

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

JOINT MOTION OF THE UNITED STATES AND THE
MASSACHUSETTS WATER RESOURCES AUTHORITY
TO AMEND SCHEDULE SIX WITH RESPECT TO
THE CHARLES RIVER, ALEWIFE BROOK AND EAST BOSTON

The United States of America and the Massachusetts Water
Resources Authority (the "Authority") hereby jointly move for an order
amending Schedule Six by deleting the milestones for the completion of
construction of sewer separation at CAM002 and CAM004 and

completion of construction of interceptor relief for BOS003-014 listed in the following Schedule A, by adding milestones related to the Authority's revised long-term combined sewer overflow ("CSO") control plan for Alewife Brook and Upper Mystic River, interceptor relief for BOS003-014, the revised plan for the Charles River CSO controls, and post-implementation performance assessment listed in the following Schedule B, and by modifying the second sentence in footnote 26 by deleting the following words:

"The February 27, 1987 Stipulation of the United States and the Massachusetts Water Resources Authority on Responsibility and Legal Liability for Combined Sewer Overflows remains in full force and effect,"

and replacing it with the following words:

"The March 15, 2006 Second Stipulation of the United States and the Massachusetts Water Resources Authority on Responsibility and Legal Liability for Combined Sewer Overflows shall remain in full force and effect."

by adding to footnote 31 the following sentences:

"The projects related to the Long-Term CSO Control Plan for Alewife Brook are described in MWRA's July 2003 Final Variance Report for Alewife Brook and the Upper Mystic River. The projects related to the Long-Term CSO Control Plan for the Charles River are described in MWRA's August 2, 2005 Recommendations and Proposed Schedule for Long-Term CSO Control for the Charles River, Alewife Brook and East Boston."

and by adding the following footnote 38:

The documents that comprise the Authority's Long-Term CSO Control Plan are identified in the March 15, 2006, Second Stipulation of the United States and the Massachusetts Water Resources Authority on Responsibility and Legal Liability for Combined Sewer Overflows.

As described in a letter from the Massachusetts Department of Environmental Protection (“DEP”) to the Environmental Protection Agency (“EPA”) dated March 13, 2006, the DEP will reissue five consecutive variances of no more than three years duration each, through the year 2020, for the Charles River and Alewife Brook/Upper Mystic River that, as applied to the Authority, are consistent with and limited to the requirements in the Authority’s revised Long-Term CSO Control Plan (the “LTCP”) set forth in Schedule Six relating to the Charles River and Alewife Brook/Upper Mystic River added pursuant to this Joint Motion. By letter dated March 14, 2006, the Regional Administrator of EPA Region I has approved the variances issued by the DEP for the Charles River and Alewife Brook/Upper Mystic River in 2004, and has approved periodic reissuance of the variances, as applied to the Authority, through the year 2020 upon the condition that the variances as reissued require the Authority to comply with the requirements of Schedule Six relating to the Charles River and Alewife Brook/Upper Mystic River added pursuant to this Joint Motion, including the CSO milestones and levels of control set forth or referenced therein. The above variance reissuances are contingent on the Authority's achievement of the levels of CSO control required in the LTCP and completion of the projects in the LTCP in accordance with the schedule in Schedule Six relating to the Charles River and Alewife Brook/Upper Mystic River added pursuant to this Joint Motion. Any NPDES permits issued by EPA to the Authority for the period through 2020 will

authorize discharges from the Authority's CSO outfalls in the Charles River and Alewife Brook/Upper Mystic River consistent with the variances.

Schedule A

- January 2000 MWRA, in cooperation with Cambridge, to assure completion of construction of sewer separation at CAM002 and CAM004.²⁶
- September 2005 MWRA to complete construction of interceptor relief for BOS003-014.

Schedule B

- April 2006 MWRA to commence 12 month optimization study to identify operating procedures at Prison Point and related structures that will minimize treated discharges from the Prison Point facility without increasing untreated overflows elsewhere.
- June 2006 MWRA to resume design of interceptor relief for BOS 003-014.
- July 2006 MWRA, in cooperation with Cambridge, to commence design of CAM400 manhole separation; and to commence design of interceptor connection relief and floatables control at CAM002, CAM401B, and SOM01A, and floatables control at CAM001.²⁶
- September 2006 MWRA to commence design of the Brookline Connection, Cottage Farm overflow chamber interconnection, and Cottage Farm gate control.
- November 2006 MWRA, in cooperation with BWSC, to commence design of Bulfinch Triangle sewer separation. MWRA, in cooperation with Brookline, to commence design of Brookline sewer separation.²⁶
- March 2007 MWRA to submit report on, and commence implementation of measures that optimize operation of dry weather pumps and influent gates at Prison Point and related structures in part to maximize upstream storage. MWRA to propose flow limits for Prison Point facility based on the results of the optimization study commenced on April 1, 2006.

