

UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS

.....
UNITED STATES OF AMERICA,

Plaintiff,

v.

METROPOLITAN DISTRICT COMMISSION,
et al.,

Defendants.
.....

CIVIL ACTION
No. 85-0489-RGS

.....
CONSERVATION LAW FOUNDATION OF
NEW ENGLAND, INC.,

Plaintiff,

v.

METROPOLITAN DISTRICT COMMISSION,

Defendants.
.....

CIVIL ACTION
No. 83-1614-RGS

MWRA QUARTERLY COMPLIANCE AND
PROGRESS REPORT AS OF DECEMBER 16, 2013

The Massachusetts Water Resources Authority (the "Authority") submits the following quarterly compliance report for the period from September 14, 2013 to December 16, 2013 and supplementary compliance information in accordance with the Court's order of December 23, 1985 and subsequent orders of the Court.

I. Schedule Seven.

Scheduled activity for the month of September 2013 on the Court's Schedule Seven, certified by Frederick A. Laskey, Executive Director of the Authority, is attached hereto as Exhibit "A."

A. Activities Completed.

1. Commence Construction of Interceptor Connection Relief and Floatables Control at Outfall SOM01A.

As previously reported,¹ the Authority issued the Notice to Proceed with the \$292,300 construction contract for the Interceptor Connection Relief and Floatables Control at Outfall SOM01A project on August 30, 2013, ahead of the milestone in Schedule Seven. The work includes upgrading the connection between the City of Somerville's Tannery Brook Conduit (the "TBC") to reduce CSO discharges from the TBC at Outfall SOM01A and installing an underflow baffle within the TBC to provide floatables control for the remaining discharges. The Authority expects construction to be complete later this month, ahead of the June 2014 milestone in Schedule Seven.

B. Progress Report.

1. Combined Sewer Overflow Program.

a. CAM004 Sewer Separation.

On October 15, 2013, the City of Cambridge hosted a dedication ceremony and guided tours at its Alewife Reservation Constructed Wetland. Attendees included U.S. District Court Judge Richard G. Stearns,

¹ See Compliance and Progress Report, September 13, 2013, p. 3.

Massachusetts Secretary of Energy and Environmental Affairs Richard K. Sullivan, Jr., Department of Conservation and Recreation Commissioner Jack Murray, Cambridge Mayor Henrietta Davis and City Manager Richard Rossi, the Authority's Executive Director Fred Laskey, and other state and local officials. In their statements at the dedication, Judge Stearns and others highlighted the technical merits of the wetland in support of the sewer separation work for Alewife Brook CSO control, as well as the wetland's wide-ranging ecological, recreational and educational benefits. The dedication ceremony was held at the newly constructed public education amphitheater that has a commanding view of the wetland.

Cambridge has continued to make substantial progress with the three construction contracts that comprise the remaining work of the CAM004 sewer separation project, advancing the ongoing construction of contracts 8A and 8B and recently receiving construction bids for Contract 9. At the same time, Cambridge continues to manage, coordinate and sequence the work of all three contracts and related utility relocations and traffic management to bring the project to completion by December 2015 in compliance with Schedule Seven.

Construction of the \$17 million Contract 8A (the Authority's share is \$10.6 million) is approximately 65 percent complete. Contract 8A includes the installation of approximately 14,700 linear feet of sanitary sewer and storm drain pipe up to 54-inch diameter in Huron Avenue and several intersecting streets and 7,200 linear feet of smaller diameter drain pipe for building, catch

basin and other connections in a 68-acre area immediately east of Fresh Pond Parkway, from Fresh Pond to Brattle Street.

Subsurface work associated with sewer separation construction is nearing completion on all streets in the Contract 8A area. Cambridge's contractor continues with work to construct and connect a special drainage structure on Vassal Lane, to complete remaining sewer and storm drain installations in Larch Road and the Lexington Avenue/Huron Avenue intersection, and to reline a sewer in Lexington Avenue. The contractor has completed surface construction and restoration, including catch basins, curbing and base pavement, in Lexington Avenue, Lakeview Avenue and Grozier Road, and will perform this work on remaining streets as weather allows through next year. Throughout Contract 8A, utility coordination and relocations have gone well and are not expected to be a factor in completing the contract work.

