

UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS

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UNITED STATES OF AMERICA,

Plaintiff,

v.

METROPOLITAN DISTRICT COMMISSION,
et al.,

Defendants.

.....

CONSERVATION LAW FOUNDATION OF
NEW ENGLAND, INC.,

Plaintiff,

v.

METROPOLITAN DISTRICT COMMISSION,

Defendants .

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MWRA BIANNUAL COMPLIANCE AND
PROGRESS REPORT AS OF DECEMBER 15, 2016

The Massachusetts Water Resources Authority (the "Authority") submits the following biannual compliance report for the period from June 16, 2016 to December 15, 2016 and supplementary compliance information in accordance with the Court's order of December 23, 1985 and subsequent orders of the Court.

I. Schedule Seven.

There were no scheduled activities for the past six-month period on the Court's Schedule Seven.

A. Progress Report.

1. Combined Sewer Overflow Program.

a. CSO Post-Construction Monitoring.

As reported in the June 15, 2016 Compliance and Progress Report, the Authority continues to conduct preliminary activities that support its development of a scope for the three-year combined sewer overflow ("CSO) post-construction monitoring program and performance assessment to confirm that the typical year discharge volume and activations for each CSO outfall in its long-term CSO control plan ("LTCP") are consistent with the LTCP goals. The Authority plans to commence the post-construction monitoring program and performance assessment in January 2018 and complete it in December 2020 in compliance with Schedule Seven.

b. CSO Water Quality Standards Variances.

On August 31, 2016, DEP issued final determinations extending the CSO variances to Massachusetts Surface Water Quality Standards for the Lower Charles River/Charles Basin and the Alewife Brook/Upper Mystic River by three years each to August 31, 2019. These extensions are consistent with DEP's and EPA's previous determinations and approvals in 2006 in which DEP and EPA agreed that DEP would issue and EPA would approve variance

extensions consistent with and limited to the requirements in the LTCP from 2006 through 2020.

The variance extensions include modifications to the long-standing variance conditions that have required the Authority to collect and report water quality sampling data. The Authority expects that the data from the revised water quality sampling program will be used by DEP after 2020 – along with the CSO post-construction monitoring and performance assessment – to support DEP’s long-term CSO and water quality standards decisions and related EPA approvals for the CSO variance water segments.

In support of these goals, and in compliance with the variance extensions, the Authority developed a scope of work for the modified water quality monitoring program and submitted the completed scope to DEP for review on November 10, 2016. The Authority designed the monitoring program to allow assessments of the impacts of remaining CSOs over a range of storm events and the associated levels of water quality standards in the Lower Charles River and the Alewife Brook/Upper Mystic River, as well as a demonstration of the effectiveness of CSO controls implemented in the watersheds, while maintaining compatibility with the vast amount of historical data the Authority has collected since 1989. A key proposed modification to the monitoring program, which the Authority has already begun to implement, provides for daily sampling within each river over a period of time that can capture data representing the dry weather baseline, a rainstorm and a recovery period of several days following the storm. The Authority plans to include an

assessment of whether there were CSO activations, including the locations and respective volumes of discharge, during each rainstorm, and relate water quality data to CSO activations as well as to rainfall in its next annual water quality report.

The variance extensions also include a new condition requiring the Authority to submit a draft scope of work for the Authority's three-year performance assessment to EPA and DEP on or before May 1, 2017 as well as existing conditions.

c. Cross Harbor Cable.

The Authority continues to coordinate periods of outages of the cable and to substitute its back-up power supply (diesel fuel combined turbine generators) in cooperation with Eversource's needs to de-energize the cable when contractors are performing exploratory work to better locate the cable's position.

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 15, 2016.

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Dated: December 15, 2016