

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CONSERVATION LAW FOUNDATION, INC.,

Plaintiff,

and

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

Civil Action No. 10-10250-RGS

BOSTON WATER AND SEWER COMMISSION,
ET AL.,

Defendants,

and

COMMONWEALTH OF MASSACHUSETTS,

Nominal Party required by
33 U.S.C. § 1319(e).

CONSENT DECREE

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WHEREAS, on February 10, 2010, Plaintiff Conservation Law Foundation (“CLF”) filed an action under the citizen suit provisions of the Clean Water Act, 33 U.S.C. § 1365, alleging that the Boston Water and Sewer Commission (“BWSC”), its Executive Director, Chairman, and Commissioners acting in their official capacities (the “Defendants”) violated Sections 301(a) and 402(p)(3)(B) of the Clean Water Act (“CWA”), 33 U.S.C. §§ 1311(a) and 1342(p)(3)(B), by, *inter alia*, discharging pollutants into waters of the United States from its Municipal Separate Storm Sewer System in violation of its National Pollutant Discharge Elimination System (“NPDES”) Permit issued by the Environmental Protection Agency;

WHEREAS, on December 22, 2010, Plaintiff, the United States of America (“United States”), on behalf of the United States Environmental Protection Agency (“EPA”), filed a Motion To Intervene in the citizen suit, and that Motion was granted by the Court, and the United States filed its Complaint against the Defendant;

WHEREAS, the United States’ Complaint alleges that the BWSC violated, and continues to violate, conditions of National Pollutant Discharge Elimination System (“NPDES”) Permit No. MAS010001 for stormwater discharges from its Municipal Separate Storm Sewer System (“MS4”), issued by EPA on September 29, 1999 (hereinafter referred to as the “MS4 Permit”) and Section 301 of the Act by discharging pollutants into waters of the United States without NPDES permit authorization;

WHEREAS, Section 309(e) of the Act, 33 U.S.C. § 1319(e), requires that whenever the United States brings a civil enforcement action against a municipality under Section 309, the state in which the municipality is located shall be joined as a party and the Commonwealth of

Massachusetts (the “Commonwealth”) was named as a necessary party in the United States’
Complaint;

WHEREAS, on April 4, 2010 and January 27, 2012, respectively, BWSC filed answers to
the CLF Complaint and the United States Complaint, denying liability for the alleged violations
of the MS4 Permit and asserting various affirmative defenses to the judgment sought by the
Plaintiffs, including defenses arising from the potential impact on BWSC’s ratepayers;

WHEREAS, on April 13, 2012, the Commonwealth, on behalf of the Massachusetts
Department of Environmental Protection (“MassDEP”), filed a motion for designation as a
nominal party and, on April 17, 2012, the Court granted the motion;

WHEREAS, entry of this Consent Decree by the Court will resolve the civil claims
alleged in the complaint of the United States and the complaint of CLF (collectively,
“Complaints”); and

WHEREAS, the United States, CLF and the Defendant (collectively, the “Parties”)
recognize, without admission of facts or law except as expressly stated herein and without
admission of liability by BWSC, and the Court by entering this Consent Decree finds, that this
Consent Decree has been negotiated by the Parties in good faith, that settlement of this matter is
fair, reasonable, and in the public interest, and that entry of this Consent Decree without further
litigation is an appropriate resolution of this action;

NOW, THEREFORE, with the consent of the Parties, it is hereby ordered, adjudged, and
decreed as follows:

I. STATEMENT OF CLAIM

1. The Complaints state claims upon which relief can be granted against the Defendant

pursuant to Section 505 of the CWA, 33 U.S.C. § 1365 (for CLF), and Section 309 of the CWA, 33 U.S.C. § 1319, for the United States.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of CLF's action pursuant to Section 505(a) of the Clean Water Act ("CWA"), 33 U.S.C. 1365(a) and 28 U.S.C. § 1331, and over the subject matter of the United States' claims pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), 28 U.S.C. §§ 1331, 1345, 1355, and 1367. This Court has personal jurisdiction over the Parties to this Consent Decree. Venue properly lies in this district pursuant to Section 505(c)(1) and (2) of the CWA, 33 U.S.C. §1365(c)(1) and (2), Section 309(b) of the CWA, 33 U.S.C. § 1319(b), 28 U.S.C. §§ 1391(b) and (c), and 28 U.S.C. § 1395 because Defendants are located within this judicial district. The Defendants waive all objections they might have raised to such jurisdiction or venue.

III. APPLICABILITY

3. The provisions of this Consent Decree shall apply to and be binding upon the United States, CLF, and upon Defendants and their officers, directors, agents, employees acting in their official capacities, successors, and assigns.

4. No transfer of any ownership interest in or any interest in the operation of the BWSC's Municipal Separate Storm Sewer System ("MS4") or the Collection System, whether in compliance with this Paragraph or otherwise, shall relieve the Defendants and their successors and assigns of their obligation to ensure that the terms of this Consent Decree are implemented. Any transfer of ownership or operation of the MS4 or Collection System, or any portion thereof, to any other person or entity must be conditioned upon the transferee's agreement to be added as

a party to the Consent Decree and to be jointly and severally liable with the Defendants to undertake the obligations required by all provisions of the Consent Decree. At least thirty (30) Days prior to such transfer, the Defendants shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide written notice of the prospective transfer, together with a copy of the above-referenced proposed written agreement, to EPA, the United States Attorney, the United States Department of Justice, MassDEP, and the Massachusetts Attorney General, and CLF, in accordance with Section XV (Form of Notice). This Paragraph shall not apply to any discontinuance of a small portion of either the MS4 or Collection System facilities. Any noncompliance with this Paragraph constitutes a violation of this Consent Decree.

5. The Defendants shall provide a copy of this Consent Decree to all officers, directors, employees, and agents whose duties might reasonably include compliance with any provisions of this Consent Decree. The Defendants shall also provide a copy of this Consent Decree to all contractors and consultants retained to perform any obligation required by this Consent Decree on behalf of the Defendants and require that such contract be performed in conformity with the terms of this Consent Decree. The Defendants shall require that such contractors and consultants provide a copy of this Consent Decree to their subcontractors to the extent the subcontractors are performing work subject to this Consent Decree.

IV. DEFINITIONS

6. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined in the CWA or in regulations promulgated under the CWA shall have the meaning ascribed to them in the CWA or in the regulations promulgated thereunder. Whenever the terms listed below are used in this Consent Decree, the following definitions shall apply.

a. “Act” or “CWA” shall mean the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act), as amended, 33 U.S.C. §§ 1251-1387.

b. “Approval by EPA” or “Approved by EPA” shall mean the issuance of a written approval document from EPA approving or approving with conditions a submission in accordance with Section X (Approval of Submissions).

c. “Best Management Practices or BMPs” shall mean schedules of activities, practices and prohibition of practices, structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site and road runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

d. “Building/Private Property Backup” shall mean any release of wastewater from the BWSC’s Collection System into buildings or onto private property, except a release that is the result of blockages, flow conditions, or malfunctions of a building lateral or other piping/conveyance system that is not owned or operationally controlled by the BWSC, or is the result of overland, surface flooding not emanating from the BWSC’s Collection System.

e. “Collection System” shall mean the wastewater collection, storage and transmission system (a.k.a. sanitary and combined sewer system) owned or operated by the BWSC, including, but not limited to, all devices, Sewersheds, pump stations, force mains, gravity sewer lines, manholes, and appurtenances.

f. “Commonwealth” shall mean the Commonwealth of Massachusetts.

g. “Complaints” shall mean, collectively, the complaint filed by the United States,

and the complaint filed by CLF.

h. “Consent Decree” or “Decree” shall mean this Consent Decree and all appendices attached hereto. In the event of conflict between this Decree and any appendix, this Decree shall control.

i. “Construction Sites” shall mean any development or redevelopment or other construction activity of a site, parcel and/or building disturbing equal to or greater than one (1) acre of land. Construction Sites shall include sites of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre.

j. “Date of Lodging” shall mean the Day this Consent Decree is filed for lodging with the Clerk of the Court for the United States District Court for the District of Massachusetts.

k. “Day” shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal or Commonwealth holiday, the period shall run until the close of business of the next business day.

l. “Directly Connected Impervious Areas (DCIAs)” are those impervious areas that are hydraulically connected to the MS4 or water body via continuous paved surfaces, gutters, drain pipes or other conventional conveyance and detention structures that do not reduce runoff volume. DCIA typically does not include isolated impervious areas with an indirect hydraulic connection to the MS4 or that otherwise drain to a pervious area.

m. “Effective Date” shall have the definition provided in Section XVIII (Effective Date).

n. “EPA” shall mean the United States Environmental Protection Agency and any

successor departments or agencies of the United States.

o. “Exfiltration” shall mean the water that exits the Collection System (including sewer service connections) through such means as, but not limited to, defective pipes, pipe joints, connections or manhole structures.

p. “Green Infrastructure/Low Impact Development (GI/LID)” shall mean the range of stormwater control measures that use natural or engineered systems to direct stormwater to areas where it can be stored, infiltrated, evapotranspired, or reused. GI/LID may include, but is not limited to, bioretention and extended detention wetland areas, vegetated swales, pocket wetlands, rain gardens, infiltration planters, green roofs, and porous and permeable pavements.

q. “Infiltration” shall mean the water that enters the Collection System (including sewer service connections) from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manholes. Infiltration does not include, and is distinguished from, Inflow.

r. “Inflow” shall mean all water that enters the Collection System and sewer service connections from sources such as, but not limited to, roof leaders, cellar drains, yard drains, sump pumps, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, Infiltration.

s. “Infiltration/Inflow” or “I/I” shall mean the total quantity of water from both Infiltration and Inflow without distinguishing the source.

t. “MassDEP” shall mean the Massachusetts Department of Environmental

Protection and any successor departments or agencies of the Commonwealth.

u. “Municipal Separate Storm Sewer System” or “MS4” shall mean a system of municipal conveyances designed to collect, convey, and discharge stormwater to receiving waters.

v. “Paragraph” shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case letter.

w. “Parties” shall mean the United States, the Conservation Law Foundation, and the Boston Water and Sewer Commission.

x. “Plaintiffs” shall mean the Conservation Law Foundation and the United States.

y. “Sanitary Sewer Overflow” or “SSO” shall mean any overflow, spill, diversion, or release of wastewater from, or caused by, the BWSC’s Collection System. SSOs include, but are not limited to, discharges to waters of the United States from the BWSC’s Collection System, as well as any release of wastewater from the BWSC’s Collection System to public or private property that does not reach waters of the United States, including wastewater backups onto public streets, into buildings, or onto private property.

z. “Section” shall mean a portion of this Consent Decree identified by a Roman numeral.

aa. “Sewershed” shall mean a major portion of the Collection System that drains to one, or a limited number of, major sewer(s).

bb. “Sub-catchment” shall mean the geographical area served by and drained to a distinct portion of the MS4.

cc. "Sub-watershed," for the purpose of this Consent Decree only, shall mean the land that serves as a drainage basin to the Charles River, the Mystic River (including Chelsea River/Creek), the Neponset River, the Muddy River, Stony Brook, Boston Harbor, Dorchester Bay, and Boston Inner Harbor.

dd. "United States" shall mean the United States of America.

V. OBJECTIVES

7. It is the express purpose of the Parties in entering into this Consent Decree to require the Defendants to take all measures necessary to fulfill the objectives of the CWA, and to achieve and maintain compliance with National Pollutant Discharge Elimination System ("NPDES") Permit No. MAS010001 (the "MS4 Permit"), NPDES Permit No. MA0101192 (the "CSO Permit"), the requirements of the Clean Water Act (the "CWA"), the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53 ("Massachusetts Act"), any NPDES permits that may be issued to the BWSC in the future, and any applicable federal or Commonwealth regulations.

