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October 17, 2008

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
 ON THE  
 ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : Billerica Comprehensive Wastewater Management Plan  
 PROJECT MUNICIPALITY : Billerica  
 PROJECT WATERSHED : Sudbury, Assabet, Concord  
 EOEА NUMBER : 14283  
 PROJECT PROPONENT : Town of Billerica, Department of Public Works  
 DATE NOTICED IN MONITOR : July 23, 2008

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62I) and Section 11.03 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **requires** the preparation of a Draft and Final Environmental Impact Report (DEIR, FEIR). Furthermore, pursuant to Section 11.09 of the MEPA Regulations and with the consent of the Town, I hereby establish a Special Procedure for the review of the required EIR. In a Draft Record of Decision (DROD) also issued today, I also propose to grant a Phase 1 Waiver to allow the proponent to initiate the sewerage of a portion of East Billerica prior to completion of an EIR for the entire project.

**OVERVIEW**

The Town of Billerica is developing a Comprehensive Wastewater Management Plan/Environmental Impact Report (CWMP/EIR) to address the short-term and long-term issues relating to the Town's wastewater treatment and disposal needs. As described in the ENF submittal, the Town's Letchworth Avenue WWTF (Letchworth WWTF) has a NPDES permit limit of 5.4 MGD and currently accommodates approximately 4.46 MGD of average wastewater flows. The Town has projected a future 2025 wastewater flow of approximately 6 MGD.

The goal of the CWMP/EIR is to examine the full range of Billerica's wastewater management needs, and identify environmentally sustainable treatment and disposal alternatives that respond to the community's needs, and meet water quality and public health standards. The result will be a comprehensive plan outlining how the Town of Billerica will treat and dispose of its sanitary sewage for the next 20 years.

The ENF/Phase I submittal identifies a number of project alternatives to accommodate the Town's future wastewater flows including:

- 1) Expansion of the Town's Letchworth WWTF with discharge to the Concord River;
- 2) Construction of a new WWTF on the former Middlesex House of Corrections (HOC) WWTF site;
- 3) Expansion of the Letchworth WWTF with discharge to the Concord River and groundwater disposal sites including the Billerica Country Club/Windsor Road site, the NE Power Company parcel/Letchworth WWTF site, and the HOC site/Veterans Memorial Park site; and,
- 4) Convey additional wastewater flow to the Lowell Regional Wastewater Utility (LRWU) facility for treatment and discharge to the Merrimack River.

Included with the Phase I/ENF submittal, the Town has requested a waiver that will allow the Town to proceed with Phase 1 of the project, described in the ENF as Contract 34B East Billerica, prior to preparing a mandatory Environmental Impact Report (EIR) for the entire project. As described in the ENF, the Contract 34B East Billerica portion of the project will involve the construction of approximately five miles of sewer to serve approximately 300 existing residences and a small number of commercial businesses and upgrades to the Shawsheen River pump station. The proposed sewerage of the East Billerica portion of the project is expected to generate a wastewater flow of approximately 114,000 gallons per day (gpd). The Phase 1 Waiver request identifies the environmental impacts of the project and describes measures to be undertaken by the Town to avoid, minimize and mitigate project impacts.

### Project History

The proposed sewer expansion project represents the most recent component of the Town of Billerica's on-going wastewater management and sewer construction program. In order to better understand the relationship of Billerica's individual sewer construction projects to its comprehensive wastewater management planning and construction program, I am requiring the Town to prepare in a separate chapter of the DEIR a detailed discussion of the history of sewer construction in the Town of Billerica. This section of the DEIR should include a description of the construction activities and environmental impacts associated with each of the previously constructed municipal sewer projects, any prior MEPA submittals, and the full-build town-wide sewer construction program contemplated by the Town of Billerica.

