

UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS

.....
UNITED STATES OF AMERICA.

Plaintiff,

CIVIL ACTION

No. 85-0489-MA

METROPOLITAN DISTRICT COMMISSION,

et al.,

Defendants.
.....

CONSERVATION LAW FOUNDATION OF

NEW ENGLAND, INC.,.

Plaintiff,

CIVIL ACTION

No. 83-1614-MA

METROPOLITAN DISTRICT COMMISSION,

Defendants.
.....

MWRA COMPLIANCE REPORT

FOR SEPTEMBER AND OCTOBER 2000

AND PROGRESS REPORT AS OF NOVEMBER 15, 2000

The Massachusetts Water Resources Authority (the "Authority") submits the following compliance report for the months of September and October 2000 and supplementary compliance information in accordance with the Court's order of December 23, 1985, subsequent orders of the Court and undertakings of the Authority.

1. Schedule Six.

A status report for the scheduled activities for the months of September and October 2000 on the Court's Schedule Six, certified by Douglas B. MacDonald, Executive Director of the Authority, is attached hereto as Exhibit "A."

A. Activities Not Completed.

1. Commence Construction of CSO Relocation to Reserved Channel and Associated Treatment.

As anticipated, the Authority was unable to comply with the milestone for commencing construction of combined sewer overflow ("CSO") relocation to Reserved Channel and the associated CSO treatment facility.¹ The Authority has reported extensively on the difficulties it has faced in implementing this project, in particular because of community opposition to the siting of the treatment facility, and its efforts to find a process for resolving the controversy.² To date, there has been no change in the Authority's ability to file or obtain the required Article 97 legislation necessary to begin construction of the project. However, as indicated in the Response of the United States to the Authority's September Compliance and Progress Report (September 27, 2000 at p. 4), the Environmental Protection Agency ("EPA") Regional Administrator and the U.S. Attorney met with South Boston elected officials and members of the South Boston community on September 25, to discuss the siting of this project. As a result of that meeting, EPA scheduled a follow-up meeting for November 27, which will include the Authority.

In the meantime, the Authority is continuing to work on preparing a draft Notice of Project Change regarding the North Dorchester Bay and Reserved Channel CSO projects. The Authority still believes that reopening the MEPA process to evaluate open questions concerning cost, feasibility, neighborhood impacts and environmental benefits of the Conley terminal site alternative, as well as other potential CSO control alternatives for North Dorchester Bay and Reserved Channel, is the best opportunity to allow CSO control in South Boston to move forward.

The Authority will continue to report as developments arise.

2. Complete Construction of Prison Point Facility Upgrade.

The Authority completed construction of the upgrades at the Prison Point CSO facility, with the exception of flow monitoring systems, automated control systems and the permanent control room. As with the upgrades to the Cottage Farm CSO facility, the Authority experienced problems with the flow monitoring systems and the automatic sampling systems as designed.³

The Authority is now in the process of making modifications to the facility much like those that have been and are being implemented at the Cottage Farm CSO facility. The Authority anticipates that these changes will be implemented by the end of this year and that it will be able to commence the start-up period of the automated systems early next year.⁴ In the meantime, Authority staff will operate the new chlorination and dechlorination systems in a manual mode during facility activations, as was the case during the activation on November 10, 2000.

B. Activities Completed.

1. Complete Construction of Constitution Beach Sewer Separation.

The Authority, in cooperation with Boston Water and Sewer Commission ("BWSC"), recently completed construction of Constitution Beach sewer separation in East Boston and closed the sole regulator tributary to CSO outfall 207, in compliance with Schedule Six. A letter from BWSC confirming the closure is attached as Exhibit "B." This project terminated CSO flow to CSO outfall 207, thereby eliminating CSO impacts to Constitution Beach. The Authority is now taking steps to discontinue operation of the Constitution Beach CSO Treatment Facility.

