

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-MA

CIVIL ACTION
No. 83-1614-MA

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

The Massachusetts Water Resources Authority (the "Authority") submits the following quarterly compliance report for the period from December 16, 2003 to March 15, 2004, and supplementary compliance information in accordance with the Court's order of December 23, 1985, and subsequent orders of the Court.

I. Schedule Six

There were no scheduled activities for the last quarter on the Court's Schedule Six.

A. Progress Report.

1. Combined Sewer Overflow Program.

(a) Annual CSO Progress Report.

The Authority planned to seek authorization from its Board of Directors on March 10 to submit its *Combined Sewer Overflow Annual Progress Report 2003* to the Court. However, due to unforeseen family or personal circumstances that would have prevented the availability of a significant number of Directors from attending the March 10 meeting, staff have recommended to its Board that the item be presented at its next scheduled meeting on April 14. Following that meeting, the Authority will submit its *Combined Sewer Overflow Annual Progress Report 2003* as part of a Special Report to the Court.

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

Since last reporting, the Authority has made significant progress in developing a new recommended plan for Long-Term CSO Control for North Dorchester Bay and the Reserved Channel and in gaining the support of interested parties for this plan. The Authority has completed Phase II of its

reassessment for combined sewer overflow ("CSO") control for North Dorchester Bay and the Reserved Channel. During this time, the Executive Director and staff of the Authority have met multiple times with interested parties in an effort to reach consensus on a plan for CSO control in South Boston. These discussions have been fruitful, and the Authority is encouraged that many of the contentious issues appear to have been resolved, including those related to siting of permanent facilities. The Authority is hopeful that the recommended approach will have the support of all or a majority of the Court parties.

The Authority planned to seek authorization from its Board of Directors to submit the recommended approach as part of the Supplemental Facilities Plan and Environmental Impact Report ("SFP/EIR") for the Long-Term CSO Control Plan for North Dorchester Bay and the Reserved Channel to the MEPA Unit of the Executive Office of Environmental Affairs. However, because the meeting at which the authorization will be sought has had to be deferred, the Authority plans to file a Special Report following Board action. The Authority will provide a detailed update including a schedule for design and construction in its Special Report.

(c) Storage and Consolidation Conduit
for BOS072-073.

On January 15, 2004, the Authority filed a Motion To Amend Schedule Six by replacing the CSO storage and consolidation conduit project for Fort Point Channel Outfalls BOS072 and BOS073 with a sewer separation and system optimization project. The Court allowed the motion and issued an

Order on February 27, 2004 substituting the CSO storage and consolidation conduit project for Fort Point Channel Outfalls BOS072 and BOS073 with a sewer separation and system optimization project. The plan provides for sewer separation in the area tributary to BOS 073 and raising the weir elevations in the BOS072 CSO regulator (RE072-3) and in the BOS073 CSO regulator (RE073-4). The Authority is moving forward with implementation of the plan in accordance with the new Court milestone.

(d) Interceptor Relief for BOS003-014.

As reported last quarter, the Authority substantially completed its reassessment of the interceptor relief project for BOS003-014 after evaluating the cost and benefit of 20 CSO control alternatives for East Boston, including the project for interceptor relief set forth in the 1997 Plan. As noted, the reassessment confirmed that the 1997 Plan for interceptor relief would not achieve the 1997 Plan goals of five activations and 4.0 million gallons in a typical year and would cost \$30 million more than the 1997 cost estimate.

In early 2004, the Authority performed additional analyses with the hydraulic model in an attempt to optimize the combination of hydraulic relief and sewer separation technologies for East Boston in response to questions raised by the United States Environmental Protection Agency ("EPA") and the Massachusetts Department of Environmental Protection ("DEP") staff. The Authority also refined the hydraulic model to reflect the rehabilitated condition of the East Boston trunk sewer. In addition, the Authority evaluated the effects

of closing certain regulators along the East Boston waterfront as recently proposed by the Boston Water and Sewer Commission ("BWSC"). The Authority is now finalizing the report to reflect the additional hydraulic modeling.

(e) Union Park Detention and Treatment Facility.

During the past quarter, the contractor made additional construction progress, reaching 23-percent completion as of March 15. The contractor completed construction of the new inlet channel and made progress on construction of the inlet chamber. The contractor also completed installing the sheeting for the earth support system associated with the detention tanks and continued to work on the first level of bracing and first level of excavation for the tanks. Demolition work to gain access to the pump station wet well in order to add pumps proposed by BWSC is now underway. In addition, the contractor and Authority staff continued to respond to public inquiries during construction and hold periodic public meetings.

As reported last quarter, the contractor was approximately three months behind schedule for completion of construction of the Union Park Detention Treatment facility by September 2005 due to the site remediation, which was needed to address the unanticipated soil contamination discovered within the foundation of the abandoned 1914 pump station. Based on a recent reassessment of the schedule, the Authority now believes that the contractor will be unable to recover the lost time. Due to this unanticipated contamination, the Authority plans on extending the contract completion date

once it develops a new schedule for substantial completion.

(f) Charles River Variance.

In January 2004, the Authority submitted the Cottage Farm CSO Facility Assessment Report (the "Report") to MEPA, EPA and DEP, in accordance with conditions in the Charles River Variance. In addition to presenting an assessment of the treatment performance of the upgraded Cottage Farm CSO facility, the Report evaluated the cost, water quality benefits and environmental impacts of alternatives providing additional storage capacity at the facility or improving the hydraulic performance of its interceptor system. The Authority also presented an updated description of the recommended plan for CSO control for the Charles River and a preliminary economic impact analysis, which the Authority intends to supplement.

Results of performance testing on the CSO facility indicated that the new disinfection and dechlorination systems perform well, with the facility effluent able to meet the limits in the Authority's NPDES permit and demonstrated that that construction of additional storage capacity at the Cottage Farm facility would not be cost-effective. The report also recommended that DEP further extend the Charles River variance beyond the current end date and not consider changing water quality standards for the Charles River Basin until the

water quality benefits of ongoing and planned work to reduce CSO and non-CSO pollution are fully realized.

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: March 15, 2004