### Jurisdiction

This project is subject to the Mandatory EIR provisions of the MEPA regulations Section 11.03 (5)(a)(3) since it will likely involve construction of more than ten miles of new sewers and may exceed other Mandatory EIR thresholds. The project will require several permits from the Department of Environmental Protection (MassDEP) for sewer extensions as well as compliance with revised water quality discharge limits specified in the federal National Pollutant Discharge Elimination System (NPDES) permits issued by the U.S. Environmental Protection Agency (EPA). The project will require an Order of Conditions from the Billerica Conservation Commission; a 401 Water Quality Certification and Sewer Extension Permit from the Department of Environmental Protection (MassDEP); and possibly a Groundwater Discharge Permit from MassDEP. The project may also require approval of the Water Resources Commission (WRC) under the Interbasin Transfer Act (ITA).

Because the proponent is seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to all aspects of the project that may cause significant Damage to the Environment as defined in the MEPA regulations.

## **SCOPE FOR PHASE II - CWMP/DEIR**

### General

The Town should prepare a Draft EIR (DEIR) in accordance with the general guidance for outline and content found in Section 11.07 of the MEPA regulations as modified by this Scope. A Project Summary in clear non-technical language should be included in the DEIR. This section of the document should summarize the project, alternatives analyzed, the type and extent of potential impacts, and mitigation measures that the Town is committed to. It should also include a list of permits required and a timetable and cost estimate for the project. The DEIR should describe any changes to the project since the filing of the ENF. The DEIR should include a description of all aspects of the project and a schedule for construction and other development activities. The DEIR should also include maps and plans at a reasonable scale that clearly locate and delineate project elements, surface water and wetlands resource areas, adjacent land uses, and aquifer protection districts on and adjacent to the project site. Maps and plans should show water supply resources, conservation areas, and any priority and estimated rare species habitat in the project area.

The DEIR should include a copy of this Certificate and a copy of each comment letter received. In order to ensure that the issues raised by commenters are addressed, the DEIR should include a response to comments. The Town should use either an indexed response to comment format, or direct narrative response.

The DEIR should present any additional narrative or quantitative analysis necessary to respond to the comments received. This directive is not intended to, and shall not be construed to, enlarge the scope of the DEIR beyond what has been expressly identified in this Certificate. The Town should consult with the Billerica Conservation Commission, MassDEP, USEPA, NHESP, MHC and MHD during preparation of the DEIR and refinement of the preferred alternative.

### Project Alternatives

As described in the ENF, the Town has proposed a range of wastewater treatment alternatives to accommodate the Town's future wastewater flows including: 1) increasing the Letchworth WWTF's NPDES permit capacity to treat and discharge wastewater effluent to the Concord River, 2) increasing the Letchworth WWTF's NPDES permit capacity to treat and discharge wastewater effluent to the Concord River and to satellite groundwater discharge locations, 3) constructing a new satellite wastewater treatment facility, and 4) conveying the Town's wastewater flows to the Lowell Regional Wastewater Utility for treatment and discharge to the Merrimac River. The Town may carry these alternatives forward into the preparation of the Phase II/DEIR submittal.

### Letchworth WWTF Expansion

Under the Letchworth WWTF expansion alternative, the Town proposes to increase the facility's effluent discharge limit under its existing NPDES permit from 5.4 MGD to 6.0 MGD to accommodate the Town's future wastewater flows. This alternative incorporates the Town's proposal to re-allocate the allotted effluent discharge capacity (150,000 gpd) of the former HOC WWTF to the Letchworth WWTF.

According to the information provided in ENF, the phosphorous loading from the Letchworth WWTF's effluent is set at 0.2 mg/liter under its existing NPDES permit. In its comments, MassDEP has indicated that EPA may require WWTFs discharging to the Concord River to further reduce phosphorous loading below 0.2 mg/liter to achieve target water quality standards for the Concord River.

The DEIR should include technical and cost evaluations to attain effluent phosphorous levels below 0.2 mg/l for the facility's current design capacity (5.4 MGD) and for any increased capacity proposed by the Town under this alternative. The costs of achieving reduced phosphorous concentrations should be compared to the costs of groundwater discharge. I strongly encourage the Town to consult with EPA and MassDEP during the preparation of this section of the DEIR.

