

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, 2006

The Massachusetts Water Resources Authority (the "Authority") submits the following quarterly compliance report for the period from June 16, 2006 to September 15, 2006 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 status report for the scheduled activities for the months of June, July and August 2006 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. Resume Design of Interceptor Relief for BOS 003-014.

On June 15, 2006, the Authority issued the notice to proceed to resume design services of interceptor relief for BOS 003-014, in compliance with Schedule Seven. The project is intended to relieve the Authority's interceptor sewer system in East Boston, increasing its capacity to convey wet weather flows and control combined sewer overflow ("CSO") discharges in accordance with the Authority's long-term control plan.

The original project included three construction contracts, the first of which was completed in 2004. The Authority suspended design work on the second and third contracts in 2002, due to the need for a project reassessment. The design services included in this milestone are a continuation of the previous design work that was suspended in 2002.¹

The completed construction contract involved the rehabilitation of the main trunk line along Chelsea and Bremen streets. The second construction contract involves installation of a new sewer interceptor along Border, Condor,

¹ See Compliance and Progress Report for December 15, 2005, pp. 4-5; and Special Report Concerning Construction of Interceptor for BOS 003-014 submitted April 26, 2002.

East Eagle and Chelsea Streets and also along Marginal, Orleans and Bremen Streets, primarily using microtunneling methods. The third contract involves replacing and upgrading interceptors in upstream areas primarily using “pipe bursting” methods. In a typical year, the project is predicted to reduce the number of CSO discharges at ten Boston Water and Sewer Commission (“BWSC”) outfalls in East Boston from 31 to six and the overflow volume from 41 million gallons to 8.6 million gallons.

Since commencement of the new design services in June, the Authority’s consultant has completed design work plans and schedules, including preliminary geotechnical and hazardous materials work plans. Key work scheduled to be completed in the next quarter includes wetlands field surveys, system inspections, and geotechnical and hazardous materials field investigations.

2. Commence Design of Reserved Channel Sewer Separation.

On July 31, 2006, BWSC issued the notice to proceed with the design contract for the Reserved Channel sewer separation project, in compliance with Schedule Seven. The contract calls for the design consultant to complete the preliminary design report by December 2007, commence final design by January 2008 and assist BWSC in awarding the construction contract by May 2009.

The Reserved Channel sewer separation project is predicted to bring Reserved Channel CSO discharges into compliance with the Class SB^{CSO} water

quality classification by reducing the number of CSO discharges to the channel from 37 to three and the overflow volume from 41.3 million gallons to 1.5 million gallons in a typical year. The project involves separation of combined sewers in a 355-acre area along and near the Reserved Channel in South Boston. Under the CSO Memorandum of Understanding and Financial Assistance Agreement between the Authority and BWSC, BWSC will implement the project, and the Authority will fund eligible costs, which are estimated at \$57.4 million.

3. Commence Construction of North Dorchester Bay Storage Tunnel and Related Facilities.

On August 31, 2006, the Authority issued the notice to proceed with the construction contract for the North Dorchester Bay CSO Storage Tunnel, in compliance with Schedule Seven. The Authority received bids from three bidders and awarded the contract to the lowest responsible and eligible bidder, in the award amount of \$145,733,208 for a contract term of 1,193 days.

The construction contract (North Dorchester Bay CP-2) is the second of three Authority contracts, along with the BWSC Morrissey Boulevard Storm Drain project, that implement the Authority's long-term CSO control plan for the beaches of South Boston. In March 2006, the Authority completed construction of the Pleasure Bay Storm Drain Improvements (North Dorchester Bay CP-1), which eliminated wet weather discharges to Pleasure Bay. The Authority plans to award the third and last construction contract, North Dorchester Bay CP-3, which will include construction of the storage tunnel

related dewatering pump station, force main and remote odor control facility, in 2008. The Authority plans to complete construction of CP-3 and bring the storage tunnel and related facilities on-line by May 2011, in compliance with Schedule Seven.

Last month, the Authority received qualification statements from engineering firms seeking to perform the final design services for the dewatering pump station, force main and remote odor control facility (North Dorchester Bay CP-3). The Authority plans to award the final design contract this November.

