



MYSTIC RIVER WATERSHED ASSOCIATION
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ARLINGTON, MA 02476

August 26, 2004

Kevin Brander, P.E.
DEP CSO Coordinator
5th Floor, One Winter Street
Boston, MA 02108

RE: Proposed Extension to CSO Variance for Alewife Brook and the Upper Mystic

Dear Mr. Brander:

MyRWA is pleased that the Department of Environmental Protection (DEP) is extending the Combined Sewer Overflow (CSO) Variance to the Massachusetts Water Resources Authority (MWRA) and the Cities of Cambridge and Somerville for their discharges to Alewife Brook and the Upper Mystic River. We expect that the additional monitoring, infrastructure planning, and analysis accomplished during this variance will augment current CSO abatement efforts, increase our understanding of the remaining challenges, and ultimately significantly increase the frequency with which the designated uses of the Alewife Brook and Mystic River are attained.

In keeping with the Clean Water Act's directive to protect and restore waterways, MyRWA's ultimate expectation is that CSOs will be eliminated entirely. The CSOs in the Alewife cause sewage contamination that ends up in residents' yards and basements, resulting in unavoidable public health risks. The Mystic River communities deserve protection from these exposures, as well as the opportunity to enjoy the full recreational benefits of the watershed.

This letter first presents MyRWA's comments on the purpose of this variance and the role it plays in the ultimate design of the Long-Term Control Plan and the water quality classification for Alewife Brook and the Upper Mystic. The letter then presents our comments on the specific provisions of the proposed variance.

Role of the Variance in CSO Decisions

The variance extension and conditions are critical to completing the task of determining the ultimate fate of CSOs on Alewife Brook and the Upper Mystic. **Any decision to allow CSO discharges to continue over the long term would require a demonstration that the designated Class B recreational uses cannot be attained without causing "substantial and widespread economic and social hardship" (40 CFR 131.10(g)(6)).**

As our previous comment letters have indicated, MyRWA does not believe that the evidence that is currently available supports such a finding. It is therefore not possible to support a Class Bcso designation for these waters.

First, our understanding of the most cost-effective options for eliminating CSOs, as well as the impact of CSOs and other sources on receiving water quality, is incomplete. Additional work is needed to improve the analysis of options for reducing both CSOs and illegal sanitary sewer overflows:

- Completing on-going studies by Cambridge and Somerville will improve characterizations of the existing infrastructure.
- At the same time, concerns about the accuracy of the modeling work that underlies MWRA's Final Variance Reassessment Report need to be addressed.

In addition, more time is needed to assess the impacts of the CSO separation and other efforts already underway. Finally, we need to assess the impact of municipal programs under the Phase II Stormwater requirements and of municipal efforts to comply with §308 enforcement orders. We believe that the proposed Variance extension and conditions will allow a more accurate assessment of the potential for attaining Class B standards, and the cost of doing so.

Second, MyRWA does not agree with the MWRA's argument that further investments in CSO controls, beyond the current Long-Term Control Plan, will cause substantial and widespread economic and social hardship. It is impossible to determine the ultimate cost of eliminating CSOs until all the options have been thoroughly assessed. In addition, EPA guidance clearly anticipates that scheduling of the Long-Term Control Plan that might reduce short-term economic impacts will be considered, prior to any decision to downgrade a water quality classification.

Finally, we do not believe that the methodology proposed by the MWRA for evaluating economic impacts is appropriate. The suggested methodology represents a significant departure from EPA's recommended methods, and is based on a flawed premise about how "significant and widespread" impacts should be determined. To date, only limited descriptions of the analysis have been available for public review.

Before reaching any conclusions about the economic impacts of eliminating CSOs in the watershed, DEP and EPA must allow public comment on MWRA's proposed analysis – both the conceptual approach and the detailed calculations. The review needs to consider all components of the economic analysis, and not just the final ratio comparing costs to economic benchmarks. This includes determining various factors that affect a community's ability to pay sewer charges (e.g. housing subsidies), the options MWRA has in distributing costs among ratepayers (e.g., rate stabilization public funding), and the rationale for the distribution of expenditures among components of the MWRA system. We note that MWRA is not arguing that huge expenditures on the South Boston beaches CSO plan would cause substantial and widespread economic and social hardship.

