

UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS

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UNITED STATES OF AMERICA,

Plaintiff,

v.

METROPOLITAN DISTRICT COMMISSION,
et al.,

Defendants.

.....

CONSERVATION LAW FOUNDATION OF
NEW ENGLAND, INC.,

Plaintiff,

v.

METROPOLITAN DISTRICT COMMISSION,

Defendants.

.....

CIVIL ACTION
No. 85-0489-RGS

CIVIL ACTION
No. 83-1614-RGS

MWRA QUARTERLY COMPLIANCE AND
PROGRESS REPORT AS OF DECEMBER 15, 2014

The Massachusetts Water Resources Authority (the "Authority") submits the following quarterly compliance report for the period from September 16, 2014 to December 15, 2014 and supplementary compliance information in accordance with the Court's order of December 23, 1985 and subsequent orders of the Court.

I. Schedule Seven.

There were no scheduled activities for the past quarter on the Court's Schedule Seven.

A. Progress Report.

1. Combined Sewer Overflow Program.

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

As reported last quarter, 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 project on August 28, 2014, in compliance with Schedule Seven. The contract completion date is October 28, 2015.

The project is intended to improve the hydraulic performance of the Authority's interceptor system (Sections 43 and 177) and Outfall MWR003 to help attain long-term levels of control for CSO discharges to Alewife Brook.

The contract includes replacement of the static weir at Outfall MWR003 with an automated gate/weir, replacement of the Authority's Rindge Avenue overflow siphon with a larger pipe for greater capacity (from 30-inch diameter to 48-inch diameter), and installation of an underflow baffle to control floatable materials in remaining CSO discharges. The contract also includes rehabilitation of a section of the Authority's Alewife Brook Sewer, Section 43, by installation of a cured-in-place liner, and removal of a long-abandoned sewer that lies under Alewife Brook.

The Authority's contractor is on schedule and has completed approximately 12 percent of the construction contract since the Notice to Proceed on August 28. Much of the contractor's work to date has involved contract-required technical submissions, mobilization, and preconstruction preparation of the site. Site preparation included the installation of environmental controls, the conduct of site surveys to establish benchmarks and structural monitoring points, clearing and grubbing of an invasive species (knotweed) in compliance with the project's wetlands permit, and the cleaning and internal video inspection of sewer pipes slated for rehabilitation.

The contractor also recently completed the installation of a temporary access bridge over the small Alewife Brook, to be able to move equipment between the construction areas on each side of the brook. The contractor chose to use a temporary bridge in lieu of moving heavy equipment over the relatively new Department of Conservation and Recreation ("DCR") bridge that carries DCR's Fitchburg Cutoff Bikepath across Alewife Brook. In addition, the contractor has completed the construction of an 8-foot diameter manhole that will join sections of the new 48-inch diameter siphon pipe, has recently begun driving steel sheeting for support of excavation for the 48-inch pipe, and has completed the installation of bulkheads on the abandoned sewer pipe section that will be removed.

b. CAM004 Sewer Separation.

Cambridge continues to make progress with construction contracts 8A, 8B and 9 and expects to award the construction contract for sewer separation

work on Concord Lane by February 2015. Cambridge continues to manage, coordinate and sequence the work for contracts 8A, 8B and 9 and related utility relocations and traffic management to control construction impacts and bring the project to completion by December 2015 in compliance with Schedule Seven.

The \$17.8 million Contract 8A, of which the Authority's share is \$10.5 million, includes the separation of combined sewers in a 68-acre area immediately east of Fresh Pond Parkway, from Fresh Pond to Brattle Street. As previously reported, the sewer separation work of Contract 8A is substantially complete. Cambridge now expects that the contract's ongoing surface restoration work and environmental improvements, including porous pavements, stormwater bio-basins, and trees and other plantings, will continue through June 2015.

The \$31.2 million Contract 8B, of which the Authority's share is \$17.8 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.

In the past quarter, Cambridge's contractor completed sewer and drain work on Lincoln Lane and drain work on Dunstable Road. The contractor's ongoing work includes the installation of storm drains and sewers on Appleton Street, Blakeslee Street, Fayerweather Street, Huron Avenue, and Vassal Lane. The contractor also made progress with the installation of storm drain laterals

(property services) on Fayerweather Street, Huron Avenue and Royal Avenue, as well as water main work on Fayerweather and Vassal Lane.

As reported last quarter, delays with the NStar Gas relocations, which were extensive and were affected by severe winter conditions last season, compromised the contractor's original schedule and led to the need for a recovery schedule. The contractor's recovery schedule and related cost increases have been approved by Cambridge and the Authority and implemented by the contractor. Cambridge issued a construction change order #2 in September to effect the recovery schedule. The schedule now re-sequences the remaining work to allow the contractor to complete Contract 8B's "Milestone 1" work (CSO-related work, primarily sewer and drain installations) by the original contract milestone of September 20, 2015, and extends the contract term by 103 days, shifting Milestone 2 (non-CSO work, primarily surface restoration) from September 2016 to December 2016.

The CSO-related work of Contract 8B must be complete by September 2015 to allow a 3-month window for the Contract 9 contractor to complete subsequent, related sewer and storm drain work by December 2015 in compliance with Schedule Seven. Since September, NStar Gas has completed the necessary gas line relocations in the Contract 8B area and has been meeting the recovery schedule. The CSO related (Milestone 1) work in Contract 8B is approximately 77 percent complete. While Cambridge believes that the contractor's ongoing progress allows for attainment of Milestone 1 by September 2015 and completion of the CAM004 sewer separation project by

the Schedule Seven milestone, the contract schedule has no float, and Cambridge and the Authority are paying close attention to constructed facilities progress against contract time in reviewing the contractor's monthly reports.

