

UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS

.....

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 JUNE 15, 2007

The Massachusetts Water Resources Authority (the "Authority") submits the following quarterly compliance report for the period from March 16, 2007 to June 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 March 2007 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. Combined Sewer Overflow Annual Report.

On March 15, 2007, the Authority submitted its Combined Sewer Overflow ("CSO") Annual Progress Report in compliance with Schedule Seven.

2. Complete Construction of Sewer Separation and Optimization for BOS072 and BOS073 - Fort Point Channel.

On March 30, 2007, Boston Water and Sewer Commission ("BWSC") achieved substantial completion of construction of the sewer separation and system optimization project for CSO outfalls BOS072 and BOS073, in compliance with Schedule Seven. The sewer separation aspects of the project involved the construction of new storm drains and appurtenant structures, the 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 including the installation of a total of 4,550 linear feet of new storm drain. The optimization aspect of the project involved modifications to the CSO regulator and tide gate structures associated with outfalls BOS072 and BOS073. At both locations, overflow weirs were raised; new tide gates

were installed; and underflow baffles were constructed for floatables control. In addition, BWSC removed a hydraulic restriction associated with the dry weather connection at BOS072. With the completion of this project, CSO discharges from outfalls BOS072 and BOS073 to Fort Point Channel are expected to be reduced from nine activations in a typical year with an average annual untreated discharge volume of three million gallons to zero discharges in a typical year. BWSC has commenced flow metering to verify attainment of this required level of control.

3. Prison Point Facility Optimization Study.

On March 30, 2007, the Authority submitted its report on the optimization study of the Prison Point CSO facility (the "Report") to the United States Environmental Protection Agency ("EPA") and the Massachusetts Department of Environmental Protection ("DEP"), in compliance with Schedule Seven. The Report recommends implementing certain operating strategies at the Prison Point CSO facility and related structures that the Authority's hydraulic model predicts can reduce treated discharges from the facility from 30 activations in a typical year with an average annual treated discharge volume of 335 million gallons (which is the level of control in the Long-term CSO Control Plan incorporated into the Court Order in April 2006) to 17 activations in a typical year with an average annual treated discharge volume of 250 million gallons, without increasing untreated overflows elsewhere.

The recommendations include opening and closing the facility's wet weather gates to maximize the use of available storage in the upstream system and operating the facility's dry weather pumps whenever there is available capacity in the Charlestown Branch Sewer, which receives the dry weather pump flows. These recommended operational strategies carry the potential for contributing to discharges at other system locations if not carefully implemented. In order to minimize the potential for increased discharges at other system locations, the Authority plans to keep close track of water surface elevations at critical points in the upstream overflow conduits and sewer interceptors and to monitor weather forecasts continuously. In its June 12, 2007 letter, EPA acknowledged that the recommended operational strategies may increase the risk of untreated overflows and that the implementation of these strategies is an acceptable approach. A copy of EPA's June 12, 2007 letter is attached as Exhibit "B."

The Authority is implementing the recommendations in the Report and is continuing to conduct hydraulic modeling and operational testing to confirm the feasibility of attaining this level of control at Prison Point, as well as identify any risks that may be associated with the operational changes over a range of storm characteristics. The Authority is currently installing new control panels for the four diesel pumps. This work is necessary to upgrade the control panels and to allow the Authority eventually to operate and monitor the pumps from a central location and is expected to take approximately 10 weeks. During this period, the pumping capacity at the Prison Point CSO facility will

be temporarily reduced from 323 MGD to 270 MGD. Accordingly, the Authority may have to deviate from the recommended strategies while the control panels are being installed depending on storm intensities, volume and duration to minimize the risk of discharges at other system locations.

The Authority expects to be able to propose new discharge limits for the Prison Point CSO facility in the spring of 2008, after completing a one year start-up and testing period.

B. Progress Report.

1. Combined Sewer Overflow Program.

(a) South Dorchester Bay Sewer Separation.

BWSC completed sewer separation for South Dorchester Bay, a project funded by the Authority at a cost of approximately \$118 million, and has closed all of the regulators tributary to the Authority's Fox Point and Commercial Point CSO treatment facilities well in advance of the November 2008 Schedule Seven milestone, effectively eliminating CSO overflows to South Dorchester Bay. Prior to the implementation of this project, there were 20 treated discharges to South Dorchester Bay in a typical year with an average annual discharge volume of 30 million gallons. BWSC is currently monitoring flow and evaluating system hydraulics to confirm system performance and to make certain that there are no impacts at other system locations. If hydraulic problems are identified, BWSC may have to reopen certain regulators and perform additional work to relieve the system and

ultimately allow all regulators to be closed permanently. BWSC is also continuing to work on the disconnection of downspouts in this area as well as final paving, work which will continue through 2007.

(b) Union Park Detention and Treatment Facility.

On April 26, 2007, the Authority substantially completed construction of the Union Park detention and treatment facility and commenced the period of start-up and optimization provided for in Footnote 35 of Schedule Seven.¹ This project is predicted to reduce discharges from the Union Park facility from 25 activations in a typical year with an average annual untreated discharge volume of 132 million gallons to 17 activations in a typical year with an average annual treated discharge volume of 71.4 million gallons.

The construction contractor remains on-site and is working on completing punch list items and final physical check-out and testing of the intercom, fire alarm and fire sprinkler systems. Final site restoration is also ongoing. With the completion of the Union Park detention and treatment facility at an approximate cost of \$46.4 million and the sewer separation and system optimization project for CSO outfalls BOS072 and BOS073 at an approximate cost of \$8.3 million, the Authority has dramatically decreased CSO impacts to the Fort Point Channel.

¹ Footnote 35 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."

Since last reporting, flow has entered the new facility during nine rain events. During five of the events, the facility was able to capture the entire influent flow, and there was no discharge. For the remaining four events, the storage basins were filled, and flow exceeding storage volume overtopped the basins and was discharged to Fort Point Channel. During the last three discharges, the Authority was able to store, screen and test the chlorination and dechlorination systems. For these nine events, the Authority was able to store a total of 11.25 million gallons of untreated flow that would have previously been discharged to Fort Point Channel. The Authority continues to work with the contract operator and BWSC to optimize the operation of the facility.