MyRWA believes that the public health risks and recreational losses caused by CSOs in the Alewife are significant. Investments in the Mystic watershed should not be subject to economic impact limitations that are not applied elsewhere in the MWRA system.

Comments presented by the MWRA at the August 25, 2004 public hearing on the variance put forth an approach to decision-making on CSOs and water quality classifications that does *not* meet the requirements of the Clean Water Act for changing water quality classifications. Moreover, the MWRA arguments are based on premature and inadequately-supported conclusions about the options, costs, and water quality benefits of alternative CSO controls.

As we understand the MWRA's position, the Agency believes that:

1. DEP should not require investigation of any actions beyond the existing Long-Term Control Plan. The MWRA's past analyses of options are complete and adequate to support this decision.
2. Any expenditures or actions beyond the existing plan would cause substantial and widespread economic and social hardship.
3. DEP should decide at this point that the ultimate water quality classification for Alewife Brook and the Upper Mystic will be Class Bcso. This is because there is no cost-effective and cost-beneficial way to eliminate CSO discharges in this area.
4. The only reason for extending the variance at this point is to allow DEP and EPA review of MWRA's economic impact analysis. The additional investigations called for in the variance are not needed and should not be required.
5. If there were *any* potential that additional investigation would reveal more cost-effective ways to reduce CSOs, then all work on the current Long-Term Control Plan should stop, pending a complete reevaluation of the options for CSO control.

MyRWA strongly disagrees with each of these positions. We have already discussed why we believe Points 1, 2 and 3 are at a minimum premature and most likely inaccurate. We recognize the significant effort that has gone into developing the Long-Term Control Plan, and understand the desire to close the planning process. Unfortunately, there are still outstanding issues that have to be resolved. It is inevitable that new information and insights are developed as monitoring, infrastructure characterization, and CSO controls proceed. Furthermore, improvements in the MWRA's modeling tools have not yet been incorporated in the analysis of CSO control options. It would be irresponsible to stop monitoring and analysis simply because it is inconvenient to find out anything new about the alternatives. The variance only requires that the investigation continue. The implications of the information gathered during the variance period should be debated later, not at this point. We therefore disagree with Point 4 above.

Finally, we are very concerned about MWRA's argument in Point 5 above. It is conceivable *in theory* that further analysis would show that the current Long-Term Control Plan is so far off the ideal plan that all work should stop, and that the plan should be entirely redirected. MyRWA does not believe *in reality* that continuing investigation will lead to this conclusion. The analysis called for under the variance focuses on areas that are not being addressed by the current plan. To delay currently planned CSO control work based on a speculation that the work will ultimately prove to be wasted would be a tragedy.

If it is MWRA's position that work on the Long-Term Control Plan should stop if any further investigation is required by the variance, the Agency should show in detail why this is necessary. In particular, the Agency should list the specific work planned for the next 3 years, during the variance period, and indicate which specific tasks are likely to be made redundant by the findings of the further analysis called for by the variance. Otherwise, work on planned CSO separation should continue as planned.

Comments on Proposed Variance Provisions

MyRWA offers the following specific comments on the draft variance.

A. Implementation of the Revised Recommended Plan

As mentioned in MyRWA's previous comments, the discharge data collected by the City of Cambridge does not support the proposed CSO discharge limits for the Cambridge CSOs as characterized in the Final Variance Report. CSO metering by the City of Cambridge shows fewer discharges of less volume overall than predicted in the Final Variance Report. In order to resolve this discrepancy and to truly minimize CSO discharges, MyRWA recommends that DEP and EPA reevaluate the model predictions in light of the actual flow data that have been and will be collected by the Cities of Cambridge and Somerville. More accurate model results will support more realistic and scientifically defensible discharge limits for the Cambridge, Somerville, and MWRA CSOs. Reconciling the metering and modeling results is also necessary to ensure that the analysis of costs and benefits of CSO alternatives is accurate.