The \$24.4 million Contract 9, of which the Authority's share is \$5.8 million, involves the separation of combined sewers in a 60-acre area north of sections covered by 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.

In the past quarter, the contractor completed sewer and drain installations on Concord Avenue and Fayerweather Street and water line installation on Corporal Burns Street, and continued with sewer and drain installations on Copley Street and Walden Street. The contractor also is constructing new catch basins on Copley Street, Fayerweather Street and Walden Street. NStar Gas has been relocating gas mains ahead of sewer and drain work, with relocations remaining to be done only on Garden Street.

The CSO related work in Contract 9, including sewer and storm drain installations, is approximately 58 percent complete. Cambridge expects Contract 9 to be substantially complete by December 2015, in compliance with Schedule Seven, assuming continuing effective implementation of the Contract 8B recovery schedule. Cambridge expects to continue the surface restoration work of Contract 9 through August 2016.

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 in the Fresh Pond Mall, because Cambridge had been unable to secure right of entry (ROE) onto the property for design investigations. Since securing ROE#1, for site surveys, and ROE#2, for soil borings and installation of groundwater observation wells, by last summer, Cambridge was able to complete final design of the sewer separation on Concord Lane and advertised the construction contract for bids on December 10, 2014. The bid opening is scheduled for January 15, 2015, and the third and final ROE, for construction activities on Concord Lane, is scheduled to be executed by the property owner, the City and the contractor, once the contract is awarded. Cambridge expects to complete the Concord Lane construction and all other CAM004 sewer separation construction by the December 2015 milestone in Schedule Seven.

d. Reserved Channel Sewer Separation.

On November 12, 2014, the Authority's Board of Directors approved Amendment 15 to the CSO Memorandum of Understanding and Financial Assistance Agreement with Boston Water and Sewer Commission ("BWSC") (the "MOU/FAA"), increasing the Authority's cost for the Reserved Channel sewer separation project by \$3.7 million, to \$72.6 million. Amendment 15 increases the total award amount of the MOU/FAA to \$296.3 million, for the

ten projects in the Authority's long-term CSO control plan BWSC is implementing.

As previously reported, BWSC has completed four of the nine planned contracts for the 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's contractor for construction of the \$12.8 million Contract 3B recently attained substantial completion. Contract 3B involved 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. Remaining work by the contractor is limited to the removal of drainage connections from three additional buildings identified during construction and the completion of punch list items.

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. Contract 4, the last of the major sewer separation construction contracts for this project, is approximately 88 percent complete.

In the past quarter, BWSC’s contractor completed installation of a 36-inch sewer and 48-inch and 30-inch storm drains on L Street and a 15-inch storm drain on C Street. Work continued with the installation of a 15-inch sewer and 15-inch drain on East Fourth Street between K Street and the Tynan School, a 12-inch storm drain on Athens Street and a 15-inch storm drain on M Street. BWSC expects Contract 4 to be substantial complete in early 2015, winter weather permitting.

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 work was suspended on December 8 for the winter season and will resume in the spring. BWSC expects to complete all surface restoration work in the summer of 2015, following substantial completion of Contract 4.

BWSC awarded the \$661,442 Contract 6 in January 2014. Contract 6 involves the disconnection of building downspouts throughout the Reserved Channel sewer separation project area not included in the sewer separation

contracts. BWSC issued the notice to proceed for this contract on December 8, 2014, after transferring and performing some of the originally scoped Contract 6 disconnection work in Contracts 3B and 4. BWSC has adjusted the list of Contract 6 disconnections accordingly and is awaiting a new schedule from the contractor. BWSC expects Contract 6 work to begin in January 2015 and be complete by December 2015.

BWSC awarded the \$4.8 million Contract 5 in February 2014. Contract 5 involves the rehabilitation of pre-existing sewers in the Reserved Channel sewer separation area to provide long-term structural integrity, work that is not integral to attaining the required level of CSO control or eligible for Authority funding under the MOU/FAA. 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 80 percent complete. The lining work of this contract is 25 percent complete. Lining of sewers on West Broadway is complete. The contractor plans to suspend work in January for the winter and resume work in the spring. BWSC expects Contract 5 to be substantially complete by November 2015.

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

e. Storm of December 9, 2014.

Beginning in the late morning of December 9 and continuing through early evening, over a period of approximately nine hours, a severe northeaster

drenched the Authority's service area with approximately 3.5 to 4.8 inches of rain. The intensity and amount of rainfall caused widespread flooding and sewer system overflows, including large CSO discharges. Antecedent conditions, including heavy rain during the previous weekend and frozen ground conditions, contributed to the impacts of the northeaster. Most of the CSO volume discharged from the Authority's and member community systems was treated at the Authority's four CSO treatment facilities, which remained staffed and operational during the entire storm. The South Boston CSO storage tunnel performed as intended; it not only prevented any CSO discharge to the South Boston beaches but also captured separate stormwater through most of the event. With the forecast of a severe storm, the Authority closed the stormwater gate to the tunnel at Outfall BOS087 after capturing the first one million gallons of flow, sending the remaining stormwater to Savin Hill Cove, as prescribed, but kept all of the other stormwater gates for outfalls BOS081-82 and BOS084-86 open until approximately 5:30 P.M., when the Authority closed these stormwater gates to ensure that there was enough capacity in the tunnel to capture all CSO flows thereby preventing any CSO discharge to the beaches.

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 December 15, 2014.

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Dated: December 15, 2014