



Briefing on the Sewer Repair, Replacement and Rehabilitation Program Consent Decree



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Completed: 11/21/12

Description

The Washington Suburban Sanitary Commission (WSSC) is beginning to implement a comprehensive repair, replacement and rehabilitation program of their sewer system under a consent degree from the Environmental Protection Agency. This work will involve many projects along existing sewer system, much of which is located in our stream valley parks and natural areas in Forest Conservation Easements held by the Park and Planning Commission. Because much of the work is in stream valleys, access to construction will involve further disturbance beyond the immediate area of construction. This work is mandatory and cannot be avoided. The WSSC is planning to conduct this activity with as little impact as possible and plans to restore the areas after the work is completed.

We have consulted the Legal Department and determined that, since this is a repair and rehabilitation project, Mandatory Referral is not necessary. WSSC is conducting a significant outreach program and will be negotiating with all the affected property owners. In addition, it is vital that the land and easements the Commission holds are disturbed as little as possible and restored quickly to conditions suitable for the resources present.

Summary

The staff recommends that the Planning Board secure a letter agreement with the WSSC spelling out the process for this work and a means of dealing with any problems that may arise in the conduct of this work.

The WSSC is preparing to undertake a substantial program of work throughout WSSC's system in Montgomery County to repair, rehabilitate and in some cases, replace sewer pipes that are contributing to pollution of the groundwater, streams and eventually, the Chesapeake Bay. Hundreds of manholes will be reconstructed or repaired, exposed pipes will be reburied and many pipes will be relined in order to prevent rain and ground water from entering the system (and overburdening the system to the point of surcharge) and to prevent untreated sewage from leaking from the system. This work will not increase the capacity of the system or expand its coverage. The attached materials from WSSC explain the nature and extent of the work further.

Mandatory Referral

Section 7-112 of the Regional District Act does not require the Planning Board to consider a mandatory referral (or mandatory referrals) in connection with WSSC's consent-decree mandated work. This is based on our understanding that WSSC is performing maintenance work on existing sewer lines, not constructing new lines. The need to obtain approval of a mandatory referral is triggered by, among other things, construction. Section 7-112 provides that "no road, park, or other public way or ground, no public buildings or structures, and no public utility, whether publicly or privately owned, shall be located, constructed, or authorized in the regional district act until and unless the proposed location, character, grade, and extent thereof has been submitted to and approved by the Commission."

WSSC is performing maintenance work, and in some instances pipe replacement, which is different from construction. Moreover, even if the pipe replacement work were considered to be construction, the mandatory referral process is only intended to examine "the location, character, grade, and extent thereof," all of which are dictated by the location of existing lines. WSSC is not engaging in any other work that would trigger the need for mandatory referral.

Work in Forest Conservation Easements

Some of the work and access to work sites will take place in or traverse Forest Conservation Easements held by the Park and Planning Commission. There is no desire on the part of WSSC to modify these easements in any way, so no Planning Board action will be needed to amend Forest Conservation easements. WSSC has represented to Planning Staff that the work will be done by the smallest equipment capable of the job and that relatively few trees will have to be cut. Unless there are severe conditions requiring grading for safety of the workers or equipment, most work will be done with tree protection and a thick mulch layer placed over existing ground for the access areas, and minimum areas of disturbance around the actual construction site. Staging areas will be generally located in cleared areas or in road rights-of-way to avoid disturbance of forest areas.

Planning Staff has been working with WSSC to draft a letter agreement that assures that the Commission's interests are protected to the maximum extent possible given that the work is required by the Court and necessary to protect water quality and public health. We propose the agreement contain the following provisions:

- WSSC, with information from Planning Staff, identify the Forest Conservation Easements that would be affected by access or construction activities
- WSSC's contractors will meet with MNCPPC Forest Conservation inspector/WSSC Liaison, Eugene Rose, on site to determine best limit of disturbance and construction practices to minimize impact to the easement area
- WSSC and/or their contractor will notify MNCPPC Forest Conservation inspector/WSSC Liaison of any unanticipated issues that arise during construction
- WSSC will work with the Planning Department to resolve the issues following established protocols for disturbance of Forest Conservation easements

WSSC will require their contractors to follow the restoration requirements and timeline established for similar disturbance of Parkland.