(c) Storage Conduit for BOS019.

The Authority substantially completed construction of the BOS019 storage conduit on March 30, 2007 at a cost of \$10.9 million. The new facility includes two, 280-foot long, 10-foot by 17-foot underground concrete storage conduits that provide 670,000 gallons of overflow storage capacity, a pump out facility and an influent gate house. With the completion of this project, CSO discharges from outfall BOS019 to the Little Mystic Channel are expected to be reduced from 14 activations to two activations in a typical year.

Since substantial completion was declared, flow has entered the facility during seven wet weather events storing a total of 2.06 million gallons that would have been previously discharged into Little Mystic Channel. Flows

exceeded the storage capacity of the conduits causing a discharge to the Little Mystic Channel during one of these events on April 15 and 16.

(d) Cambridge Sewer Separation.

On June 1, 2007, the Acting Commissioner for DEP issued a final decision sustaining the superseding order of conditions issued by DEP to the City of Cambridge Department of Public Works for its Cambridge Park Drive Drainage Project (Contract 12).² A copy of the decision is attached as Exhibit "C." Contract 12 includes the CAM004 stormwater outfall and detention basin that will accommodate the stormwater flows to be generated from the CAM004 sewer separation project and mitigate the impacts of these flows on flooding along Alewife Brook. The Acting Commissioner's decision is subject to the Petitioners' rights of reconsideration and may be appealed to the Superior Court within thirty (30) days pursuant to M.G.L. c. 30A, §14(1). Petitioners filed a motion for reconsideration on June 12, 2007, which the Authority received on June 14, 2007. The Authority is reviewing the implications of this Motion for Reconsideration on the feasibility of moving forward with the design and construction of this project.

The Authority currently estimates that, due to the wetlands appeal, the five projects constituting the long-term CSO control plan for Alewife Brook,

² See Compliance and Progress Reports dated March 15, 2007, pp. 5-6; 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.

including CAM004 stormwater outfall and detention basin (Contract 12), CAM400 manhole separation, interceptor connection relief and floatables control at CAM002, CAM401B, SOM01A and CAM001, CAM004 sewer separation, and MWR003 control gate/floatables control and MWRA Rindge Avenue siphon relief all have experienced a delay of at least 15 months, to date.

(d) North Dorchester Bay Storage Tunnel and Related Facilities.

The Authority continued to make significant progress on early phases of the construction work for the North Dorchester Bay CSO storage tunnel, which commenced in August 2006. The contractor has completed the excavation support systems for the tunnel mining shaft at Conley Terminal and the equipment removal shaft near the State Police Building at Day Boulevard and has commenced excavation of the shafts. The contractor has also completed relining portions of the existing CSO outfalls and existing South Boston Interceptor to reinforce them so that they are not damaged during mining of the tunnel. In addition, the tunnel boring machine, which is being manufactured in Japan, is expected to be completed and tested later this month and delivered to Boston in September.

The Authority also made progress with design of the North Dorchester Bay CSO Facilities, which include the 15 million gallon per day (mgd) pumping station at Massport's Conley Terminal and 24-inch force main that will be used to dewater the tunnel after storms, as well as the remote odor control facility at the upstream end of the tunnel, near the State Police Building. The Authority

received draft documents on noise analyses, hydraulic analyses and wetlands delineation, as well as the Draft Project Design Report. The Authority also obtained permits for geotechnical and hazardous materials explorations and has commenced the related field work. Field work already completed includes topographic and utility surveys and mapping, wetlands delineations, noise analyses, and TV inspection of BWSC sewers in N Street and East Sixth Street.

(e) Quarterly CSO Progress Report.

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

By its attorneys,

/s/ John M. Stevens
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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 June 15, 2007.

/s/ John M. Stevens
John M. Stevens (BBO No. 480140)
jstevens@foleyhoag.com

Dated: June 15, 2007

B3369244.1

SCHEDULE SEVEN

MWRA MONTHLY COMPLIANCE REPORT

EXHIBIT "A"

March 2007

MONTH/YEAR

CSO CONTROL

**LONG-TERM
SLUDGE
MANAGEMENT**

**NEW BOSTON HARBOR
SECONDARY
TREATMENT PLANT**

March 2007

MWRA, to submit annual report which describes progress in planning, design, and construction of each CSO project, and identifies any issues which may interfere with timely completion of any project.

(Completed March 15, 2007)

MWRA, in cooperation with BWSC, to complete construction of sewer separation and system optimization for BOS 072 and BOS 073.

(Completed March 30, 2007)

MWRA to submit report on, and commence implementation of measures that optimize operation of dry weather pumps and influent gates at Prison Point and related structures in part to maximize upstream storage. MWRA to propose flow limits for Prison Point facility based on the results of the optimization study commenced on April 1, 2006.

(Completed March 30, 2007)

Certification of Completed Activities

By:


Frederick A. Laskey
Executive Director, MWRA

Date:

June 15, 2007



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

June 12, 2007

Michael J. Hornbrook
Chief Operating Officer
Massachusetts Water Resources Authority
Charlestown Navy Yard
100 First Avenue
Charlestown, MA 02129

Subject: MWRA Prison Point Optimization Study

Dear Mr. Hornbrook:

The Environmental Protection Agency ("EPA") has received and reviewed the above Metropolitan Water Resources Authority ("MWRA") report dated March 30, 2007.

Based upon the implementation strategy put forth by the MWRA in this report, the EPA believes that the optimization strategy represents an acceptable approach to reduce both Combined Sewer Overflow ("CSO") volume and activations at the MWRA Prison Point facility. EPA recognizes that the strategy may increase the risk of untreated overflows during extreme events to the Charles River upstream in the collection system; however, based upon the phased implementation, installation of additional level sensor meters, and connection of these meters to the MWRA SCADA system as proposed by the MWRA, EPA believes that the MWRA should be able to prevent unexpected overflows. Should experience over the next year during implementation of this strategy warrant changes, the MWRA and the EPA can discuss those changes at that time.

Finally, it is the understanding of the EPA that after implementation of the proposed operating strategy and verification of new level of control, the MWRA will propose formal incorporation of the revised level of control to the Federal District Court by April 2008.

