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August 25, 2006

FINAL RECORD OF DECISION

PROJECT NAME : King's Brook Crossing/Assabet River Consortium

PROJECT MUNICIPALITY : Shrewsbury/ and five other municipalities

PROJECT WATERSHED : Assabet River

EOEA NUMBER : 12348

PROJECT PROPONENT : Michael Venicasa/ The Assabet River Consortium

DATE NOTICED IN MONITOR : June 21, 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 Town of Shrewsbury's/ Assabet River Consortium's preparation of the PhaseIII/Final Environmental Impact Report (FEIR) for the Assabet River Consortium Comprehensive Water Resources Management Plan (CWMP).

Project History:

Assabet River Consortium

The Town of Shrewsbury, together with the Towns of Marlborough, Hudson, Maynard, Northborough, and Westborough 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 Certificate on the ENF for the Consortium established a Special Review Procedure (SRP) and required the filing of four documents: Phase I, Existing and Proposed Conditions and Needs Analysis; Phase II, Development of Screening of Wastewater Alternatives; Phase III, Evaluation of Most Feasible Options (Draft CWMP/EIR); and Phase IV, Presentation of Recommended Plan (Final CWMP/EIR).

The Certificate on the ENF for the Consortium also 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 (DEP) will also require a Phase I waiver from the EIR requirement for the Consortium. The member communities of the Consortium, along with DEP, the Environmental Protection Agency (EPA), and public commenters, have made significant progress to this project on this innovative approach to wastewater planning in Massachusetts. Phase I, for which a Certificate was issued in June 2001, included a definition of existing conditions and an analysis of wastewater management needs; On August 15, 2002, a Certificate for Phase II was issued which included the development and screening of wastewater management alternatives to address the needs defined in the Phase I document. In June 2005, the Consortium, with the support of DEP, EPA, and public commenters, filed a Notice of Project Change (NPC) with the MEPA Office to describe the Consortium's proposed changes to the forthcoming Phase III Report - Evaluation of Most Feasible Options (Draft CWMP/EIR); and the Phase IV Report - Presentation of Recommended Plan (Final CWMP/EIR). Given the progress made to this project to date, I now require projects located within the Consortium communities that seek sewer extension permits from the DEP to file with the MEPA a Notice of Project Change (NPC) to the CWMP for the Assabet River Consortium. I anticipate that the Phase III/FEIR document will bring us closer to providing a sound basis for regional water resources decision-making that will benefit the Assabet River and the members of Consortium communities alike.

Phase I Waiver Request:

Pursuant to Section 11.11 of the MEPA Regulations, the proponent is requesting a Phase I Waiver to construct a new 14-unit residential development consisting of seven separate buildings, on a 5.02-acre parcel of property located off Old Mill Street in Shrewsbury. According to the proponent, the project will result in the alteration of the 100-foot wetland buffer area for the construction of the project's gravity sewer pipe and a portion of the proposed stormwater management system. The project's potable water demand (3,080 gallons per day (gpd)), and wastewater flows (3,080 gpd) will be served by the Town of Shrewsbury's municipal water supply system and wastewater collection, respectively. The wastewater flows from the project will be conveyed to the Westborough Regional Wastewater Treatment Facility for treatment and disposal via a sewer extension from the project site to the Town of Shrewsbury's existing sewer collection system located off Everett Avenue. According to the comments received from DEP, the Westborough Regional Treatment Facility accepts an average daily flow of approximately 4.6 million gallons per day (mgd) and has a designed capacity of approximately 7.68 mgd.

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

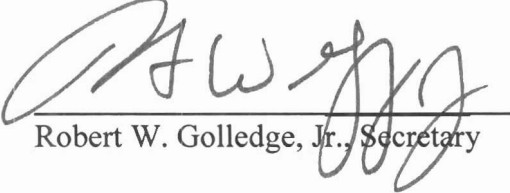
I have carefully reviewed the Phase I Waiver Request, supporting documentation, and written comments.

1. As described by the proponent, the King's Brook Crossing project will involve the construction of a 500 linear feet (lf) cross-country extension of the Town of Shrewsbury's 8 inch sewer main within an existing right-of-way. According to the proponent, the project has been designed to meet DEP's Stormwater Management Policy standards and practices. The proponent must implement appropriate erosion and sedimentation control measures during project construction. The proponent's 14-unit residential subdivision project will not impact bordering vegetated wetlands resource areas.
2. The wastewater flows from the proposed residential subdivision project (3,080 gpd) will be served by the Town of Shrewsbury's municipal sewer collection for treatment by the Westborough Regional Wastewater Treatment Facility (WWTF). According to DEP, the Town's sewer collection system and Westborough's WWTF have the capacity to accommodate the additional total wastewater flows anticipated from the project.
3. The proponent must work closely with the Town of Shrewsbury to develop and implement an infiltration/inflow (I/I) removal program to enable sewer extension applicants to commit to the 4:1 removal of I/I (12,320 gpd) to mitigate the project's water supply and wastewater impacts.

The project will require a Sewer Extension Permit from the Department of Environmental Protection (DEP). I anticipate that DEP'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. I grant the Phase I Waiver subject to the aforementioned findings and conditions.

August 25, 2006
Date



Robert W. Gollidge, Jr., Secretary

Comments received: None

FROD #12348 – Assabet Consortium CWWMP, King’s Brook Crossing
RWG/NCZ/ncz