

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 85-0489-RGS

UNITED STATES OF AMERICA,

Plaintiff,

v.

METROPOLITAN DISTRICT COMMISSION, et al.,

Defendants.

CIVIL ACTION NO. 83-1614-RGS

CONSERVATION LAW FOUNDATION OF NEW ENGLAND, INC.,

Plaintiff,

v.

METROPOLITAN DISTRICT COMMISSION,

Defendant.

SCHEDULE SEVEN COMPLIANCE ORDER NUMBER 219

April 14, 2011

STEARNS, D.J.

This is the two hundred and nineteenth Compliance Order that has issued in this litigation. On March 15, 2011, the Massachusetts Water Resources Authority (MWRA) filed its Quarterly Compliance and Progress Report. The United States and

the Conservation Law Foundation have indicated that they each decline to file a response.

I. Schedule Seven

A. Activities Not Completed

1. Construction of Charles River Valley Sewer and South

Charles River Relief Sewer Gate Controls

The MWRA reports that the January of 2011 milestone for this project was not met because the MWRA determined, as previously reported to the court, that any potential combined sewer overflow (CSO) benefits that might be achieved from the project were not necessary to attain the long-term level of CSO control for the Charles River. On March 24, 2011, the MWRA filed an unopposed motion to delete the related milestones from Schedule Seven. The court will allow the motion as it agrees with the MWRA's assessment.

B. Progress Report

1. Combined Sewer Overflow Program

a. CSO Annual Progress Report

The MWRA has submitted its CSO Annual Progress Report, summarizing the progress made in implementing the long-term CSO control plan during 2010. Of particular note are the completion of the East Boston Branch Sewer Relief project and the Bulfinch Triangle sewer separation project. In addition, the City of Cambridge

completed one of the five projects in the CSO control plan for Alewife Brook, and the MWRA made significant strides towards completion of the North Dorchester Bay CSO storage tunnel and related facilities. All together, the MWRA spent \$65.9 million in 2010 to implement CSO-related projects.

b. North Dorchester Bay Storage Tunnel and Related Facilities

The MWRA reports that the above and below-ground structures have been completed for the dewatering pump station, and the tunnel dewatering pumps have been installed. In addition, the below-ground tunnel ventilation building is now 88-percent complete. Although the MWRA has experienced delays in the delivery of the two activated carbon absorption vessels for odor control and in a portion of the electrical work, it believes that this project will be complete in May of 2011, in accordance with Schedule Seven.

c. Cambridge Sewer Separation

The MWRA reports that progress continues on the construction of the CAM400 Manhole Separation Project and the design of the CAM004 sewer separation project. However, Cambridge has experienced further delays in obtaining the remaining easements from two private property owners that are needed to issue the Notice to Proceed with the long-delayed Contract 12. While Cambridge reportedly expects to receive fully executed easements and rights of entry from one property owner in the

near future, the same is not true with regard to the second set of properties, located at 125, 150, 180, and 180R Cambridge Park Drive. Cambridge has been negotiating with the new owner of these properties, Barclay's Bank, in an effort to resolve issues related to unrecorded parking easements and the placement of utilities. The MWRA reports that the completion date of Contract 12 - and its subsequent dependent contracts - is threatened by further delays.

II. Comments

The court is pleased with the substantial progress that was made in 2010 on the wide variety of the remaining projects. The court shares the MWRA's concern over the continued delay to Contract 12 and urges Cambridge to make every reasonable effort to finalize the negotiations with regard to the remaining easements at issue. The court will schedule a hearing within the next sixty (60) days to assess the reasons for the delay in the commencement of Contract 12, an essential project in the Alewife Brook CSO Control Plan.

ORDER

The parties are ordered to report to the court as previously scheduled.

SO ORDERED.

/s/ Richard G. Stearns

UNITED STATES DISTRICT JUDGE

