

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 85-0489-RGS

UNITED STATES OF AMERICA

v.

METROPOLITAN DISTRICT COMMISSION, et al.

CIVIL ACTION NO. 83-1614-RGS

CONSERVATION LAW FOUNDATION
OF NEW ENGLAND, INC.

v.

METROPOLITAN DISTRICT COMMISSION

SCHEDULE SEVEN COMPLIANCE ORDER NUMBER 241

July 5, 2017

STEARNS, D.J.

On June 15, 2017, the Massachusetts Water Resources Authority (MWRA) filed its Biannual Compliance and Progress Report (the 241st such report over the course of this litigation). The United States and the Conservation Law Foundation have since notified the court that they do not intend to file responses.

Schedule Seven

There were no scheduled activities during the past six months on Schedule Seven.

Combined Sewer Overflow (CSO) Program

a. CSO Post-Construction Monitoring

The MWRA has continued preparing for the post-construction CSO monitoring program and performance assessment that will begin in January of 2018. The assessment will conclude in December of 2020 with the submission of a final report to the U.S. Environmental Protection Agency (EPA) and the Massachusetts Department of Environmental Protection (DEP).

b. CSO Water Quality Standards Variances

On May 1, 2017, in compliance with a condition in the CSO variances to the Massachusetts Surface Water Quality Standards for the Lower Charles River/ Charles Basin and the Alewife Brook/ Upper Mystic River, the MWRA submitted to DEP a proposed Scope of Work covering the post-construction monitoring and assessment program. DEP published the Scope of Work on May 24, 2017, opening a thirty-day period for public comment. DEP has been asked to submit any final comments promptly in order to allow the timely issuance of a Request for Qualifications/Proposals. This will permit

the awarding of the consultant contract this fall, consistent with Schedule Seven.

c. Annual CSO Discharge Report

On April 30, 2017, the MWRA submitted to EPA and DEP its annual report estimating CSO discharge frequencies, durations, and volume for 2016. The report is the latest installment in the ongoing process of compiling historical hydraulic data. In addition to the modeling of rainfall events in 2016, the MWRA has incorporated the 2016 data into the Typical Year Rainfall Model. With respect to the year 2016 itself, the Compliance Report provides the following summary.

Drought conditions prevailed [in 2016]. While there were more storms (approximately 99) in 2016 than in the Typical Year (93), amounts of rain and rainfall intensities were low for most storms, contributing to a total rainfall volume of 32-37 inches across the region compared to 46 inches in the Typical Year, resulting in significantly lower CSO discharge frequencies and volumes.

d. City of Cambridge CSO Restoration Work

Since the successful completion of the CAM004 sewer separation project in December of 2015, the MWRA has continued to support the City of Cambridge in repairing the disturbances caused by the CSO work to 7.8 miles of roadway, 15 miles of sidewalk, and 150 pedestrian ramps. The restoration work has been focused during the past six months in the Huron

Avenue East and Concord Lane sectors of the City. All remaining restoration work is scheduled to be completed by December of 2017. Pursuant to various financial agreements reached with the City beginning in 1996, the MWRA will have invested over \$100 million in CSO-related projects in the City of Cambridge by the time the final agreement expires in June of 2018.

e. City of Boston/Dorchester Bay CSO Control Work

While much of the CSO control work affecting South Dorchester Bay was completed in 2006, the Boston Water and Sewer Commission (BWSC) and the MWRA have long recognized that wet weather burdens continue to pose a challenge to the main-line Dorchester Interceptor, requiring additional hydraulic relief to avoid flooding in tributary neighborhoods. On May 17, 2017, the MWRA Board of Directors endorsed a new Dorchester Interceptor Inflow Removal Agreement between the MWRA and the BWSC. The Agreement replaces the original two-decades-old Memorandum of Understanding. Under the new Agreement, the MWRA will continue to make funds available to the BWSC for necessary improvements to the Dorchester Interceptor. Between now and June 30, 2021, the MWRA expects to invest an additional \$3.8 million in the BWSC's refurbishing of the Interceptor.

Deer Island Cross-Harbor Cable

As reported to the court, a satisfactory agreement has been reached among the parties over the immediate steps to be taken to reposition the cross-harbor cable serving Deer Island. This will make it possible to accommodate the time table of the Army Corps of Engineers' forthcoming channel-deepening project.

Save the Harbor/Save the Bay Report Card

The MWRA (and the Court) are pleased to note that the environmental activist group, Save the Harbor/Save the Bay, has given high marks to the continuing impact of the Boston Harbor cleanup on the littoral beaches. As the 2016 report card notes, 98% of water samples met the bacterial swimming standard at Pleasure Bay and South Boston Beach, while 100% compliance was achieved at the other South Boston beaches and Savin Hill Beach. Beaches also earning high marks are Malibu Beach (96%), Tenean Beach (92%), and Constitution Beach (96%).

ORDER

Consistent with the court's revised Scheduling Order, the MWRA will submit Compliance Report No. 242 on or before December 15, 2017.

SO ORDERED.

/s/ Richard G. Stearns

UNITED STATES DISTRICT JUDGE