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January 12, 2007

FINAL RECORD OF DECISION

PROJECT NAME : Westboro Village
PROJECT MUNICIPALITY : Gleason Street – Westborough
PROJECT WATERSHED : Assabet River
EOEA NUMBER : 13656/12348
PROJECT PROPONENT : Westboro Village, LLC
DATE NOTICED IN MONITOR : July 10, 2006

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.10 of the MEPA regulations (301 CMR 11.00), I hereby **grant** a Phase I Waiver to allow an initial phase of the project to proceed, pending the preparation of a Draft Environmental Impact Report (DEIR) for the project.

Project History

The Town of Westborough, together with the Towns of Marlborough, Hudson, Maynard, Northborough, and Shrewsbury have joined to form the Assabet River Consortium to prepare a Comprehensive Wastewater Management Plan/Environmental Impact Report (CWMP/EIR, EOEA# 12348) to address short term- and long-term regional issues relating to the wastewater treatment and disposal and nutrient loading in the Assabet River on a basin-wide basis. The goals of the CWMP/EIR are to identify environmentally sustainable treatment alternatives that respond to the communities' needs, meet water quality and public health standards, reduce phosphorous loading, and increase water levels in the Assabet River and its tributaries.

The Certificate on the ENF for the Consortium required that prior to completion of MEPA review for the Consortium CWMP, projects located within the Consortium communities that seek sewer extension permits from the Department of Environmental Protection (MassDEP) and will also require a Phase I waiver from the EIR requirement for the Consortium. The project proponent has requested such a waiver in a Notice of Project Change (NPC) published in the Environmental Monitor on October 25, 2006, and has provided additional information in support of that request.

I note that all development projects located within the Consortium communities requesting municipal sewer service must satisfactorily demonstrate: 1) that the proposed project is located in an area proposed for municipal sewer; 2) an on-site solution is not feasible; and 3) the proponent has committed to contribute to ongoing infiltration and inflow removal (I/I) projects within the Town of Shrewsbury and will provide mitigation (2 - 4:1) for every gallon of wastewater generated by the proposed project and exported out of the basin, before being allowed to connect to the sewer system.

Phase I Waiver Request

Pursuant to Section 11.11 of the MEPA Regulations, the proponent is requesting a Phase I Waiver to construct approximately 283 linear feet (lf) of new 8-inch gravity sewer line within the Gleason Street right-of-way to connect the project to the existing municipal sewer main located at the Gleason Street/Fisher Street intersection in Westborough. The proponent is also proposing to construct approximately 2,100 linear feet of 12-inch force sewer main from the existing Otis Street pumping station to an existing 30-inch gravity sewer located upstream of the Westborough-Shrewsbury Wastewater Treatment Facility (WWTF). Section 11.11 of the MEPA regulations provides that the Secretary may waive any provision or requirement of 301 CMR 11.00 not specifically required by MEPA, and may impose appropriate and relevant conditions or restrictions, provided that the Secretary finds that strict compliance with the provision or requirement would: (a) result in an undue hardship for the proponent, unless based on delay in compliance by the proponent; and (b) not serve to avoid or minimize Damage to the Environment.

In the case of a partial waiver of a mandatory EIR review threshold that will allow the proponent to proceed with phase one of the project prior to preparing an EIR, the Secretary, at a minimum, must base this finding on a determination that:

1. the potential impacts of phase one of the project, taken alone, are insignificant;
2. ample and unconstrained infrastructure facilities and services exist to support phase one of the project;
3. the project is severable, such that phase one does not require the implementation of any other future phase of the project or restrict the means by which potential environmental impacts from any other phase of the project may be avoided, minimized or mitigated; and
4. the agency action on phase one will contain terms such as a condition or restriction in a permit, contract or other relevant document approving or allowing the agency action, or other evidence satisfactory to the Secretary, so as to ensure due compliance with MEPA and 301 CMR 11.00 prior to commencement of any other phase of the project.

Findings

I have carefully reviewed the Phase I Waiver Request, supporting documentation, and written comments.

1. As described by the proponent, the Westboro Village Project will involve the construction of approximately 283 linear feet (lf) of new 8-inch gravity sewer line within the Gleason Street right-of-way to connect the project to the existing municipal sewer main located at the Gleason Street/Fisher Street intersection in Westborough.

The proponent is proposing to upgrade the existing Otis Street pumping station and construct approximately 2,100 linear feet of 12-inch force sewer main from the Otis Street pumping station to cross under wetlands and the Assabet River to an existing 30-inch gravity sewer located upstream of the Westborough-Shrewsbury Wastewater Treatment Facility (WWTF).

The proponent must employ appropriate erosion and sedimentation control measures during project construction. The project will not impact bordering vegetated wetlands resource areas.

2. The wastewater flows from the residential subdivision project and the adjacent 8-acre Ward development parcel (97,000 gpd) will be served by the Town of Westborough's sewer collection system for treatment by the Town of Westborough's Wastewater Treatment Facility (WWTF). According to the proponent, Westborough's sewer collection system and WWTF have the capacity to accommodate the additional total wastewater flows anticipated from the proponent's project.

The proponent has committed to install low-flow plumbing fixtures and toilets, water aerators and one irrigation well. The proponent has also agreed to acquire an easement for future groundwater discharge on the 24-acre future open space parcel (Lee Parcel) to be owned by the Town of Westborough and located within the same Zone II aquifer as the project site.

2. The project will require a Sewer Extension Permit from MassDEP. I anticipate that MassDEP's permit review process will contain terms such as a condition or restriction so as to ensure due compliance with MEPA and 301 CMR 11.00.

Based on these findings, it is my judgment that the phase one waiver request does have merit, does meet the tests established in 301 CMR 11.11, and will serve to advance the interests of the Massachusetts Environmental Policy Act. Therefore, I grant the Phase I Waiver subject to the aforementioned findings and conditions.

January 12, 2007

DATE

A handwritten signature in black ink, appearing to read 'Ian A. Bowles', written over a horizontal line.

Ian A. Bowles, Secretary

Comments received on the DROD: None

FROD #12348 – Assabet Consortium CWWMP/Westboro Village
IAB/NCZ/ncz