



MASSACHUSETTS WATER RESOURCES AUTHORITY

Charlestown Navy Yard
100 First Avenue, Building 39
Boston, MA 02129

Frederick A. Laskey
Executive Director

Telephone: (617) 242-6000
Fax: (617) 788-4899
TTY: (617) 788-4971

September 22, 2022

Mr. Eric Worrall
Regional Director, MassDEP
Northeast Regional Office
205B Lowell Street
Wilmington, MA 01887

RE: Schedule Extension Request for Deliverables Associated with the Updated CSO Control Plans

Dear Mr. Worrall:

In response to correspondence from the Massachusetts Department of Environmental Protection (“MassDEP”) dated July 22, 2022, the Massachusetts Water Resources Authority (“MWRA”) formally requests a 36-month extension to the schedule for the deliverables associated with an Update to the Combined Sewer Overflow (“CSO”) Long Term Control Plan for MWRA’s CSO outfalls discharging to the Charles River and Alewife Brook/Upper Mystic River Basins. As further detailed below, this will result in extending the 2019 Variances to at least 2027. MassDEP’s July 22nd correspondence conditionally-approved MWRA’s Updated CSO Control Plan—Draft Scope of Work and Schedule, explaining in relevant part, that “[i]f MWRA wishes to pursue a schedule extension, by September 1, 2022 [subsequently extended to September 22], MWRA and the Cities of Cambridge and Somerville shall submit a combined Gantt chart that shows a proposed detailed schedule for completion of all deliverables under the [2019] Variances, and MWRA shall submit a formal extension request that justifies the need for additional time.”

In support of this extension request and in accordance with MassDEP’s instructions, attached please find a proposed Gantt chart, which has been agreed upon by the Cities of Cambridge and Somerville, as well as by MWRA. As you will see in the Gantt chart, only two of the remaining deliverables set forth in the 2019 Variances are impacted by this request, including the dates by which MWRA will submit its Draft and Final versions of its Updated CSO Control Plan to MassDEP and EPA for approval.¹ As further detailed below, although there will be coordination and collaboration between MWRA and the Cities of Cambridge and Somerville, including with respect to the Typical Year and public participation, MWRA believes that it is important that each party submit their own CSO Control Plans to MassDEP.

¹ The other remaining deliverables in the 2019 Variances, including: (a) July 15th (each year) Annual Water Quality Sampling Report, (b) April 15th (each year) Joint Press Release, (c) April 30th (each year) website posting of Annual Duration and Volume of permittees’ CSO discharges to variance waters, (d) January 31st (each year) Annual Progress Reports on implementation of Additional System Optimization Measures, and (e) December 2022, CSO System Optimization for Alewife Brook and Lower Charles River Basins Project, Study and Preliminary Design, are not altered by this request.

This extension request is well justified. In particular, the substantial collaboration between MWRA and the Cities of Cambridge and Somerville that is required to develop effective and useful Updated CSO Control Plans, which simultaneously meet the requirements of MassDEP's and EPA's conditions and clarifications, necessitates an extension of the current schedule. In further support of this extension request, MWRA details both the anticipated level of effort and challenges driving the time required to effectively perform these tasks that ultimately lead to the Final Updated CSO Control Plan submittals.

- Updating the Typical Year: Since March 2022, MWRA, Cambridge, and Somerville have been working to develop a typical year that not only reflects average rainfall and intensity in recent years, but considers the projected impacts of climate change on precipitation in the coming decades. Consultants hired by Cambridge are conducting rigorous statistical analyses and using a novel methodology, as well as getting input from a climate expert at Cornell University. Combined with the need for agreement on the final typical year by all three parties, this process is time consuming. EPA and MassDEP have stressed the importance of public input in this process, which adds even more time. Lastly, having an updated typical year is required prior to any alternatives analyses conducted as part of the Updated CSO Control Plans, so further progress cannot be made until it is completed. Since the 2019 Variances did not mention the development of an updated typical year that considers climate change, adding this key component will take longer than expected.
- Public Participation: The 2019 Variances state that MWRA and the municipalities must develop a “public participation plan sufficient to provide for ample opportunities for the public to be informed about the development of the Plans at critical junctures, and to have opportunities to provide informed comments on the CSO abatement alternatives and recommendations.” Based on the first public meeting held in June 2022, not only will more meetings be required than initially anticipated, but preparation for each one is very time consuming. Sufficient time is needed for notice and outreach to communities and Environmental Justice populations as required through the recent revisions to the MEPA regulations, which became effective in January 2022. These new requirements include comprehensive translation services and additional time to address public comments, which are critical to productive public input.
- Alternatives Analysis: Each CSO control alternative will be evaluated using the new typical year and unified model currently under development by the variance holders. An Alternatives Analysis is key to developing the Updated CSO Control Plans and has been highlighted as an important aspect of the public participation process. Giving the public an opportunity to provide meaningful input into the development, screening, and selection of alternatives is expected to require three public meetings over the course of more than a year and a half. This should provide adequate time before and in-between public meetings to prepare and provide meaningful responses and insight into public concerns and comments. As a result, the Alternatives Analysis will take longer than expected.
- MEPA Review: The development of a Special Review Process (akin to the MEPA methodology used in the development of the existing Long Term CSO Control Plan in the mid-1990s) with the MEPA office, MassDEP, Cambridge, Somerville, and MWRA for the Updated CSO Control Plans is still underway and it is unclear how long the process will take. Based upon recent discussions with the MEPA office, MWRA understands that while