New Wastewater Treatment Facility - HOC site

The Town has identified a second wastewater treatment alternative involving the construction of a new town-owned wastewater treatment facility with on-site groundwater disposal on the HOC WWTF site. The DEIR should describe and quantify impacts associated with the construction of a new treatment facility and groundwater discharge site at the former HOC WWTF site. According to the comments received from MassDEP, the siting of a new satellite wastewater treatment facility and/or groundwater discharge site at the Veteran's Memorial Park location may constitute a change in use of conservation land protected under Article 97 of the Massachusetts Constitution. The Middlesex House of Corrections may have specific use restrictions pursuant to the Prison Bond Bill of 1996. The DEIR should include a discussion of the institutional constraints and the costs and permitting associated with acquiring additional properties for the construction of new groundwater discharges.

Letchworth WWTF Expansion with groundwater disposal

A third alternative involves supplementing the Town's continued use of the Letchworth WWTF's treatment capacity with the use of one or more groundwater discharge locations listed below, to accommodate the Town's future wastewater flows.

- Billerica Country Club/Windsor Road
- NE Power Company/Letchworth WWTF (Billerica Avenue – Rear)
- Middlesex House of Corrections (HOC)/Veterans Memorial Park – (Treble Cove Road)

For each proposed groundwater discharge location, the DEIR must evaluate project impacts on groundwater hydrology, surface water and wetlands resources, wildlife habitat and other sensitive resources in the project area. The DEIR should include a detailed description including graphics of the proposed wastewater discharge areas, a hydrogeological analysis of the alternative groundwater discharge locations, and an evaluation of impacts associated with all aspects of the project including the proposed effluent discharge, sewerage and facility construction. The DEIR should clarify the proposed discharge volumes at each location. The Town should refer to MassDEP's *Guidelines for Design, Construction and Operation and Maintenance of Small Wastewater Treatment Facilities with Land Disposal* to identify nutrient loading rate estimates for each of the proposed alternative groundwater discharge locations. The DEIR should include the results of any groundwater modeling conducted as part of the Town's groundwater disposal alternatives. The DEIR should discuss monitoring plans for groundwater and surface water to evaluate impacts and inform a long-term planning process.

The DEIR should evaluate any limiting factors for the proposed discharge locations including the potential for interaction with existing contamination and the costs associated with permitting and constructing wastewater pipelines. The DEIR should describe measures to avoid and minimize, or mitigate impacts associated with the proposed project.

The DEIR should describe how the project will meet applicable MassDEP permit requirements, including requirements for disinfection of water proposed for recharge. The DEIR should evaluate the feasibility of wastewater reuse at the Billerica Country Club golf course and other locations regardless of the feasibility of infiltration beds. Wastewater reuse may offer opportunities to reduce some of the construction impacts and costs associated with larger treated water recharge facilities. As noted elsewhere in this Certificate, the Town's use of the Veteran's Memorial Park location for siting a wastewater treatment facility may constitute a change in use of conservation land protected under Article 97 of the Massachusetts Constitution. The House of Corrections may have specific use restrictions pursuant to the Prison Bond Bill of 1996. The DEIR must include a discussion of the institutional constraints and the costs and permitting associated with acquiring additional properties for the construction of a new wastewater treatment facility and/or groundwater discharge sites. The Town should work closely with MassDEP during the preparation of this section of the DEIR.

#### The Lowell Regional Wastewater Utility

The Town has identified a regional alternative involving the use of the Lowell Regional Wastewater Utility (LRWU) to treat and discharge a portion of the Town's wastewater flows. This alternative would require the Town to complete Inter-Municipal Agreements (IMAs) with the City of Lowell and the Town of Chelmsford to convey wastewater flow from Billerica to the LRWU. According to the comments received from the Water Resources Commission (WRC) and MassDEP, this regional alternative may result in an inter-basin transfer of water resources from the Concord River to the Merrimack River, and may require an Interbasin Transfer Act review by the WRC. MassDEP has also indicated that the capacity of the City of Lowell's WWTF to accommodate additional wastewater flows from Billerica is extremely limited. The DEIR should include a detailed discussion of the potential impacts on all source river basins for this proposed wastewater treatment alternative, as required under the Interbasin Transfer Act (ITA). The Town should consult with the WRC and MassDEP during the preparation of this section of DEIR.