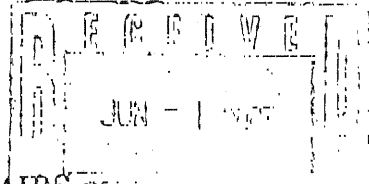
Sincerely,

A handwritten signature in black ink that reads "Todd J. Borci".

Todd J. Borci
Office of Environmental Stewardship

cc: Kevin Brander, MA DEP

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500



In the Matter of
City of Cambridge,
Department of Public Works

June 1, 2007
Docket No: 2005-088
Docket No. DEP-05-805
DEP File No. 123-175
Cambridge

Final Decision

This appeal involves a project by the Cambridge Department of Public Works to control combined sewerage overflows (CSOs) to the Little River and Alewife Brook. The work will separate sewer and stormwater flows as part of a court-ordered plan to improve water quality in the Charles, Alewife, Boston Harbor and other related water bodies. The project consists of the construction of a stormwater management system - culverts, a sediment forebay, and a 3.5 acre detention wetland to provide some treatment prior to discharge into the Little River upstream of the Alewife. The Department issued a superseding order for the project, affirming the local order and finding that the design meets the requirements of the wetlands regulations and the Department's Stormwater Management Policy. A citizen group appealed, citing availability of an alternative site location outside the riverfront area, stating concerns about flooding and flood storage volume, and citing various inadequacies in the design of the system.

The Administrative Magistrate issued a Partial Summary Decision followed by a Directed Decision, sustaining the superseding order, largely based upon his conclusion

that the Petitioner's chief witness was not qualified because he is not a professional registered engineer or competent to provide land valuation testimony. While the hearing rules do require summary decision to be based upon evidence admissible in Massachusetts courts, more generally the Department conducts its hearings using the standard of evidence on which "reasonable persons are accustomed to rely in the conduct of serious affairs." M.G.L. c. 30A, s. 11(2), 310 CMR 1.01(13)(b).¹ The wetlands regulations allow the issuing authority to require an applicant to provide supporting materials from a registered professional engineer or other professionals with specialized expertise but require "credible evidence from a competent source" to meet the burden of going forward at a hearing. 310 CMR 10.05(4)(h); 310 CMR 10.03(2).

The Department has determined witnesses are disqualified because they lacked specialized knowledge on the subject area of their testimony, but not for lack of a professional license. I am not persuaded by the analysis of precedent by the Administrative Magistrate that professional licensure is indeed required.² I accept the recommendation as to the qualifications of this witness to the extent that Stephen Kaiser was offered as an expert witness within the category of some type of "engineer," but the Department has allowed testimony by individuals based upon their backgrounds and skills without adhering to particularly categorizations. See Matter of Massachusetts Water Resources Authority (Blue Hills Covered Storage Project), Docket No. DFP-04-

¹The extent of the expertise of the witnesses, of course, goes to the weight or reliability of the evidence rather than its admissibility.

²I am also concerned with such a requirement because it is inconsistent with the regulatory standard and the distinction between individuals responsible for designing and reviewing projects. Certainly conservation commissions, Department staff, and various third parties routinely use their own competencies to address plans prepared by registered professional engineers. I also cannot agree that only a licensed real estate appraiser is competent to provide testimony as to practicable alternatives. There will certainly be circumstances where an alternative may be found impracticable without such expertise, and the regulations themselves suggest that precise calculation of costs is not always necessary.

734, Final Decision, September 20, 2005 (the focus is properly on indicia of specialized knowledge relevant to the proceeding rather than how that knowledge is categorized or defined).³ I conclude that some of the Administrative Magistrate's recommendations as to a requirement for expert witnesses to hold professional licenses are overbroad, and provide an alternate rationale for reaching the a directed decision in this case.

Issue 1 – Project Alternatives for the Riverfront Area

Consistent with the Recommended Decision, I conclude that the alternative advocated by the Petitioner is not a practicable and substantially equivalent economic alternative to the proposed site. To be practicable, an alternative must be available and capable of being done after taking into account costs, existing technology, proposed use, and logistics, in light of overall project purposes. 310 CMR 10.58(4)(c)1. The alternate site is privately owned and the Petitioner conceded that the owner was opposed to loss of the current use. See Affidavit of Elizabeth A. Shaw, Exhibit B, Motion for Summary Decision of Cambridge DPW. The alternative site is not available without acquisition by eminent domain, a legal barrier similar to those identified under the “logistics”⁴ factor, at great cost, and incompatible with the public purpose of achieving the environmental benefit of CSO control in an efficient and cost-effective manner. 310 CMR 10.58(4)(c)1. The alternative proposed by the Petitioner was given due consideration, and I am

³Knowledge of matters relevant to wetlands cases can be acquired through education, training or experience, and experts need not be professionals or hold advanced degrees. The actual qualifications of the witness, in terms of what the individual knows about the topic and the facts of the case, are much more important than the individual's title. See, e.g., Matter of Scott Cheney, Docket No. 98-096, Final Decision (October 26, 1999).

⁴“Logistics refers to the presence or absence of physical or legal constraints; . . . An alternative site is not practicable if special legislation or changes to municipal zoning would be required to achieve the proposed use or project purpose.” 310 CMR 10.58(4)(c)1.d.

confident that the project complies with the performance standard for work in the riverfront area.

I also note that this project does appear to qualify for a grandfather provision from the riverfront area regulations, because it was the subject of a draft Environmental Impact Report filed prior to November 1, 1996. 310 CMR 10.58(6)(e). As evidenced by the submission by Cambridge DPW of a notice of project change to the MEPA program and no further MEPA review was required subsequently, the project was unquestionably a component of the overall 1996 CSO control plan developed by the Massachusetts Water Resources Authority. The Department has made this determination for projects in similar circumstances. See Matter of CMW Regional Refuse Disposal District, Docket No. 2000-098, Final Decision, August 13, 2001. The project also appears to fit within the scope of the exemption for work on a conveyance system and facilities related to a regional wastewater treatment plant, because it separates sanitary and storm flows. 310 CMR 10.58(6)(h). Although the work here will redirect flows from the treatment plant, it certainly entails the alteration and replacement of related conveyance systems. The project fits within the language of this exemption, and a project to separate combined sewers creates environmental benefits fully compatible with the purpose of the Rivers Protection Act.

