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March 31, 2006

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS
ON THE
SUPPLEMENTAL FINAL ENVIRONMENTAL IMPACT REPORT

PROJECT NAME : Swansea Desalination Project
PROJECT MUNICIPALITY : Swansea
PROJECT WATERSHED : Narragansett Bay
EOEA NUMBER : 13183
PROJECT PROPONENT : Swansea Water District
DATE NOTICED IN MONITOR : February 22, 2006

The Secretary of Environmental Affairs hereby determines that the Supplemental Final Environmental Impact Report (Supplemental FEIR) submitted on this project **adequately and properly complies** with the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and with its implementing regulations (301 CMR 11.00).

I reiterate, as I stated in the FEIR Certificate dated June 16, 2005, that I fully understand Swansea's need for a more reliable water supply. I also understand the possible impacts from the water withdrawal and brine discharge with regard to siting a desalination facility in the sensitive area of the Palmer River estuary. In the FEIR Certificate I strongly encouraged the project proponent to continue to consult and cooperate with federal and state agencies as they resolve the remaining issues in permitting. I commend the proponent for working closely with federal and state agencies to attempt to resolve the remaining issues.

I note, however, that while the Supplemental FEIR is adequate for the purposes of MEPA review, several agency comments have identified certain aspects and issues of the project that will require additional analysis during the permitting process. To ensure that there will be meaningful opportunities for public review of the additional analysis prior to any agency action on the project, information requested in the Supplemental FEIR comment letters should be available for

public review before and during the permitting process.

Project Description

As described in the Supplemental FEIR, the proposed desalination plant project has three elements: installation of an intake structure and pumping station on the Palmer River, including a pipeline to transmit the raw water; construction of a desalination plant and an ultrafiltration/membrane filtration plant at the site of an existing well-field; and construction of a brine concentrate pipeline and discharge structure back to the Palmer River. The Supplemental FEIR includes significant changes in the project design since the submittal of the FEIR. The changes include the proposed use of an infiltration bed structure on the river bottom with a footprint of approximately 2500 square feet as the intake structure and increasing water withdrawal rates (up to 1.6 million gallons per day varying seasonally) to allow blending to ensure that the brine water discharge will never exceed a salinity of 32 parts per thousand.

Project History

The project originally underwent MEPA review in January 2004. As described in the Environmental Notification Form (ENF) the project involved a proposed development of a desalination plant to supply up to 3 million gallons per day (mgd) of treated potable water (with a total raw water withdrawal of 4.3 mgd) to the Town of Swansea. The proposed project included construction and operation of an intake structure and pumping station on the Palmer River; transmission infrastructure to transport raw and treated water; a desalination plant with storage tanks and backwash lagoons; a discharge pipe and discharge diffuser for disposal of brine concentrates; and associated supporting infrastructure. The proponent's preferred location for the desalination plant was approximately 2000 feet east of the proposed intake on a five-acre site of an abandoned school.

In October 2004 a Notice of Project Change (NPC) was submitted on this project. The project changes included the relocation of the proposed facility to a 3.5-acre portion of the existing Vinnicum wellfield property, located about two miles to the east of the Palmer River, and a proposal to construct a smaller facility. Locating the facility at the site proposed in the NPC would require the construction of a raw water pipeline and a discharge pipeline from the Palmer River to the Vinnicum wellfield. These pipes would be placed within a single trench located predominantly under existing roads, except for portions of the intake and discharge waterlines placed between Old Providence Road and the Palmer River. The NPC also proposed to construct a smaller facility, which would process only 2 mgd, producing 1.4 mgd of finished water from the reverse osmosis desalination process. An additional 0.8 mgd of finished water from the existing Vinnicum wells would also be processed through the proposed facility. Approximately 0.7 mgd of concentrated brine would discharge back into the Palmer River approximately 2,000 feet downstream of the intake.

A Final Environmental Impact Report (FEIR) was submitted on this project that did not adequately and properly comply with MEPA. In a Certificate issued on June 16, 2005 the preparation of a Supplemental FEIR was required.

MEPA Jurisdiction

The project is undergoing MEPA review and requires the preparation of a mandatory EIR pursuant to Section 11.03 (4)(a)1.a. of the MEPA regulations, because the project, as originally submitted, involved new withdrawal of more than 2.5 mgd from a surface water source. The project also meets a filing threshold pursuant to Section 11.03 (3)(b)6. of the MEPA regulations for construction of a bottom-anchored structure in tidelands with greater than 2,000 square feet of base area. At a minimum, the project will require several permits and approvals from the Department of Environmental Protection (DEP), including a Chapter 91 License, a Section 401 Water Quality Certificate, a New Source Approval, and approvals for operation of a water treatment plant and discharge of Reverse Osmosis Reject Water. The project will also require an Order of Conditions from the Swansea Conservation Commission, and hence a Superseding Order from DEP if the local Order were appealed. In addition, the project will require a National Pollutant Discharge Elimination System (NPDES) permit from the United States Environmental Protection Agency (USEPA), and a permit from the United States Army Corps of Engineers (USACOE).

