

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

SECOND STIPULATION OF THE UNITED STATES
AND THE MASSACHUSETTS WATER RESOURCES AUTHORITY
ON RESPONSIBILITY AND LEGAL LIABILITY FOR
COMBINED SEWER OVERFLOW CONTROL

The Massachusetts Water Resources Authority ("Authority") and the
United States, on behalf of the Environmental Protection Agency ("EPA"),
hereby agree and stipulate as follows:

1. The purpose of this Second Stipulation of the United States and the Massachusetts Water Resources Authority on Responsibility and Legal Liability for Combined Sewer Overflow Control (“Second Stipulation”) is to terminate the February 27, 1987, Stipulation of the United States and the Massachusetts Water Resources Authority on Responsibility and Legal Liability for Combined Sewer Overflows (the “1987 Stipulation”) and replace it with this Second Stipulation that reflects developments and progress in the control of combined sewer overflow (“CSO”) discharges to Boston Harbor and its tributaries that have taken place since 1987. The 1987 Stipulation shall remain in effect until this Second Stipulation goes into effect. This Second Stipulation shall take effect, and the 1987 Stipulation shall terminate, upon approval by the Court in the above-captioned action of the Joint Motion of the United States and the Massachusetts Water Resources Authority To Amend Schedule Six with Respect to The Charles River, Alewife Brook and East Boston.

2. The Authority’s Long-Term Combined Sewer Overflow (“CSO”) Control Plan (“LTCP”) presently consists of the Authority’s July 31, 1997, Final Combined Sewer Overflow Facilities Plan and Environmental Impact Report (the “1997 Facilities Plan”), as modified by the planning documents identified in the attached Exhibit “A,” entitled, MWRA Long-Term CSO Control Plan Facilities Planning Documentation.

3. The CSO outfalls that are the subject of the Authority’s LTCP include the outfalls listed in Exhibit “B” hereto, entitled, “Summary of Typical

Year CSO Activation Frequency and Volume.” The CSO outfalls identified with the prefix “MWR” are owned or operated by the Authority. The CSO outfalls identified with a prefix “BOS,” “CAM,” “CHE,” or “SOM,” are owned and operated by member municipalities (Boston, Cambridge, Chelsea, or Somerville, respectively), except that the Union Park Pump Station (“UPPS”) is jointly operated by the Authority and the City of Boston.

4. With respect to all of the CSO outfalls within or hydraulically connected to the Authority’s sewer system, including the outfalls identified in Exhibit “B” hereto, the Authority accepts legal liability to undertake such corrective action as may be necessary to implement the CSO control requirements set forth in Schedule Six and related orders of the Court in the above-captioned action, and to meet the levels of CSO control (including as to frequency of CSO activation and as to volume of CSO discharge) described in the Authority’s Long-Term CSO Control Plan. Whether the Authority has met the levels of CSO control in its Long-Term CSO Control Plan shall be determined by the EPA and the Massachusetts Department of Environmental Protection. With respect to all CSO outfalls owned or operated by the Authority, including the CSO outfalls identified in Exhibit “B” identified with the prefix “MWR,” and including the Union Park Pump Station, the Authority also accepts legal liability to undertake such future corrective action as may be necessary to meet the CSO control requirements of the Clean Water Act, 33 U.S.C. § 1251 et seq. The Authority does not accept liability for alleged past

violations of the CSO provisions of NPDES Permit No. MA0102351 (issued in 1976 and transferred to the Authority in 1985) prior to February 27, 1987.

5. This stipulation is not intended to and does not limit the Court's power to find, or any party's right to seek, liability for past or continuing violations of federal law or to enforce compliance with that law.

