



# The Commonwealth of Massachusetts

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October 26, 2006

## DRAFT RECORD OF DECISION

PROJECT NAME : 44 Oakland Avenue Sewer Extension  
Project/Assabet River Consortium  
PROJECT MUNICIPALITY : Shrewsbury/ and five other municipalities  
PROJECT WATERSHED : Assabet River  
EOEA NUMBER : 12348  
PROJECT PROPONENT : Michael Plante/The Assabet River  
Consortium  
DATE NOTICED IN MONITOR : September 26, 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 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.

### **Project History: Assabet River Consortium – NPC/Phase I Waiver Request**

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 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 September 26, 2006 and has provided additional information in support of that request.

According to MassDEP, the Town of Shrewsbury is in violation of the Water Management Act (WMA) by substantially exceeding its total permitted withdrawal of 3.86 million gallons per day (mgd) and is exceeding the permitted withdrawal from its main well field in the Quinsigamond sub-basin within the Blackstone basin. 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: 44 Oakland Avenue Sewer Extension Project

Pursuant to Section 11.11 of the MEPA Regulations, the proponent is requesting a Phase I Waiver to construct approximately 136 linear feet (lf) of new 8 inch sewer line within the Oakland Avenue right-of-way to connect to the existing municipal sewer main in Main Street right to service one single-family residential house (#44 Oakland Avenue) in Shrewsbury. According to the proponent, the project's water supply needs and wastewater flows (330 gallons per day (gpd)) will be served by municipal water from the Town of Shrewsbury and municipal sewer from the Town of Westborough's Wastewater Treatment Facility, respectively.

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 44 Oakland Avenue Sewer Extension Project will involve the construction of approximately 136 linear foot (lf) extension of the Town of Shrewsbury's 8" sewer main within the existing Oakland Avenue right-of-way. The proponent will need to 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 (330 gpd) will be serviced by the Town of Shrewsbury's sewer collection for treatment by the Town of Westborough's Wastewater Treatment Facility (WWTF). According to the proponent, Shrewsbury's sewer collection system and Westborough's WWTF have the capacity to accommodate the additional total wastewater flows anticipated from the proponent's project.
3. 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 propose to grant the Phase I Waiver subject to the aforementioned findings and conditions. This Draft Record of Decision (DROD) shall be published in the next issue of the *Environmental Monitor* for a fourteen-day comment period, after which I shall reconsider, modify, or confirm the waiver.

October 26, 2006

Date

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Robert W. Golledge, Jr, Secretary

Comments received:

09/8/06 MA Department of Environmental Protection – NERO

DROD #12348 – Assabet Consortium CWWMP/44 Oakland Avenue  
RWG/NCZ/ncz