#### Reductions in Projected Wastewater Flows

Reductions in wastewater flow must play a significant role in Billerica's ability to successfully manage the Town's future wastewater flows. Reduction of wastewater flows can be achieved by limiting the expansion of new sewers, reducing the infiltration/inflow (I/I) levels, implementing aggressive water conservation programs, and increasing wastewater reuse (for example, for irrigation purposes). The DEIR should supplement the Town's sewer needs analysis and future wastewater flow estimates presented in the ENF with additional information that takes into account measures that have the potential for reducing wastewater volumes -- including water conservation, reducing per capita water use, and I/I removal -- and adjust the analysis accordingly. The report should address the feasibility and effectiveness of such measures.

### Sewer Needs Assessment

As described in the ENF, the Town has collected and analyzed considerable data on the need for new sewers throughout the Town. According to MassDEP, the Town's sewer needs assessment relies on outdated data, compiled for the 1999 Sewer Plan Update, and does not include any updated information on the incidence of Title 5 failures and locations with frequent septic system pumping needs. In addition, MassDEP notes that the Billerica Board of Health (BOH) identified a number of areas currently proposed for new sewers that could potentially continue to be served by properly operated and maintained on-site wastewater disposal systems. The DEIR must provide adequate justification for extending sewers in these areas and any areas where the rate of Title 5 failures is low. The DEIR submittal will need to provide this information. The DEIR should include a comprehensive sewer needs assessment that combines all previously completed individual needs assessments into a single town-wide assessment to enable the Town to develop sewer priorities, establish the locations of need, and allocate estimated flows. The DEIR should provide additional information and analysis to adequately demonstrate the need for extending municipal sewer service throughout Billerica as currently proposed under the Town's sewer expansion project.

### Infiltration and Inflow

Infiltration and inflow (I&I) in the Town's sewer system is estimated to be approximately 1.26 million gallons per day (MGD). Removal of a significant portion of this I&I from the Town's sewer service area could provide the Town with additional sewer capacity needed to accommodate a significant portion of the Town's future wastewater flows. MassDEP has indicated that Town must undertake aggressive actions to remove I&I from its sewer system to ensure compliance with the Town's National Pollutant Discharge Elimination System (NPDES) Permit. In a separate section of the DEIR, the Town should provide a detailed discussion of its I&I removal activities to date. This section of the DEIR should include a copy of the Town's most recent *Townwide Infiltration Inflow Removal Program Update* report.

### Water Conservation

The DEIR must identify opportunities for water conservation and water demand management throughout the Town of Billerica. The DEIR should contain a detailed water demand management and conservation plan that meets the standards of the Water Conservation Standards for the Commonwealth of Massachusetts, 1992, and the Guide to Lawn and Landscape Water Conservation, 2002, prepared by the Water Resources Commission. I strongly encourage the Town to design and implement a water conservation program that includes measures that have the potential for reducing Billerica's wastewater volumes including, outdoor water use restrictions and water use rates, retrofitting of municipal buildings with low flow devices, enactment of a bylaw regulating automatic sprinklers and/or clearing of land for grass lawns, promotion of the use of cisterns for outdoor watering, the use of a water bank, and promotion of the use of grey-water systems. The Town of Billerica should incorporate water conservation and water use efficiency in its municipal project designs to comply with the March 1989 state plumbing code.

The Town's water conservation program should be consistent with the guidance on water conservation measures provided by the Massachusetts Resources Commission's Lawn and Landscape Water Conservation, An Addendum to the Water Conservation Standards for the Commonwealth of Massachusetts, October 2000.

#### On-site Wastewater Disposal

The DEIR should include a proposed plan to identify, monitor, and address proper operation and maintenance and upgrades of on-site systems for properties located outside the areas proposed for new sewers. MassDEP has requested that the Town consider participating in the Community Septic Management Plan Loan program administered by MassDEP, for financial assistance in undertaking this planning process.