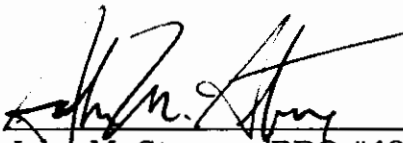
By its attorneys,

Massachusetts Water Resources
Authority

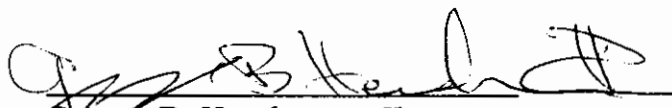
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Dated: March 15, 2006

B3131253.1

Exhibit A
to
Second Stipulation

MWRA Long-Term CSO Control Plan - Facilities Planning Documentation

Planning Document	Project	Receiving Water
Final Combined Sewer Overflow Facilities Plan and Environmental Impact Report, July 31, 1997	Hydraulic Relief for CAM005	Upper and Lower Charles River Basin
	Stony Brook Sewer Separation	
	Floatables Control at CAM007, CAM009, CAM011 and CAM017	
	Baffle Manhole Separation at SOM 001 and SOM 006-007	
	Hydraulic Relief for BOS 017 ⁽¹⁾	
	Chelsea Branch Relief Sewer	
	Trunk Sewer Relief for CHE 002-004	
	Outfall Repairs and Floatables Control at CHE 008	
	Storage Conduit for BOS 019	
	Detention/Treatment Facility at Union Park Pump Station	
The following reports supplement information in the Final CSO Facilities Plan and Environmental Impact Report, July 31, 1997	South Dorchester Bay Sewer Separation	Fort Point Channel
	Constitution Beach Sewer Separation	South Dorchester Bay
	Neponset River Sewer Separation	Neponset River
Upgrades to Existing CSO Facilities, Supplemental Environmental Impact Report, September 30, 1998	Cottage Farm Facility Upgrade	Upper Charles River Basin
	Prison Point Facility Upgrade ⁽²⁾	Upper Inner Harbor
	Somerville Marginal Facility Upgrade	Upper Mystic River; Mystic/Chelsea Confluence
Upgrades to the Fox Point CSO Treatment Facility, Supplemental Environmental Impact Report, December 31, 1998	Commercial Point Facility Upgrade	South Dorchester Bay
	Fox Point Facility Upgrade	South Dorchester Bay
Fort Point Channel CSO Storage Conduit Notice of Project Change, June 2003, and MWRA Long Term CSO Control Plan, Fort Point Channel Sewer Separation and System Optimization Project, Level of Control at CSO Outfalls BOS072 and BOS073, letter dated June 7, 2004.	Sewer Separation for BOS072 and BOS073	Fort Point Channel

**Exhibit A
to
Second Stipulation**

MMWRA Long-Term CSO Control Plan - Facilities Planning Documentation

Planning Document	Project	Receiving Water
Re-Assessing Long Term Floatables Control for Outfalls MWR018, 019 and 020, February 2001	Regionwide Floatables Controls and Outfall Closing Projects	Regionwide
Report on Re-Assessment of CSO Activation Frequency and Volume for Outfall MWR010, April 2001, and supplemental letter report (Metcalf & Eddy, Inc.), May 31, 2001	Sewer Separation at CAM004 and CAM400	Alewife Brook
Final Variance Report for Alewife Brook and the Upper Mystic River, July 2003, and supplemental letter report (Metcalf & Eddy, Inc.), July 8, 2003	Interceptor Connection Relief and Floatables Control at CAM002, CAM401B and SOM01A, and Floatables Control at CAM001 and CAM401A	
East Boston Branch Sewer Relief Project Reevaluation Report, February 2004	Control Gate/Floatables Control at Outfall MWR003 and MWRRA Rindge Avenue Siphon Relief	
Recommendations and Proposed Schedule for Long-Term CSO Control for the Charles River, Alewife Brook and East Boston, August 2, 2005	Interceptor Relief For BOS003-014	Mystic/Chelsea Confluence; Upper and Lower Inner Harbor
Supplemental Facilities Plan and Environmental Impact Report on the Long-term CSO Control Plan for North Dorchester Bay and Reserved Channel, April 27, 2004	North Dorchester Bay Storage Tunnel and Related Facilities Pleasure Bay Storm Drain Improvements Morrissey Boulevard Storm Drain Reserved Channel Sewer Separation	North Dorchester Bay Reserved Channel
Recommendations and Proposed Schedule for Long-Term CSO Control for the Charles River, Alewife Brook and East Boston, August 2, 2005, and MMWRA Revised Recommended CSO Control Plan for the Charles River, Typical Year CSO Discharge Activations and Volumes, November 15, 2005.	Brookline Connection, Cottage Farm Overflow Chamber Interconnection and Cottage Farm Gate Control Brookline Sewer Separation Bulfinch Triangle Sewer Separation Charles River Valley/South Charles Relief Sewer Gate Controls Evaluation of Additional Charles River Interceptor Interconnection Alternatives	Upper and Lower Charles River Basin Reserved Channel