Issue 2 - Stormwater Discharge

The parties had differing views on the status of the project under the Department's Stormwater Management Policy. As this case involves alteration of wetland resource areas and buffer zone, as well as the discharge of stormwater, the

applicant must demonstrate that the work will meet the relevant performance standards and will comply with the Department's Stormwater Management Policy. 310 CMR 10.05(6)(b) and Policy, page 1-1 to 1-2 and 2-2 to 2-4. While not reducing or superceding other regulatory requirements, the Policy creates a presumption that projects meeting the nine Stormwater Management Standards satisfy the regulatory requirements under both the wetlands and surface water discharge regulations. Policy, page 1-4.⁵ Under the federal and state Clean Water Acts, the combined discharge is governed by an NPDES surface water discharge permit; the sewer component will continue to be covered by that permit and the separated stormwater discharge will be governed by an NPDES general permit for stormwater discharges from small municipalities such as Cambridge. Therefore, it is an "existing" discharge under the Policy.

The proposed work within jurisdiction of the Wetlands Protection Act must comply with the Department's wetlands regulations and stormwater management policy. This case involves a project that has no development component other than the construction of a wetland detention basin and associated facilities to allow separation of existing sewer and stormwater pipes. Because the proposed work involves no new development except for the remediation of stormwater impacts from previously developed areas, it is properly characterized as "redevelopment" under the Policy, so that the standards apply to the maximum extent practicable and at a minimum must improve existing conditions under Standard 7. In fact, a CSO separation project is redevelopment by definition and it is difficult to imagine a project where the improvement of existing conditions is more imperative.

⁵By complying with the applicable Stormwater Management Standards, a stormwater system design is presumed to protect the interests of the Act. Policy, page 2-5.

The issue for adjudication was whether the project would increase the volume of stormwater discharged to the Little River in violation of Standard 2 or otherwise requiring limitations on the quantity of the discharge. The Petitioner does not contest the assertion of the Department and Cambridge DPW that the project is designed so that post development peak discharge rates will not exceed predevelopment discharge rates. Instead, the Petitioner is concerned about increased volume of discharge. The Stormwater Standards simply do not require that there be no increase in volume. The Petitioner has not identified any other requirement that would provide the basis for such limitations other than a provision allowing the issuing authority to establish limitations on the quality and quantity of a discharge. 310 CMR 10.05(6)(b). The provision serves in part as the basis for the Department's Stormwater Management Policy, which in turn establishes a presumption that compliance with the standards will meet the regulatory requirements of the wetlands regulations as to the stormwater discharge. The record does not support a finding that the standards are insufficient as applied to this project.

Issue 3 - Lost Flood Storage Volume Compensation

Compensatory storage must be provided for flood storage volume displaced by a project when the loss will cause an increase in the horizontal extent and level of flood waters during peak flows. The volume of storage is calculated incrementally for each elevation, up to the 100 year elevation, to compensate for conditions prior to construction. 310 CMR 10.57(4)(a). The applicant provided these calculations in its notice of intent, and they were approved by the Department prior to issuance of the superseding order. See Prefiled Direct Testimony of Rachel Freed, para. 22-23. A table

showing compensatory storage is also included in Cambridge DPW's testimony. See Prefiled Testimony of Emmet James Whitehead, para. 11. The Petitioner's complaint is not directed at the accuracy of these calculations but instead with the "narrow case for net flood storage capacity for the basin" rather than flows from the wider Cambridge system. See Rebuttal Testimony of Stephen Kaiser, para. 52. The project under review is the project described in the notice of intent; the applicant is not obligated to design for additional storage to compensate for flows outside the scope of the project. I conclude that the performance standard for bordering land subject to flooding has been met.

Issue 4 – Flooding, Siltation, Erosion, and Total Suspended Solids

The Petitioner raised various issues about the adequacy of the forebay and wetland detention basin to function during storm events, causing erosion at the basin's spillways. The Petitioner has failed to show any affect on wetland resource areas from spillway erosion, even assuming it were to occur. I also conclude that the project conforms to the Department's Stormwater Policy for removal of total suspended solids, because it captures the prescribed runoff volume and provides the requisite best management practices. See Prefiled Direct Testimony of Thomas Maguire, para. 37-39. The proposed project meets the 80% removal target, and the discharge from the Wheeler Street drain will be greatly improved over existing conditions by the elimination of the sewerage from the CSO separation. The Petitioner has not supported its claim that the project should be denied because the alternative site would be preferable or that additional conditions are required. See Rebuttal Testimony of Stephen Kaiser, para. 64.

Issue 5 – Siltation and Erosion During Construction

The Petitioner's concern is that floodwaters may enter the site during construction and that a condition requiring a one day delay in work imposed by the Cambridge Conservation Commission will be insufficient. Cambridge DPW supplied in its notice of intent an erosion and sedimentation control plan for the construction of the basin as required by the Department's Stormwater Standard 9, based on the Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas, dated March 1997, reprinted May 2003. The Petitioner claims that flooding of the basin will lead to trapping of construction vehicles and difficulties in dewatering. Rebuttal Testimony of Stephen Kaiser, para. 65-67. These issues are not wetlands-related impacts governed by any regulatory performance standard.⁶ The Petitioner has not met its burden on this issue.

Issue 6 – Wetland Identification, Wheeler Street Drain

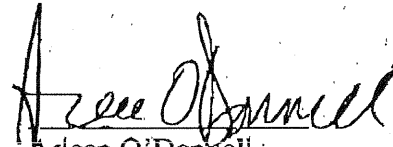
The Petitioner did not provide any evidence to support an identification of the open area of the Wheeler Street Drain as a wetland resource area. The testimony of the Department's witness is uncontested, that even if the Wheeler Street Drain area has bank it does not serve any wildlife habitat function and therefore meets the performance standard under 310 CMR 10.54. See CHECK Affidavit of Rachel Freed, attached to Department's Motion for Summary Decision, January 27, 2006. The Petitioner has failed to sustain a direct case on this issue.