- MNCPPC will consider offsite mitigation requirements by the state in its decision making and consider the following options as agreed in the July 22, 2009 meeting (minutes attached).
 - No replanting within the footprint of the constructed access roads.
 - Natural vegetation will be allowed to re-grow in certain areas.
 - M-NCPPC may help maintain access roads in certain areas.
 - A permit will be required for WSSC to utilize the maintained or non-maintained access roads in the future.
- MNCPPC inspectors will be asked to sign off on restoration when complete to their satisfaction in accordance with the requirements above.

The Legal Department is drafting this agreement and will bring it to the Planning Board for final action as soon as possible.

Disturbance to Parkland

The Department of Parks supports WSSC's effort to improve water quality by addressing infrastructure issues and restoring degrading streams that threaten their assets. A significant amount of the work described above will be conducted in environmentally sensitive areas on M-NCPPC property. To this end, WSSC has provided the Department of Parks with one staff person to facilitate the technical review of these projects by staff in Park Development Division, Park Planning and Stewardship Division, and the Northern and Southern Regions.

Due to the extensive nature of these projects, there will be short term natural resource impacts that will be mitigated in the appropriate manner. Typical mitigation strategies include: minimizing access corridors, using low impact construction equipment where possible, the use of mulch access roads, and reforestation.

The anticipated projects will consist largely of manhole retrofits, re-lining of gravity sewer pipes and specific areas of stream restoration. Sewage is conveyed largely by gravity pipes running through the stream valleys. Numerous pipe crossings and stream-side manholes have become exposed due to erosive forces and normal channel migration within the stream valley. Protecting these assets will require significant impacts to parkland.

Parks staff has been working with WSSC to incorporate natural channel design techniques to provide grade control in stream beds and direct energy away from stream banks containing assets while maintaining the geomorphic integrity of the stream system. This methodology will hopefully protect those assets for the long-term. Due to the extensive access issues as well as the proposed stream restorations associated with these projects, Park staff has been reviewing each project to ensure feasibility and that the proposed project doesn't negatively impact the natural stream system. Because of this work program impact, WSSC has agreed to provide Parks with another fulltime person for the sole purpose of facilitating and assisting Parks' with the review of these projects over the next several years.

Attachments

1. WSSC Memo
2. WSSC July 22, 2009 Meeting Minutes

WASHINGTON SUBURBAN SANITARY COMMISSION

Interoffice Memorandum

TO: MARY DOLAN, CHIEF
FUNCTIONAL PLANNING & POLICY DIVISION
MONTGOMERY COUNTY PLANNING DEPARTMENT

FROM: MARK BEHE, UNIT COORDINATOR
INFRASTRUCTURE SYSTEMS GROUP

DATE: NOVEMBER 20, 2012

SUBJECT: REQUEST FOR WAIVER OF MANDATORY REFERRAL

The Washington Suburban Sanitary Commission (WSSC) is improving many parts of its sewer system to protect our streams, rivers and the Chesapeake Bay. The Sewer Repair, Replacement and Rehabilitation (SR3) Program is part of a comprehensive, multi-year effort to restore the wastewater collection system, prevent sanitary sewer overflows and improve service to WSSC customers for many years to come. The repair activities conducted under the SR3 Program will improve water quality in local waterways by reducing leaks which can allow pathogens and nutrients to enter local waterways. Repair work will also reduce or eliminate the occurrence of exposed sewer pipes and manholes in stream channels. Streams where pipes and manholes are relocated out of the stream will be restored to natural conditions to reduce stream bank erosion and improve stream habitat.