#### Land Use and Alteration

The DEIR should quantify the total amount of alteration associated with each project alternative (including areas to be altered for buildings, roadways, sewer mains, pump stations, wastewater treatment facilities and wastewater disposal, and other project components). The DEIR should include a breakdown showing the amount of alteration for different project elements. The DEIR should clarify the location, type and amount of alteration in previously undisturbed areas.

#### Wetlands

Activities planned as part of one or more project alternatives may trigger jurisdiction under the Wetlands Protection Act. These activities include sewer collection piping and pump stations, sewer extensions, expanded or new WWTF and discharge areas, sludge management and storage facilities, fertilizer management and storage areas within the watersheds. For each alternative, the DEIR should identify the location of these activities, describe potential wetlands and watershed impacts, and measures to avoid and minimize or mitigate impacts. The DEIR should delineate on a plan of reasonable scale all environmental resources and resource areas located within those areas proposed for sewerage including: wetlands, drinking water supplies, fisheries, water bodies, sensitive habitats, parklands, recreational resources, historic interests and the like, and agricultural lands. All resource area boundaries, riverfront areas, applicable buffer zones, and 100-year flood elevations should also be included on this plan. Each wetland resource area and riverfront area should be characterized according to 310 CMR 10.00. The test should explain whether the Billerica Conservation Commission has accepted the resource area boundaries and any disputed boundary should be identified. The DEIR should analyze both direct and indirect (i.e. changes in drainage patterns) impacts on wetlands resulting from the project, and quantify the amount of direct wetland impact.



The analysis should also include a drainage plan, and should discuss the consistency of the drainage and stormwater management system with the MassDEP Stormwater Management Act regulations and guidelines and the Wetlands Protection Act regulations and performance standards. It should be indicated on a plan and with appropriate text the location and function of all drainage structures already in place. Proposed activities, including construction mitigation, erosion and sedimentation control, phased construction, and drainage discharges or overland flow into wetland areas, should be evaluated.

The Commonwealth has endorsed a “No Net Loss Policy” that requires that all feasible means to avoid and reduce the extent of wetland alteration be considered and implemented. The DEIR should examine alternatives that avoid impacts to wetland resource areas, their associated buffer zones, riverfront protection areas and 100-year flood plain areas. Where it has been demonstrated that impacts are unavoidable, the DEIR should demonstrate that the impacts have been minimized, and that the project will be accomplished in a manner that is consistent with the Performance Standards of the Wetlands Regulations (310 CMR 10.00). The proponent will need to provide wetlands replication at a ratio of 1:1 for any unavoidable impacts to wetlands.

#### Stormwater and Drainage

The DEIR should clarify the amount of new impervious area associated with each project alternative. The DEIR should describe how the Town’s stormwater management system will achieve MassDEP stormwater management policy standards and avoid and minimize adverse impacts associated with any new impervious area. The DEIR should describe proposed measures to manage stormwater during construction. MassDEP has noted a significant number of sanitary sewer overflow (SSO) occurrences in Billerica. This section of the DEIR should include a detailed discussion of the Town’s plans for addressing Billerica’s SSO problems.

#### Rare Species

According to the Natural Heritage & Endangered Species Program (NHESP), a number of Priority and Estimated Habitat areas are located within the Town of Billerica. The DEIR should include a site inventory to determine which areas, if any, of the Town’s proposed sewer expansion project area might constitute suitable habitat for the rare species known to exist within the sewer expansion project area. The Town should consult with NHESP and submit for NHESP’s review construction plans for any proposed work located within or near rare species habitat located within the project area. The DEIR should provide an update of the Town’s consultations with NHESP.