8. Engineering designs and analyses required to be performed pursuant to this Consent Decree shall be conducted using sound, generally accepted engineering practices, and, as applicable, consistent with: (a) EPA's "Handbook: Sewer System Infrastructure Analysis and Rehabilitation," EPA/625/6-91-030, October 1991; (b) EPA's "Handbook for Sewer System Evaluation and Rehabilitation," EPA/430/9-75-021, December 1975; (c) the currently effective edition of "Existing Sewer Evaluation and Rehabilitation," WEF MOP FD-6; (d) "Guide to Short Term Flow Surveys of Sewer Systems," WRC Engineering (Undated); (e) the National Association of Sewer Service Companies "Manual of Practice;" (f) the Massachusetts

Department of Environmental Protection's document entitled "Guidelines for Performing Infiltration/Inflow Analysis and Sewer System Evaluation Survey," revised January 1993; (g) the currently effective edition of "TR 16: Guides for the Design of Wastewater Treatment Works;" and (h) EPA's "Stormwater Best Management Practices (BMP) Performance Analysis," revised March 2010 (Tetra Tech, Inc.). Should there be a conflict between two or more of these sources, EPA's judgment as to which source to follow shall control.

VI. CIVIL PENALTY

9. The Defendants shall pay a civil penalty in the amount of two hundred and thirty-five thousand dollars (\$235,000) ("Civil Penalty"), together with interest accruing from the Date of Lodging, at the rate specified in 28 U.S.C. § 1961, to the United States in satisfaction of the claims for civil penalties alleged in the Complaints. Payment of the civil penalty shall be made within thirty (30) days after entry of the Consent Decree. If the Defendants fail to tender payment within thirty (30) days of entry of this Consent Decree, then interest shall accrue from the date of entry of this Consent Decree, at the rate provided for in 28 U.S.C. § 1961.

10. The Defendants shall make payment of the Civil Penalty (\$235,000) together with any interest, to the United States by FedWire Electronic Funds Transfer ("EFT") to the United States Department of Justice in accordance with written instructions to be provided to the Defendants, following entry of the Consent Decree, by the United States Attorney's Office for the District of Massachusetts, Financial Litigation Unit, Boston, Massachusetts. The costs of such electronic funds transfer shall be the responsibility of the Defendants. At the time of payment, the Defendants shall send a copy of the EFT authorization form, the EFT transaction record, and a transmittal letter, which shall state that the payment is for the Civil Penalty owed

pursuant to the Consent Decree in Conservation Law Foundation, Inc., et al. v. Boston Water and Sewer Commission, et al., and shall reference the civil action number 10-10250-RGS and DOJ case number 90-5-1-1-10166, to the EPA and the United States Department of Justice as specified in Paragraph 105, by email to acctsreceivable.CINWD@epa.gov, and by mail to:

EPA Cincinnati Finance Office
26 Martin Luther King Drive
Cincinnati, Ohio 45268

VII. REMEDIAL MEASURES

A. Monitoring for Illicit Discharge Program

11. The BWSC shall inspect and sample its MS4 outfalls, MS4 discharges to other municipalities' MS4s or non-BWSC outfalls, and CSO outfalls in accordance with the requirements below. The BWSC shall utilize the following IDDE screening thresholds as guidelines for its analysis of the data generated for each field sample to include:

- Bacteria: Class A or B waters - E. coli: greater than 235 coliform forming units /100 milliliters ("cfu/100 ml") and/or Enterococcus: greater than 61 cfu/100 ml
- Class SA or SB waters – Enterococcus: greater than 104 cfu/100 ml
- Surfactants: equal to or greater than 0.25 milligrams per liter ("mg/l") (via field kits) or 0.1 mg/l via laboratory analysis
- Ammonia: equal to or greater than 0.5 mg/l
- Chlorine: greater than non-detect (0.02 mg/l method detection limit)

12. Dry-weather investigations: By May 31, 2013, under dry-weather conditions (less than 0.1 inches of rain in the preceding 48 hours and no significant snowmelt), the BWSC shall

inspect all MS4 outfalls, MS4 discharges to other municipalities' MS4s or non-BWSC outfalls, and CSO outfalls, and sample those with flow. At a minimum, outfalls shall be sampled, and samples shall be analyzed for E. coli or enterococcus bacteria, surfactants, ammonia, and total residual chlorine. Identical sampling, with the exception of sampling for total residual chlorine, conducted by the BWSC for MS4 outfalls within 24 months prior to the date of lodging of this Consent Decree shall satisfy this requirement, and does not require re-sampling unless the BWSC or EPA determine otherwise. The BWSC shall repeat this monitoring during each calendar year thereafter.

13. Wet-weather investigations: By May 31, 2013, at least once during wet weather conditions, the BWSC shall sample all MS4 outfalls, MS4 discharges to other municipalities' MS4s or non-BWSC outfalls, and CSO outfalls where flow was not observed during dry weather inspections or sampling, as well as those outfalls or interconnections that did not equal or exceed IDDE screening thresholds during dry-weather sampling. For the purposes of sampling outfalls or interconnections, "wet-weather conditions" should consist of at least 0.25-inches of rain over the 24 hour period prior to sampling. To facilitate sample planning and execution, however, precipitation events sufficient to produce flow in an outfall will also be acceptable. Sampling at CSO outfalls shall be performed during a precipitation event prior to activation of the upstream CSO regulator(s), or during a precipitation event that does not cause any upstream CSO regulator(s) to activate. The BWSC shall maintain detailed and accurate records of the date and time that sampling was conducted and the weather conditions both during, and in the 48 hours prior to, each sampling event. Samples shall be analyzed for the parameters outlined in Paragraph 11 above. The BWSC shall repeat this monitoring during calendar year 2013. By

January 31, 2014, the BWSC shall submit to EPA for review and Approval and to CLF and MassDEP its proposal for future wet-weather outfall monitoring. Upon Approval, the BWSC shall implement its wet-weather outfall monitoring program, as Approved by EPA, following consultation with CLF, in accordance with the schedule set forth therein.

14. Once the BWSC completes a sub-catchment area investigation and removes all known illicit discharges within that sub-catchment area, the BWSC shall conduct confirmatory dry- and wet-weather investigations, as described above, of the MS4 outfall, MS4 discharge to other municipality's MS4 or non-BWSC outfall, or CSO outfall through which the sub-catchment area discharges. Unless the BWSC, EPA, or MassDEP determine otherwise, if the sampling required pursuant to Paragraphs 12 and 13 is conducted after the completion of a sub-catchment area investigation, that sampling shall also satisfy this Paragraph's confirmatory sampling requirement for that sub-catchment area.

B. MS4 and CSO Sub-Catchment Area Illicit Discharge Investigations

15. Within ninety (90) days of lodging of the Consent Decree, the BWSC shall submit to EPA for review and Approval and to CLF and MassDEP:

- a. A revised priority ranking of all sub-catchment areas based on all information and data available;
- b. An MS4 and CSO sub-catchment area map showing the revised ranking of each sub-catchment area;
- c. A schedule for completion of all sub-catchment area investigations which shall provide that:

i. investigations of all sub-catchment areas discharging to, or near, Constitution Beach will be completed within 12 months of lodging of the Consent Decree;

ii. investigations of all sub-catchment areas discharging to, or near, Malibu and Tenean Beaches will be completed within 24 months of lodging of the Consent Decree; and

iii. investigations of all sub-catchment areas discharging from the BWSC system will be conducted according to the BWSC's priority ranking order and will be completed within seven (7) years of lodging of the Consent Decree as follows:

(a) 35% of the sub-catchment area investigations to be completed within three (3) years of lodging of the Consent Decree;

(b) another 35% of the sub-catchment area investigations to be completed within six (6) years of lodging of the Consent Decree;

(c) the balance of the sub-catchment area investigations to be completed within seven (7) years of lodging of the Consent Decree;

16. The BWSC shall complete its sub-catchment area investigations in accordance with the priority ranking schedule, as Approved by EPA, following consultation with CLF. If progress on an investigation is delayed more than thirty (30) days due to refusal of an owner to remove an illicit discharge, or due to an unexplained source, the BWSC shall designate another sub-catchment area to temporarily replace the original area in the schedule.

17. By January 31st of each calendar year, the BWSC shall revise its priority ranking of sub-catchment areas to be investigated to:

- a. Include all sub-catchment areas newly identified as needing investigation based on evidence of discharges contaminated by human waste; and
- b. Adjust priorities based on new evidence.

18. Within one hundred twenty (120) days of lodging of the Consent Decree, the BWSC shall submit to EPA for review and Approval and to CLF and MassDEP a revised IDDE Plan that details and updates the BWSC's top-down approach, including modifications where appropriate to address investigations of CSO outfalls, and additional investigation methods and analytical techniques that the BWSC may employ to verify and remove the sources of illicit discharges.

19. The BWSC shall implement its revised IDDE Plan, as Approved by EPA, following consultation with CLF.

C. Illicit Discharge Removal

20. For purposes of this Consent Decree, the "date of verification" of an illicit discharge shall be the date on which the BWSC has identified a point of entry from a specific location or address that contributes wastewater flow to the MS4 system or unauthorized wastewater flow to CSO outfalls.

21. Except as provided in Paragraph 22, the BWSC shall remove all illicit discharges within sixty (60) days of the date of verification.

22. If the BWSC has not removed an illicit discharge within sixty (60) days of the date of verification, the BWSC shall establish a schedule to remove the illicit discharge as expeditiously as possible. In addition, for each existing verified illicit discharge that has not been removed at the time of lodging of this Consent Decree, the BWSC shall establish a schedule to remove the

illicit discharge as expeditiously as possible. Schedules for removal of verified illicit discharges, including those existing at the time of lodging of this Consent Decree, shall be consistent with the following criteria unless special design requirements dictate an alternative schedule:

a. Within thirty (30) days of the date of verification, or within thirty (30) days of lodging of this Consent Decree for existing verified illicit discharges, the BWSC shall either refer the case of the illicit discharge to its engineering department for removal of the illicit discharge or notify the property owner that it is responsible for eliminating the illicit discharge.

b. If the BWSC determines that removal of the illicit discharge is the responsibility of the property owner, and the property owner has not eliminated the illicit discharge, within sixty (60) days of the date of verification, or within sixty (60) days of lodging of this Consent Decree for existing verified illicit discharges, the BWSC's legal department shall send the property owner a letter that notifies the property owner of its responsibility to remove the illicit discharge as expeditiously as possible, the legal consequences of its failure to do so, and details the range of available enforcement options from penalties to terminating service.

c. If the BWSC determines that removal of the illicit discharge is the responsibility of the property owner, and the property owner has not eliminated the illicit discharge within ninety (90) days of the date of verification, or within ninety (90) days of lodging of this Consent Decree for existing verified illicit discharges, the BWSC's legal department shall send the property owner a second letter. This letter shall notify the property owner that imposition of fines is commencing, that fines will continue to escalate until removal of the illicit discharge, and that fines will be included in the property owner's water and sewer bill. In addition, the letter shall enumerate further actions that the BWSC may take in

accordance with its regulations governing the use of sanitary and combined sewers and storm drains. Thereafter, the BWSC's legal department shall diligently prosecute its action against the property owner for removal of the illicit discharge. Under Paragraph 75 of Section IX (Compliance Reporting) of this Consent Decree, the BWSC shall report on each legal action and the steps it has taken to escalate enforcement.

23. The BWSC shall comply with all schedules for removal of verified illicit discharges established pursuant to Paragraph 22.