The SR3 Program will reduce costly sewer backups caused by blocked or broken sewer lines. Sewer improvements will also provide economic benefits to the community by providing work for many local businesses including:

- Small, minority and local businesses (both design and construction)
- Construction contractors specializing in sewer repair work
- Environmental engineering design consultants

The SR3 Program is the result of a Consent Decree issued in the United States District Court for the District of Maryland as part of a negotiated settlement of a lawsuit by the U.S. Department of Justice on behalf of the U.S. Environmental Protection Agency (EPA), the State of Maryland, and local environmental organizations.

WSSC has been actively working with MNCPPC on this environmentally beneficial program. At MNCPPC's request WSSC has contracted to have two retired MNCPPC staff members (one for each county) function as Liaisons and represent MNCPPC's interests. In addition, WSSC has agreed to the recent request to contract for an additional position to help MNCPPC manage reviews of stream restoration designs.

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WAIVER OF MANADATORY REFERRAL REQUEST
NOVEMBER 20, 2012
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The SR3 Program is a federally compelled large scale maintenance and repair program of the existing sewer system and is not new construction; as such the WSSC requests that Montgomery County Planning Board of MNCPPC find that a mandatory referral is not required. Prince Georges County MNCPPC has conducted a similar review and has made the determination that a mandatory referral is not required.

WSSC understands that Montgomery County MNCPPC would like to develop a letter agreement to document the ongoing coordination activities. WSSC is amenable to jointly developing a letter agreement for this purpose.

Please note that WSSC has been actively working with the Liaisons to avoid and minimize impacts to the MNCPPC Parklands.

Also as noted in the attached meeting minutes from the meeting in July 22, 2009, the MNCPPC and WSSC have been working together to develop solutions which help both agencies. It was agreed at the subject meeting that MNCPPC would consider the following options:

- No replanting within the footprint of the constructed access roads.
- Natural vegetation will be allowed to re-grow in certain areas.
- M-NCPPC may help maintain access roads in certain areas.
- A permit will be required for WSSC to utilize the maintained or non-maintained access roads in the future.

WSSC also requests that MNCPPC will consider offsite mitigation requirements by the State as restoration where appropriate.



MEETING MEMORANDUM

Washington Suburban Sanitary Commission
Maryland National Capital Parks and Planning Commission
Prince George's County
Montgomery County

July 30, 2009

Meeting held on July 22, 2009 at 2:30 PM, in Montgomery County Department of Parks offices, Break Room, 9500 Brunett Avenue, Silver Spring, Maryland 20901

Recorded by: Ed Carpenetti

Attending: See attached sign in sheet (Appendix A)

The meeting with the Maryland National Capital Parks and Planning Commission (M-NCPPC) was a continuation of the dialogue between WSSC and representatives from Prince Georges and Montgomery County. The goal of this meeting was to continue and expand permit coordination activities between each of the agencies. Permitting coordination is required to complete the manhole and pipe repair, replacement and rehabilitation projects identified by WSSC during the completion of Consent Decree required Sanitary Sewer Evaluation Surveys (SSES) and Trunk Walk Investigations. The agenda followed for this meeting is enclosed in Appendix B. Documents passed out and shared during this meeting are listed below and attached in Appendix C.

1. Copy of old MOU between WSSC and M-NCPPC.
2. Summary table showing the approximate number of priority manholes to be repaired and the approximate number of sewer pipe miles located in park property.
3. Maps showing the special distribution of the priority manholes to be repaired as part of WSSCs Consent Decree (CD containing shape files).

The following was discussed during the meeting:

1. Mitra Pedoem (MC, M-NCPPC) described the Montgomery County Park Permitting process.
 - a. The MOU provided at the start of the meeting provides permitting guidelines.
 - b. MOU permit guidelines are as follows:
 - i. Avoid impact to park property
 - ii. Minimize impact to park property
 - iii. Mitigate or compensate for impacts to park property
 - c. Work that may impact park property requires a permit.
 - d. Montgomery County charges WSSC \$0.25/square foot to process a permit.
 - i. If WSSC provides Montgomery County M-NCPPC with a staff member the \$0.25/square foot charge will be waived.

