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COUNCIL ORDER RESPONSE

Date: 09 June 2021
To: Somerville City Council
From: Rich Raiche, Director of Infrastructure & Asset Management
CC: Chad Whiting, Lauren Racaniello
RE: Response Order #211944 regarding Combined Sewer Overflow coordination with EPA and MWRA

At the regular City Council session on May 27, 2021, the Council issued the following Order:

That the Director of Infrastructure and Asset Management provide the City Council copies of any and all documents, emails and correspondence regarding the overflow from the EPA and MWRA.

Several responsive documents are attached to this Officer's Communication:

- A. MWRA presentation to the Department of Environmental Protection (DEP) on CSO variances, July 2019. This document provides an overview of the history of their Long Term Control Plan (LTCP) and post-2015 monitoring requirements.
- B. CSO Variance issued by DEP for Alewife Brook / Mystic River. This is the official finding by Massachusetts DEP that establishes the official requirements and milestones for Somerville, Cambridge and MWRA that will culminate in a final, approved remedial plan by the end of 2023.
 1. Fact sheet on the Variance for additional detail and background.
 2. Somerville's comments on the Draft Variance. Somerville, Cambridge and MWRA all provided comments on the Draft to make the Final more manageable.
 3. DEP presentation on the Variance.
 4. EPA review of DEP Variance, May 2020. This is essentially a confirmation that the Federal regulatory agency agrees with the Massachusetts agency findings, and underscores that the requirements and timeline discussed above are responsive to both federal and state regulations. This highlights a complication we face in Somerville since





Massachusetts is not delegated state for Clean Water Act enforcement, we need to separately satisfy federal and state regulations with EPA and DEP.

- C. Joint Public Notice from Cambridge, Somerville & MWRA, April 2021. This is an example of the annual reporting required under the Variance above.
- D. MWRA Post-LTCP CSO Water Quality Report, July 2020. This report, required by the Court Action (see F below) and the Variance (see B above), indicates continued water quality issues and signals the need for additional CSO mitigation as has been discussed extensively with the Council.
- E. Semiannual CSO Discharge Report No. 6, April 2021. This report completed by MWRA in cooperation with the municipalities, Somerville included, is an ongoing requirement of the Court Action (see F below) and is indicative of the directionality of the thinking for additional CSO mitigation. Of particular interest is Chapter 3 which highlights the locations where the LTCP falls short of projections, and Chapter 4 which presents some of concepts being evaluated to rectify those issues.
- F. MWRA Court Report, December 2020. Federal District Court Order in the Boston Harbor Case (U.S. v. M.D.C., et al, No. 85-0489 MA) required the establishment of the MWRA and the development and implementation of the Combined Sewer Overflow (CSO) Long Term Control Plan (LTCP). Throughout the following 35 years, MWRA has reported progress to the Court, and the Court has issued biannual compliance reports, which have often generated additional requirements pursuant to the Boston Harbor Case. The December 2020 report is a typical example, and pages 14 and 15 include references to cooperative work with Somerville, specifically for outfalls SOM-001A and SOM-007A, both of which are permitted to Somerville. This also highlights a further complication that in addition to EPA and DEP as discussed above, the Federal District Court continues to be involved in regional CSO mitigation.
- G. Somerville's annual CSO Reports (2016 through 2020) to DEP and EPA. These annual submissions are required by our NPDES CSO permit, and are indicative of the reporting of underperformance of the CSO controls for our outfalls, and the City's plans to provide mitigation.
- H. Minutes from monthly coordination meetings between MWRA and Somerville (May 2020 through May 2021).