### Historical/Archeological Resources

As described in the ENF submittal, the Phase 1 Waiver portion of the project (Contract 34B East Billerica) will involve the construction of approximately five miles of sewer to serve approximately 300 existing residences and a small number of commercial businesses and upgrades to the Shawsheen River pump station. This Phase 1 Waiver area includes the Middlesex Canal determined to be eligible for listing in the National Register of Historic Places. According to the comments received from the Massachusetts Historic Commission (MHC), a reconnaissance archaeological survey was completed for the canal and a listing nomination has been prepared to be submitted to the National Park Service. The Town has proposed to employ horizontal directional drilling technology (HDD) to avoid impacts to the canal during construction of the Phase 1 Waiver sewer project. MHC has requested that the Town provide MHC with the additional information for Contract 34B and for each successive project phase as they are developed, to determine the project's impacts to historic and archaeological resources in the project area. In the event MHC determines that the project will have an "adverse effect" on historic or archaeological resources, the Town must file a Notice of Project Change with the MEPA office to discuss the project's impacts to historical and archeological resources and the Town's impact mitigation commitments. I strongly encourage the proponent to work closely with MHC in the completion of its archeological investigations for the proposed phased sewer expansion project.

### Growth Management

Executive Order #385 requires that state and local agencies engage in protective and coordinated planning oriented towards resource protection and sustainable economic development. For reasons of both environmental protection and fiscal prudence, investments in public infrastructure should be carefully targeted toward those areas for which clear existing needs have been established and for areas where denser development is appropriate, thereby relieving development pressures on open space, agricultural lands, and other valuable natural resources. The DEIR should include a discussion and analysis regarding the potential for growth (not only in new homes but in expansions of existing homes) and quantify how existing regulations will minimize that potential for growth. The DEIR should identify alternatives for managing growth in sewered areas and areas located outside of the proposed new sewer areas including the use of by-laws or regulations, creation of a Sewer Management District, adoption of Sewer District By-laws, and creation of a Sewer Authority.

The Town should consult with MassDEP in developing growth-neutral policies and a strategy to prohibit and/or discourage future new development within new sewer expansion areas in Billerica. The Town should consider adopting any proposed growth by-laws, regulations, and policies prior to the construction of the proposed sewer expansion project.

### Greenhouse Gas Emissions (GHG) and Sustainable Development

The project requires an EIR and will receive financial assistance from the Commonwealth and therefore is subject to the requirements of the EEA/MEPA Greenhouse Gas Emissions (GHG) Policy and Protocol. In addition, the recently passed Climate Protection and Green Economy Act, M.G.L.c. 21N, mandates economy-wide reduction targets for greenhouse gas emissions in Massachusetts of between 10 and 25 percent by 2020. Consistent with the objectives established in the Policy (which is available on the MEPA website at <http://www.mass.gov/envir/mepa/pdffiles/misc/GHG%20Policy%20FINAL.pdf>), the DEIR should quantify GHG emissions associated with each of the proposed project alternatives and propose mitigation measures. In addition, the proponent may want to consider the potential advantages of early GHG reduction under the new law. A project at this early stage of development provides a multitude of opportunities for considering and comparing alternatives, facilities, and equipment that reduce energy consumption and substitute renewable energy sources for fossil fuel sources. In the DEIR, the Town should analyze and compare the greenhouse gas emissions for each project alternative carried forward in the DEIR, include the impacts of greenhouse gas emissions in the evaluation criteria of alternatives and propose measures to mitigate the GHG emissions associated with the alternative methods of treating wastewater. Mitigation measures for wastewater may include more energy efficient designs, facilities, treatment technology and equipment; infiltration and inflow (I/I) removal from sewer mains; and water conservation measures.

I strongly encourage the Town to explore the use of renewable and energy-efficient equipment when designing new or upgraded wastewater treatment facilities, pump stations and other components of the Town's comprehensive wastewater management system. I note that MassDEP, in coordination with other state and local agencies has initiated a demonstration project to retrofit existing wastewater treatment plants and water treatment plants with energy efficient technology. The costs of some improvements are eligible for funding through the SRF and other programs. I encourage the proponent to consult with MassDEP regarding this demonstration project. The Appendix of the EEA/MEPA Greenhouse Gas Emissions Policy and Protocol includes additional suggestions for mitigation measures that the town may consider in reducing GHG emissions associated with proposed project. EEA routinely schedules pre-filing meetings to provide technical assistance to proponents in the development of GHG analyses. I strongly encourage the Town to request a pre-filing meeting with EEA as it prepares this section of the Phase II/DEIR.