The Authority also has made considerable progress toward securing remaining construction permits, easements and other approvals for the storage tunnel plan. On June 7, the Authority executed an easement agreement with Massport for temporary easements for use by the CP-2 and CP-3 contractors as construction staging areas and for a long-term lease of a one-acre portion of Conley Terminal for the dewatering pump station. The Authority also completed a license agreement with Massport in August 2006 for use of a 1.4-acre portion of Massport's parking lot on nearby Fargo Street for use by the CP-2 contractor as a construction staging area. Massport has moved its equipment from this area to make the space available to the Authority's contractor.

On August 1, the legislation authorizing the City of Boston and the Commonwealth of Massachusetts to grant sewer and drainage easements over parcels of parkland pursuant to Article 97 of the General Laws to construct

and operate the storage tunnel and appurtenant infrastructure was approved. The Authority also made significant progress with the City of Boston Public Improvement Commission to obtain a license, maintenance, and indemnification agreement for CP-2 work within City of Boston rights-of-way.

The recent award of the storage tunnel contract is a significant milestone toward achieving the long held goals of the Authority, the United States Environmental Protection Agency, the Massachusetts Department of Environmental Protection ("DEP") and the public to improve Boston's swimming beaches and shellfish beds. This project is the largest and most complex component of the Authority's capital improvement program scheduled over the next ten years. The North Dorchester Bay CSO control plan will provide a 25-year level of CSO control. It will also prevent stormwater discharges in all but the most extreme storms and will intercept any dry weather contamination that may be reaching the beaches through the seven CSO and stormwater outfalls that have discharged to the South Boston beaches for more than 100 years.

B. Activities Not Completed.

1. Commence Design of CAM 400 Manhole Separation, CAM 002, CAM 401B, SOM 01A, and CAM 001 Interceptor Connection Relief and Floatables Control.

As reported last quarter, the City of Cambridge was unable to move forward with construction of the new stormwater outfall and stormwater wetland due to the pendency of the citizens' appeal of a Superseding Order of

Conditions that was issued by DEP pursuant to the Wetlands Protection Act.² Because of the appeal, the Authority was unable to meet the July 2006 milestones to commence design of CAM400 manhole separation, and CAM 002, CAM 401B, SOM 01A, and CAM 001 interceptor connection relief and floatables control, in accordance with Schedule Seven. The Authority was informed today that, in the Cambridge wetlands appeal, a lengthy administrative decision has been issued upon the City's motion for summary decision. The filing deadline for this report does not leave the Authority with sufficient time to analyze the implications of that decision upon the schedule for this project. The Authority will obtain a copy of the decision and report its implications on the schedule in its next Compliance and Progress Report.

C. Progress Report.

1. Combined Sewer Overflow Program.

(a) BOS019 Storage Conduit.

The Authority's contractor for the BOS019 storage conduit has installed all pre-cast and cast-in-place conduit sections and completed backfilling over the double barrel storage conduit. The contractor has also completed installing soldier piles needed to provide support during the excavation of the diversion chamber in the middle of Chelsea Street. The contractor also completed

² See Compliance and Progress Reports dated June 15, 2006, pp. 6-7; March 15, 2006, pp. 5-6; December 15, 2005, pp. 6-7; September 15, 2005, pp. 8-9; June 15, 2005, pp. 10-11; December 15, 2004, pp. 10-12; and September 15, 2004, pp. 6-7 for previous reports on the wetland permitting issue.

installing the cast-in-place concrete sections for the base of the dewatering pump station and placing the forms for erection of the pump station walls.

The project is now 70 percent complete and is scheduled for substantial completion in March 2007. This is the date the Authority reported to the Court prior to award of the contract.³ The substantial completion date is six months later than the corresponding milestone in Schedule Seven.

(b) Stony Brook Sewer Separation.

Stony Brook sewer separation is intended to minimize CSO discharges into BWSC's Stony Brook Conduit, which drains to the Charles River Basin. BWSC commenced construction in July 2000 and has completed construction of three of the four sewer separation contracts. The fourth contract is approximately 97-percent complete. BWSC has installed a total of 72,773 linear feet of new storm drains, and the project is approximately 99-percent complete overall. As previously reported, the major downspout disconnection contract in the Stony Brook project area is complete.⁴ BWSC expects to complete all work necessary to implement the sewer separation project and accomplish the intended CSO control goals this month, in compliance with Schedule Seven. BWSC will then continue its street restoration work (paving) and its field monitoring and hydraulic analyses to

³ See Compliance and Progress Reports for June 15, 2005, pp. 2-3; and December 15, 2004, pp. 12-13.