⁶The Department shares the general concern that sediments may reach resource areas during storm events from large construction sites and any applicant is advised that failure to comply with specified erosion and sedimentation measures identified in its plan may be subject to enforcement.

Disposition

I sustain the superseding order of conditions issued to Cambridge DPW for the Cambridge Park Drive Area Drainage Project.

The parties to this proceeding are notified of their right to file a motion for reconsideration of this Decision, pursuant to 310 CMR 1.01 (14)(d). The motion must be filed with the Docket Clerk and served on all parties within seven business days of the postmark date of this Decision. A person who has the right to seek judicial review may appeal this Decision to the Superior Court pursuant to M.G.L. c. 30A, §14(1). The complaint must be filed in the Court within thirty days of receipt of this Decision.



Arleen O'Donnell
Acting Commissioner

SERVICE LISTIn The Matter Of: City of Cambridge, DPW

Docket No. 2005-088

File No. 123-175

RepresentativeParty

Anjali Prakash
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CONCOM

Thomas LaRosa, General Counsel
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Boston, MA 02114

OWNER
Department of Conservation & Recreation

Date: June 1, 2007

Massachusetts Water Resources Authority



**Combined Sewer Overflow
Control Plan**

Quarterly Progress Report
June 15, 2007

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Table 1. CSO Project Progress

		Status as of June 15, 2007		
		IN DESIGN	IN CONSTRUCTION	COMPLETE
MWRA Contract	CSO Projects in Schedule Seven			
MWRA Managed Projects				
N. Dorchester Bay Tunnel	N. Dorchester Bay CSO Storage Tunnel and Related Facilities	X	X	
N. Dorchester Bay Facilities				
Pleasure Bay Storm Drain Improvements				X
Hydraulic Relief Projects	CAM005 Relief			X
	BOS017 Relief			X
East Boston Branch Sewer Relief		X	X	
BOS019 CSO Storage Conduit				X
Chelsea Relief Sewers	Chelsea Trunk Sewer Relief			X
	Chelsea Branch Sewer Relief			X
	CHE008 Outfall Repairs			X
Union Park Detention/Treatment Facility				X
CSO Facility Upgrades and MWRA Floatables	Cottage Farm Upgrade			X
	Prison Point Upgrade			X
	Commercial Point Upgrade			X
	Fox Point Upgrade			X
	Somerville-Marginal Upgrade			X
MWRA Floatables and Outfall Closings				X
Brookline Connection and Cottage Farm Overflow Interconnection and Gate		X		
Charles River Interceptor Gate Controls and Additional Interceptor Connections		Start 1/08		
Optimization Study of Prison Point CSO Facility			(1)	
Community Managed Projects				
South Dorchester Bay Sewer Separation				(2)
Stony Brook Sewer Separation				X
Neponset River Sewer Separation				X
Constitution Beach Sewer Separation				X
Fort Point Channel Sewer Separation and System Optimization				X
Morrissey Boulevard Storm Drain			X	
Reserved Channel Sewer Separation		X		
Bulfinch Triangle Sewer Separation		X		
Brookline Sewer Separation		X		
Somerville Baffle Manhole Separation				X
Cambridge/Alewife Brook Sewer Separation	CAM004 Outfall and Basin	X		
	CAM004 Sewer Separation	X	X	
	CAM400 Manhole Separation	Start 10/07		
	Interceptor Connection Relief/Floatables	Start 10/07		
	MWR003 Gate and Rindge Ave. Siphon	Start 7/10		
Region-wide Floatables Control and Outfall Closings		X	X	

- (1) The Prison Point study, completed in March 2007, recommended operational improvements that MWRA has begun to implement. MWRA expects to complete full implementation and testing of the improvements by Spring 2008.
- (2) BWSC has completed the sewer separation contracts and has closed the CSO regulators tributary to the Fox Point and Commercial Point outfalls. BWSC is now conducting flow monitoring and hydraulic evaluations to confirm that system performance goals have been met.

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1. Quarterly Progress Overview

This quarterly progress report is presented to comply with reporting requirements in the Federal District Court's Order in the Boston Harbor Case. For the combined sewer overflow (CSO) projects referenced in the Court's Order and related schedule of milestones (Schedule Seven), the report summarizes progress made during the period from March 16, 2007, to June 15, 2007, identifies project schedules relative to corresponding Court milestones, and describes issues that have affected or may affect compliance with Schedule Seven.

Detailed descriptions of the CSO projects and identification of all corresponding Court milestones for design and construction are not presented in this report, but can be found in MWRA's *CSO Annual Progress Report 2006*, dated March 2007. The Annual Report is available for public review on MWRA's website, at www.mwra.com.

MWRA and its CSO member communities continue to make substantial design and construction progress on the CSO projects, and together they completed several important CSO control activities during the last quarter. These included completion of construction of the Union Park detention/treatment facility, the BOS019 storage conduit and the Fort Point Channel sewer separation project (outfalls BOS072 and BOS073); the closing of all CSO regulators tributary to MWRA's Fox Point and Commercial Point CSO treatment facilities (South Dorchester Bay sewer separation project) effectively eliminating CSO discharges to South Dorchester Bay; and submission of the Annual CSO Progress Report for 2006.

Table 1 shows the status of implementation for each of the 35 projects that comprise the long-term CSO control plan as referenced in Schedule Seven. Recent updates to the progress shown in the table include completion of the Union Park detention/treatment facility, BOS019 storage conduit and Fort Point Channel sewer separation projects; progress in completing the South Dorchester Bay sewer separation project; commencement of construction of the Morrissey Boulevard storm drain; and implementation of the operational improvements recommended in the Prison Point CSO facility study.

MWRA and Cambridge continued to be unable to commence design of either the CAM400 manhole separation project or the interceptor connection and floatables control installations at various Alewife Brook outfalls, which were required by Schedule Seven to start by July 2006. These and other projects that comprise the Alewife Brook CSO control plan suffered additional delay in the last quarter, pending the Massachusetts Department of Environmental Protection's ("DEP's") issuance of a final decision on the Superseding Order of Conditions for Contract 12. On June 1, 2007 DEP issued a final decision on the Superseding Order of Conditions for the CAM004 outfall and detention basin (Cambridge Contract 12). Petitioners filed a Motion for

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Reconsideration on June 12, 2007, which the Authority received on June 14, 2007. The Authority is reviewing the implications of this Motion on the feasibility of moving forward with this project.