The proponent may seek financial assistance from the Commonwealth for the project. If the proponent seeks financial assistance from the Commonwealth for the project, MEPA jurisdiction would extend to all aspects of the project with the potential to cause significant Damage to the Environment as defined in the MEPA statute. If the proponent does not seek financial assistance from the Commonwealth for the project, MEPA jurisdiction would extend to those aspects of the project that may cause significant Damage to the Environment and that are within the subject matter of required or potentially required state permits. In this case, the broad subject matter of the numerous required or potentially required state permits effectively confers MEPA jurisdiction over all aspects of the project with the potential to cause significant Damage to the Environment.

Review Standard

As discussed below, the Supplemental FEIR has not resolved all of the issues regarding potential impacts from this project. Despite these remaining concerns, I am finding the Supplemental FEIR adequate and allowing the MEPA review of the project to conclude. MEPA review is an informal process, which does not itself result in any formal adjudicative decision approving or disapproving a project. Section 11.08(8) of the MEPA Regulations requires me to find a Supplemental FEIR adequate even if certain aspects of the project or issues require additional analysis of technical issues, so long as I find that "the aspects and issues have been clearly described and their nature and general elements analyzed in the EIR or during MEPA review, that the aspects and issues can be fully analyzed prior to any Agency issuing its Section 61

Findings, and that there will be meaningful opportunities for public review of the additional analysis prior to any Agency taking Agency Action on the Project.” As described in more detail in this Certificate, after examining the record before me, I find that there is enough information on alternatives, impacts, and mitigation to meet that standard. The outstanding issues are important, but I am confident that the permitting process can satisfactorily address the issues.

Review of the Supplemental FEIR

The Supplemental FEIR has provided enough information to address the inadequacies of the FEIR. I find that the state permitting agencies have adequate information on which to base their permit decisions, although as discussed in the comment letters there are several issues that need resolution. I ask that the permitting agencies consider carefully the comments received on the Supplemental FEIR when evaluating the permit applications submitted by the proponent.

The Massachusetts Division of Marine Fisheries (DMF) has informed me that the proponent's proposed mitigation for any potential loss of oyster habitat or resources is not adequate or appropriate. I encourage the proponent to work closely with DMF, other state agencies, the Rhode Island Department of Environmental Management, other fisheries experts on the lower Narragansett Bay and federal fishery agencies to identify appropriate and acceptable mitigation. The alternative mitigation should be worked out before the start of the Federal 404 permitting process.

The proponent should also closely examine the potential impacts to the natural flushing of the Palmer River that might be caused by the proposed 2500 square foot infiltration bed. The Massachusetts Highway Bridge Replacement Project currently underway at the site includes design considerations to help reduce any flushing restriction caused by the old bridge structure and abutments. I expect that the DEP Chapter 91 permitting process will help ensure that any improvements made by the bridge replacement project are not eliminated by the proposed infiltration bed.

Mitigation

I am concerned that the Proposed Section 61 Findings lack detail and may not be adequate as stated above. I also anticipate that DEP will develop additional mitigation measures through the permitting process. Any additional mitigation measures should be specified in the Section 61 Findings. The state agencies should forward copies of their Section 61 Findings to the MEPA Office for completion of the file.

March 31, 2006

Date


Stephen R. Pritchard

Comments received:

03/13/06 Representative Patricia Haddad
03/13/06 Representative Philip Travis
03/16/06 Senator Joan Menard
03/22/06 Massachusetts Coastal Zone Management Office
03/23/06 Town of Swansea, Planning Board
03/23/06 Swansea Sewer Commission
03/24/06 Donald Pryor
03/24/06 Rhode Island Department of Environmental Management, Div. of Fish & Wildlife
03/24/06 Massachusetts Division of Marine Fisheries
03/24/06 Massachusetts Department of Environmental Protection, Southeast Regional
Office
03/24/06 Water Supply Citizens Advisory Committee
03/24/06 Natural Heritage and Endangered Species Program, MA Division of Fisheries and
Wildlife
03/28/06 U.S. Environmental Protection Agency
03/28/06 U.S. Department of Commerce, National Marine Fisheries Service

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