D. Stormwater BMPs and GI/LID

24. Following review by EPA and CLF, the BWSC entered into a contract for a Stormwater Model Design in September 2011 with CDM Smith for development of a stormwater model. Effective upon lodging, the BWSC shall develop, use, update, and maintain the model for purposes of implementing the terms of this Consent Decree.

25. Within 180 days of lodging of the Consent Decree, the BWSC shall submit to EPA for review and Approval and to CLF and MassDEP a BMP Proposal ("BMP Proposal") that shall propose a suite of generic stormwater BMPs for potential application by the BWSC. The suite of proposed stormwater BMPs shall address the range of known pollutant discharges, shall include general information on sizing requirements and critical design parameters, and shall be scalable as appropriate to match the discharge volume, pollutant load, sub-catchment area served, and anticipated available site conditions of each sub-catchment area. The BMP Proposal shall include and emphasize the use of all appropriate currently available Green-Infrastructure ("GI") and Low-Impact Development ("LID") techniques.

26. Within 270 days of lodging of the Consent Decree, the BWSC shall submit to EPA

for review and Approval and to CLF and MassDEP a Phase I BMP Implementation Plan that shall contain recommendations and schedules for the implementation of specific GI/LID BMPs for demonstration projects at Audubon Circle (Beacon Street/Park Drive area), East Boston (*e.g.*, Central Square), and City Hall Plaza. The BMPs proposed shall be tailored to monitoring data collected by the BWSC. Stormwater BMPs implemented under the Phase I BMP Implementation Plan, in addition to addressing pollutant discharges, shall further the BWSC's stakeholder involvement and public education efforts. Upon Approval by EPA, following consultation with CLF, the BWSC shall implement the Phase I BMP Implementation Plan, as Approved, in accordance with the schedule set forth therein.

27. By December 31, 2012, the BWSC shall submit a Stormwater Model Report to EPA for review and Approval and to CLF and MassDEP. The Stormwater Model Report shall include a description of the model(s), a description of the results of model runs using a range of design storms and long-term continuous-loading scenarios, a description of initial and ongoing model verification and calibration efforts, and shall estimate pollutant loadings by each sub-catchment area and sub-watershed. The Stormwater Model Report shall include ranked listings and evaluations of such ranked listings for both individual outfalls and sub-watersheds. The Stormwater Model Report shall contain an evaluation of each sub-catchment area, including, but not limited to, the evaluation and quantification of impervious surface area, directly connected impervious area ("DCIA") as specified in Request For Proposal No. 11-206-010, population density, land use classifications, pollutant loading, and availability of suitable property for the implementation of specific stormwater BMPs at targeted locations. The Stormwater Model Report shall contain a discussion of all potential BMPs currently available for possible

implementation, including all appropriate GI/LID techniques. It shall also contain a discussion of how the BMPs can assure consistency with all applicable wasteload allocations and the extent to which the BMPs will prevent BWSC discharges from causing or contributing to a violation of water quality standards. In any dispute brought under Section XIII (Dispute Resolution) relating to this Paragraph 27, the Party initiating dispute resolution shall bear the burden of demonstrating by a preponderance of the evidence that its position complies with this Consent Decree and will better serve the objectives of this Consent Decree.

28. Within twenty (20) months of Approval of the Stormwater Model Report, the BWSC shall submit to EPA for review and Approval and to CLF and MassDEP a Stormwater BMP Recommendations Report. The Stormwater BMP Recommendations Report shall utilize the BMP Proposal and the BWSC Stormwater Model, as Approved by EPA, following consultation with CLF, to propose specific recommendations for BMPs or a suite of BMPs to be implemented for each sub-catchment area and a schedule for such implementation. The Stormwater BMP Report shall include a prioritized listing of sub-catchments suitable for the application of such BMPs based on the characterization of discharges and potential pollutant loadings, receiving water, and whether the receiving water is used for contact recreation or has significant aesthetic or ecological value. In any sub-catchments where GI/LID BMPs are not recommended for implementation, the BWSC shall provide a reason why such BMP implementation is not being recommended for each particular location. The Stormwater BMP Recommendations Report shall include a technical analysis of how the BMPs will assure consistency with all applicable wasteload allocations and the extent to which the BMPs will prevent BWSC discharges from causing or contributing to a violation of water quality standards. Where the recommended BMPs

will not prevent BWSC discharges from causing or contributing to a violation of water quality standards, the Stormwater BMP Recommendations Report shall contain a discussion of, and justification for, BMPs considered, but not recommended, noting specifically those BMPs that may provide for a higher level of control than the recommended BMP(s). The Stormwater BMP Recommendations Report shall contain, for each recommended BMP, an evaluation of whether written agreements are necessary to implement or maintain the recommended BMPs in each sub-catchment and sub-watershed and a maintenance schedule for each recommended BMP. For each sub-catchment area, BWSC shall also propose GI/LID BMPs that may be implemented, where necessary and appropriate, by private entities through application of BWSC's site plan approval process. The Stormwater BMP Recommendations Report shall include provisions for a representative post-construction sampling program to validate the BMP performance projected by the BWSC Stormwater Model. Upon Approval, the BWSC shall implement the BMPs recommended in the Stormwater BMP Recommendations Report, as Approved by EPA, following consultation with CLF, in accordance with the schedule set forth therein. In any dispute brought under Section XIII (Dispute Resolution) relating to this Paragraph 28, the Party initiating dispute resolution shall bear the burden of demonstrating by a preponderance of the evidence that its position complies with this Consent Decree and will better serve the objectives of this Consent Decree.

E. SSO Reporting

29. Beginning thirty (30) days after the date of lodging of this Consent Decree, the BWSC shall report all future SSOs, whether to surface waters or buildings or property in the City, to EPA and MassDEP. SSO events shall be reported via electronic mail to EPA and

MassDEP within 24 hours (borci.todd@epa.gov; kevin.brandner@state.ma.us) and shall be tabulated and maintained in a central tracking database. The locations shall be maintained by BWSC on a map of the Collection System. The initial electronic report and the database shall include, but need not be limited to, the information listed below. Submittal of the MassDEP's SSO Reporting Form will satisfy, in part, the 24-hour reporting requirement; however, the BWSC shall also provide the additional information requested herein that is not included on the MassDEP's Reporting Form for each SSO. The listings provided pursuant to this Paragraph shall include:

- a. The date and time that the event began and was discovered by, or reported to, the BWSC and the date the event was stopped, or if it is continuing, a schedule for its termination;
- b. The location, including nearest property address, of each such event;
- c. The source of notification (property owner, field crew, police, etc.);
- d. The specific cause of the event, including but not limited to whether it was caused by debris, fats, oils, and grease, or root blockages; collapsed pipes; mechanical, electrical, or structural failures; hydraulic overloads; and/or vandalism;
- e. Whether the cause of the event was within, or related to, the publicly-owned portion of the Collection System or if related to privately owned sewer laterals, sanitary sewer lines or other private facilities;
- f. The estimated gallons of wastewater released and the method used to estimate the volume;

g. A clear statement of whether or not the release entered a stormwater catch basin or any other portion of the BWSC's MS4. If the release occurred to the ground or street, regardless of whether the discharge entered any portion of the BWSC MS4, the BWSC shall provide the location and the distance to the nearest down gradient stormwater catch basin and the name of the receiving water to which the catch basin discharges;

h. If the release did not enter a stormwater catch basin or any other portion of the BWSC's MS4, provide a clear statement of whether the release did or did not enter any surface water. If the release entered a surface water, the BWSC shall include the name of the surface water and a description of the location where the release entered the surface water;

i. The estimated gallons of wastewater discharged to the MS4 or surface water, and the method used to estimate the volume;

j. The measures taken to stop the overflow and decontaminate the area affected by the overflow;

k. The measures taken to prevent future overflows at the same location; and

l. The date the overflow was reported to EPA and MassDEP.

30. The reporting requirements set forth in this Section do not relieve the BWSC of its obligation to submit any other reports or information as required by Section IX (Compliance Reporting) or by federal, Commonwealth, or local law, regulation or permit.

F. Capacity, Management, Operation and Maintenance Program Assessment

31. By July 31, 2013, the BWSC shall submit to EPA for review an assessment of its Collection System capacity and its operation and maintenance practices (the "CMOM Program Self Assessment"), in accordance with EPA's Guide for Evaluating Capacity, Management,

Operation, and Maintenance (CMOM) Programs at Sanitary Sewer Collection Systems (EPA 305-B-05-002, January 2005) (which is included as Appendix A), to determine whether improvements are necessary in order to maintain the infrastructure of the Collection System and to prevent future SSOs. As part of the CMOM Program Self-Assessment, the BWSC shall complete the Wastewater Collection System CMOM Program Self-Assessment Checklist (the “CMOM Program Self-Assessment Checklist”) (see Appendix B), which is an EPA Region 1 modification of the checklist that accompanies the guidance in Appendix A.

G. Capacity, Management, Operation and Maintenance Corrective Action Plan

32. By July 31, 2013, the BWSC shall submit to EPA for review and Approval a plan (the “CMOM Corrective Action Plan”) that shall include the following:

- a. A list of any deficiencies identified by the CMOM Program Self-Assessment;
- b. A list of causes and contributing factors that led to the SSOs as identified in the CMOM Program Self-Assessment Checklist;
- c. A description of the specific short and long-term actions that the BWSC is taking, or plans to take, to address the deficiencies identified in the CMOM Program Self-Assessment Checklist; and
- d. A schedule for implementation of the CMOM Corrective Action Plan (the “CMOM Corrective Action Implementation Schedule”).

33. Upon Approval by EPA, the BWSC shall implement the CMOM Corrective Action Plan, as Approved by EPA, in accordance with the schedule set forth therein.

H. Capacity, Management, Operation and Maintenance Program Document

34. Pursuant to the schedule set forth in the CMOM Corrective Action Plan, as Approved by EPA, the BWSC shall consolidate all of its Collection System preventative and reactive maintenance programs and capital improvement plans into a separate, single CMOM Program document. The CMOM Program document shall be maintained at a location that is readily accessible to the BWSC's maintenance staff and construction staff, and will be made available for inspection by EPA and MassDEP. This provision will not restrict the ability of BWSC to continue preparing and producing a separate capital improvement plan (CIP) required for annual planning and reporting purposes beyond the scope of this Consent Decree.

I. Emergency Response Plan

35. Within ninety (90) days of lodging of the Consent Decree, the BWSC shall develop and submit for Approval by EPA and for review by MassDEP an Emergency Response Plan. The BWSC shall design the Emergency Response Plan as a reference guide for its employees to ensure that:

- a. Should SSOs occur, BWSC will minimize the volume of untreated wastewater discharged to the environment and the impact of the discharge to the environment and public health;
- b. BWSC responds to and halts all SSOs as rapidly as possible;
- c. Appropriate mitigation measures are employed; and
- d. Appropriate measures are implemented to prevent recurrence of SSOs at the same location.

36. The Emergency Response Plan shall set forth procedures for responding to SSOs to

minimize the environmental impact and potential human health risk. The Emergency Response Plan shall include, at a minimum:

- a. Procedures to make the public aware of SSOs and measures to prevent public access to, and contact with, areas affected by SSOs;
- b. Procedures to provide timely notice to EPA, MassDEP, Massachusetts Division of Marine Fisheries, and local public health officials of SSOs;
- c. An emergency 24-hour telephone number that can be used by the public to report SSOs;
- d. A quarterly review of BWSC equipment to ensure availability of the equipment necessary to respond to SSOs and to implement the Emergency Response Plan;
- e. Procedures to ensure the rapid dispatch of personnel and equipment to correct, repair or mitigate the condition causing or contributing to any SSO;
- f. Procedures to ensure the preparedness, including responsiveness training, of the BWSC's employees and contractors necessary for effective implementation of the Emergency Response Plan;
- g. A system to track SSO reports and other complaints and related repairs, and to investigate the causes of any SSOs;
- h. Safety training relevant to SSO response for all Collection System maintenance personnel;
- i. Procedures to ensure that BWSC will respond to and halt or contain SSOs as soon as reasonably practicable;
- j. Procedures to provide information to residents experiencing

Building/Private Property Backups resulting from blockages and surcharges of the Collection System regarding prevention, clean up, and disposal of wastewater pumped from buildings;

k. Procedures for investigating and documenting the causes of

Building/Private Property Backups resulting from blocking or surcharges from the Collection System; and

l. A method and schedule, with respect to all SSOs: (1) to publicize on local cable television, local newspapers, and on the BWSC internet site information regarding how to report all SSOs to a single point of contact within the BWSC; and (2) for BWSC, in turn, to report all SSOs to EPA and MassDEP, in accordance with the requirements set forth in Section VII.E. of this Consent Decree.