some MEPA processes may run concurrently with ongoing work for the development of the Updated CSO Control Plans, additional time will be needed once a draft plan has been proposed. Although MEPA review was mentioned in the 2019 Variances, it was not clear that the process would apply to planning and program development in addition to any individual projects. This unanticipated step will extend the original schedule.

- Preparation of the Draft and Final Updated CSO Control Plans: Preparing both the draft and final Updated CSO Control Plans requires several months of coordinating the drafting of the reports, as well as time for MWRA, Cambridge, and Somerville to review each other's reports and provide comments, and for those comments to be incorporated before each draft Updated CSO Control Plan is submitted to MassDEP and EPA. Both EPA and MassDEP have consistently stressed the importance of collaboration between MWRA, Cambridge, and Somerville in developing the Updated CSO Control Plans. Additional time beyond the original schedule is required to successfully meet this request and submit coordinated effective Updated CSO Control Plans.

MWRA, in coordination with Cambridge and Somerville, and our respective consultants, have concluded that the enhanced efforts described above will require an additional 36 months to submit the Final Updated CSO Control Plans (December 31, 2026). The 2019 Variances expire on August 31, 2024, which is far short of the additional time needed to be fully responsive to MassDEP, EPA, and the public.

As a result, MWRA also respectfully suggests that MassDEP consider moving forward with the process that would support this extension request and ensure Variances are in place for an appropriate period beyond the requested December 31, 2026 Final Updated CSO Control Plan submittals. The 2019 Variances includes a period of 8 months beyond the submission of Final Updated CSO Control Plans. At a minimum, 8 months should be added beyond the new submission date for the Final Updated CSO Control Plans, bringing the Variances to at least August, 2027. MassDEP may determine that additional time is needed to consider a framework for MWRA and the communities to continue operating their systems while beginning the process of implementing the Final Updated CSO Control Plans, once approved. Considering the additional level of effort and public involvement to be performed over the next several years in developing Draft and Final Updated CSO Control Plans, MWRA recommends that Variances in support of this request should merely provide a time extension, and not result in additional variance conditions that would take away consultant and staff resources dedicated to the Updated CSO Control Plan efforts.

Finally, MWRA has considered the City of Cambridge's approach, that MWRA, Cambridge, and Somerville prepare a common Updated CSO Control Plan. MWRA does not support this approach. MWRA believes that at least three compelling factors associated with the Updated CSO Control Plan development counsel in favor of the submittal of separate, but coordinated Updated CSO Control Plans by each entity. These factors include: (1) independent affordability analyses required by the three parties influencing each entities ability to apply capital resources to further CSO control; (2) MWRA CSOs that are largely hydraulically independent of Cambridge and Somerville (e.g., MWR010, 018, 019, 020, & 023) and vice versa; and (3) Cambridge's and Somerville's need to consider separate stormwater flooding and pollutant load implications. MWRA acknowledges that there are CSO control alternatives that must be evaluated and considered together, and that the parties will need to closely collaborate to develop tools to be used

in alternatives evaluation (unified model), an Updated Typical Year, and public input. MWRA is committed to this collaboration.

Thank you for your consideration of this request. If you have any questions, please contact me at 617-799-8880.

Sincerely,



David Coppes
Chief Operating Officer, MWRA

cc (all via Email):

Kathy Baskin, MassDEP
Susannah King, MassDEP/NERO
Todd Borci, EPA
Michael Wagner, EPA
Jeff Kopf, EPA
Carolyn Fiore, MWRA
Rebecca Weidman, MWRA
Betsy Reilley, MWRA
Michael Altieri, MWRA
Brian L. Kubaska, MWRA
Kathy Watkins, City of Cambridge
Catherine Woodbury, City of Cambridge
Rich Raiche, City of Somerville
Lucica Hiller, City of Somerville

Updated CSO Control Plan Schedule