As shown in Table 1, MWRA and the CSO communities have completed 20 of the 35 projects in the long-term CSO control plan, four more than reported last quarter. Six of the remaining projects are "in construction," including two projects for which major construction efforts are presently underway - North Dorchester Bay CSO storage tunnel and Morrissey Boulevard storm drain - and three projects for which early portions of construction were previously completed and later phases are scheduled, including East Boston Branch Sewer relief project, Cambridge/Alewife Brook sewer separation, and regionwide floatables controls. The sixth project "in construction" involves the implementation and testing of operational improvements at the Prison Point CSO facility.

The following are highlights of the progress MWRA and the CSO communities made on CSO control projects in the second quarter of 2007. More information is provided in later sections of this report.

- On April 26, 2007, MWRA completed construction of the \$46.4 million Union Park detention/treatment facility and has commenced the period of start-up and systems optimization referenced in Schedule Seven (footnote 35). Operation of the facility has already reduced the frequency, volume and pollution impacts of overflows discharged by the BWSC Union Park Pumping Station to the Fort Point Channel.
- On March 31, 2007, MWRA completed construction of the \$10.9 million BOS019 CSO storage conduit and has commenced start-up and systems optimization. Operation of the storage conduit has greatly reduced CSO discharges to the Little Mystic Channel in Charlestown.
- On March 30, 2007, BWSC completed construction of the \$8.3 million Fort Point Channel sewer separation and system optimization project, in compliance with Schedule Seven. The project has eliminated CSO discharges in a typical year at outfalls BOS072 and BOS073.
- BWSC has closed all of the regulators tributary to MWRA's Fox Point and Commercial Point CSO treatment facilities, effectively eliminating CSO overflows to South Dorchester Bay. The regulators will remain closed pending BWSC review of the results of ongoing flow monitoring and system hydraulic evaluations to determine whether the performance goals of the South Dorchester Bay sewer separation project, including the prevention of system flooding, have been attained. If hydraulic problems are identified, BWSC may have to reopen certain regulators and perform additional work to relieve the system and ultimately allow all regulators to be closed

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permanently. MWRA funded the design and construction costs, which total \$118.2 million.

- On March 30, 2007, MWRA submitted its report on the Prison Point CSO facility optimization study to the U.S. Environmental Protection Agency, Region 1 ("EPA") and the Massachusetts Department of Environmental Protection ("DEP"), in compliance with Schedule Seven. The report recommends a set of changes to the facility's operating procedures that MWRA predicts will significantly reduce the frequency and volume of treated discharges to the Inner Harbor. MWRA has begun to implement the new operating procedures and plans to fully implement and test the procedures by Spring 2008, at which time MWRA expects to be able to recommend new discharge goals for the facility.
- MWRA continued to make progress with construction of the \$151.2 million North Dorchester Bay CSO storage tunnel and with design of the related CSO facilities. Construction of the tunnel mining and equipment removal shafts is well underway, and manufacture of the tunnel boring machine is scheduled to be complete soon, for arrival in Boston in September.
- MWRA continued to make progress with design of the East Boston Branch Sewer Relief project (interceptor relief for BOS003-BOS014). MWRA expects to receive the Project Design Report and authorize the design consultant to proceed with final design services by the end of June.
- MWRA continued to make design progress on the Brookline Connection, Cottage Farm overflow chamber interconnection and Cottage Farm gate control project. This project is intended to reduce treated CSO discharges to the Charles River Basin at the Cottage Farm CSO facility. MWRA received the draft Preliminary Design Report on June 11, 2007.
- The Town of Brookline continued to make progress with design of the Brookline sewer separation project, which is intended to reduce CSO discharges to the Charles River Basin.
- BWSC continued to make progress with design of the Reserved Channel sewer separation and Bulfinch Triangle sewer separation projects, which are intended to reduce CSO discharges to the Reserved Channel and the Charles River Basin, respectively.
- Cambridge continued to make progress with design of floatables controls for its CSO outfalls along the Charles River and plans to advertise for construction bids soon.

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2. Project Implementation

2.1 MWRA-Managed Projects

North Dorchester Bay Tunnel and Related Facilities

MWRA continued to make substantial progress on early phases of the construction work for the North Dorchester Bay CSO storage tunnel, which commenced in August 2006. At the same time, the tunnel boring machine, which is being manufactured in Japan, is expected to be complete for manufacturer testing later this month and delivery to Boston in September.

To date, the contractor has completed the excavation support systems for the tunnel mining shaft at Conley Terminal and the equipment removal shaft near the State Police Building off Day Boulevard. Excavation of these shafts is well underway. The contractor has also completed relining portions of the existing outfalls and existing South Boston Interceptor to reinforce these conduits and protect them from damage during tunnel mining and construction of connections to them.

MWRA also made progress with design of the North Dorchester Bay CSO Facilities, which MWRA commenced in November 2006. The facilities include the 15 million gallon per day (mgd) pumping station at Massport's Conley Terminal and 24-inch force main that will be used to dewater the tunnel after storms, as well as the remote odor control facility at the upstream end of the tunnel, near the State Police Building.

MWRA has received draft documents on noise analyses, hydraulic analyses and wetlands delineation, as well as the Draft Project Design Report. MWRA also obtained permits for geotechnical and hazardous materials explorations and has commenced the related field work. Field work already completed includes topographic and utilities surveys and mapping, wetlands delineations, noise analyses, and TV inspection of BWSC sewers in N Street and East Sixth Street.

East Boston Branch Sewer Relief (BOS003-014)

Initial design and construction phases for this project were completed earlier by MWRA. MWRA's consultant for the current design phase, which commenced in June 2006, has completed most of the field investigations and preliminary design work, which culminated in the consultant's submission of the draft Project Design Report on March 26. MWRA expects to receive the final Project Design Report by the end of June 2007 and to then authorize the consultant to proceed with final design activities. MWRA also expects to receive the 100% design plans for the largest of the East Boston construction contracts, which includes

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construction of a new sewer interceptor along Border Street and Condor Street with microtunneling, by September 2007. In addition to the draft design report, MWRA has received the final Wetlands Delineation Report for the project.