⁽¹⁾ Also "MMWRA Long-Term CSO Control Plan Target CSO Activation Frequency and Volume by Outfall," letter dated December 9, 2005; "MMWRA Long-Term CSO Control Plan Response to Additional EPA Questions Regarding Prison Point Discharges," letter dated January 9, 2005 (2006).

⁽²⁾ Also "MMWRA Long-Term CSO Control Plan Target CSO Activation Frequency and Volume by Outfall," letter dated December 9, 2005.

Exhibit B
to
Second Stipulation

SUMMARY OF TYPICAL YEAR CSO ACTIVATION FREQUENCY AND VOLUME

OUTFALL	TYPICAL YEAR		REFERENCE (*)
	LONG TERM CONTROL PLAN 2005 (*)		
	Activation Frequency	Volume (MG)	
ALEWIFE BROOK⁽¹⁾			
CAM001	5	0.19	5
CAM002	4	0.69	5
MWR003	5	0.98	5
CAM004	To be closed	N/A	5
CAM400	To be closed	N/A	5
CAM401A	5	1.61	5
CAM401B	7	2.15	5
SOM001A	3	1.67	5
SOM001	Closed	N/A	
SOM002A	Closed	N/A	
SOM003	Closed	N/A	
SOM004	Closed	N/A	
TOTAL		7.29	
UPPER MYSTIC RIVER			
SOM007A/MWR205A (Somerville Marginal)	3	3.48	
SOM007	Closed	N/A	
TOTAL		3.48	
MYSTIC / CHELSEA CONFLUENCE			
MWR205 (Somerville Marginal)	39	60.58	
BOS013	4	0.54	6
BOS014	0	0.00	6
BOS015	Closed	N/A	6
BOS017	1	0.02	9
CHE002	4	0.22	
CHE003	3	0.04	
CHE004	3	0.32	
CHE008	0	0.00	
TOTAL		61.72	
UPPER INNER HARBOR			
BOS009	5	0.59	6
BOS010	4	0.72	6
BOS012	5	0.72	6
BOS019	2	0.58	
BOS050	Closed	N/A	
BOS052	Closed	N/A	
BOS057	1	0.43	
BOS058	Closed	N/A	
BOS060	0	0.00	
MWR203 (Prison Point)	30	335.00	1, 9
TOTAL		338.04	
LOWER INNER HARBOR			
BOS003	4	2.87	6
BOS004	5	1.84	6
BOS005	1	0.01	6
BOS006	4	0.24	6
BOS007	6	1.05	6
TOTAL		6.01	

