

1 DISTRICT OF MASSACHUSETTS

2
3 CIVIL ACTION NO. 85-489-RGS

4
5 UNITED STATES OF AMERICA

6
7 v.

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9 METROPOLITAN DISTRICT COMMISSION, et al.

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12 CIVIL ACTION NO. 83-1614-RGS

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14 CONSERVATION LAW FOUNDATION
15 OF NEW ENGLAND, INC.

16
17 v.

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19 METROPOLITAN DISTRICT COMMISSION

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22 SCHEDULE SEVEN COMPLIANCE ORDER NUMBER 251

23
24 May 20, 2022

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26 STEARNS, D.J.

27 On April 29, 2022, the Massachusetts Water Resources Authority
28 (MWRA) submitted its Annual Report for the Calendar Year 2021. As had
29 been previously noted by the court in its February 18, 2022 Compliance
30 Order Number 250, the December 30, 2021 filing of the *Final Combined*
31 *Sewer Overflow Post Construction Monitoring Program and Performance*
Assessment Report satisfied the last of the Schedule Seven Compliance
Milestones then in place. In Compliance Order 250, the court approved a

32 six-part framework amendment to Schedule Seven proposed by the parties.
33 The amendment essentially extended Schedule Seven for three years to
34 permit planned improvements to bring six outfalls into compliance that had
35 not achieved expected performance levels and to investigate the remaining
36 ten outfalls that the MWRA deemed problematic. There is no need for the
37 court to repeat its previous observations about either the impressive results
38 achieved by the Long-Term Control Plan (LTCP) in reducing untreated
39 Combined Sewage Overflow (CSO) discharges in a Typical Year.¹ Nor is there
40 a need to rehearse again the difficulties encountered with the ten problem
41 outfalls other than to note that the MWRA, working with the Boston Water
42 and Sewer Commission, is optimistic that appropriate solutions for
43 performance issues will be found for at least BOS017 in Charlestown, and
44 BOS062, BOS065, and BOS070 on the Fort Point Channel.

45 Rather, focusing on developments during the last four months (apart
46 from the negotiations discussed in Compliance Order 250 that led to the
47 amendment of Schedule Seven), the court notes the commendable efforts
48 being made by the MWRA to work with and solicit the views of affected Town
49 officials and interested watershed advocacy groups. It also appreciates and

¹ The court acknowledges that calendar year 2021 did not fit the profile of a Typical Year given an atypical number of extreme rain events, particularly during the summer months.

50 encourages the efforts being made to find economically feasible engineering
51 solutions to problems at the six incorrigible (for the time being) outfalls. The
52 court is confident that the MWRA's efforts will ultimately prove successful in
53 optimizing their performance.

54 ORDER

55 The MWRA will submit its next Compliance Report in accordance with
56 the revised schedule. The court retains the right to order interim reports
57 with respect to work being performed on specific outfalls as the year
58 progresses.

59 SO ORDERED.

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61 /s/ Richard G. Stearns
62 UNITED STATES DISTRICT JUDGE