

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.

.....

MWRA QUARTERLY COMPLIANCE AND  
PROGRESS REPORT AS OF JUNE 15, 2004

The Massachusetts Water Resources Authority (the "Authority") submits the following quarterly compliance report for the period from March 16, 2004 to June 15, 2004, and supplementary compliance information in accordance with the Court's order of December 23, 1985, and subsequent orders of the Court.

CIVIL ACTION  
No. 85-0489-MA

CIVIL ACTION  
No. 83-1614-MA

I. Schedule Six

A status report for the scheduled activities for the month of April 2004 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. Report on Backup Disposal Plan.

On April 15, 2004, 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.

B. Progress Report.

1. Combined Sewer Overflow Program.

(a) North Dorchester Bay and Reserved Channel Consolidation Conduits and CSO Facility.

Consistent with the Authority's expectations in the Special Report filed with the Court on April 22, 2004,<sup>1</sup> the Authority submitted the Supplemental Facilities Plan and Environmental Impact Report ("SFP/EIR") for the recommended long-term combined sewer overflow ("CSO") control plan for

---

<sup>1</sup> Special Report of MWRA Concerning Long-Term CSO Control Plan for North Dorchester Bay and the Reserved Channel and Submission of the Annual CSO Progress Report.

North Dorchester Bay and the Reserved Channel to the MEPA Office of the Executive Office of Environmental Affairs on April 27, 2004. MEPA noticed the SFP/EIR in the Environmental Monitor on May 8, beginning a 60-day public review and comment period. The Authority distributed more than 150 copies of the SFP/EIR to federal, state and local agencies, elected officials and interested advocacy groups and citizens, with additional copies being provided upon request. Public comments are due to MEPA by July 9, 2004. The Authority anticipates that the Secretary of Environmental Affairs will issue a decision on the SFP/EIR in July.

Since submitting the SFP/EIR, the Authority has been engaged in discussions with various interested parties and the public to disseminate information about the new recommended CSO control plan, to support public review of the document, to provide clarification where necessary and to coordinate next steps. Over the last several weeks, the Authority has held meetings and other discussions with the Environmental Protection Agency ("EPA"), the Department of Environmental Protection ("DEP"), the Conservation Law Foundation ("CLF"), the Department of Conservation and Recreation ("DCR"), (formerly Metropolitan District Commission, which controls much of the land along the tunnel alignment and at the recommended site for the odor control facility near the State Police Building), the Boston Parks and Recreation Department (which controls other land along and near the tunnel alignment), the Boston Water and Sewer Commission ("BWSC") and elected officials representing South Boston and affected areas of Dorchester.

The Authority met with the Columbia Point Associates, an association of businesses in that area of Dorchester, on May 20 and with the Columbia-Savin Hill Civic Association on June 7, primarily to review and receive comments on aspects of the recommended plan for North Dorchester Bay that affect those areas. The Authority also held a public meeting in South Boston on June 14 to review the recommended plan and answer questions in aid of public comments on the plan.

The Authority notes the Court's, CLF's and EPA's comments with respect to the portion of the recommended plan that relates to the Morrissey Boulevard storm drain. The storm drain was originally proposed to serve the DCR's need to improve drainage and prevent chronic flooding along Morrissey Boulevard and BWSC's need to convey stormwater flows created from sewer separation work in Dorchester to an appropriate discharge location. The proposed discharge location for the 12 foot by 12 foot drain is Patten's Cove, located off South Dorchester Bay. Patten's Cove is the historical discharge point for stormwater flows from this portion of Morrissey Boulevard and is not a primary contact receiving water (i.e. not a public beach area). The Authority's recommended plan in the SFP/EIR would not change the proposed storm drain's size or layout from what BWSC had planned.