2. Report on Backup Disposal Plan.

On October 15, 2000, the Authority submitted its report on actions taken pursuant to its backup residuals disposal plan over the past six months in compliance with Schedule Six. In addition, the Authority and the Commonwealth filed their Joint Report on the implementation of the Memorandum of Understanding regarding the beneficial use of biosolids.

C. Progress Report.

1. Harbor Management.

(a)Secondary Battery C

In its last report on progress of construction of Secondary Battery C, the Authority noted that it had identified areas in Reactor Train No. 2 with insufficient concrete cover over the steel reinforcing bar (rebar) imbedded in the concrete and that the contractor needed to place an additional three inches of concrete to correct the deficiency.⁵ At that time, the Authority was exploring the possibility of accepting partial utilization of Secondary Battery C with the exception of Reactor Train No. 2 so that Deer Island Treatment Plant staff could begin their checkout program while the repairs were being made. On October 10, 2000, the Authority accepted Secondary Battery C for partial utilization. The contractor has since completed the remaining work on Reactor Train No. 2, and on November 10, 2000, turned over the facility to Deer Island Treatment Plant staff for testing. The contractor is now completing change order and punch list work on Secondary Battery C in coordination with plant staff to minimize interference with Deer Island Treatment Plant's testing program.

Since October 10, 2000, Deer Island Treatment Plant staff have been able to conduct walkthroughs and inspections of the components of Secondary Battery C accepted for partial utilization. This procedure has enabled Deer Island Treatment Plant staff to begin its checkout and testing program. Deer Island Treatment Plant staff plan to continue dry testing during the next several weeks and commence its wet testing program next week. Staff plan to wet test the 18 clarifiers in groups of six. Testing of the first six clarifiers is scheduled to commence on November 24, followed by the next group on December 1 and the last group on December 8. Staff also plan to commence wet testing in the reactors on December 1. If all goes according to schedule, all components of Secondary Battery C will be substantially complete and receiving flow by mid- December, thereby completing the outstanding milestone. Wet testing is expected to continue through mid-January. The Authority will report further upon completion of the milestone.

2. Combined Sewer Overflow Program.

(a)Cottage Farm CSO Facility Upgrade.

The Authority continues to work toward correcting the problems encountered with the flow meters and automatic sampling systems at the upgraded Cottage Farm CSO Facility. The Authority was able to test the newly retrofitted effluent pre- and post-dechlorination sampling systems during activations on October 18, 2000 and November 10, 2000. During both activations, the sampling systems functioned as intended, with the exception of the effluent line intake, which experienced some problems. The Authority is evaluating this issue and considering relocating the effluent line intake.

With respect to implementation of an alternative method of flow measurement, the Authority is currently making modifications to the flow measurement system to increase reliability, and expects to complete the modifications within the next month.

The Authority now anticipates that it will be able to commence the start-up period of the automated systems early next year.⁶

(b) Floatables Control and Outfall Closing Projects.

Last July, the Authority reported that it had submitted a report to EPA and the Massachusetts Department of Environmental Protection ("DEP") on the status of ongoing work related to region-wide floatables control and outfall closing projects and would hold a related meeting with these parties before that month.⁷ The Authority also noted that it was beginning additional work to update the characterization of the combined sewer systems and CSO discharges related to CSO outfalls MWR 010 and MWR 018-020, which would likely preclude it from implementing the recommended controls at these locations by May 2001, as required by Schedule Six.

Since that time, the Authority has provided supplemental information to DEP and EPA in response to questions raised at the July meeting and has determined that the additional work referenced above, in fact, will preclude the Authority from implementing the recommended CSO controls at CSO outfalls MWR 010 and MWR 018-020 by May 2001. In addition, the Authority has learned that the City of Cambridge will be unable to complete its floatables control work at CSO outfalls CAM 007, 009, 011, and 017 (located along the Charles River) by May 2001 as required by Schedule Six, because additional design and construction work is necessary to correct deficiencies it has found in related structures or systems.

