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October 17, 2008

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
ON THE  
ESTABLISHING A SPECIAL REVIEW PROCEDURE

PROJECT NAME : Billerica Comprehensive Wastewater Management Plan  
PROJECT MUNICIPALITY : Billerica  
PROJECT WATERSHED : **Sudbury**, Assabet, Concord  
EOEA 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 of Billerica, 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 Town of Billerica to initiate sewerage 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. 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 Town has requested a Special Review Procedure (SRP) and a Phase I Waiver to construct a portion of the proposed sewer project, described in the ENF as Contract 34B East Billerica, prior to completion of the overall environmental review for the wastewater management planning process.

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 (ITC). 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 Damage to the Environment, as defined in the MEPA regulations.

#### Special Review Procedure and Phase I Waiver

The proponent is seeking approval for an SRP in accordance with Section 11.09 (1) of the MEPA Regulations. This section allows the Secretary to establish a special review procedure when appropriate conditions exist, including a determination by the Secretary that the early commencement of a portion of a project may benefit the environment. In addition, Section 11.11 (4) of the MEPA Regulations provides that the Secretary may grant a partial waiver of a mandatory EIR review threshold and allow the proponent to proceed with Phase one of the project prior to preparing an EIR. Based on my review of the information provided in this ENF, I grant the proponent's request for a Special Review Procedure. A special procedure for review of the EIR/Wastewater Treatment Facilities Plan is appropriate in this case because the Town can save both time and money through a process that focuses the problems and solutions more effectively than the standard MEPA review.

According to the ENF, 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. 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).

As described in greater detail in a DROD also issued today, I propose to grant the Town's Phase 1 Waiver request to allow the proponent to extend sewers to the Contract 34B East Billerica portion of the project prior to completion of an EIR for the entire project. Granting a partial waiver for Phase I of this project 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, and will allow the proponent to proceed with the much needed East Billerica portion of the project, outside of the MEPA review for the overall project. While I am not requiring further specific environmental review of this portion of the project, I expect that the growth management impacts and projected build-out flows from the Contract 34B East Billerica will be included in the analyses that are prepared during the overall environmental review. The following procedure is based on discussions with the Town and its engineering consultants as well as the Department of Environmental Protection (MassDEP).


### **SPECIAL PROCEDURE**

A Special Review Procedure will serve as a multi-year planning process to identify the Town's wastewater needs, provide alternatives for meeting these needs and provide an environmental analysis of the Town's recommended plan to meet the Town of Billerica's long-range wastewater management needs. The SRP for this project will consist of the filing of three documents: Phase I - Needs Analysis, Alternatives Analysis and the sewerage of Contract 34B East Billerica as described in the ENF; Phase II - Draft Recommended Plan / Draft Environmental Impact Review (DEIR); and, Phase III - Final Recommended Plan / Final Environmental Review (FEIR). I note that Special Review Procedures relative to wastewater facilities plans typically separate Needs Analysis and Alternatives Analysis into two separate submittals. However, in this case, the Town of Billerica has developed considerable information and analysis on needs and alternatives. Given that this work on needs and alternatives is already completed, it makes sense to combine the needs and alternatives documents into the Phase I report included as part of the Town's ENF submittal.

The filing for each Phase will thoroughly examine the issues associated with its respective Phase and will contain a proposed scope for the succeeding Phase document. Each succeeding Phase document will build upon the information developed in the prior document. Each document will be distributed and reviewed according to the review procedures identified in 301 CMR 11.08 (EIR Review and Decisions) and 11.16 (Filing and Circulation) of the MEPA Regulations. There will be a thirty day public review and comment period and seven days for the Secretary to issue a decision on the report's adequacy. I will review these documents in accordance with the regulations governing the preparation and filing of EIRs pursuant to Section 11.07 of the MEPA regulations as modified by the Certificate issued separately today. I note that the Scope of Work contained in the ENF for future Phases is dynamic and subject to further review and modification.

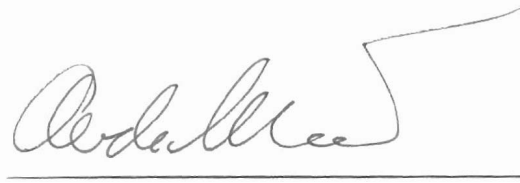
From this point forward, the special review procedure shall follow the usual procedures for review of an EIR. I shall review the Phase II/DEIR in accordance with the regulations governing the preparation and filing of Draft EIRs found in Section 11.07 of the MEPA regulations as modified by the applicable Certificate, and issue a decision on its adequacy. I shall also issue guidance on what issues remain for analysis in the Phase III/FEIR (or Supplemental DEIR). Once the FEIR completes the MEPA process, the state permitting agencies (and financial agencies if applicable) will be free to act on any applications for state permits related to the overall wastewater facilities management plan. The Special Procedure for this project shall not involve establishment of a Citizens Advisory Committee.

October 17, 2008  
DATE

  
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Ian A. Bowles, Secretary

WITH THE CONCURRENCE OF:

10-21-08  
DATE

  
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Abdul Alkhatib, Director  
Department of Public Works, Town of Billerica

Comments received:

- 08/06/08 Massachusetts Historical Commission (MHC)
- 10/02/08 MA Department of Environmental Protection (MassDEP) – NERO
- 09/05/08 Water Resources Commission (WRC)
- 09/15/08 Natural Heritage and Endangered Species Program (NHESP)
- 10/1/2008 Northern Middlesex Council of Governments (NMCOG)

IAB/NCZ/ncz  
SRP #14283