37. Upon Approval by EPA, the BWSC shall immediately and continuously implement the Emergency Response Plan, as Approved by EPA.

J. Geographic Information System (“GIS”) Map

38. Within 210 days of lodging of the Consent Decree, the BWSC shall submit to EPA and MassDEP for review and comment the best available GIS or other digital mapping of the BWSC’s MS4 and Collection System to facilitate the development and implementation of its IDDE investigations, the CMOM Corrective Action Plan, the Stormwater Model Report, and the Stormwater BMP Recommendations Report. The BWSC shall submit updated maps for review and comment by EPA and MassDEP with the Compliance Reports required to be submitted pursuant to Section IX (Compliance Reporting), or upon request by EPA. Such mapping shall provide a comprehensive depiction of key infrastructure and factors influencing proper system operation. Mapping themes shall include: key sanitary and storm sewer infrastructure;

investigation and study findings; monitoring data; impervious surface area; the tracking of DCIA reductions through BWSC approved redevelopment projects and BMPs; cleaning and repair activities; capital projects; water resource and topographic features; land owned by BWSC; and based on the best available existing information, land owned by other governmental entities. The scale and detail of the maps shall be appropriate to facilitate understanding of the MS4 and Collection System by the BWSC, EPA, and MassDEP. In addition, the mapping shall serve as a planning tool for the BWSC to include: the implementation and phasing of the IDDE and CMOM Corrective Action Plans; the demonstration of the extent of completed and planned IDDE investigations and corrections; the development of BMP and LID recommendations; and related capital projects. To ensure legible mapping, information shall be grouped appropriately and represented thematically (*e.g.*, by color) with legends or schedules where possible and shall be reportable or available upon request and be updated periodically. The following information and features, as modified with the Approval of EPA, shall be included or, where specified below, made available when needed as part of detailed investigations to be included in the BWSC GIS mapping:

a. Infrastructure

- Municipal separate storm sewer system (including inter-municipal and private connections where available and applicable)
- Municipal sanitary sewer system (including inter-municipal connections)
- Municipal combined sewer system
- Thematic representation of sewer material, size, and age
- Sewer flow direction and flow type (*e.g.*, pressure or gravity)
- Vertical separation between systems based on best available existing information when needed as part of detailed investigations
- Aerial delineations of major separate storm sewer catchment areas, sanitary Sewersheds, combined Sewersheds, and areas served by known private on-site subsurface disposal systems (septic systems)

- Common/twin-invert manholes or structures (*i.e.*, structures serving or housing both separate storm and sanitary sewers)
- Sanitary and storm sewer alignments served by known or suspected underdrain systems when needed as part of detailed investigations
- Sewer alignments with common trench construction and major crossings representing high potential for communication due to water table influence
- Lift stations (public and known private), siphons, and other key sewer appurtenances
- Location(s) of known or reported SSOs

b. Water Resources and Topographic Features

- Water bodies and watercourses identified by name
- Water table elevations impacting sanitary sewer alignments based on best available existing information when needed as part of detailed investigations
- Topography
- Orthophotography

c. O&M, Investigations, Remediation, and Capital Projects

- Alignments, dates, and thematic representation of work completed (with legend) of past illicit discharge investigations (*e.g.*, flow isolation, dye testing, closed-circuit television)
- Locations of suspected, confirmed, and corrected illicit discharges (with dates and flow estimates)
- Water quality monitoring locations with representation of water quality indicator concentrations
- Recent and planned sewer and storm drainage infrastructure cleaning and repair projects
- Planned Capital Improvement Projects (CIP) relating to sewer and storm drainage infrastructure
- Alignments and dates of past and planned Infiltration/Inflow investigations and sanitary sewer remediation work
- Proposed annual planning of future illicit discharge investigations

39. BWSC shall update the mapping, as necessary, to reflect newly discovered information, corrections or modifications, and remedial measures performed by the BWSC in compliance with this Consent Decree.

K. Construction Site Inspections and Enforcement

40. Within one hundred twenty (120) days of lodging of the Consent Decree, the BWSC shall develop and submit Construction Site inspection procedures and an enforcement program and procedures to EPA for review and Approval and to CLF. The enforcement program shall provide for use of a spectrum of enforcement remedies.

41. The BWSC's Construction Site inspection and enforcement program shall require developers to apply for EPA's Construction General Permit, where applicable, and shall require the use and maintenance of appropriate structural and non-structural BMPs designed to minimize the discharge of pollutants from Construction Sites to the BWSC MS4. The BMPs shall include and emphasize the use of all appropriate available GI/LID techniques. The BWSC's Construction Site inspection and enforcement program shall also require that operators of Construction Sites submit a Storm Water Pollution Prevention Plan ("SWPPP") that meets the requirements of EPA's Construction General Permit and the BWSC's construction program requirements to the BWSC prior to site plan approval and commencement of construction.

42. Within 180 days of lodging of the Consent Decree, the BWSC shall commence implementation, and shall continue implementation thereafter, of the revised Construction Site inspection and enforcement procedures, as Approved by EPA, following consultation with CLF.

43. Within 180 days of lodging of the Consent Decree, the BWSC shall develop a database to track active Construction Sites. This database shall, at a minimum, contain the following information: the date of site plan review completion; the date construction commenced; the date(s) of any inspections by the BWSC; any findings made and enforcement action taken as a result of those inspections; and any information received from the Boston

Inspectional Services Department or received by BWSC as to complaints, including the date and nature of the complaint, any inspection conducted, and enforcement action taken. The BWSC shall continue to maintain and update the database as new information is received.

44. Commencing 180 days after lodging of the Consent Decree, the BWSC shall conduct at least one inspection of each active Construction Site that BWSC determines has reasonable potential to discharge to the BWSC MS4. The BWSC shall inspect all Construction Sites existing as of the date of lodging of this Consent Decree at least once. The BWSC shall inspect 90% of all new Construction Sites within the first eight (8) weeks after the start of construction and all sites within four (4) days after receiving a complaint about discharges.

45. Within 180 days of lodging of the Consent Decree, the BWSC shall conduct training regarding construction site stormwater runoff control for BWSC personnel responsible for implementing the BWSC's Construction Site stormwater inspection and enforcement program. The BWSC will coordinate with Boston Inspectional Services Department to provide training related to construction site runoff and best practices to relevant Inspectional Services Department personnel. The BWSC shall train all personnel performing Construction Site inspections within thirty (30) days of their commencing employment or assignment to perform said inspections. The BWSC shall provide refresher training at least annually for all personnel performing Construction Site inspections.

46. Within 180 days of lodging of the Consent Decree, the BWSC shall develop, commence, and thereafter continue implementation of procedures for summary review of Construction Site SWPPPs that will be required to be submitted with site plans to assess whether plans reasonably include measures that address potential water quality impacts from

construction.

47. Within 180 days of lodging of the Consent Decree, the BWSC shall develop a plan with appropriate municipal agencies to ensure notification to appropriate building permit applicants of their potential responsibilities under the NPDES permitting program for construction site runoff.

L. Intergovernmental Agreements

48. Within 90 days of the date of lodging of the Consent Decree, the BWSC shall sign final agreements with at least three (3) intergovernmental entities necessary to satisfy the requirements specified in Part I.B of the 1999 BWSC MS4 Permit (the "Permit") and this Consent Decree.

49. Within 180 days of the date of lodging of the Consent Decree, the BWSC shall sign final agreements with the intergovernmental entities listed in Paragraph 50. Thereafter, the BWSC shall enter into inter-governmental agreements with any other governmental entity within 180 days of determining the entity to be necessary to satisfy the requirements specified in Part I.B of the Permit and this Consent Decree.

50. The intergovernmental entities thus far identified as necessary to satisfy the requirements specified in Part I.B of the Permit are the Boston Redevelopment Authority ("BRA"), the Boston Housing Authority ("BHA"), the Boston Parks and Recreation Department ("BPRD"), the Boston Inspectional Services Department ("ISD"), Boston Department of Public Works ("DPW"), the Massachusetts Department of Transportation ("DOT") and Department of Conservation and Recreation ("DCR"), and municipal entities (Newton, Milton, Dedham, and Brookline) that operate stormwater drainage systems with connections to the BWSC's MS4

system.

51. All such intergovernmental agreements shall contain, at a minimum, provisions specifying: (1) the relevant extent of the BWSC's authority under its authorizing statute and regulations, as well as the relevant extent of the other intergovernmental entity's authority under its authorizing statute and regulations; (2) the relevant obligations imposed by this Consent Decree and the Permit; and (3) the respective responsibilities of the BWSC and the other intergovernmental entity necessary to ensure compliance with the obligations specified under this Consent Decree and the Permit. Once the intergovernmental agreements are signed, BWSC will use best efforts to ensure compliance with the agreements.

52. The BWSC may seek to obtain relief under the Force Majeure provisions of this Consent Decree for any delay in obtaining final agreements with intergovernmental entities pursuant to Paragraphs 48 and 49 of this Consent Decree, provided that BWSC has initiated discussions, drafted agreements, and taken all other actions to the Plaintiffs' satisfaction to obtain such final agreements with intergovernmental entities.

M. Industrial Facility Stormwater Pollution Prevention Program

53. The BWSC shall develop an Industrial Facility Stormwater Pollution Prevention Program ("IFSPPP") to identify, inspect, and monitor pollutants in stormwater discharges to the MS4 from municipal landfills, hazardous waste treatment, storage, disposal and recovery facilities, facilities that are subject to EPCRA Title III, Section 313, facilities that hold, or are required to hold, NPDES stormwater permits, and each other industrial or commercial discharger that the BWSC determines is contributing a substantial pollutant loading to the MS4 (collectively, "Industrial Facilities"). The EPA shall provide to the BWSC a list of facilities in

the City of Boston that report to EPA pursuant to EPCRA, Title III, section 313 or that hold NPDES stormwater permits. The IFSPPP shall include:

- a. Priorities and procedures for BWSC inspections and enforcement and for implementation of control measures by the Industrial Facilities;
- b. A monitoring or self-monitoring program for Industrial Facilities including the collection of quantitative data on:
 - i. any pollutants for which the discharger may be required to monitor in an NPDES permit applicable to the facility;
 - ii. any information on discharges required under 40 C.F.R. § 122.21(g)(7)(ii) and (iii); and
 - iii. any pollutant that the BWSC has a reasonable expectation is discharged in substantial quantity from the Industrial Facility to the MS4.
- c. Plans for notification to industrial facilities of their potential responsibilities under the BWSC's IFSPPP.
- d. An Industrial Facility enforcement protocol for detecting and enforcing against violations of stormwater management requirements applicable to Industrial Facilities which shall provide for use of escalating enforcement remedies and shall be incorporated into the BWSC Sewer Use Regulations.

54. Within 180 days after the later of the lodging of the Consent Decree and the receipt of the list of facilities to be provided by EPA, the BWSC shall submit the IFSPPP to EPA for review and Approval and to CLF.

