

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 MARCH 15, 2007

The Massachusetts Water Resources Authority (the "Authority") submits the following quarterly compliance report for the period from December 16, 2006 to March 15, 2007 and supplementary compliance information in accordance with the Court's order of December 23, 1985 and subsequent orders of the Court.

**I. Schedule Seven.**

A status report for the scheduled activities for the month of December 2006 on the Court's Schedule Seven, certified by Frederick A. Laskey, Executive Director of the Authority, is attached hereto as Exhibit "A."

**A. Activities Completed.**

**1. Commence Construction of Morrissey Boulevard Storm Drain.**

On December 26, 2006, Boston Water Sewer Commission ("BWSC") issued a notice to proceed with the first of two construction contracts for the Morrissey Boulevard storm drain project, in compliance with Schedule Seven. This first contract includes a diversion chamber which will divert some of the stormwater from the Authority's North Dorchester Bay combined sewer overflow ("CSO") storage tunnel to Savin Hill Cove in storms greater than the one-year design storm. Redirecting these stormwater flows in large storms will reserve capacity in the Authority's CSO storage tunnel to attain a five-year level of stormwater control along the South Boston beaches as well as a 25-year level of CSO control. BWSC expects to issue a notice to proceed for the second construction contract, which will include the 2,900-foot long Morrissey Boulevard storm drain conduit, in July 2007, subject to BWSC's receiving all necessary permits. BWSC is currently making every effort to address outstanding permitting issues and to have all permits in place by July 2007.

**B. Progress Report.**

**1. Combined Sewer Overflow Program.**

**(a) Complete Construction of Storage Conduit for BOS019.**

The contractor is currently performing dry testing of the new storage facility and expects to complete wet testing later this month. The Authority anticipates that it will be able to operate the storage facility by the end of this month as scheduled. The BOS019 storage conduit includes two, 280-foot long, 10-foot by 17-foot underground concrete storage conduits that will provide 670,000 gallons of overflow storage capacity, a pump out facility at the downstream end of the conduits and an influent gate house at the upstream end. Work unrelated to operation of the new storage facility, such as site, roadway and sidewalk restoration, will continue. The storage conduit is intended to reduce the annual volume of CSO discharge to the Little Mystic Channel in Charlestown by 86 percent.

**(b) Union Park Detention and Treatment Facility.**

As of December 31, 2006, the Authority began using the fine screens and the detention basins to provide some of the CSO storage benefit to be provided by the new facility during overflow events. Since December 31, the Authority was able to use the storage tanks on four occasions, capturing all of the flow on two occasions; on the other two occasions, the Authority was able to use the storage capacity of 1.5 million gallons to reduce CSO discharges to Fort Point

Channel. The Authority has expended substantial funds on overtime for construction in order to store flows since December 2006, to test the treatment processes prior to substantial completion and to meet substantial completion in April 2007.

As indicated in the joint report of the United States and the Authority concerning Union Park CSO detention and treatment facility, the electrical subcontractor performing the electrical work on the Union Park CSO detention and treatment facility ceased operations due to financial problems on January 31, 2007.<sup>1</sup> A replacement electrical subcontractor is now on site and has resumed the task of completing the remaining electrical work. The Authority still anticipates that the contractor will be able to achieve substantial completion of the facility in April 2007, which will allow the Authority to accept the facility from the contractor and to commence the start-up period set forth in Footnote 31 of Schedule Seven by April 30, 2007.<sup>2</sup>

On March 2, the Authority was able to commence testing of the capability of the chlorination system to treat the flow entering the detention basins, without discharging. The basins were partially filled, and the wastewater was pumped back into the sewer system once the storm event

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<sup>1</sup> See Joint Report of United States and MWRA Concerning Union Park Detention and Treatment Facility dated February 28, 2007.

<sup>2</sup> Footnote 31 states 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."

subsided. In order to attain substantial completion by April 30, 2007, the Authority would like to continue to test the chlorination and dechlorination systems with chemicals and, with Court approval, to discharge flow from the Union Park CSO detention and treatment facility prior to the effective date of the NPDES permit for CSO outfall MWR215.