Exhibit B to Second Stipulation

SUMMARY OF TYPICAL YEAR CSO ACTIVATION FREQUENCY AND VOLUME

OUTFALL	TYPICAL YEAR		REFERENCE (*)
	LONG TERM CONTROL PLAN 2005 (*)		
	Activation Frequency	Volume (MG)	
CONSTITUTION BEACH			
MWR207	Closed	N/A	
TOTAL		0.00	
FORT POINT CHANNEL			
BOS062	1	0.01	
BOS064	0	0.00	
BOS065	1	0.06	
BOS068	0	0.00	
BOS070			
BOS070/DBC	3	2.19	3
UPPS	17	71.37	
BOS070/RCC	2	0.26	
BOS072	0	0.00	4
BOS073	0	0.00	4
TOTAL		73.89	
RESERVED CHANNEL			
BOS076	3	0.91	7
BOS078	3	0.28	7
BOS079	1	0.04	7
BOS080	3	0.25	7
TOTAL		1.48	
NORTHERN DORCHESTER BAY			
BOS081	0 / 25 year	N/A	
BOS082	0 / 25 year	N/A	
BOS083	0 / 25 year	N/A	
BOS084	0 / 25 year	N/A	
BOS085	0 / 25 year	N/A	
BOS086	0 / 25 year	N/A	
BOS087	0 / 25 year	N/A	
TOTAL		0.00	
SOUTHERN DORCHESTER BAY			
BOS088	To be closed	N/A	
BOS089 (Fox Point)	To be closed	N/A	
BOS090 (Commercial Point)	To be closed	N/A	
TOTAL		0.00	
UPPER CHARLES			
BOS032	Closed	N/A	
BOS033	Closed	N/A	
CAM005	3	0.84	8
CAM007	1	0.03	8
CAM009	2	0.01	8
CAM011	0	0.00	8
TOTAL		0.88	

Exhibit B
to
Second Stipulation

SUMMARY OF TYPICAL YEAR CSO ACTIVATION FREQUENCY AND VOLUME

OUTFALL	TYPICAL YEAR		REFERENCE (*)
	LONG TERM CONTROL PLAN 2005 (*)		
	Activation Frequency	Volume (MG)	
LOWER CHARLES			
BOS028	Closed	N/A	
BOS042	Closed	N/A	
BOS049	To be closed	N/A	
CAM017	1	0.45	8
MWR010	0	0.00	2
MWR018	0	0.00	1
MWR019	0	0.00	1
MWR020	0	0.00	1
MWR021	Closed	N/A	
MWR022	Closed	N/A	
MWR201 (Cottage Farm)	2	6.30	8
MWR023	2	0.13	
SOM010	Closed	N/A	
TOTAL		6.88	
NEPONSET RIVER			
BOS093	Closed	N/A	
BOS095	Closed	N/A	
TOTAL		0.00	
BACK BAY FENS			
BOS046	2	5.38	
TOTAL		5.38	

(*) Long-term Control Plan activation frequency and volumes were established in the 1997 CSO Facilities Plan and Environmental Impact Report or as noted in the "Reference" column.

- 1- Re-assessing Long Term Floatables Control for Outfalls MWR018, 019 and 020, February 2001.
- 2- Report on Re-Assessment of CSO Activation Frequency and Volume for Outfall MWR010, April 2001, and supplemental letter report (Metcalf & Eddy, Inc.), May 31, 2001.
- 3- Report on Re-Assessment of CSO Activation Frequency and Volume to Dorchester Brook Conduit and Outfall BOS086, January 2001 and supplemental letter report (Metcalf & Eddy, Inc.), June 28, 2001.
- 4- MWRA Long Term CSO Control Plan, Fort Point Channel Sewer Separation and System Optimization Project, Level of Control at CSO Outfalls BOS072 and BOS073, June 7, 2004.
- 5- Final Variance Report for Alewife Brook and the Upper Mystic River, July 2003, and supplemental letter report (Metcalf & Eddy, Inc.), July 8, 2003.
- 6- East Boston Branch Sewer Relief Project Reevaluation Report, February 2004.
- 7- Supplemental Facilities Plan and Environmental Impact Report on the Long-term CSO Control Plan for North Dorchester Bay and Reserved Channel, April 27, 2004.
- 8- Recommendations and Proposed Schedule for Long-Term CSO Control for the Charles River, Alewife Brook and East Boston, August 2, 2005; MWRA Revised Recommended CSO Control Plan for the Charles River, Typical Year CSO Discharge Activations and Volumes, November 15, 2005; MWRA Long-Term CSO Control Plan, Response to Additional EPA Questions Regarding Prison Point Discharges, January 9, 2005 (2006).
- 9- MWRA Long Term CSO Control Plan Target CSO Activation Frequency and Volume by Outfall, December 9, 2005.