B. Other Actions to Minimize CSO/Sanitary Discharges

MyRWA requests that the CSO monitoring data required of MWRA and the Cities of Cambridge and Somerville be made available to the public. MyRWA would be pleased to assist DEP in communicating this important information to the public.

MyRWA agrees that there are many opportunities for additional Infiltration/Inflow reductions throughout the watershed. MyRWA recommends that DEP require any new applicants for sewer hook-up permits in the Alewife Brook and upper Mystic watershed to contribute to I/I reductions. Given the continued risk to human health caused by CSOs and flooding in the Mystic River watershed, MyRWA requests that DEP require aggressive I/I reductions, beyond the standard 4:1 reduction, so that these health issues can be remediated quickly and to ensure that additional sewage from new developments does not exacerbate the current problems. Further, MyRWA requests that DEP consider

a moratorium on sewer connection permits in areas tributary to CSOs. MyRWA feels that such a moratorium would be in the spirit of the “Nine Minimum Controls” required by EPA and would help communities focus their resources on eliminating untreated sewage discharges.

C. Notification to the Public of CSO Discharges and Impacts

MyRWA is pleased to see that quarterly reporting of CSO activations and volumes will be required of MWRA, Cambridge, and Somerville. MyRWA recommends that these quarterly reports also include updates about the public notification modes required in Section C. Specifically, the permittees should: 1) describe where signs have been installed; 2) provide information about the required press conference, including the date, a list of attendees, and a summary of the message presented; 3) provide verification that EPA, DEP, local health agents and MyRWA have been emailed about the occurrence of CSO discharges; and 4) provide a brief description of any recent updates to the permittees’ websites related to CSO issues. It is not MyRWA’s intention that duplicate information be generated, but rather that the required public notification be verified to the enforcement agencies.

D. Receiving Water Monitoring

MyRWA is pleased to have been a partner in the Alewife and Mystic River water quality data collection effort and is interested in continuing its relationships with MWRA and the Cities of Cambridge and Somerville in collecting quality data on the health of the Mystic.

As noted in our previous comment letters, receiving water and stormwater samples collected by MyRWA and analyzed by EPA have produced bacteria counts that are an order of magnitude lower than those collected and analyzed by MWRA at its laboratory. MyRWA has also noted that our data characterizing the bacteria in CSOs discharges in Alewife Brook are lower and more variable than the one average value used by MWRA to model bacterial loads from CSOs in the Final Variance Report.

This spring, MyRWA and MWRA cooperated in a joint sampling effort that has begun to identify the extent and reasons for these discrepancies. MyRWA would like to continue this cooperative effort with the MWRA laboratory and hopes that the MWRA will continue to assist MyRWA with analysis of monthly baseline sampling. Working together and comparing results is the best way to develop a reliable characterization of stormwater quality, CSO concentrations, and CSO impacts to receiving waters in the Mystic watershed.

E. Infrastructure Planning Requirements

MyRWA believes that the infrastructure planning requirements include the steps needed to analyze the remaining challenges toward elimination of CSOs and illegal sanitary sewer overflows to the Mystic River. We expect that continuing collaboration among MRWA, the City of Cambridge, and the City of Somerville will lead to the optimization of the sewage collection system in the Alewife Brook/Upper Mystic River watershed.

Conclusion

MyRWA thanks the DEP for the opportunity to comment on this draft Variance. We look forward to continuing the dialogue with DEP, EPA, MWRA and the Cities of Cambridge and Somerville, and to continuing progress on this important issue. Please contact me if you have questions about MyRWA's comments.

Sincerely,

Nancy Hammett
Executive Director

cc Rep. Anne Paulsen
Senator Robert Havern
Rep. Jim Marzilli
Arlington Board of Selectmen