⁴ See 2005 CSO Annual Report, pp. 30-32.

verify the performance of the separated systems and the attainment of the CSO control goals.

(c) Union Park Detention and Treatment Facility.

This contract is 95-percent complete with construction of the Union Park detention and treatment facility. During the last quarter, the contractor installed three 5,000-gallon chemical storage tanks and all chemical pumps and chlorine analyzers. All major equipment was installed in the hydraulics room including the final instrumentation rack. The contractor also completed the installation of all major equipment in the new CSO building, the detention storage tanks and the pump station. The contractor is currently focusing its efforts on completing the electrical work in the chemical feed room as well as completing HVAC ductwork and insulation, plumbing, fire protection, process piping and finish work of dry wall, kitchen fixtures and bathroom fixtures.

In recent weeks, it has come to light that there were errors or omissions in the design of power and controls of the chemical feed system that controls the chlorination and dechlorination process and that a change order was required. Due to this change, it will take an additional four months to complete the physical work on the chemical systems, functional testing and startup of this portion of the facility. To mitigate the impacts of this delay, the Authority intends to commence partial utilization of the detention basins and fine screens at the end of December so that an incremental improvement in CSO discharge quality can be achieved. The Authority intends to use the

storage basins during wet weather to store up to 2.2 million gallons of flow which will be pumped back into the sewer system after the wet weather has subsided, thereby reducing the frequency and amount of CSO discharges. The Authority will begin testing of the disinfection and dechlorination system (during wet weather providing varying levels of disinfection and dechlorination) on approximately January 1, 2007, with substantial completion of all work by April 26, 2007 at which time the Authority will commence the start-up period provided for in footnote 35 of Schedule Seven.⁵

(d) Brookline Connection and Cottage Farm Overflow Chamber Interconnection and Gate.

On September 13, 2006, the Authority's Board of Directors authorized award of the design contract for the Cottage Farm Brookline Connection and Inflow Controls project. The project is intended to minimize treated discharges at the Cottage Farm CSO facility by controlling overflows into the facility, increasing flow conveyance to the Ward Street Headworks, and using upstream storage capacity in the North Charles Metropolitan and Metropolitan Relief Sewers in Cambridge. As part of the project, the Authority plans to place into service a currently unused 54-inch "Brookline Connection" that crosses beneath the Charles River from the Cottage Farm facility to the South Charles

⁵ Footnote 35 states that "Completion of construction will be followed by a period of start-up and systems optimization consisting of five activations of at least four hours duration each, which is to culminate in the consistent achievement of effective treatment of flows, as defined by NPDES permit requirements."

Relief Sewer on the Brookline side. The Authority also plans to develop gate controls and a control system to optimize the operation of the existing Cottage Farm influent gates, install an interconnection between the two overflow chambers outside the Cottage Farm facility, and optimize the overflow weir settings within the chambers. The Authority plans to issue the notice to proceed with the design services later this month, in compliance with Schedule Seven.

(e) Quarterly CSO Progress Report.

In accordance with Schedule Seven, the Authority submits as Exhibit "B" its Quarterly CSO Progress Report (the "Report"). The Report summarizes progress made in design and construction on the CSO projects during the past quarter and identifies issues that affect or may affect compliance with Schedule Seven.

(f) Independent State Auditor's Report.

On September 14, 2006, the Auditor of the Commonwealth issued its independent report on the status of the Authority's CSO program as of December 2005. The objective of the audit report was to ascertain the status of the Authority's efforts to manage the Court-ordered CSO program in a timely and cost-effective manner. A copy of the press release is attached as Exhibit "C," and a copy of the report is attached as Exhibit "D."

2. Walpole Landfill Site.

As previously reported, State Senator Timilty filed legislation permitting the Authority to enter into a license agreement with the Town of Walpole for the use of a portion of the Authority's Walpole landfill site for recreational purposes.⁶ The legislation was approved on August 9, 2006. A copy of the legislation is attached as Exhibit "E." The Authority is currently drafting the terms of the license agreement and plans to file a final draft with the Court as part of a future Compliance and Progress Report.

By its attorneys,

/s/ John M. Stevens

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⁶ See Compliance and Progress Reports dated June 15, 2006, p. 13; and March 15, 2006, pp. 7-8.

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, 2006:

/s/ John M. Stevens
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Dated: September 15, 2006

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