Cambridge issued the Notice to Proceed with the \$30 million Contract 8B (the Authority's share is \$16.7 million) on September 30, 2013. Contract 8B includes 21,000 linear feet of new sanitary sewers and storm drains from 8-inch to 30-inch diameter, 1,700 linear feet of trenchless pipe rehabilitation, and approximately 13,230 linear feet of ductile iron water main pipe from 4-inch to 24-inch diameter. Work is planned in Huron Avenue and several intersecting streets to separate combined sewers in an 83-acre area east of the Contract 8A work area, extending as far east and north as Concord Avenue and

as far south as Brattle Street. To date, the contractor has completed approximately 10 percent of the construction.

The completed work of Contract 8B focused on planning activities, layout, test pits, contract required submittals and preparation of the work area. The contractor removed old rails in Huron Avenue and pruned and protected trees in advance of storm drain and sewer installation. NStar has been relocating its gas lines along Huron Avenue and Vassal Lane ahead of the sewer and storm drain installations. Work is presently underway with sewer and drain construction on Fayerweather Street, with additional crews to be added shortly for Reservoir Street and Appleton Street. Coordination with utility companies is underway and could have an effect on the contract's schedule, particularly for gas relocations needed in advance of the sewer and drain construction work. Because winter conditions will limit NStar's gas line relocations, Cambridge and its contractor will, if necessary, adjust the schedule of sewer and drain work to avoid conflicts with the gas main(s) to the extent possible.

Cambridge completed the design of Contract 9 and advertised the construction contract on October 30, 2013. The Engineer's cost estimate is \$26.4 million, with the Authority's share estimated to be \$14.9 million. Contract 9 includes the installation 19,640 linear feet of new sanitary sewers and storm drains from 6-inch to 48-inch diameter, 4,070 linear feet of trenchless pipe rehabilitation, approximately 10,360 linear feet of ductile iron water main pipe from 4-inch to 20-inch diameter, and 800 linear feet of 20-in

water pipe trenchless rehabilitation in Concord Avenue and several intersecting streets to separate combined sewers in a 60-acre area north of Contracts 8A and 8B and extending from Fresh Pond Parkway in the west to the intersection of Concord Avenue and Huron Avenue in the east.

Cambridge received bids on December 5, 2013, is currently reviewing the bids, and plans to commence construction of Contract 9 in January 2014. A small portion of the originally planned Contract 9 work, on Concord Lane – a short private way serving commercial properties, was not included in the bid documents. Cambridge has been attempting to gain entry rights to the lane for site and utility investigations needed to complete the design in this area and for eventual construction, which is intended to convert an existing, privately owned combined sewer to a separate sewer and storm drain that Cambridge proposes to own and maintain. To date, the owner has refused access. While Cambridge continues to approach the owner, it plans to request the Authority's assistance if a resolution cannot be reached soon. Cambridge may bid the work on Concord Lane as a separate (fourth) construction contract, which it expects can be completed within the court schedule.

Cambridge plans to substantially complete the sewer separation project by December 2015 in compliance with Schedule Seven. Long-term cost and schedule concerns remain with regard to limited in-state landfill space for soil disposal, though there appears to be relief for the CAM004 work that will be performed over the next year with the recent opening of two in-state landfills. A third landfill, currently in the permitting process and with available space

projected for 8 years, could provide resolution through completion of the project. Cambridge will continue to monitor the issue for impacts to the CAM004 project costs and schedule.

b. Control Gate and Floatables Control at Outfall MWR003 and MWRA Rindge Avenue Siphon Relief.

The Authority continues to make progress with design of the estimated \$1.8 million construction contract for the Control Gate and Floatables Control at Outfall MWR003 and Rindge Avenue Siphon Relief project (the “MWR003 project”). The MWR003 project will upgrade the overflow hydraulic capacity at Outfall MWR003, which discharges to the Alewife Brook. Increasing the overflow capacity is necessary to provide adequate system relief in extreme storms and allows for the planned closing of Cambridge’s nearby Outfall CAM004 and the lowering of CSO discharges at other Alewife Brook outfalls, as recommended in the approved CSO plan. The design recommendation includes increasing the hydraulic capacity of the Authority’s Rindge Avenue Siphon, which delivers overflows to the outfall, by replacing the existing 30-inch pipe with a 48-inch pipe; replacing the existing static overflow weir at MWR003 with an automated weir gate that in its lowered position will provide a higher overflow capacity when needed to mitigate system flooding; and installing an underflow baffle to provide floatables control.