As part of its submission to DEP and EPA, the Authority has provided descriptions and schedules of hydraulic reassessments and design changes that the Authority and the City of Cambridge are now undertaking in an effort to finalize plans and set revised construction schedules. To date, the additional work being performed by the Authority and the City of Cambridge is proceeding and both expect to be able to complete the work in accordance with the revised schedules presented in the submission package.⁸

The Authority expects to continue discussions with EPA and DEP on these matters after the ongoing studies have been completed. The Authority also expects to be able to propose appropriate construction plans and related schedules, for outfalls MWR 010 and MWR 018-020, at that time.

In the meantime, the Authority and BWSC are proceeding with construction of floatables control and outfall closings at other CSO outfalls and are on schedule to meet the May 2001 milestone.

(c) Cambridge Sewer Separation.

Since it last reported, the Authority and the City of Cambridge have completed the submission of supplemental information to address questions and issues raised by EPA, the Department of Justice and DEP at the August 21, 2000 meeting on CSO control alternatives for Alewife Brook.⁹ In addition, on October 19, the Authority and Cambridge met with DEP and staff from the MEPA unit to discuss the filing of a Notice of Project Change ("NPC") for the Cambridge sewer separation project by December 15, 2000.

In the meantime, the Authority and Cambridge have continued to perform project evaluations, meet with interested parties, and plan public meetings for today and November 30, in preparation of filing the NPC with MEPA. The Authority anticipates that the filing of the NPC will be followed by a public comment period, and then by a decision from the Secretary of Environmental Affairs on the project changes and impacts by February 2001.

Meanwhile, Cambridge's design and construction efforts to separate sewers in areas tributary to CAM 004 continue to proceed.

By its attorneys,

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Certificate of Service

I, John M. Stevens, attorney for the Massachusetts Water Resources Authority, do hereby certify that I have caused this document to be served by hand or mail to all counsel of record.

John M. Stevens (BB0 No. 480140)

Dated: November 15, 2000

Notes:

1. As indicated in previous reports, the Authority combined this project with the consolidation facilities for BOS 076-080 and began referring to the project collectively as the "North Dorchester Bay and Reserved Channel CSO project." See Compliance and Progress Report for May 17, 1999, pp. 10-14. The Authority anticipates requesting changes to Schedule Six to amend relevant milestones once the controversy regarding this matter is resolved.
2. In its February 15, 2000 Compliance and Progress Report (pp. 19-20), the Authority reported that it no longer expected to be able to meet the September 2000 milestone. See also Compliance and Progress Reports for March 15, 2000, pp. 16-19; June 15, 2000, pp. 14-15; and July 17, 2000, pp. 11-12, for additional reports on this project.
3. See Compliance and Progress Report for September 15, 2000, pp. 7-8.
4. Footnote 35 of Schedule Six provides 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.
5. See Compliance and Progress Report for September 15, 2000, pp. 4-6.
6. See Footnote Number 4.
7. See Compliance and Progress Report for July 17, 2000, pp. 13-14.
8. The Authority has completed planned field surveys at outfalls MWR 010 and MWR 018 & 020, and completed recent review of television inspection tapes made in 1994 and 1997. Information about the operation of facilities that affect related system hydraulics (e.g. Ward Street Headworks, Cottage Farm CSO Facility and Prison Point CSO facility) have been obtained. Historical flow meter records have been compiled from various sources and are now being used to recalibrate hydraulic models that will be used to update existing conditions (these simulations are now in progress) and to assess the performance of the system and the frequency and volume of CSO discharges under future scenarios, which the Authority anticipates will be simulated over the next month. The models were recently upgraded to reflect current physical and operational conditions and to

improve geographical accuracy. The Authority expects to complete the additional studies and have recommendations by the end of this year and to complete any necessary construction by the end of 2001.

Cambridge has expanded its design efforts at its Charles River outfall locations (CAM 007, CAM 009, CAM 011 and CAM 017), due to the necessity to correct other system deficiencies in related structures or systems. The expanded work is underway, and Cambridge expects to complete design and construction of floatables control for these outfalls by October 2002.

9. See Compliance and Progress Report for September 15, 2000, pp. 6-7.