55. Within 180 days of lodging of the Consent Decree, the BWSC shall develop an

inventory of known Industrial Facilities and shall update this inventory on an annual basis.

56. Within 180 days of lodging of the Consent Decree, the BWSC shall develop, and thereafter maintain, a database to track relevant information, including enforcement and corrective action, relating to Industrial Facilities.

57. Within 180 days of lodging of the Consent Decree, the BWSC shall conduct training regarding Industrial Facility stormwater runoff control for personnel carrying out the BWSC's IFSPPP. The BWSC shall train all personnel performing Industrial Facility site inspections within thirty (30) days of their commencing employment or assignment to perform said inspections. The BWSC shall provide refresher training at least annually for all such personnel.

58. Within 30 days of Approval by EPA, the BWSC shall commence and continue implementation of the IFSPPP and enforcement program, as Approved by EPA, following consultation with CLF. The BWSC shall inspect 90% of the Industrial Facilities at least once every two years.

N. Public Education and Outreach

59. Within 270 days of the date of lodging of the Consent Decree, the BWSC shall submit for EPA review and Approval a Public Education and Outreach Program that uses a variety of distribution methods to ensure the BWSC's educational messages reach the widest possible public audience.

60. The BWSC's Public Education and Outreach Program shall present focused, clear and consistent educational messages that educate residents and business owners on the issues required under Section I.B.2.k. of the 1999 BWSC MS4 Permit. The BWSC shall review public education and outreach programs of five (5) cities comparable to Boston to examine the content

of educational messages, distribution methods, frequency of distribution, and targeted audience(s) of the educational messages. Based upon this review, the BWSC Public Education and Outreach Program shall develop the educational messages, distribution methods, frequency of distribution, and targeted audience(s) of the educational messages that the BWSC will distribute.

61. The distribution methods used by the BWSC's Public Education and Outreach Program shall include, at a minimum: use of the BWSC's public Internet website, inclusion of educational leaflets and the BWSC's *Currents* publication in water and sewer bills, catch basin stenciling, and door hangers. The distribution methods used by the BWSC's Public Education and Outreach Program should also consider other public forums, including but not limited to: radio or television public service announcements, posters displayed in or on Boston public transportation vehicles or facilities or in other public areas, email and social networking sites, and awareness booths at public environmental awareness events.

62. Within sixty (60) days of EPA Approval of the Public Education and Outreach Program, the BWSC shall commence implementation, and shall continue implementation thereafter, of the Public Education and Outreach Program, as Approved by EPA, in accordance with the schedule set forth therein.

O. Staffing Plan

63. Within 180 days of lodging of the Consent Decree, the BWSC shall submit a Staffing Plan to EPA and MassDEP and CLF for review and comment. The Staffing Plan shall detail the BWSC technical and legal staff and contractor resources necessary to implement this Consent Decree, including, but not limited to, the following: BWSC stormwater monitoring; BWSC MS4

and sub-catchment area investigations; BWSC illicit discharge removal efforts; BWSC implementation of stormwater BMP and LID efforts; BWSC GIS efforts; BWSC SSO tracking, reporting and CMOM efforts; BWSC Construction Site inspection and enforcement efforts; BWSC Industrial Facility pollution prevention efforts; and BWSC public education and outreach efforts. BWSC shall ensure that it establishes, funds, and adequately supports personnel with appropriate experience and/or verifiable certification and training to manage and accomplish all Consent Decree related tasks. The Staffing Plan, with any changes made by BWSC in response to review and comment by Plaintiffs, shall be incorporated into and become enforceable under this Consent Decree.

VIII. SUPPLEMENTAL ENVIRONMENTAL PROJECT

64. BWSC shall implement and satisfactorily complete a Leaking Sewer Lateral Lining Program Supplemental Environmental Project (“SEP”) in accordance with this Consent Decree and the Scope of Work in Appendix C. BWSC has determined that a number of private sewer laterals (or building drains) are leaching sanitary flow from cracks in the laterals into the BWSC’s storm drain infrastructure. The leaking of sanitary flow from private laterals into storm drains has resulted in the discharge of sewage to beaches and to other sensitive waterbodies. The presence of these leaking laterals has also been shown to impede progress in the BWSC’s Illicit Discharge Detection and Elimination investigations because the presence of sanitary flow in the storm drain hampers investigation down-stream within outfall catchment areas.

65. Pursuant to the SEP, the BWSC shall address a minimum of 25 private sewer laterals that have been identified as a source of sanitary sewage to the BWSC’s storm drain infrastructure. The BWSC will line each of the building sewer drains and private sewer laterals

together with the connection to the BWSC's sewer main in an integrated system from the building foundation to the BWSC's public sanitary sewer. BWSC shall be solely responsible for the implementation and satisfactory completion of the SEP in accordance with Appendix C. BWSC may use contractor(s) in implementing the SEP.

66. The SEP shall be completed by December 31, 2014. BWSC shall spend at least \$160,000 to complete the SEP.

67. With regard to the SEP, the BWSC certifies the truth and accuracy of each of the following:

a. that all cost information provided to EPA in connection with EPA's approval of the SEP is complete and accurate;

b. that, as of the date of executing this Decree, the BWSC is not required to perform or develop the SEP by any federal, state, or local law or regulation, and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;

c. that the SEP is not a project that the BWSC was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Decree;

d. that the BWSC has not received and will not receive credit for the SEP in any other enforcement action;

e. that the BWSC will not receive any reimbursement for any portion of the SEP from any other person; and

f. that the BWSC is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. To the best of

the BWSC's knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this Paragraph, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.

68. The BWSC shall supply SEP progress reports to EPA as required by Section IX (Compliance Reporting). Each report shall contain:

- a. A summary of the current status of the SEP;
- b. A description of the activities undertaken to implement the SEP during the relevant Reporting Period (defined in Paragraph 75 below), including, without limitation, information on any contractor(s) selected, the address, catchment area, and length of each leaking private lateral lined, the efficacy of the lining in eliminating the leakage, and any additional work conducted.
- c. Copies of any reports generated in implementing the SEP during the Reporting Period;
- d. An explanation of any difficulties or delays in the implementation of the SEP;
and
- e. A summary, with copies of supporting documentation, of the eligible costs expended on the SEP during the Reporting Period.

69. Within sixty (60) Days after the completion of the SEP, the BWSC shall submit a SEP Completion Report to the United States, in accordance with Section XV (Form of Notice).

The SEP Completion Report shall contain the following information:

- a. A detailed description of the SEP as implemented, including, without limitation, information on any contractor(s) selected, the address, catchment area, and length of each leaking private lateral lined, the efficacy of the lining in eliminating the leakage, and any additional work conducted.
- b. A description of any problems encountered in completing the SEP and the solutions thereto;
- c. An itemized list of all eligible SEP costs expended. In itemizing its costs in the SEP Completion Report, the BWSC shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP Completion Report includes costs unrelated to the SEP, those costs must be clearly identified as such. For the purpose of this Paragraph, "acceptable documentation" includes invoices, purchase orders or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made;
- d. Certification that the SEP has been fully implemented pursuant to the provisions of this Decree; and
- e. A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).

70. EPA may, in its sole discretion, require reasonable information in addition to that described in the preceding Paragraph, in order to evaluate the BWSC's SEP Completion Report.

71. After receiving the SEP Completion Report, the United States will notify the BWSC whether or not it has satisfactorily completed the SEP. If the BWSC has not completed the SEP in accordance with this Consent Decree, stipulated penalties may be assessed under Section XI (Stipulated Penalties) of this Consent Decree.

72. Disputes concerning the satisfactory performance of the SEP and the amount of eligible SEP costs may be resolved under Section XIII (Dispute Resolution).

73. Each submission required under this Section shall be signed by an official with knowledge of the SEP and shall bear the certification language set forth in Paragraph 106.

74. Any written public statement, in print, film, or other media, made by the BWSC making reference to the SEP under this Decree shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action, Conservation Law Foundation and the United States of America v. Boston Water and Sewer Commission, et al., taken on behalf of the U.S. Environmental Protection Agency under the Clean Water Act." In any oral public statement made by the BWSC publicizing the SEP at a press event or other presentation to news media or in a public gathering, the BWSC shall include similar language.

IX. COMPLIANCE REPORTING

75. Beginning on March 1, 2013, and on each March 1st and September 1st thereafter through termination of this Consent Decree, the BWSC shall submit to EPA, for review and comment, Compliance Reports for the previous six-month period (August 1st through January 31st and February 1st through July 31st) ("Reporting Period"). Each Compliance Report shall

include, at a minimum, the following items:

- a. The current revised priority listing for all sub-catchment areas and all outfall monitoring data collected pursuant to Paragraphs 12, 13, and 14 during the Reporting Period;
- b. A spreadsheet detailing the percentage of each sub-catchment area investigation completed during the last Reporting Period and cumulative to date based on the following:
 - i. the number of stormwater manholes in the sub-catchment area that have been systematically investigated and addressed in accordance with BWSC's revised IDDE Plan, as Approved by EPA, during the previous Reporting Period and cumulative to date;
 - ii. the percentage of the sub-catchment area that has been systematically investigated and addressed in accordance with BWSC's revised IDDE Plan, as Approved by EPA, during the previous Reporting Period and cumulative to date. The percentage shall be based on the number of stormwater manholes addressed during each respective period divided by the total number of stormwater manholes in the sub-catchment area;
 - iii. the linear feet of storm drain piping in the sub-catchment area that has been systematically investigated and addressed in accordance with BWSC's revised IDDE Plan, as Approved by EPA, during the previous Reporting Period and cumulative to date;
 - iv. the percentage of the sub-catchment area that has been systematically investigated and addressed in accordance with BWSC's revised IDDE Plan, as Approved by EPA, during the previous Reporting Period and cumulative to date. The percentage shall be based on the linear feet of storm drain addressed during each respective period divided by the total linear feet in the sub-catchment area;

c. An updated listing of all illicit discharges (separately listing illicit connections and sanitary sewer defects) verified through the end of the Reporting Period, including the following:

i. the date the illicit discharge was verified, the address or location of the illicit discharge, and the type of discharge (*e.g.*, single-family residential, multi-family residential, commercial, industrial, exfiltration from sanitary sewer);

ii. the estimated flow from the illicit discharge;

iii. the actions taken by the BWSC to remove the illicit discharge;

iv. the date the illicit discharge was removed;

v. the cost of removing the illicit discharge;

vi. the resulting volume removed from the MS4 under the IDDE Plan during the Reporting Period for each individual illicit discharge, each sub-catchment area, and each sub-watershed area, cumulative for the Reporting Period, and cumulative for all illicit discharges to date;

vii. a listing of those illicit discharges verified but not removed within sixty (60) days of verification, with an explanation for each;

viii. the schedule for the removal of each illicit discharge that was not removed within 60 days of identification and an explanation as to why the schedule is as expeditious as possible;

ix. for each verified illicit discharge that is the responsibility of the property owner where the property owner has not removed the illicit discharge within ninety (90) days of the date of verification, or within ninety (90) days of lodging of this Consent Decree for existing

verified illicit discharges, an explanation of the manner in which the BWSC's legal actions have escalated; and

x. for each schedule listed in the previous semi-annual report, specify whether the BWSC complied with its schedule for removal; and if not, the reasons for the delay.

