long-term CSO control plan and is not necessary to achieve the required long-term level of CSO control, Cambridge requested the flap gate be installed to enhance the hydraulic performance of the Authority and City of Cambridge sewer systems. The Authority has agreed to install the flap gate and continues to work with Cambridge to evaluate its performance under current and future hydraulic conditions to determine when the flap gate can be installed.

B. Progress Report.

1. Combined Sewer Overflow Program.

a. CSO Project Awards

The Authority would like to take this opportunity to acknowledge the recent awards bestowed upon the City of Cambridge and the Town of Brookline for CSO projects in the Authority's long-term control plan. The City of Cambridge's Alewife stormwater wetland, completed in 2013, was named a 2014 Environment Project of the Year by the American Public Works Association ("APWA") and Best Water/Environment Project in Engineering News Record ("ENR) New England's 2014 Best Projects Competition. It also received a National Recognition Award from the American Council of Engineering Companies ("ACEC") and a Gold Award in ACEC Massachusetts' 2014 Engineering Excellence Awards competition. The Town of Brookline's sewer separation project, completed in 2013, was also named a 2014

Environment Project of the Year by APWA, and received a Silver Award for Engineering Excellence from ACEC/Massachusetts and a 2014 Merit Award from ENR/New England.

b. CAM004 Sewer Separation.

Cambridge has continued to make progress with the three construction contracts that comprise the remaining work of the CAM004 sewer separation project, further advancing the construction progress of its contracts 8A, 8B and 9. Cambridge continues to manage, coordinate and sequence the work of all three contracts and related utility relocations and traffic management to bring the project to completion by December 2015 in compliance with Schedule Seven.

The \$17.7 million Contract 8A (the Authority's share is \$10.6 million) includes the separation of combined sewers in a 68-acre area immediately east of Fresh Pond Parkway, from Fresh Pond to Brattle Street. The sewer separation related work of Contract 8A is now substantially complete. Cambridge expects to continue with the surface restoration work of this contract through December 2015.

The \$31.2 million Contract 8B (the Authority's share is \$18.7 million), includes the separation of combined sewers in Huron Avenue and several intersecting streets to separate combined sewers in an 83-acre area east of the Contract 8A work area, extending as far east and north as Concord Avenue and as far south as Brattle Street. Contract 8B commenced in September 2013 and is approximately 25 percent complete. The contractor's ongoing work includes

the installation of storm drains and sewers on Huron Avenue, Blakeslee, Gurney, and Fayerweather streets and Vassal and Lincoln lanes, and the installation of lateral drains (property connections) on Reservoir Street. The contractor recently commenced the installation of storm drains on Saville Street and is performing work to remove private property inflow sources from sewers on Chilton, Fayerweather and Reservoir streets.

The contractor continues to coordinate with private utilities to relocate infrastructure in conflict with proposed storm drain and sewer installations. NStar Gas relocations are extensive, and related schedule delays, in part due to severe winter conditions, have compromised the contractor's original schedule. Contract 8B holds the contractor responsible for two schedule milestones: Milestone 1 - completion of all CSO-related work by September 20, 2015, and Milestone 2 - completion of the other contract work, including surface restoration, by September 19, 2016. The CSO-related work must be complete at least three months before the Court milestone (December 2015), to allow follow-up CSO work in Contract 9 to be complete by December 2015. Cambridge recently reported to the Authority that the contractor's schedule had slipped by three months primarily due to delays with NStar Gas' relocation of gas lines last winter and beyond. Cambridge requested and recently received a recovery schedule by which the contractor proposes to meet the Milestone 1 work on schedule (September 2015) by concentrating on sewer and drain installations and postponing surface restoration work. The recovery schedule also calls for a 103-day contract extension, shifting Milestone 2 (non-CSO

work) from September 2016 to December 2016 while maintaining the completion date for the CSO control related Milestone 1 date of September 2015.

Cambridge's preliminary estimate of the total cost impact of the recovery schedule is approximately \$1.5 million, which includes the contractor's additional costs for temporary road and sidewalk paving and the work extension, as well as extended engineering services during construction and police details. The Authority has authorized Cambridge to pursue change order and amendment negotiations with its contractor and its engineering consultant to implement the contract recovery schedule and achieve completion of the CSO related work in accordance with the Court schedule.

The \$24.2 million Contract 9 (the Authority's share is \$7.1 million), includes the separation of 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. Contract 9 commenced in February of this year and is 15 percent complete.

In the past quarter, the contractor continued with the excavation of exploratory test pits at various locations and the installation of water lines, sewers and storm drains along Concord Avenue and Fayerweather and Saville streets. NStar Gas is relocating gas mains ahead of sewer and drain work. Cambridge expects Contract 9 to be substantially complete by December 2015, in compliance with Schedule Seven, assuming effective implementation of the

Contract 8B recovery schedule. Cambridge expects the surface restoration work of this contract to continue through August 2016.

Cambridge plans to substantially complete the CAM004 sewer separation by December 2015 in compliance with Schedule Seven. The schedule for remaining work is tight, and potential cost and schedule risks remain with regard to limited in-state landfill space for soil disposal, coordination with private utilities, traffic management and weather.

c. Concord Lane.

As previously reported, Cambridge was unable to include in Contract 9 the originally planned contract work along Concord Lane, a short private way serving commercial properties, because Cambridge had been unable to secure right of entry onto the property for design investigations. With assistance from the Authority, Cambridge has since secured rights of entry that have allowed it to complete field, utility and building surveys, soil borings and the installation and monitoring of observation wells. Completion of these field investigations has allowed Cambridge to design the Concord Lane sewer separation improvements, and it recently completed the 60 percent design plans.