- July 2007 MWRA, in cooperation with Cambridge, to commence construction of CAM400 manhole separation; and to commence construction of CAM004 stormwater outfall and detention basin.²⁶
- December 2007 MWRA, in cooperation with Cambridge, to complete floatables control at outfalls CAM007, CAM009, CAM011, and CAM017.²⁶
- January 2008 MWRA to commence design of Charles River Valley/South Charles River Relief Sewer gate controls and evaluation of additional Charles River interceptor interconnection alternatives; and, in cooperation with Cambridge, to commence construction of interceptor connection relief and floatables control at CAM002, CAM401B, and SOM01A, and floatables control at CAM001.²⁶
- June 2008 MWRA to commence construction of the Brookline Connection, Cottage Farm overflow chamber interconnection, and Cottage Farm gate control. MWRA to commence construction of interceptor relief for BOS003-014.
- July 2008 MWRA, in cooperation with Cambridge, to complete construction of CAM400 manhole separation.²⁶
- November 2008 MWRA, in cooperation with BWSC, to commence construction of Bulfinch Triangle sewer separation. MWRA, in cooperation with Brookline, to commence construction of Brookline sewer separation.²⁶
- December 2008 MWRA, in cooperation with Cambridge, to ensure completion of construction for interceptor connection relief and floatables control at CAM002, CAM401B, and SOM01A, and floatables control at CAM001.²⁶
- January 2009 MWRA to complete evaluation of additional Charles River interceptor interconnection alternatives and submit related report to EPA and DEP. Such report shall include reasonably expeditious schedules for completing projects that can be completed for low cost, that do not have unexpected construction impacts, and that result in a meaningful reduction in overflow volume or frequency.
- April 2009 MWRA to commence design of control gate/floatables control at outfall MWR003 and MWRA Rindge Avenue siphon relief. MWRA to commence implementation of additional Charles

River interceptor interconnection projects in compliance with the schedules submitted pursuant to the related January 2009 milestone.

- June 2009 MWRA to complete construction of the Brookline Connection, Cottage Farm overflow chamber interconnection, and Cottage Farm gate control.
- July 2009 MWRA, in cooperation with Cambridge, to complete construction of CAM004 stormwater outfall and detention basin, and to commence construction of CAM004 sewer separation.²⁶
- January 2010 MWRA to commence construction of Charles River Valley Sewer/South Charles River Relief Sewer gate controls.
- June 2010 MWRA to complete construction of interceptor relief for BOS003-014.
- November 2010 MWRA to commence construction of control gate/floatables control at outfall MWR003 and MWRA Rindge Avenue siphon relief.
- January 2011 MWRA to complete construction of Charles River Valley Sewer/South Charles River Relief Sewer gate controls.
- January 2012 MWRA to complete construction of control gate/floatables control at outfall MWR003 and MWRA Rindge Avenue siphon relief.
- January 2013 MWRA, in cooperation with Cambridge, to complete construction of CAM004 sewer separation.²⁶
- July 2013 MWRA, in cooperation with BWSC, to complete construction of Bulfinch Triangle sewer separation. MWRA, in cooperation with Brookline, to complete construction of Brookline sewer separation.²⁶
- January 2018 MWRA to commence three-year performance assessment of its Long-Term CSO Control Plan.³⁸ The assessment shall include post-construction monitoring in accordance with

³⁸ The documents that comprise the Authority's Long-Term CSO Control Plan are identified in the March 15, 2006, Second Stipulation of the United States and the Massachusetts Water Resources Authority on Responsibility and Legal Liability for Combined Sewer Overflow Control.

EPA's Combined Sewer Overflow (CSO) Policy, 59 Fed. Reg. 18688 (Apr. 19, 1994).

December 2020 MWRA to submit results of its three-year performance assessment of its Long-Term CSO Control Plan to the EPA and DEP. MWRA to demonstrate that it has achieved compliance with the levels of control (including as to frequency of CSO activation and as to volume of discharge) specified in its Long-Term CSO Control Plan.

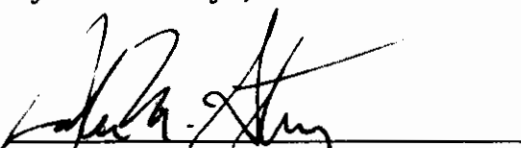
Respectfully submitted,

Massachusetts Water Resources
Authority

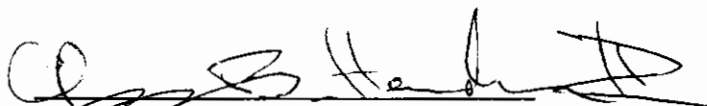
United States of America

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Dated: March 15, 2006

CERTIFICATION PURSUANT TO LOCAL RULE 7.1(A)(2)

I, George B. Henderson, hereby certify that counsel for the United States on behalf of the Department of Justice and the Environmental Protection Agency, together with counsel for the MWRA furnished to each of the other parties a draft of the within joint motion on March 8, 2006 for the purpose of narrowing or resolving issues raised in the motion and that as of the date of filing of the within joint motion (i) counsel for the Commonwealth of Massachusetts, the Town of Winthrop, and the Boston Water & Sewer Commission have indicated their assent to the motion, (ii) counsel for the City of Quincy has indicated that it will not oppose the motion, and (iii) counsel for the Conservation Law Foundation has indicated that it will be filing a separate response.

/s/George B. Henderson

Dated: March 15, 2006

CERTIFICATE OF SERVICE

I hereby certify that 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 March 15, 2006.

/s/ George B. Henderson