In fact, the recommended plan proposes to construct a diversion structure that will allow stormwater flows from the BOS087 area to be collected by the North Dorchester Bay CSO tunnel in most rainfall events, up to a one-year storm. Only in storms greater than a one-year storm would the tunnel

connection be closed, diverting the BOS087 stormwater flows into the 12 foot by 12 foot Morrissey Boulevard storm drain for discharge at Patten's Cove. In a typical year, the CSO tunnel will collect the vast majority of the 101 million gallons of BOS087 stormwater that otherwise would be discharged to Patten's Cove under the plan developed by BWSC. In larger storms when this stormwater would be diverted to the Morrissey Boulevard drain, the Authority believes the BOS087 flows would be a small percentage of the overall stormwater flows to South Dorchester Bay. Impacts from the BOS087 stormwater flows on the quality of Patten's Cove and South Dorchester Bay would be infrequent and relatively small.

Therefore, the recommended plan is a marked improvement for water quality over the previous BWSC plan. With respect to the Morrissey Boulevard roadway drainage impacts to Patten's Cove, the Authority expects that DCR and BWSC will implement a range of stormwater management practices to reduce pollutants, including such structural measures as grit collecting sumps in all catch basins.

The Authority reviewed the BWSC Morrissey Boulevard project and confirmed that it is technically feasible to construct the project, including a gate control system that will allow BOS087 stormwater to be directed to the storage tunnel in smaller storms (up to a one-year storm) and diverted to Patten's Cove in larger storms. The Authority plans to submit a supplemental letter report to MEPA shortly, stating the feasibility of this approach to managing BOS087 stormwater and confirming that it is part of the Authority's

recommended plan.

While the Authority did not include proposed schedules for design and construction of the Morrissey Boulevard storm drain in past filings, it did include these proposed schedules in the SFP/EIR. The document proposes that BWSC would resume design by June 2005, commence construction by December 2006 and complete construction by June 2009. The SFP/EIR also proposes schedules for design and construction of the other elements of the recommended plan for North Dorchester Bay and the Reserved Channel. For the Reserved Channel sewer separation work, the SFP/EIR proposes that BWSC commence design by January 2007, commence construction by May 2009 and complete construction by December 2017. The Authority believes that the proposed schedules in the SFP/EIR are responsive to both the demands for water quality improvement and protection of uses as early as possible and the implementation needs of ensuring technical integrity of the proposed structures and control systems, obtaining all necessary permits, gaining access to or ownership of necessary land and easements, controlling construction risks and ensuring project completion in accordance with the goals.

(b) Union Park Detention and Treatment Facility.

Over the past quarter, the contractor continued to make progress on the construction of the Union Park detention and treatment facility. The contractor completed placing several concrete base slabs and wall sections for the new building and removing sections of the existing wetwell and discharge

chamber in preparation for the installation of two new pumps. Work on the excavation of the detention basins and construction of the new influent chamber is ongoing. Overall construction is now 32-percent complete.

As noted last quarter, the Authority was planning to grant a time extension to the contractor due to the delay associated with the site remediation of the abandoned 1914 pump station.<sup>2</sup> The Authority currently estimates that the remediation resulted in a 102-day delay and plans to seek authorization from its Board of Directors to extend the contract completion date from September 29, 2005 to January 9, 2006.

(c) Cambridge Sewer Separation.

The City of Cambridge has nearly completed a second Supplemental Preliminary Design Report to incorporate new information and plan adjustments that were built into the recommended plan during the past three years of MEPA review. The updated report, which Cambridge plans to submit to the Authority soon, will define project implementation requirements and contract scheduling and will update estimated construction and engineering costs.

In the meantime, Cambridge continues to perform final design work on construction of the new storm drain outfall and stormwater wetland associated with CAM004. Particular effort has been expended to coordinate this work with DCR and the Cambridge Conservation Commission, from whom construction approvals are needed. These coordination efforts, including

---

<sup>2</sup> See Compliance and Progress Report for March 15, 2004, pp. 5-6.

Cambridge's responses to many questions, concerns and requests for design changes, have been greater than expected, but Cambridge expects to be able to commence construction with this contract by July 2005, as reported in the Final Variance Report for Alewife Brook and the Upper Mystic River.