MWRA has continued to coordinate its work with Boston Water and Sewer Commission ("BWSC") regarding BWSC's upcoming water, sewer and storm drain construction on Border and Condor Streets. BWSC's construction is currently scheduled to start in September 2007 and be completed by September 2009. MWRA's microtunneling contract (Contract 6257) shares much of the same alignment as BWSC's construction. Contract 6257 is scheduled to start in June 2008 and be completed by June 2010. MWRA is evaluating the potential impacts of the overlapping work on its construction schedule.

MWRA also plans careful coordination of its work with two other scheduled projects in East Boston that could also affect MWRA's construction schedule: KeySpan's gas distribution main installation and the City of Boston's Chelsea Street Bridge replacement.

Over the next quarter, MWRA plans to complete the geotechnical field program, receive the final Geotechnical Data Reports and final Hazardous Materials Assessment Reports for construction Contracts 6257 and 6841 (Contract 6841 includes replacement of portions of the interceptor system with pipe-bursting method), and receive the draft Geotechnical Baseline Report for construction Contract 6257.

BOS019 CSO Storage Conduit

MWRA substantially completed construction of the BOS019 storage conduit on March 30, 2007. The new facility includes two, 280-foot long, 10-foot by 17-foot underground concrete storage conduits that provide 670,000 gallons of overflow storage capacity, a pump out facility and an influent gate house. With the completion of this project, CSO discharges from outfall BOS019 to the Little Mystic Channel are expected to be reduced from 14 activations to two activations in a typical year. Since completion of the facility, a total of 2.06 million gallons of untreated CSOs that would have been previously discharged to the Little Mystic Channel has been stored and pumped back the Deer Island for treatment.

Union Park Detention/Treatment Facility

On April 26, 2007, MWRA substantially completed construction of the Union Park detention and treatment facility and commenced the period of start-up and optimization allowed for in Schedule Seven. The construction contractor continues to be on-site and is currently working on completing punch list items and final physical check out and testing of the intercom, fire alarm and fire sprinkler systems. Final site restoration is also ongoing. Since last reporting, flow

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has entered the new facility during nine rain events. During five events, the facility was able to capture the entire influent flow and there was no CSO discharge to the Fort Point Channel. For the remaining four events, storage basins were filled prior to overflowing. During the last three events, the Authority was able to store, screen and test the chlorination and dechlorination systems. For these nine events, 11.25 million gallons of untreated CSO flow that would have discharged to the Fort Point Channel were stored and later sent to Deer Island for treatment. MWRA continues to work with the contract operator to optimize the operation of the facility.

**Brookline Connection and Cottage Farm
Overflow Chamber Interconnection and Gate**

MWRA commenced design of this project in September 2006 and made substantial progress in the past quarter. MWRA received the draft Geotechnical/Hazardous Materials Report in April, the draft Hydraulic Modeling Report in May, and the draft Preliminary Design Report on June 6. These reports are now undergoing review by MWRA. The final Preliminary Design Report is due in August 2007.

Optimization Study of Prison Point CSO Facility

On March 30, 2007, MWRA submitted its report on the optimization study of the Prison Point CSO facility (the "report") to EPA and DEP, in compliance with Schedule Seven. The report recommends implementing certain operating strategies at the Prison Point CSO facility and related structures that MWRA's hydraulic model predicts can reduce treated discharges from the facility from 30 activations in a typical year with an average annual treated discharge volume of 335 million gallons (which is the level of control in the Long-term CSO Control Plan incorporated into the Court Order in April 2006) to 17 activations in a typical year with an average annual treated discharge volume of 250 million gallons, without increasing untreated overflows elsewhere.

MWRA is implementing the recommendations in the report and is continuing to conduct hydraulic modeling and operational testing to confirm the feasibility of attaining this level of control at Prison Point, as well as identify any risks that may be associated with the operational changes over a range of storm characteristics. MWRA expects to be able to propose new discharge limits for the Prison Point CSO facility in the spring of 2008, after completing a one year start-up and testing period.

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2.2 Community-Managed Projects

South Dorchester Bay Sewer Separation

South Dorchester Bay sewer separation is intended to eliminate CSO flows to the Commercial Point and Fox Point CSO treatment facilities by the Schedule Seven milestone of November 2008, allowing MWRA to decommission the facilities. BWSC commenced construction in April 1999. All nine separation contracts have been completed. Overall project work has resulted in the installation of a total of 135,351 linear feet of new storm drain.

The second major downspout disconnection contract commenced in late 2004, and this contract is now approximately 88% complete. BWSC plans one additional downspout disconnection contract. BWSC received bids for the final downspout disconnection contract on May 10, and expects to award the contract this month. Overall, approximately 66% of downspouts have been removed. Final paving work is also conducted under separate contracts. The first two paving contracts are complete. The third and final paving contract commenced in October 2005 and will continue through 2007.

BWSC has closed all of the regulators tributary to MWRA's Fox Point and Commercial Point CSO treatment facilities, effectively eliminating CSO overflows to South Dorchester Bay. Prior to implementation of this project, there were 20 CSO discharges totaling 30 million gallons into South Dorchester Bay, in a typical year. The regulators will remain closed pending BWSC review of the results of ongoing flow monitoring and system hydraulic evaluations to determine whether the performance goals of the South Dorchester Bay sewer separation project, including the prevention of system flooding, have been attained. If hydraulic problems are identified, BWSC may have to reopen certain regulators and perform additional work to relieve the system and ultimately allow all regulators to be closed permanently. The results of the flow monitoring program area expected to be available this summer.

Stony Brook Sewer Separation

Stony Brook sewer separation is intended to minimize CSO discharges into BWSC's Stony Brook Conduit, which drains to the Charles River Basin. BWSC commenced construction in July 2000 and has completed construction of all four separation contracts. BWSC installed a total of 73,313 linear feet of new storm drains to complete this project. BWSC has completed the initial paving contract. The second and final paving contract commenced in October 2005 and will continue through May 2008. As reported earlier, the major downspout disconnection contract in the Stony Brook project area is complete.