#### Costs

The DEIR should present more detailed estimates of the construction costs and capital and operating cost for each of the Town's proposed alternatives and how they will be financed.

The DEIR should provide cost estimates for the needed plant improvements and upgrades identified in the Town's recently completed Comprehensive Plant Evaluation (CPE) study that would enable the Letchworth WWTF to operate at its current NPDES permit capacity. The DEIR should include a discussion of the technical requirements and cost evaluations to attain effluent phosphorous levels below 0.2 mg/l at the Letchworth WWTF. The DEIR should include a projection of the preferred alternative's impact on local sewer rates, and a comparison of the resulting local sewer rates to MWRA communities and statewide averages. The Town should document any assumptions concerning the probable cost of acquiring parcels or easements for construction and managing the Town's municipal sewers.

### Construction

The construction period will be the major source of impacts from the project, including impacts from earth moving, impacts to vegetation, potential impacts from erosion and sedimentation, traffic impacts on adjacent roadways, and impacts to adjacent land uses. The DEIR should evaluate construction period impacts and should include a discussion of the proponent's plans to reseed and replant those portions of the construction corridor located adjacent to wetland resource areas, endangered species habitat, Article 97 lands and residential properties with appropriate native species of grasses, woody shrubs and trees. The Town may wish to consult with the Billerica Conservation Commission, MassDEP and abutting property owners in the development and scheduling of re-seeding and re-planting activities. I strongly encourage the Town to commit to using lower emission equipment in addition to requiring its contractors to retrofit diesel-powered equipment with emissions controls, such as particulate filters or traps, and use low-sulfur diesel fuel. The Town should require its contractors to use On-Road Low Sulfur Diesel (LSD) fuel in their off-road construction equipment which can increase the removal of particulate matter (PM) by approximately 25% beyond that which can be removed by retrofitting diesel-powered equipment. All construction-related refueling and equipment maintenance activities should be conducted under cover on impervious surface areas with containment, and outside of any wetlands resource areas, endangered species habitat areas, residential areas and wellhead protection areas.

### Mitigation

The DEIR should include a separate chapter on mitigation measures associated with each project alternative, which should include proposed Section 61 Findings for all state permits and a summary table of all mitigation proposed. The mitigation chapter of the DEIR should describe proposed mitigation measures, contain clear commitments to mitigation and a schedule for implementation, and identify parties responsible for funding and implementing the mitigation measures.

Public Participation

According to comments received from MassDEP, the State's Revolving Fund regulations require the proponent to conduct a minimum of one public meeting and one public hearing for this project. The DEIR should provide an update of the Town's ongoing public participation program activities.

Comments

In addition to a general response to comments, the Town must provide a detailed response to the comment letter dated September 30, 2008 submitted by MassDEP, and I hereby incorporate by reference the additional requests for information contained in that letter as part of the scope of this Scope. I ask the Town to continue to work closely with MassDEP and USEPA to design and implement a comprehensive wastewater management plan and mitigation plan for the Town of Billerica that will help to offset the proposed project's impacts. The Town should prepare the Phase II - Draft Wastewater Facilities Plan/DEIR for the project in accordance with Section 11.07 of the MEPA regulations as modified by this Certificate. The FEIR should include a copy of this Certificate and the Certificates granting a Special Review procedure, the Record of Decision on the Phase I Waiver Request. The DEIR document should also contain copies of the comments received.

Circulation

The DEIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should be sent to the list of "comments received" below. A copy of the DEIR should be made available for public review at the Billerica Public Libraries.

October 17, 2008

DATE



Ian A. Bowles, Secretary

Comments received: (continued on next page)

08/06/08	Massachusetts Historical Commission (MHC)
10/02/08	MA Department of Environmental Protection (MassDEP) – NERO
09/05/08	Water Resources Commission (WRC)

Comments received: (continued)

09/15/08      Natural Heritage and Endangered Species Program (NHESP)

10/1/2008     Northern Middlesex Council of Governments (NMCOG)

IAB/NCZ/ncz

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