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- e. Emergency Permitting Procedures
 - i. No permit is issued
 - ii. Montgomery County MNCPPC personnel work with WSSC staff to mitigate impacts to park property during emergency response activities.
2. Prince Georges County permitting processes are different. Prince Georges County does not charge a permit processing fee.
3. Calvin Farr (WSSC) summarized WSSCs Consent Decree requirements.
 - a. The Consent Decree program is an agreement between WSSC, EPA, and MDE
 - b. The Consent Decree is a 12 year program
 - c. WSSC is in the 4th year of the 12 year program
 - d. The Consent Decree program is broken up into three phases
 - i. Phase I, Inspection Phase – This portion of the program is more than 80% complete.
 - ii. Phase II, Design and Repair/Replace/Rehabilitation – This phase is ramping up, needs to be 100% completed by 2015
 - iii. Performance Assessment – Last two years of the program (2015-2017)
 - e. The Consent Decree requires WSSC to conduct routine maintenance on sewer assets every five years thereafter.
4. Various members (Mark Behe, Ed Carpenetti and Darryl Lipscomb) of WSSC discussed the Consent Decree driven work flow.
 - a. WSSC completes a basin wide investigation. Results of the investigation are evaluated, prioritized, and reported to the EPA in a basin wide Sewer Basin Repair, Replacement, Rehabilitation Plan (SRRR Plan).
 - b. Prioritized sewer assets are further evaluated by WSSC staff to select the appropriate repair/replacement/rehabilitation technique.
 - c. Prioritized sites are then grouped together, in manageable sized projects, based upon location and project type.
 - d. Consultants contracted by WSSC prepare 60% and final engineering design documents. Proposed access routes will be submitted to all permitting agencies at the 60% design stage. Access routes selected by the Consulting firms must meet the following minimal requirements.
 - i. Accommodate the size and type of vehicle that needs access to the site (i.e. Job materials, terrain, soil type, density of vegetation). For example a boiler truck may need to access a site to line a manhole or sewer main.
 - ii. Survey all trees 24-inch diameter breast height (dbh)
 - iii. Minimize disturbance to wooded areas
 - e. Once all permits are obtained the project is put out to bid and constructed.

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5. Ed Carpenetti (WSSC) summarized WSSCs Consent Decree driven workload within park property.
 - a. Investigation have been completed in six WSSC basins
 - i. Broad Creek
 - ii. Rock Creek
 - iii. Sligo Creek
 - iv. Northwest Branch
 - v. Oxon Run
 - vi. Cabin John
 - b. Approximately 2,652 priority manholes and 166 exposed sewer component/stream reaches require repair.
 - c. Proposed Rehab schedule
 - i. Broad Creek – Fiscal Year 10 -11
 - ii. Rock Creek – Fiscal Year 10 – 11
 - iii. Sligo Creek – Fiscal Year 11 – 12
 - iv. All other basins Fiscal Year 12 – 15
 - d. A table and map of prioritized manhole and exposed sewer component locations was provided (Appendix C).

6. M-NCPPC and WSSC discussed how to move forward effectively.
 - a. WSSC will provide M-NCPPC with a total of two consultant staff members, one for each County.
 - b. Montgomery County M-NCPPC has office space for consultant staff support. Prince George's County M-NCPPC will determine office space for consultant staff in the near term.
 - c. M-NCPPC has similar staffing and support arrangements with other agencies. Support includes permit preparation, review and site access coordination.
 - d. Staff will be provided through the WSSC staff augmentation contract with Parsons Engineering. The anticipated notice to proceed date for this contract is October 2009.
 - e. M-NCPPC will provide WSSC with a job description for the position they want staffed. M-NCPPC job requirements were submitted to and received by WSSC on July 23, 2009. Basic requirements for the staff member are as follows:
 - i. Staff member will sit in M-NCPPC office
 - ii. Staff member will jointly report to M-NCPPC (Permit Review Oversight) and WSSC (Consultant Oversight).
 - iii. Staff member will complete the following tasks
 1. Dedicated to WSSC Projects
 2. Work with M-NCPPC staff to complete WSSC Projects
 3. Trained by M-NCPPC staff to learn the permit review and approval process