BWSC recently completed flow monitoring of the Stony Brook system and expects to issue a report soon evaluating the data and determining

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whether the CSO performance objectives and control goals have been met.

Fort Point Channel Sewer Separation

On March 30, 2007, BWSC substantially completed construction of the project, in compliance with Schedule Seven. This project is expected to reduce CSO discharges to Fort Point Channel at outfalls BOS072 and BOS073 from nine activations totaling three million gallons of untreated CSOs in a typical year to zero discharges in a typical year. BWSC installed 4,550 linear feet of new storm drain and completed weir raising and floatables controls at the related CSO regulators. BWSC is now conducting flow monitoring to determine whether the CSO control goals have been met.

Morrissey Boulevard Storm Drain

A component of the North Dorchester Bay CSO control plan, the Morrissey Boulevard storm drain project is intended to direct some of the North Dorchester Bay stormwater away from MWRA's recommended CSO storage tunnel in storms greater than the 1-year design storm.

As previously reported, BWSC issued the Notice to Proceed with the first of two planned construction contracts for the project in December 2006, in compliance with Schedule Seven. The first contract involved construction of the diversion chamber that will allow stormwater flows now discharging to the South Boston beaches at outfall BOS087 to be diverted to Savin Hill Cove in storms greater than the 1-year design storm. BWSC received bids for the second, much larger, construction contract on May 23, is currently reviewing the bids, and expects to award the contract later this month.

Reserved Channel Sewer Separation

Reserved Channel sewer separation is intended to minimize CSO discharges to the Reserved Channel by separating combined sewer systems in adjacent areas of South Boston. Implementation of the recommended sewer separation plan will reduce the number of overflows to Reserved Channel from as many as 37 to 3 in a typical year.

BWSC is continuing with the data collection phase, including field investigations, building inspections, geotechnical investigations and flow metering. The project schedule calls for submission of the preliminary design report by December 2007. Final design will commence in January 2008, with start of construction by May 2009.

Bulfinch Triangle Sewer Separation

The goal of the Bulfinch Triangle sewer separation is to minimize CSO discharges to the Charles River by separating combined sewer systems

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in the area of Boston roughly bounded by North Station, Haymarket Station, North Washington St., Cambridge St. and immediate environs. The recommended sewer separation plan is intended to reduce the number of overflows to the Charles River, reduce overflows to the Prison Point CSO facility and close outfall BOS049.

Field investigations, building inspections, survey work and public outreach are ongoing. The draft Preliminary Design Report was completed in April. BWSC expects to receive the final Preliminary Design Report later this month.

Brookline Sewer Separation

This project will separate several areas of Brookline, totaling 72 acres, where there are remaining combined sewers tributary to MWRA's Charles River Valley Sewer. The project is intended to reduce discharges to the Charles River at the Cottage Farm facility.

The project has been split into two sections, Beacon Street area and Boylston Street area, to coordinate with Mass Highway reconstruction of Beacon Street. Preliminary and final design of Beacon Street area will be conducted first. Field investigations and flow monitoring are ongoing. Preliminary pipe routing is being developed. The hazardous materials assessment program is ongoing. Brookline expects to receive the preliminary design report for the Beacon Street area is expected in September 2007.

Cambridge/Alewife Brook Sewer Separation

On June 1, 2007, the Acting Commissioner for DEP issued a final decision sustaining the Superseding Order of Conditions issued by DEP to the City of Cambridge Department of Public Works for its Cambridge Park Drive Drainage Project (Contract 12). Contract 12 includes the CAM004 stormwater outfall and detention basin that will accommodate the stormwater flows that will be generated from the CAM004 sewer separation project and mitigate the impacts of these flows on flooding along Alewife Brook. Petitioners filed a Motion for Reconsideration on June 12, 2007, which the Authority received on June 14, 2007. The Authority is reviewing the implications of this Motion for Reconsideration on the feasibility of moving forward with the design and construction of this project.

MWRA currently estimates that the five projects constituting the long-term CSO control plan for Alewife Brook, including CAM004 stormwater outfall and detention basin (Contract 12), CAM400 manhole separation, interceptor connection relief and floatables control at CAM002, CAM401B, SOM01A and CAM001, CAM004 sewer separation, and MWR003 control gate/floatables control and MWRA Rindge Avenue siphon relief have to date experienced a delay of at least 15 months beyond the Schedule Seven milestones due to the wetlands appeal.

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A portion of the Cambridge/Alewife sewer separation project is being implemented by MWRA. The work involves installation of an overflow control gate and floatables control at outfall MWR003 and hydraulic relief of an MWRA siphon near Rindge Avenue. Due to delays associated with Cambridge's Contract 12, MWRA has revised its schedule for the MWR003 improvements and Rindge Avenue Siphon. MWRA now plans to commence design by July 2010.

2.3 Region-wide Floatables Control and Outfall Closing Projects

MWRA and BWSC have completed work to control floatables in CSO discharges from the outfalls they own and operate, with the exception of floatables control at MWRA outfall MWR003, discussed above under "Cambridge/Alewife Brook Sewer Separation."

Cambridge Floatables Control

Floatables control will be installed by Cambridge at four Cambridge outfalls, as well as one Somerville outfall, along Alewife Brook as part of the Cambridge/Alewife Brook sewer separation project. These controls were included in the various regulatory filings on the Alewife sewer separation project and Alewife Brook/Upper Mystic River Variance. As previously reported, Cambridge has completed floatables control at one of these locations, CAM401A, and plans to complete construction at the other Alewife locations by 2008, but design work is on hold pending resolution of the Contract 12 wetlands appeal.

With respect to Charles River floatables control, Cambridge is completing final design for providing floatables control at two CSO outfalls it owns and operates (CAM007 and CAM017). Cambridge plans to advertise the construction contract soon and expects to complete the work by December 2007, in compliance with Schedule Seven. In the fall of 2006, Cambridge temporarily closed two other CSO outfalls (CAM009 and CAM011) on the Charles River that were previously slated for floatables control. Cambridge intends to monitor system conditions near them over the next two years to determine whether they can be permanently closed without adverse hydraulic effect.