Meanwhile, the contractor is now 98-percent complete with the construction of the Union Park CSO detention and treatment facility. The contractor completed the installation of the power wiring for all CSO treatment related systems and is continuing with the installation of the control wiring. Physical check-outs of equipment are on-going.

(c) Cambridge Sewer Separation.

Today, the Authority has learned that on March 12, 2007, the Administrative Magistrate for the Division of Administrative Law Appeals issued a recommended final decision granting the City of Cambridge Department of Public Works ("DPW") and the Massachusetts Department of Environmental Protection ("DEP") a directed decision on all of the issues which survived summary decision and sustaining the permit issued by DEP in Wetlands File No. 123-175 for the Cambridge Park Drive Area Drainage Project.<sup>3</sup> The decision has been transmitted to the Acting Commissioner of DEP for final

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<sup>3</sup> See Compliance and Progress Reports dated December 15, 2006, pp. 9-10; September 15, 2005, pp. 6-7; June 15, 2006, pp. 6-7; March 15, 2006, pp. 5-6; December 15, 2005, pp. 6-7; September 15, 2005, pp. 8-9; June 15, 2005, pp. 10-11; December 15, 2004, pp. 10-12; and September 15, 2004, pp. 6-7 for previous reports on the wetland permitting issue.

decision, including the issuance of a final order of conditions for the project at issue. The Acting Commissioner's decision is subject to the Petitioners' rights of reconsideration and may be appealed to the Superior Court pursuant to M.G.L. c. 30A.

(d) Sewer Separation and System Optimization for BOS072-073.

BWSC is now 98 percent complete with construction of the sewer separation and system optimization project for CSO outfalls BOS072-073. BWSC expects to complete construction by March 31, 2007, in compliance with Schedule Seven.

BWSC commenced construction of the project in March 2005 in compliance with Schedule Seven. The project primarily involves the construction of new storm drains and appurtenant structures, relocation of storm runoff connections from the existing combined sewer to the new storm drains and rehabilitation of the existing combined sewers for use as sanitary sewers. The project is intended to eliminate CSO discharges in a typical year at outfalls BOS072 and BOS073.

(e) Prison Point Facility Optimization Study.

In March 2006, in accordance with Schedule Seven, the Authority began a study intended to optimize operation of the Prison Point CSO facility and related structures to minimize treated discharges from the facility to the Inner Harbor. The Authority plans to submit a report on its findings and

recommendations and to commence implementation of its recommended optimization measures by March 31, 2007, in compliance with Schedule Seven.

(f) Annual CSO Progress Report.

In accordance with Schedule Seven, the Authority submits as Exhibit "B" its Annual CSO Progress Report (the "Report"). The Report summarizes progress made in design and construction on the CSO projects during the past year and identifies issues that affect or may affect compliance with Schedule Seven.

2. Residuals.

The New England Fertilizer Company ("NEFCO"), the private operator of the Authority's pelletizing plant in Quincy, has entered into an agreement with the Lehigh Cement Company to participate in a project involving the use of the Authority's sludge pellets. The pellets will be used as part of a feed blend to Lehigh's cement kiln operation located in Maryland, displacing a portion of the amount of coal normally used for fuel. There will be no change in the NEFCO process at Fore River to accommodate the agreement with Lehigh, and there will be no impact to the actual operation in Quincy. The product is merely being shipped by rail to a new user at a new location.

While the pellets only have approximately 60 percent of the fuel value of coal, the primary benefit of this type of use is that the pellets are a "renewable" fuel source. In addition, the resultant fly ash from the process has trace

elements that are beneficial to cement-making. Although, there is no direct financial benefit to the Authority, the agreement provides indirect benefits. It allows the pellets to be re-used, creates a potential year-round demand for the pellets and provides another option for long-term disposal.

If application of the Authority's pellets is successful in Maryland, the Authority is informed that it may be followed -- pending regulatory approvals -- by demonstrations in New York and Pennsylvania, much closer outlets for NEFCO. Lehigh and NEFCO are responsible for obtaining all local, state and federal permits needed under this agreement. The Authority has verified that Lehigh has been issued a permit for the use of the pellets as a fuel source by the Maryland Department of the Environment.

By its attorneys,

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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 March 15, 2007.

/s/ John M. Stevens  
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Dated: March 15, 2007

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