d. A chronological list of each of the following categories of SSO events that occurred during the Reporting Period: all releases with a reasonable potential to reach surface waters such as releases to streets or areas with storm drain catch basins; Building/Private Property Backups; and citizen reports of SSO events, including Building/Private Property Backups. Each of the lists shall include, but need not be limited to, the following information, as detailed in Section VII.E (SSO Reporting), in summary format:

i. the date and time when each event began and was discovered by, or reported to, the BWSC and the date when the event was stopped;

ii. the location by address;

iii. the final disposition of the SSO; and, if the release occurred to the ground or street, the location of the nearest downgradient MS4 catch basin and the name of the receiving water to which the catch basin discharges;

iv. if the release did not reach a catch basin or any other portion of the BWSC's MS4, a statement of whether the release did or did not reach any surface water. If the release reached a surface water, the BWSC shall include the name of the surface water and a description of the location where the release reached the surface water;

v. the source of notification;

vi. the cause(s) of the event;

- vii. a determination of whether the event was caused by blockages or hydraulic limitations within the publicly-owned portion of the Collection System;
 - viii. the measures taken to stop the event;
 - ix. the estimated gallons of wastewater released, the estimated gallons of wastewater that reached a surface water, and the bases for those estimates;
 - x. the date the overflow was reported to EPA and MassDEP;
 - xi. the measures taken to prevent future overflows at the same location; and
 - xii. the date of the last SSO that occurred at the event location.
- e. A GIS map or figure, consistent with the requirements of Paragraph 38, indicating the location of each illicit discharge and SSO event including Building/Private Property Backups;
- f. A chart showing the numbers of routine, complaint-response, and total construction inspections and the number of each type of enforcement action taken for violations;
- g. A chart of the total number of Industrial Facility inspections separated by types of facilities and the number of each type of enforcement action taken for violations;
- h. A list of the agreements that BWSC has signed with other governmental entities and a copy of each signed agreement;
- i. A list of all public education and outreach activities conducted during the Reporting Period including the specific messages, the distribution methods, the frequency of distribution, and the target audience;
- j. A status report on implementation of the Staffing Plan including a summary of the number and percentage of positions filled and the contractor resources used during the Reporting

Period;

k. Until the BWSC satisfactorily completes the SEP, a progress report regarding the performance of the SEP as required by Paragraph 68.

l. A description of the activities undertaken during the Reporting Period directed at achieving compliance with this Consent Decree;

m. A description of any proposed changes to the remedial measures included in documents as Approved by EPA under the terms of this Consent Decree;

n. An identification of all plans, reports, and other submissions required by this Consent Decree that the BWSC completed and submitted during the Reporting Period;

o. A description of the activities the BWSC plans to undertake during the six (6) months following the Reporting Period in order to achieve compliance with this Consent Decree;
and

p. An identification of any noncompliance with the requirements of this Consent Decree. If any noncompliance is reported, the notification shall include the following information:

i. a description of the noncompliance;

ii. a description of any actions taken or proposed by the BWSC to comply with any lapsed requirements;

iii. a description of any factors that tend to explain or mitigate the noncompliance; and

iv. the date by which the BWSC will perform the required action.

76. The reporting requirements set forth in this Section do not relieve the BWSC of its

obligation to submit any other reports or information as required by federal, Commonwealth or local law, regulation, or permit. EPA reserves the right to review and require modifications to the above reporting requirements.

X. APPROVAL OF SUBMISSIONS

77. After review of any plan, schedule, report, or other item that is required to be submitted for Approval by EPA pursuant to this Consent Decree, EPA shall in writing:

(a) approve, in whole or in part, the submission; (b) approve, in whole or in part, the submission with specified conditions; (c) disapprove, in whole or in part, the submission, directing that the BWSC modify the submission; or (d) any combination of the above, and shall provide copies thereof to the other Parties.

78. In the event of Approval or Approval with conditions by EPA pursuant to Paragraph 77(a) or (b), the plan, schedule, report, or other item, or portion thereof, as Approved or Approved with conditions by EPA, shall be enforceable under this Consent Decree, and the BWSC shall take all actions required to implement such plan, schedule, report, or other item, or portion thereof, in accordance with the Approval or Approval with conditions issued by EPA.

79. Upon receipt of a written notice of disapproval pursuant to Paragraph 77(c), the BWSC shall, within thirty (30) Days or such other time as the BWSC and EPA agree in writing, correct the deficiencies and resubmit the plan, schedule, report, or other item, or portion thereof, for Approval. Any stipulated penalties applicable to the original submission shall accrue during the thirty (30) Day period or other specified period, but shall not be payable unless the resubmission is untimely and/or disapproved as provided in Paragraph 80.

80. Any resubmitted plan, schedule, report, or other item, or portion thereof, shall be

subject to review and Approval by EPA, as provided under this Section. If the BWSC fails to resubmit a plan, schedule, report, or other item, or portion thereof after a disapproval, or if, upon resubmission, the plan, schedule, report, or other item, or portion thereof, is disapproved by EPA, the BWSC shall be deemed to have failed to submit such plan, schedule, report, or other item, or portion thereof, timely and adequately, unless the BWSC invokes the dispute resolution procedures set forth in Section XIII (Dispute Resolution) and the BWSC's position is upheld.

81. Notwithstanding the receipt of a notice of disapproval pursuant to Paragraph 77(c), the BWSC shall proceed, at the direction of EPA, to take any action required by any non-deficient portion of the submission. Implementation of any non-deficient portion of a submission shall not relieve the BWSC of any liability for stipulated penalties under Section XI (Stipulated Penalties) for the deficient portions.

XI. STIPULATED PENALTIES

82. The BWSC shall pay stipulated penalties to the United States for violations of, or noncompliance with, the requirements of this Consent Decree, as set forth below, unless excused under Section XII (Force Majeure). A violation or noncompliance includes failing to perform an obligation required by the terms of this Consent Decree, including any work plan or schedule approved under this Decree, according to all applicable requirements of this Consent Decree and within the specified time schedules or by the date(s) established by or approved under this Decree. If the United States makes a demand for stipulated penalties, the BWSC may invoke dispute resolution.

a. Late Payment of Civil Penalty. If the BWSC fails to pay the Civil Penalty required to be paid under Section VI (Civil Penalty) when due, the BWSC shall pay a stipulated

penalty as follows:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 750	1st through 10th Day
\$ 1,500	11th through 20th Day
\$ 2,500	21st Day and beyond.

b. Reporting & Notice Requirements. For every Day that the BWSC fails timely to submit a report required by Paragraph 75, fails to provide the certification required by Paragraph 106, or fails to provide the Notice required by Paragraphs 4 and 5, the BWSC shall pay a stipulated penalty as follows:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 500	1st through 10th Day
\$ 1,500	11th through 20th Day
\$ 2,500	21st Day and beyond.

c. Unpermitted Discharges. For each Day that an SSO occurs, the BWSC shall pay a stipulated penalty of \$6,500. Notwithstanding the foregoing, the BWSC shall not be liable for such a stipulated penalty for an SSO if all of the following conditions are met: (i) the BWSC stopped the SSO as soon as reasonably practicable; (ii) the BWSC is in full compliance with and is fully implementing the schedules and other requirements set forth pursuant to Sections VII.F., G., H., and I. of this Consent Decree; and (iii) the BWSC has complied with all reporting requirements for said SSO, including but not limited to those set forth in Paragraph 29 of this Consent Decree.

d. Remedial Measures. For every Day that the BWSC fails to timely meet the requirements of Section VII (Remedial Measures) of this Consent Decree, including but not limited to, submitting an approvable plan, schedule, report, or other item, other than a report required by Paragraph 75, or fails to implement remedial requirements in a plan, schedule,

report, or other item Approved by EPA, the BWSC shall pay a stipulated penalty as follows:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 750	1st through 10th Day
\$ 1,000	11th through 20th Day
\$ 2,500	21st Day and beyond

e. SEP Compliance. In the event that the BWSC fails to comply with any of the terms or provisions of this Consent Decree and Appendix C relating to the performance of the SEP described in Section VIII above, the BWSC shall be liable for stipulated penalties according to the provisions set forth below:

(1) If the BWSC fails to timely provide any information or report required pursuant to Section VIII (Supplemental Environmental Project), Appendix C, or Paragraph 75.k or fails to complete the SEP by the deadline set for the SEP in Section VIII and Appendix C, the BWSC shall pay a stipulated penalty for each Day for which it fails to provide such information or report or fails to complete the SEP by the deadline, as follows:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$500	1st through 10th Day
\$1,500	11th through 20th Day
\$2,500	21st Day and beyond.

(2) If the BWSC fails to satisfactorily complete the SEP in accordance with the requirements of Section VIII and Appendix C, or halts or abandons work on the SEP, the BWSC shall pay a stipulated penalty of \$200,000, less any amount of eligible SEP costs expended by BWSC that EPA determines was expended in a manner consistent with the Consent Decree.

(3) If the BWSC satisfactorily completes the SEP and has spent less than \$160,000, the BWSC shall pay the difference between \$160,000 and all eligible amounts paid by the BWSC towards the SEP as of the Day this penalty accrues; provided, the penalty under this subparagraph shall accrue as of the Day specified for completing the SEP or the Day performance ceases, whichever is earlier.

83. Stipulated penalties shall automatically begin to accrue on the Day after performance is due or on the Day a violation occurs and shall continue to accrue each Day until performance is satisfactorily completed or until the violation or noncompliance ceases. Stipulated penalties shall accrue simultaneously for separate violations of, or instances of noncompliance with, this Consent Decree.

84. Following the United States' determination that the BWSC has failed to comply with a requirement of this Consent Decree, the United States may give the BWSC written notification of the same and describe the noncompliance. The United States may send the BWSC a written demand for the payment of the stipulated penalties. If the United States makes a demand for payment of stipulated penalties, it shall simultaneously send a copy of the demand to the other Plaintiff, as applicable. However, the stipulated penalties shall accrue as provided in the preceding Paragraph regardless of whether the United States has notified the BWSC of a violation of, or noncompliance with, the requirements of this Consent Decree, or demanded payment of stipulated penalties.

85. The BWSC shall pay stipulated penalties as specified in this Section by delivering the payment to the United States within thirty (30) Days of the date of a demand for payment of

stipulated penalties by the United States. The BWSC shall pay the total stipulated penalty amount due to the United States in the manner set forth and with the confirmation notices required by Paragraph 10, except that the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violation(s) or noncompliance the penalties are being paid. In the event the BWSC fails to pay stipulated penalties according to the terms of this Consent Decree, such penalty (or portion thereof) shall be subject to interest at the statutory judgment rate set forth at 28 U.S.C. § 1961, accruing as of the date payment became due. Nothing in this Paragraph shall be construed to limit the United States from seeking any remedy otherwise provided by law for failure of the BWSC to pay any stipulated penalties.

86. Stipulated penalties shall continue to accrue as provided in Paragraph 83, during any dispute resolution, but need not be paid until the following:

a. If the dispute is resolved by agreement or a decision of the EPA that is not appealed to the Court, the BWSC shall pay accrued penalties, together with interest, to the United States within thirty (30) Days of the agreement or the receipt of the United States' decision or order.

b. If the dispute is appealed to the Court and the United States prevails in whole or in part, the BWSC shall pay all accrued penalties, together with interest, within sixty (60) Days of receiving the Court's decision or order, to the extent the United States prevails, except as provided in subparagraph c, below.

c. If any Party appeals the District Court's decision, and the United States prevails in whole or in part, the BWSC shall pay all accrued penalties, together with interest, within fifteen (15) Days of receiving the final appellate court decision, to the extent the United States prevails.

87. The stipulated penalties set forth above shall be in addition to any other remedies, sanctions, or penalties which may be available by reason of the BWSC's failure to comply with the requirements of this Consent Decree. The Plaintiffs expressly reserve any and all legal and equitable remedies, including contempt sanctions, which may be available to enforce the provisions of this Consent Decree. The United States may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Consent Decree.