In addition, Cambridge continues to construct earlier pieces of the plan. Separation of some of the common manholes in the CAM004 area is underway, and Cambridge recently completed the installation of floatables control at outfall CAM401A.

(d) Interceptor Relief for BOS003-014.

The contractor completed the rehabilitation of the main trunk section of the East Boston Branch Sewer with cured-in-place pipe liner. This contract was the first of three recommended in the 1997 Final Facilities Plan and Environmental Impact Report ("Facilities Plan/EIR") and was implemented to safeguard the structural integrity of the existing system as well as to provide hydraulic benefit for CSO control. As previously noted, the other two construction contracts recommended in the 1997 Facilities Plan/EIR are the subject of a reassessment.<sup>3</sup>

The Authority recently updated the hydraulic model used in the reassessment to represent the rehabilitated dimensions of the East Boston Branch trunk sewer. It performed additional hydraulic analyses to reestablish

---

<sup>3</sup> For previous reports, see CSO Annual Progress Report 2003, pp. 27-32, Exhibit "A" to the Special Report submitted April 22, 2004; Compliance and Progress Reports for March 15, 2004, pp. 4-5; and June 16, 2003, pp. 5-7; and the Special Report Concerning Construction of Interceptor Relief for BOS 003-014 submitted April 26, 2002.



baseline hydraulic conditions and to evaluate the feasibility of closing certain outfalls. The Authority plans to discuss these results with EPA and DEP in the near future, with the goal of selecting a preferred plan and developing a new construction schedule.

(e) Charles River Variance.

As reported previously, the Authority submitted the Cottage Farm CSO Facility Assessment Report to MEPA, EPA and DEP in January 2004.<sup>4</sup> The report concluded that additional storage capacity at the Cottage Farm facility would not be cost-effective and described how planned sewer separation and proposed optimization of the Authority's wastewater system will further reduce CSO discharges to the Charles River. The report also requested that DEP further extend the variance beyond the current end date, and not consider changing water quality standards for the Lower Charles River Basin until the water quality benefits of ongoing and planned CSO and non-CSO pollution abatement work are realized.

On April 8, 2004, DEP sponsored a Charles River CSO public forum to discuss the Cottage Farm report, the variance and the water quality standards decision-making process. In response to requests at this forum, MEPA extended the original 90-day public comment period by one month to May 24, 2004, to allow more time for the public to review the report. The Authority has received copies of the public comments submitted to MEPA and expects that the Secretary of Environmental Affairs will issue a letter shortly.

---

<sup>4</sup> See Compliance and Progress Report dated March 15, 2004, pp. 6-7.

In addition, the Authority recently received a letter from DEP commenting on the Authority's initial financial analysis included in the Upper Mystic/Alewife Brook Final Variance Report and the Cottage Farm Assessment Report and requesting additional information. The Authority plans to respond to DEP's comments and submit additional information to DEP and EPA including the Authority's Assessment of Economic Impact of Additional Investment in CSO Control on Communities and Ratepayers within the next month.

(f) Quarterly CSO Progress Report.

Pursuant to Schedule Six, the Authority submits as Exhibit "B" its Quarterly CSO Progress Report (the "Report"). The Report summarizes progress made in the design and construction of the CSO projects during the past quarter and identifies issues that have affected or may affect compliance

with Schedule Six. The Report also notes the status of certain planning and regulatory efforts.

By its attorneys,

---

John M. Stevens (BBO No. 480140)  
Foley Hoag LLP  
155 Seaport Boulevard  
Boston, Massachusetts 02210  
(617) 832-1000

Of Counsel:

Nancy C. Kurtz,  
General Counsel  
Christopher L. John,  
Senior Staff Counsel  
Massachusetts Water Resources  
Authority  
100 First Avenue  
Boston, Massachusetts 02129  
(617) 242-6000

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: June 15, 2004