The Authority received the 100-percent design plans and construction specifications on November 19, 2013. With these plans, the Authority will seek a wetlands order of conditions from the Cambridge Conservation Commission and a construction permit from the Massachusetts Department of Conservation

and Recreation ("DCR"), which owns the Alewife Brook Reservation where the project is located. The Authority and its design consultant met with the Conservation Commission's administrator at the project site on November 13, 2013 to review the project impacts in advance of the Authority filing a Notice of Intent for the wetlands permit, scheduled for later this month. The Authority also held a meeting with DCR on December 10, 2013, to review the project and begin to discuss the requirements of a DCR construction permit and right of entry agreement.

The Authority is also coordinating with NStar and Verizon for the provision of electric power and data communications, respectively, associated with the operation of the proposed automated weir gate. The design plans call for the installation of two aboveground cabinets for the purpose of housing the power and communications controls in a manner accessible to the Authority for long-term operational adjustments and maintenance. In addition, the Authority plans to meet with Cambridge today, to review the plans and the hydraulic conditions in the city's and Authority's sewer systems that the Authority predicts will exist with the recommended MWR003 project improvements and all other elements of the Alewife Brook CSO control plan in place.

The Authority plans to advertise the construction contract for the MWR003 project this spring and commence construction by August 2014, in compliance with Schedule Seven.

c. Reserved Channel Sewer Separation.

As previously reported, Boston Water and Sewer Commission (“BWSC”) has completed four of the nine planned contracts for the \$64.8 million Reserved Channel Sewer Separation project - the \$4.2 million Contract 1 that rehabilitated all four BWSC CSO outfalls that discharge to the Reserved Channel so as to provide long-term reliability and adequate capacity to carry the separated stormwater flows; the \$5.9 million Contract 2 that separated the combined sewers in a 55-acre area tributary to outfall BOS080; the \$1.1 million Contract 7, which was the first of two sequential pavement restoration contracts; and the \$10.2 million Contract 3A, which involved sewer separation in a 33-acre area tributary to outfall BOS076 bounded approximately by West First Street, G Street, West Broadway and E Street.

BWSC has continued to make significant design and construction progress on the remaining five contracts. The \$10.8 million Contract 3B, which involves sewer separation in two areas tributary to outfalls BOS078 and BOS079 totaling 66 acres, is now 85 percent complete. During the last quarter, the contractor completed the sewer and drain installations along K Street, East First, Elkins and Powerhouse Street. Work continues on Summer, East Second and East Third Streets. Contract 3B has a completion date of October 2014.

The \$9.1 million Contract 4, the last of the major Reserved Channel Sewer Separation contracts, is now 70 percent complete. While this is the same percent level of completion reported last quarter, BWSC has added

lengths of sewer, storm drain and water main to the contract at the same time that it has continued to make progress with construction. Contract 4 involves sewer separation in two areas totaling 182 acres tributary to outfalls BOS076, BOS078 and BOS079. During the last quarter, the contractor completed the installation of storm drains on D Street, West Broadway and East Broadway, as well as water mains on East Broadway and B Street. Contract 4 has a completion date of August 2015.

The \$6.8 million Contract 8, the second of two pavement restoration contracts that follow the work of the various sewer separation contracts as sections of work are completed, is 35 percent complete. During the last quarter, permanent pavement restoration was completed on E, Fargo, West Fourth, Silver and B Streets associated with outfall BOS076 (Contract 4). BWSC also continues to make progress with the design of Contract 5 (existing sewer cleaning and lining) and repackaging of Contract 6 (downspout disconnections). BWSC advertised Contract 6 on December 4, 2013 with bids due December 31, 2013, and plans to advertise Contract 5 in early January. BWSC expects to complete all sewer separation work for the Reserved Channel Sewer Separation project by December 2015, in compliance with Schedule Seven.

In a letter dated November 12, 2013, BWSC requested the Authority's approval to expand the sewer separation infrastructure (primarily new storm drains) into certain streets within the established Reserved Channel sewer separation area to increase inflow removal. Authority staff are reviewing the

request. BWSC has confirmed that the additional work can be accomplished by change orders and within the existing contract durations.

Respectfully submitted,

/s/ Jonathan M. Ettinger
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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 December 16, 2013.

/s/ Jonathan M. Ettinger
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Dated: December 16, 2013