XII. FORCE MAJEURE

88. "Force Majeure," for purposes of this Consent Decree, is defined as any event arising from causes entirely beyond the control of the BWSC, of any entity controlled by the BWSC, or of BWSC's engineers, consultants, and contractors, that delays or prevents the timely performance of any obligation under this Consent Decree notwithstanding the BWSC's best efforts to fulfill the obligation.

89. The requirement that the BWSC exercise "best efforts" includes using best efforts to anticipate any potential Force Majeure event and best efforts to address the effects of any such event (a) as it is occurring and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent feasible. "Force Majeure" does not include the BWSC's financial inability to perform any obligation under this Consent Decree. Stipulated Penalties shall not be due for the number of Days of noncompliance caused by a Force Majeure event as defined in this Section, provided that the BWSC complies with the terms of this Section.

90. If any event occurs that may delay or prevent the performance of any obligation under this Consent Decree, whether or not caused by a Force Majeure event, the BWSC shall notify Plaintiffs via email within three (3) working Days after the BWSC first knew or should

have known that the event might cause a delay. Within five (5) additional working Days thereafter, the BWSC shall submit for review and Approval by EPA, at the addresses specified in Section XV (Form of Notice), a written explanation of the cause(s) of any actual or expected delay or noncompliance, the anticipated duration of any delay, the measure(s) taken and to be taken by the BWSC to prevent or minimize the delay, a proposed schedule for the implementation of such measures, and a statement as to whether, in the opinion of the BWSC, such event may cause or contribute to an endangerment to public health, welfare, or the environment. Notwithstanding the foregoing, the BWSC shall notify EPA and MassDEP orally within twenty-four (24) hours of becoming aware of any event that presents an imminent threat to the public health or welfare or the environment and provide written notice to Plaintiffs within seventy-two (72) hours of discovery of such event. Failure to provide timely and complete notice in accordance with this Paragraph shall constitute a waiver of any claim of Force Majeure with respect to the event in question. Notifications required by this Paragraph shall be provided consistent with the contact information provided in Section XV (Form of Notice). Nothing in this Consent Decree should be taken to change or amend existing reporting requirements established by MassDEP for SSO events and facility upsets.

91. If EPA, after providing CLF (through its respective representatives as designated under Section XV (Form of Notice)) a reasonable opportunity for consultation, agrees that a delay or anticipated delay is attributable to Force Majeure, the time for performance of the obligations under this Consent Decree that are affected by the Force Majeure event shall be extended by EPA for a period of time as EPA determines is necessary to complete these obligations. EPA will notify the BWSC in writing of the length of the extension, if any, for

completion of the obligations affected by the Force Majeure event.

92. If EPA does not agree the delay or anticipated delay is attributable to Force Majeure, or on the number of Days of noncompliance caused by such event, EPA will notify the BWSC in writing of its decision. The BWSC may then elect to initiate the dispute resolution process set forth in Section XIII (Dispute Resolution). If the BWSC does not initiate the dispute resolution process set forth in Section XIII (Dispute Resolution) within ten (10) Days of receiving EPA's written notice under this Paragraph, then the BWSC shall be deemed to have waived any Force Majeure claims or any rights to initiate dispute resolution with regard to such claims. In any dispute resolution proceeding, the BWSC shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a Force Majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that "best efforts" were exercised to avoid and mitigate the effects of the delay, and that the BWSC complied with the requirements of Paragraph 90, above. If the BWSC carries this burden, the delay at issue shall be deemed not to be a violation by the BWSC of the affected obligation(s) of this Consent Decree.

93. Delay in performance of any obligation under this Consent Decree shall not automatically justify or excuse delay in complying with any subsequent obligation or requirement of this Decree.

94. Failure of the BWSC to obtain any Commonwealth or federal grants or loans shall not be considered a Force Majeure event under this Consent Decree.

XIII. DISPUTE RESOLUTION

95. Unless otherwise expressly provided for in this Consent Decree, the dispute

resolution procedures set forth in this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. The BWSC's failure to seek resolution of a dispute under this Section shall preclude the BWSC from raising any such undisputed issue as a defense to an action by a Plaintiff to enforce any obligation of the BWSC arising under this Decree. The procedures set forth in this Section shall not apply to actions by a Plaintiff to enforce obligations that the BWSC has not disputed in accordance with this Section. In the event a Party elects to invoke dispute resolution in accordance with this Section, and as permitted by this Decree, with respect to an Approval, Approval with conditions, disapproval, a Force Majeure determination, a written demand for payment of stipulated penalties, or any other determination made by EPA, the Party shall do so by giving all other Parties a written Notice of Dispute within fifteen (15) Days after receipt of such determination. If a Party fails to give such Notice, it shall be deemed to have waived any right to invoke dispute resolution regarding such dispute, and the position advanced by the EPA shall be considered binding.

96. Any dispute subject to dispute resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when a Party sends all other Parties a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute, and shall be accompanied by a Statement of Position that shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the Party initiating dispute resolution. Within fifteen (15) Days after receipt of a Notice of Dispute, any other Party may send the other Parties a Statement of Position on the matter in dispute that may include, but need not be limited to, factual data, analysis, or opinion supporting its position and any supporting documentation relied

on. The period of informal negotiations shall not exceed forty (40) Days from the date the dispute arises, unless that period is modified by written agreement between the Parties.

97. If the Parties cannot by informal negotiations resolve any dispute regarding a determination by EPA, then the position advanced by the EPA shall be considered binding unless, within thirty (30) Days after the conclusion of the informal negotiation period, a Party seeks judicial review of the dispute by filing with the Court and serving on the other Parties, in accordance with Section XV (Form of Notice), a motion requesting judicial resolution of the dispute. If the Parties cannot by informal negotiations resolve any other dispute subject to dispute resolution under this Section, any party to the dispute may, within thirty (30) Days after the conclusion of the informal negotiation period, seek judicial review of the dispute by filing with the Court and serving on the other Parties, in accordance with Section XV (Form of Notice), a motion requesting judicial resolution of the dispute. Any such motion shall contain a written statement of the Party's position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree. Any Party to any dispute may proffer to the Court material in addition to that served pursuant to Paragraph 96.

98. The other Parties shall file any response to such motion within the time period allowed by the Federal Rules of Civil Procedure and the Local Rules of this Court. The Party filing the motion may file a reply memorandum to the extent permitted by the Federal Rules of Civil Procedure and the Local Rules.

99. Standard of Review: Except as otherwise provided in this Consent Decree, in any

dispute brought under Paragraph 97, the party initiating dispute resolution shall bear the burden of demonstrating that its position complies with the Consent Decree and will better serve the objectives of this Consent Decree. Judicial review of any dispute shall be governed by applicable principles of law.

100. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of the BWSC under this Consent Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first Day of noncompliance, but payment shall be stayed pending resolution of the dispute, as provided in Paragraph 86. If the BWSC does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XI (Stipulated Penalties).

XIV. RIGHT OF ENTRY/INFORMATION COLLECTION AND RETENTION

101. EPA and its contractors, consultants, and attorneys shall have authority to enter any property or facility owned or controlled by the BWSC, at all reasonable times, upon proper identification, for the purposes of: (a) monitoring the progress of activity required by this Consent Decree; (b) verifying any data or information submitted to EPA under this Consent Decree; (c) assessing the BWSC's compliance with this Consent Decree; (d) obtaining samples and, upon request, splits of any samples taken by the BWSC or its representatives, contractors, or consultants; and (e) obtaining documentary evidence, including photographs and similar data related to compliance with Consent Decree. Upon request, EPA shall provide the BWSC splits of any samples taken by EPA. This requirement is in addition to, and does not limit, the authority of EPA pursuant to the CWA, or any other provision of federal law or regulation.

102. The BWSC shall retain all non-identical copies of all documents, records, and other information (including documents, records, or other information in electronic form) generated by the BWSC, and all data collected and all reports generated by the BWSC's contractors (including data and reports in electronic form), that relate in any manner to the BWSC's performance of its obligations under this Consent Decree for ten years. This information retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon request by the United States or CLF, the BWSC shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

103. At the conclusion of the information-retention period provided in the preceding Paragraph, the BWSC shall notify the United States and CLF at least ninety (90) Days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the United States or CLF, the BWSC shall deliver any such documents, records, or other information to EPA or CLF. The BWSC may assert that certain documents, records, or other forms of information are privileged under the attorney-client privilege or any other privilege or protection from disclosure recognized by federal law or state law. If the BWSC asserts such a privilege or protection, it shall provide the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of each author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the subject of the document, record, or information; and (6) the privilege or protection asserted by the BWSC. However, no documents, records, data, reports, or other information created or generated

pursuant to the requirements of this Consent Decree shall be withheld on grounds of privilege or on grounds of protection from disclosure.

104. This Consent Decree in no way limits or affects any right of entry and inspection held by the United States or the Commonwealth or any right to obtain information from BWSC held by the United States, the Commonwealth, or CLF pursuant to applicable federal or Commonwealth laws, regulations, or permits, nor does it limit or affect any duty or obligation of the BWSC to maintain documents, records, or other information imposed by applicable federal or Commonwealth laws, regulations, or permits.

XV. FORM OF NOTICE

105. Unless otherwise specified herein, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing to the following respective addressees. Any Party may, by written notice to the other Parties, change its designated notice recipient, address, or means of notice (including the substitution of electronic notice via email instead of notice via mail). Notifications, submissions, or communications submitted pursuant to this Section shall be deemed submitted upon mailing, unless otherwise provided in this Consent Decree or by written agreement of the Parties.

As to the Department of Justice

Chief, Environmental Enforcement Section
Environment & Natural Resources Division
United States Department of Justice
P.O. Box 7611 - Ben Franklin Station
Washington, DC 20044
DJ # 90-5-1-1-10166

As to the United States Attorney

United States Attorney
District of Massachusetts
One Courthouse Way
John Joseph Moakley Courthouse
Boston, Massachusetts 02210
Attention: Anton P. Giedt
anton.giedt@usdoj.gov

As to the EPA

Todd Borci
Enforcement Officer
Water Technical Unit
U.S. Environmental Protection Agency, Region 1
5 Post Office Square – Suite 100
Mail Code OES04-4
Boston, MA 02109-3912
borci.todd@epa.gov

Edith A. Goldman
Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square – Suite 100
Mail Code OES04-1
Boston, MA 02109-3912
goldman.edie@gmail.com

The BWSC shall submit all notifications, submissions, and communications required by this Consent Decree to EPA via electronic mail no later than the due date(s) specified in this Consent Decree, in addition to providing a hard copy in accordance with the terms of this Paragraph. The BWSC shall provide complete copies to both Todd Borci and Edith Goldman of all other submissions and notices required to be made by the BWSC to EPA pursuant to this Decree; except that with respect to copies of reports, schedules, plans, and other items required to be submitted to Edith Goldman pursuant to Sections VII (Remedial Measures) and IX (Compliance

Reporting), only copies of the transmittal letters need be provided. If a submission or notice cannot be provided via electronic mail due to its size, an electronic copy shall be provided by CD-ROM or other similar digital format.

As to the MassDEP

Kevin Brander
Section Chief
Wastewater Management Section
DEP/NERO
205B Lowell Street
Wilmington, MA 01887
kevin.brander@state.ma.us

As to the Conservation Law Foundation

Anthony Lappin Iarrapino, Esq.
Christopher M. Kilian, pro hac vice
15 E. State St. #4
Montpellier, Vermont 05602
Telephone: (802) 223-5992, ext. 14
aiarrapino@clf.org

The BWSC shall provide complete copies to MassDEP and CLF of all notifications, submissions and communications required by this Consent Decree by electronic mail no later than the due date(s) specified in this Consent Decree. If a submission or notice cannot be provided via electronic mail due to its size, an electronic copy shall be provided by CD-ROM or other similar digital format. The BWSC shall not be required to provide MassDEP or CLF with a hard copy of any notifications, submissions, or communications unless such hard copy is requested by MassDEP or CLF.

