

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 QUARTERLY COMPLIANCE REPORT

AND PROGRESS REPORT AS OF SEPTEMBER 17, 2001

The Massachusetts Water Resources Authority (the "Authority") submits the following quarterly compliance report for the period from June 15, 2001 to September 17, 2001 and supplementary compliance information in accordance with the Court's order of December 23, 1985, and subsequent orders of the Court.

I. Schedule Six

A status report for the scheduled activities for the month of June 2001 on the Court's Schedule Six, certified by Frederick A. Laskey, Executive Director of the Authority, is attached hereto as Exhibit "A" .

A. Activities Completed.

1. Complete Construction of Chelsea Relief Sewers.

On June 28, 2001, the Authority completed construction of the Chelsea Branch Sewer Relief Project, and, in cooperation with the City of Chelsea, completed outfall repairs and floatables control at combined sewer overflow ("CSO") outfall CHE 008 in accordance with Schedule Six. The Chelsea Branch Sewer Relief Project included the installation of 42-inch and 66-inch pipes to relieve the Chelsea Branch Sewer and the Revere Extension Sewer located along Eastern Avenue in Chelsea. The work at CHE 008 included the relining and replacement of part of the 42-inch outfall pipe, the replacement of the headwall, the placement of new shore protection and the installation of an underflow baffle at the sole regulator to provide floatables control. These projects are intended to minimize CSO discharges to Chelsea Creek and reduce surcharging in the wastewater transport system.

2. Dorchester Brook Conduit In-Line Storage Project.

On July 31, 2001, the Authority filed a motion to amend Schedule Six by deleting the milestones relating to design and construction of the Dorchester Brook Conduit In-Line Storage Project (the "Project"). The motion was allowed on August 8, 2001. As a result, the July 2001, April 2004, and September 2005 milestones for commencement of design, commencement of construction and completion of construction for the Project were deleted from Schedule Six.

B. Progress Report.

1. Combined Sewer Overflow Program.

(a) CSO Facility Upgrades.

Over the last quarter, the Authority substantially completed construction at the Prison Point, Fox Point, Commercial Point, and Somerville Marginal CSO facilities. In addition, the Authority completed acceptance testing at the Cottage Farm CSO facility and will commence the start-up period the next time the facility is activated during wet-weather for a duration of at least a four hours.¹ The Authority also completed one of the two remaining acceptance tests for the Prison Point facility.

At the Commercial Point, Fox Point and Somerville Marginal facilities, the Authority's contractor was able, by mid-July, to complete the change order work involving the use of divers entering the outfall pipes. However, during testing of the control systems at all facilities, the Authority identified the need for programming changes that required work under a further change order, preventing the contractor from entering the acceptance testing phase in July as expected. In addition, during system checkout at the Somerville Marginal CSO facility, the contractor experienced malfunctions with the sluice gate controller due to improper wiring and needed to rewire the system prior to completing check out of the system. The contractor has since completed the programming modifications, and all three facilities are now ready for full-facility acceptance testing in an automated mode. Based on the Authority's past experience during acceptance testing at the Cottage Farm and Prison Point facilities, it may have to make additional adjustments. Once the acceptance-testing phase is completed, the Authority will commence the start-up phase.

The Authority wishes to correct an inaccuracy in its Quarterly Compliance and Progress report as of June 14, 2001. In its report on page 3, the Authority incorrectly noted that it was able both to chlorinate and dechlorinate at the Fox Point, Commercial Point, and Somerville Marginal CSO facilities in a manual (semi-automatic) mode as of the end of March. The Authority was able to chlorinate at those facilities at that time, but was unable to dechlorinate in a manual mode until July 6, 2001. Since July 6, 2001, no storm event has occurred with a long enough duration to operate the dechlorination system in a manual mode. The Authority regrets this inaccuracy and is making every effort to ensure proper operation of the new dechlorination system during the next facility activation.

(b) Quarterly CSO Progress Report.

In compliance with Schedule Six, the Authority submits as Exhibit "B" its Quarterly CSO Progress Report (the "Report"). The Report summarizes the progress made in design and construction of the CSO projects during the last quarter, identifies potential delays in design and construction and notes the status of certain planning and regulatory efforts.

During the past quarter, the Authority completed construction of the Chelsea Branch Sewer Relief Project and outfall repairs and floatables control to CSO outfall CHE 008. The Authority also commenced its reassessment of the South Boston CSO control plan in accordance with the Secretary of Environmental Affairs' certificate issued on June 8, 2001 on the Notice of Project Change for the North Dorchester Bay and Reserved Channel Facility projects² and began preparing its response to public comments on the Notice of Project Change for the Cambridge (Alewife Brook) Sewer Separation Project in accordance with the Secretary of Environmental Affairs' certificate issued on June 15, 2001. With the completion of these two Chelsea projects, nine of the 25 projects recommended in the Authority's final CSO plan are now complete.

Over the next quarter, in addition to completing acceptance testing and commencing start-up of the Prison Point, Fox Point, Commercial Point, and Somerville Marginal CSO facilities, the Authority plans to meet with the Environmental Protection Agency ("EPA") and the Massachusetts Department of Environmental Protection ("DEP") to discuss its recommendations for long-term floatables control at seven of the regulators tributary to outfalls MWR 018, MWR 019, and MWR 020 and for outfall MWR 010. In addition, the Authority anticipates, based on discussions with EPA and DEP, that there will be a one-year extension of the Charles River variance from October 1, 2001 to October 1, 2002.

2. Residuals Management.

As part of its ongoing efforts to control operating costs, the Authority is reviewing the residuals back-up landfill contract currently in place with East Carbon Development Company ("ECDC"). Specifically, the Authority is looking at whether it can reduce the annual cost of service without reducing the level of service and reliability. One option being considered is to re-bid the contract in order to assess the market cost of service.³ The Authority will continue to report as developments arise.

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 (BBO No. 480140)

Dated: September 17, 2001

Notes:

1. Footnote 35 of Schedule Six allows for a period of start-up and systems optimization after completion of construction consisting of five activations of at least four hours duration each in which to achieve effective treatment of flows, as defined by the NPDES permit.
2. The Authority notes that a recent article published on September 10, 2001 in the Boston Globe, entitled "Harbor Cleanup Falls Short at Beaches," created an incorrect impression that ongoing CSO discharges were the principal cause of beach closings this summer in Boston. In fact, only one of the five beaches listed (Carson Beach) is currently affected by CSO discharges. Even at that site, the majority of the samples showing elevated bacteria levels were taken either during dry weather or during periods of light rain when no CSO discharges had occurred. The Authority regrets that the article's focus on CSO discharges and its failure to discuss other possible sources of contamination unrelated to CSOs, such as stormwater, swimmers, boats, pets and wildlife, leaves the reader with an incomplete understanding of the complex issue of beach closings.
3. If the contract is re-bid, the Authority would seek Court approval prior to terminating its contract with ECDC in accordance with the Second Long-Term Residuals Management Scheduling Order dated October 8, 1993, as amended on December 3, 1993.