Cambridge plans to meet soon with the property owner to review the design plans and negotiate a final right of entry for construction. Cambridge may bid the Concord Lane work under a separate construction contract or include the work in an ongoing contract by change order. Cambridge is confident that either approach will allow it to complete the Concord Lane

construction and all other CAM004 sewer separation construction by the December 2015 milestone.

d. Reserved Channel Sewer Separation.

As previously reported, Boston Water and Sewer Commission ("BWSC") has completed four of the nine planned contracts for the \$68.9 million Reserved Channel Sewer Separation project - the \$4.0 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 \$1.3 million Contract 7, which was the first of two sequential pavement restoration contracts; and the \$11.8 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 continues to make progress with construction of the \$12.8 million Contract 3B for sewer separation in a 66-acre area of South Boston approximately bounded by East First Street, N Street, East Third Street and Dorchester Street, and including Elkins Street and Summer Street to the edge of the Reserved Channel. In the past quarter, BWSC's contractor completed 12-inch and 18-inch storm drains on Summer Street at East First Street and a 12-inch sewer on L Street between East Second Street and East Third Street. The contractor also continued with the installation of a 24-inch drain and an

8-inch water main on East Second Street from L Street to M Street and a 12-inch drain and an 8-inch water main on East Third Street from L Street to M Street. The contractor has commenced the installation of a 15-inch sewer and a 12-inch water main on Summer Street, as well as an 18-inch drain on East First Street from Summer Street to M Street. Contract 3B is approximately 93 percent complete, and BWSC expects to attain substantial completion of this contract by the end of 2014.

BWSC also continues to make progress with construction of the \$11.4 million Contract 4 for sewer separation in two areas totaling 182 acres tributary to outfalls BOS076, BOS078 and BOS079. One of the two areas lies south of the Reserved Channel and is approximately bounded by G Street, East Third Street, N Street, Emerson Street and East Fourth Street. The second area lies west of the Reserved Channel, close to the Boston Convention and Exposition Center ("BCEC"), and is approximately bounded by the Reserved Channel, West Broadway, G Street and the BCEC.

In the past quarter, BWSC's contractor completed installation of a 12-inch storm drain on I Street between East Fourth Street and East Fifth Street, a 15-inch drain on East Broadway from Emerson Street to H Street, and a 16-inch water main on L Street between East Third Street and East Broadway. Work continued with the installation of a 48-inch drain on L Street between East Third Street and East Broadway. The contractor also commenced the installation of a 15-inch sewer, a 12-inch drain and an 8-inch water main on Emerson Street from K Street to East Broadway. Contract 4 is approximately

80 percent complete, and BWSC expects to attain substantial completion of this contract in early 2015.

Contract 8 is the second of two pavement restoration contracts that follow the work of the various sewer separation contracts (contracts 3A, 3B and 4) as sections of work are completed. Contract 8 will continue to follow the sewer separation work of Contracts 3B and 4 through April 2016.

BWSC awarded the \$661,442 Contract 6 in January 2014. Contract 6 involves the disconnection of building downspouts in the Reserved Channel area. BWSC has not issued the notice to proceed for this contract and has transferred and performed some of the Contract 6 disconnection work in Contracts 3A and 4. BWSC continues to reevaluate whether the remaining downspout disconnections should remain in Contract 6 or be performed under other contracts. All of the work is expected to be complete by December 2015.

BWSC awarded the \$4.8 million Contract 5 (the last Reserved Channel contract) in February 2014. Contract 5 involves the rehabilitation of pre-existing sewers in the Reserved Channel area. Construction began in May 2014 with the cleaning of various sewers, point repairs and replacement manhole installations. The cleaning work and TV inspections of this contract are approximately 65 percent complete. BWSC's contractor has lined sanitary sewers on L Street from East Broadway to East Fourth Street and on East Fourth Street. The contractor has completed sewer point repairs on L Street. BWSC expects to substantially complete the Contract 5 work by November 2015.

BWSC expects to complete all work in the nine Reserved Channel sewer separation contracts by December 2015 in compliance with Schedule Seven.

Respectfully submitted,

/s/ Jonathan M. Ettinger
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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 15, 2014.

/s/ Jonathan M. Ettinger
Jonathan M. Ettinger (BBO #552136)
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Dated: September 15, 2014

SCHEDULE SEVEN

MWRA MONTHLY COMPLIANCE REPORT
Schedule Seven Milestones for June and August 2014

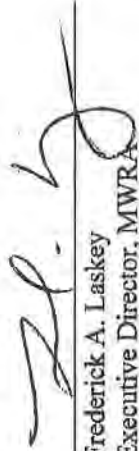
EXHIBIT "A"
NEW BOSTON HARBOR
SECONDARY
TREATMENT PLANT

LONG-TERM
SLUDGE MANAGEMENT

MONTH/YEAR **CSO CONTROL**

- June 2014 MWRA to complete construction of interceptor connection relief and floatables control at outfall SOM01A.
(Completed – See September 15, 2014 Compliance and Progress Report.)
- August 2014 MWRA to commence construction of control gate and floatables control at outfall MWR003, and MWRA Rindge Avenue Siphon relief.
(Completed – See September 15, 2014 Compliance and Progress Report.)

Certification of Completed Activities

By: 
Frederick A. Laskey
Executive Director, MWRA

Date: September 15, 2014