As to the Boston Water and Sewer Commission

John M. Stevens
Jonathan M. Ettinger
Foley Hoag LLP
Seaport World Trade Center West
155 Seaport Boulevard
Boston, MA 02210
(617) 832-1000; (617) 832-1159
jstevens@foleyhoag.com
jettinger@foleyhoag.com

Boston Water and Sewer Commission
980 Harrison Avenue
Boston, MA 02119
Attention: Executive Director
(617) 989-7000

Office of General Counsel
Boston Water and Sewer Commission
980 Harrison Avenue
Boston, MA 02119
Attention: James J. Steinkrauss
(617) 989-7312
steinkraussjj@bwsc.org

106. All written notices, reports, or any other submissions required of the BWSC by this Consent Decree shall contain the following certification by a duly authorized representative of the BWSC:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

XVI. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

107. This Consent Decree resolves the civil claims of CLF and the United States for the violations alleged in their respective Complaints filed in this action through the Date of Lodging.

108. This Consent Decree is neither a permit nor a modification of any existing permit under any federal, Commonwealth, or local law or regulation. The BWSC is responsible for achieving and maintaining complete compliance with all applicable federal, state, and local laws and regulations, and permits, and the BWSC's compliance with this Consent Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The Plaintiffs do not, by their consent to the entry of this Consent Decree, warrant or aver in any manner that the BWSC's compliance with any aspect of this Consent Decree will result in compliance with provisions of the CWA or the Massachusetts Act or with any other provisions of federal, Commonwealth, or local laws, regulations, or permits. This Consent Decree shall not be construed to constitute approval by EPA or MassDEP of any equipment or technology installed by the BWSC under the terms of this Consent Decree.

109. This Consent Decree does not limit any rights or remedies available to the Plaintiffs for any violation by the BWSC of the CWA, the Massachusetts Act, or associated regulations or permit conditions other than those claims alleged in the Complaints through the Date of Lodging. This Consent Decree does not limit any rights or remedies available to the United States or the Commonwealth for any criminal violations. The Plaintiffs expressly reserve all rights and remedies, legal and equitable, available to each of them for all violations of the CWA, the Massachusetts Act, or other applicable law, except with respect to violations that have been specifically resolved pursuant to Paragraph 107, and reserve all rights and remedies, legal and

equitable, available to enforce the provisions of this Consent Decree, including the provisions of any work plan or schedule Approved by EPA under this Decree. Nothing herein shall be construed to limit the power of the United States or the Commonwealth, consistent with their respective authorities, to undertake any action against any person, in response to conditions which may present an imminent and substantial endangerment to the public's health or welfare, or the environment.

110. In any subsequent administrative or judicial proceeding initiated by one or more of the Plaintiffs for injunctive relief, civil penalties, or other appropriate relief relating to the BWSC's violations of federal or state law, the BWSC shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by one or more of the Plaintiffs in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to Paragraph 107.

111. This Consent Decree does not resolve any claims for contingent liability under Section 309(e) of the Clean Water Act, 33 U.S.C. § 1319(e). The United States specifically reserves any such claims against the Commonwealth.

112. This Consent Decree does not limit or affect the rights of the BWSC or the Plaintiffs against any third parties not party to this Consent Decree, nor does it limit the rights of third parties not party to this Consent Decree against the BWSC, except as otherwise provided by law.

113. This Consent Decree shall not be construed to create rights in, or grant any cause of

action to, any third party not party to this Consent Decree.

XVII. COSTS

114. Each Party shall bear its own expenses, costs, and attorney's fees in this action, except that, CLF may assert a claim for its costs of litigation (including reasonable attorney and expert witness fees). The Defendants shall be responsible for all expenses, costs and attorney's fees incurred by Plaintiffs in collecting any penalties due and payable under Sections VI (Civil Penalty) and XI (Stipulated Penalties) of this Consent Decree.

XVIII. EFFECTIVE DATE

115. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court or a motion to enter the Consent Decree is granted, whichever occurs first, as recorded on the Court's docket; provided, however, that the BWSC hereby agrees that it shall be bound to perform duties scheduled to occur prior to the Effective Date. In the event the United States withdraws or withholds consent to this Decree before entry, or the Court declines to enter the Consent Decree, then the preceding requirement to perform duties scheduled to occur before the Effective Date shall terminate.

XIX. RETENTION OF JURISDICTION

116. The Court shall retain jurisdiction to modify and enforce the terms and conditions of this Consent Decree and to resolve disputes arising hereunder as may be necessary or appropriate for the construction or execution of this Consent Decree and to assess any stipulated penalties that may have accrued because of the BWSC's failure to comply with any of its obligations under this Decree.

XX. MODIFICATION

117. The terms of this Consent Decree, including modifications to any schedule specified in the Consent Decree, may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to the Consent Decree, it shall be effective only upon approval by the Court. Any disputes concerning modification of this Consent Decree shall be resolved pursuant to Section XIII (Dispute Resolution), provided, however, that, instead of the burden of proof provided by Paragraph 99, the Party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Federal Rule of Civil Procedure 60(b).

XXI. FUNDING

118. Performance of the terms of this Consent Decree by the BWSC is not conditioned on the receipt of any federal or Commonwealth grant funds or loans, or other financing. In addition, performance is not excused by the lack of federal or Commonwealth grant funds or loans.

XXII. SEVERABILITY

119. The provisions of this Consent Decree shall be severable, and should any provision be declared by a court of competent jurisdiction to be unenforceable, the remaining provisions shall remain in full force and effect.

XXIII. TERMINATION

120. After the BWSC completes all of the requirements of Section VII (Remedial Measures), Section VIII (Supplemental Environmental Project), and Section IX (Compliance Reporting), complies with all other requirements of the Consent Decree, has paid in full the Civil

Penalty, and all accrued interest thereon, and all stipulated penalties, and all accrued interest thereon, as required by Sections VI (Civil Penalty) and XI (Stipulated Penalties) of this Consent Decree, has paid in full the costs of litigation, and all accrued interest thereon, as required by Paragraph 114 of this Consent Decree, the BWSC may serve upon the Plaintiffs a Request for Termination, stating that the BWSC has satisfied those requirements, together with all applicable supporting documentation.

121. Following receipt by the Plaintiffs of the BWSC's Request for Termination, the Parties shall confer informally concerning the Request and any disagreement that they may have as to whether the BWSC has satisfied the requirements for termination of this Consent Decree. The Plaintiffs shall consult as to whether BWSC has satisfied the requirements for Termination contained in Paragraph 120 above. If the United States, after consultation with CLF, agrees that this Decree may be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Decree.

122. If the United States does not agree that the Decree may be terminated, the BWSC may invoke dispute resolution under Section XIII (Dispute Resolution). However, the BWSC shall not seek dispute resolution of any dispute regarding termination until sixty (60) Days after service of its Request for Termination.

XXIV. FINAL JUDGMENT

123. Entry of this Consent Decree constitutes Final Judgment under Rule 54 of the Federal Rules of Civil Procedure.

XXV. WAIVER OF SERVICE

124. The Defendants hereby agree to accept service of process by mail with respect to all

matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons.

XXVI. PUBLIC COMMENT

125. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) Days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments received disclose facts or considerations that indicate that this Consent Decree is inappropriate, improper, or inadequate. The Defendants and CLF consent to the entry of this Consent Decree without further notice and agree not to withdraw from or oppose entry of this Consent Decree by the Court or to challenge any provision of this Decree, unless the United States has notified the Parties in writing that it no longer supports entry of this Decree.

XXVII. SIGNATORIES

126. Each undersigned representative of the Defendants, CLF and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

XXVIII. INTEGRATION

127. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis.

128. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and

supercedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. Other than submissions that are subsequently submitted and Approved by EPA pursuant to this Decree, no other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Decree or the settlement it represents, nor shall it be used in construing the terms of this Decree.

XXIX. APPENDICES

129. The following appendices are attached to and part of this Consent Decree:

- a. "Appendix A" is the EPA's Guide for Evaluating Capacity, Management, Operation, and Maintenance (CMOM) Programs at Sanitary Sewer Collection Systems (EPA 305-B-05-002, January 2005).
- b. "Appendix B" is the Wastewater Collection System CMOM Program Self-Assessment Checklist (the "CMOM Program Self-Assessment Checklist").
- c. "Appendix C" is the Leaking Sewer Lateral Lining Program Supplemental Environmental Project Scope of Work.

Dated and entered this _____ day of _____, 2012.

RICHARD G. STEARNS
UNITED STATES DISTRICT JUDGE
District of Massachusetts

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of *Conservation Law Foundation and United States v. BWSC et al.*

For Plaintiff UNITED STATES OF AMERICA

Date

IGNACIA S. MORENO
Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice

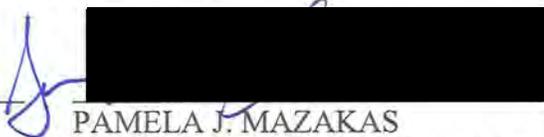
CARMEN MILAGROS ORTIZ
United States Attorney
District of Massachusetts

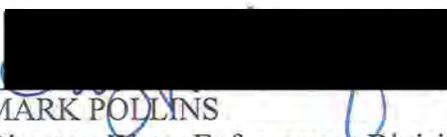
Date

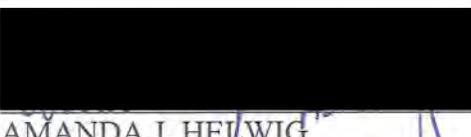
ANTON P. GIEDT
Assistant United States Attorney
District of Massachusetts
United States Department of Justice
One Courthouse Way
John Joseph Moakley Courthouse
Boston, Massachusetts 02210

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of *Conservation Law Foundation and United States v. BWSC et al.*

For Plaintiff UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

8/7/12 
Date _____
PAMELA J. MAZAKAS
Acting Director, Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

8/16/12 
Date _____
MARK PODLINS
Director, Water Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

8/1/12 
Date _____
AMANDA J. HEILWIG
Attorney Advisor, Water Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of *Conservation Law Foundation and United States v. BWSC et al.*

For Plaintiff UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

07/31/12
Date

[Redacted Signature]

SUSAN STUHLIEN
Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square – Suite 100
Boston, Massachusetts 02109-3912

7/30/12
Date

[Redacted Signature]

EDITH A. GOLDMAN
Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square – Suite 100
Boston, Massachusetts 02109-3912

7/30/12
Date

[Redacted Signature]

KEVIN P. PECHULIS
Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square – Suite 100
Boston, Massachusetts 02109-3912

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of *Conservation Law Foundation and United States v. BWSC et al.*

For Plaintiff CONSERVATION LAW FOUNDATION

8/1/12
Date _____
[Redacted Signature]
JOHN KASSEL
President
Conservation Law Foundation
62 Summer Street
Boston, MA 02110

7/31/12
Date _____
[Redacted Signature]
ANTHONY LAPPIN IARRAPINO, ESQ.
Conservation Law Foundation
15 E. State St. #4
Montpellier, Vermont 05602

7/31/12
Date _____
[Redacted Signature]
CHRISTOPHER M. KILIAN, ESQ.
Vice President
Conservation Law Foundation
15 E. State St. #4
Montpellier, Vermont 05602

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of *Conservation Law Foundation and United States v. BWSC et al.*

For Defendants, BOSTON WATER AND SEWER COMMISSION, et al.

7/27/12
Date


VINCENT G. MANNERING
Executive Director
Boston Water and Sewer Commission
980 Harrison Avenue
Boston, MA 02119

7/27/12
Date


JOHN M. STEVENS
Foley Hoag LLP
Seaport World Trade Center West
155 Seaport Boulevard
Boston, MA 02210