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February 22, 2007

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DRAFT RECORD OF DECISION

PROJECT NAME	: Comprehensive Wastewater Management Plan – Elizabeth Pole School, Harris Street Residences
PROJECT MUNICIPALITY	: Taunton
PROJECT WATERSHED	: Taunton River
EOEA NUMBER	: 13897
PROJECT PROPONENT	: City of Taunton Public Works Department
DATE NOTICED IN MONITOR	: January 9, 2007

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 propose to **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. In a separate Certificate to be issued on February 22, 2007, I have set forth the outstanding issues related to the project that can be addressed by permitting agencies.

Project History

The Certificate on the ENF for the Taunton Comprehensive Wastewater Management Plan (CWMP) required that prior to completion of MEPA review for the Taunton CWMP, projects located within the City of Taunton that seek sewer extension permits from the Department of Environmental Protection (MassDEP) will also require a Phase I waiver from the EIR requirement for the Taunton CWMP. The project proponent has requested such a waiver in a Notice of Project Change (NPC) published in the Environmental Monitor on January 9, 2007, and has provided additional information in support of that request.

Phase I Waiver Request: E. Pole Elementary School and Harris Street

Pursuant to Section 11.11 of the MEPA Regulations, the proponent is requesting a Phase I Waiver to connect sewer service to: the Elizabeth Pole School, an existing City of Taunton facility building, and ten existing single-family residences on Harris Street. According to the proponent, this Phase I project will generate 14,000 gallons of

wastewater per day, and is located within a Priority Needs Area (Area U) identified within the Taunton CWMP. Peak flows estimated from the project will be approximately 33,000 gallons per day (gpd). The project will consist of a sewage pumping station, 4,450 feet (0.84 miles) of 6-inch force main and approximately 2,750 feet (0.52 miles) of 8-inch gravity sewer. Portions of the sewer main and pump station installation will occur within buffer zone to wetland resource areas and the 200-foot Riverfront Area associated with the Taunton River. Placement of sewer mains will occur within the existing paved public right of way, with standard erosion and sedimentation controls installed to prevent impact to adjacent wetland resource areas.

The wastewater flow from the project will be conveyed to the Taunton Wastewater Treatment Plant (Taunton WWTP) for treatment and disposal via a sewer extension from the project site to the City of Taunton's existing sewer collection system.

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. The proposed project will generate 14,000 gpd of wastewater and will involve the construction of a sewage pumping station, 4,450 feet (0.84 miles) of 6-inch force main and approximately 2,750 feet (0.52 miles) of 8-inch gravity sewer. Portions of this construction will occur within existing rights of way, or cross country

through the E. Pole Elementary School construction site. The project area is located within an identified Priority Needs Area (Area U) as determined by the Taunton CWMP.

2. The proponent will be required to implement erosion and sedimentation controls during the construction process to limit impact to adjacent wetland resource areas, including the 200-foot Riverfront Area associated with the Taunton River. The proponent will provide 100-year floodplain storage compensation contiguous to the project site at a minimum of a 1 to 1 ratio as mitigation for floodplain loss. Work proposed within wetland resource areas will be conducted in accordance with applicable performance standards outlined within the Massachusetts Wetlands Protection Act Regulations.
3. The Division of Marine Fisheries has indicated that a portion of the project work area abuts the Taunton River, which contains diadromous fish populations. The proponent will take action to ensure that no runoff from construction activities be allowed to enter the river. If any activities, such as the construction of the 6' PVC line trench, tight tank removal or fill, will contribute to turbidity in the river, a no activity time-of-year restriction from March 15th through July 30th will be placed on any construction occurring within the 100 foot buffer zone of the Taunton River.
4. According to the proponent, the Taunton Water Pollution Control Facility currently has sufficient capacity to convey and treat the anticipated flows proposed as part of this Phase I waiver. The proponent will participate in the City's inflow and infiltration (I/I) removal program to the extent determined by the City of Taunton.
5. 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 waiver request has merit and meets the tests established in 301 CMR 11.11. Therefore, I propose to grant the waiver requested for the E. Pole Elementary School and Harris Street project, subject to the above findings. This Draft Record of Decision (DROD) shall be published in the next issue of the Environmental Monitor (March 7, 2007) for a fourteen-day comment period, after which I shall reconsider, modify, or confirm the waiver. Should, based on the comments received on the DROD, I determine not to grant the Phase I waiver, a revised Certificate on the NPC will be issued to the proponent outlining a supplemental scope for the preparation of an EIR.

February 22, 2007

Date

Ian A. Bowles

Comments received:

01/22/2007 Division of Marine Fisheries

02/02/2007 Massachusetts Department of Environmental Protection – MassDEP

02/07/2007 Fay, Spofford & Thorndike

02/12/2007 Division of Fisheries and Wildlife – Natural Heritage and Endangered
Species Program

13897NPC/Elizabeth Pole School, Harris Street Residences

IAB/HSJ/hsj