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4. Assist other design consultants (also contracted by WSSC) with the permit process in effort to initiate M-NCPPC permit review and resulting approval of WSSC permits.
 5. Internally coordinate WSSC permit compliance and site access efforts with Park and Planning Managers and staff
 - iv. Desired Experience
 1. Environmental Protection/Mitigation
 2. Arborist Background
 3. Natural Resources
 4. Horticultural Background
 5. Be capable of identifying and delineating wetlands/flood plains
 - v. Prince Georges and Montgomery County M-NCPPC agreed to do a combined interview with WSSC for the selection of the two consultant staff member.
 - f. WSSC can group sites that are easily accessible into an individual permit application. WSSC will group the remaining sites into smaller groups based on site access, location, and type of work.
 - g. WSSC will need to prepare an individual permit for each project group that utilizes a shared access point. A project group may consist of multiple priority sites.
 - i. If a project group requires multiple access routes and one of the access routes is easier than the other a permit may be cut for the easy route, while negotiations for the more difficult access route continue.
7. M-NCPPC discussed their timeline for reviewing permits
 - a. Two to three week review for easily accessible sites.
 - b. Thirty to 60 days for a project site that is difficult to access. Difficult access sites may require several site visits to complete the review process.
 - c. The consultant staff member provided by WSSC will support WSSC permitting efforts; therefore the time to obtain a permit should decrease.
8. Roadway material within park property.
 - a. Stone roads will not be permitted.
 - b. Wood chip access roads are preferable
9. WSSC requested that the access roads built to support the Consent Decree and the Sewer Reconstruction Program effort not be reforested. M-NCPPC stated that the following actions may be considered.
 - a. No replanting within the footprint of the constructed access roads.
 - b. Natural vegetation will be allowed to re-grow in certain areas.
 - c. M-NCPPC may help maintain access roads in certain areas.

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- d. A permit will be required for WSSC to utilize the maintained or non-maintained access roads in the future.
10. Austin Freeman (WSSC) briefed Prince Georges County M-NCPPC staff on the upcoming Broad Creek Augmentation Project.
 - a. Design engineer to receive a NTP on or before Sept 1, 2009.
 - b. Construction scheduled to begin in 2012.
 - c. WSSC invited a Prince Georges County M-NCPPC staff member to sit on a Policy Review Group (PRG). The purpose of this group is to help expedite the permit review process by providing regular project updates to M-NCPPC staff.
 - i. WSSC will submit a letter to Prince Georges County M-NCPPC to move the PRG request forward.
 11. Meeting minutes will be prepared by WSSC. The meeting minutes will be forwarded and approved by Prince Georges County and Montgomery County M-NCPPC agencies. The meeting minutes will then be signed by all parties and considered an agreement of mutual understanding, in an effort to expedite the permit review and approval process for WSSC Consent Decree-driven work.
 - a. A formal letter of agreement between WSSC and M-NCPPC may be pursued as a result of ongoing communications. A formal letter of agreement may take years to complete and implement.
 12. Both agencies agreed to meet on a quarterly basis, for the foreseeable future, to discuss permitting issues.
 - a. Meeting location will alternate between each of the agencies headquarters.
 - b. Meeting will be in the morning.
 - c. Tuesday and Friday mornings are good days to schedule the quarterly meeting.
 13. Next Proposed meeting date and time
Tuesday October 20, 2009
10:00 AM

Room 6113
14501 Sweitzer Lane
Laurel, Maryland 20707-5902