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May 23, 2003

**CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS
ON THE
THE NOTICE OF PROJECT CHANGE and PHASE I WAIVER REQUEST**

PROJECT NAME : Lowell Street Sewer Extension
PROJECT MUNICIPALITY : Wilmington
PROJECT WATERSHED : Ipswich River
EOEA NUMBER : 8844
PROJECT PROPONENT : Wilmington
DATE NOTICED IN MONITOR : March 25, 2003

Pursuant to the Massachusetts Environmental Policy Act (G. L., c. 30, ss. 61-62H) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I have reviewed the Notice of Project Change (NPC) submitted on this project and hereby determine that this project **does not require** the preparation of an Environmental Impact Report (EIR). The proponent has requested a Phase I Waiver to allow the project to proceed, pending the Town of Wilmington's preparation of an Comprehensive Water Resources Management Plan / Environmental Impact Report (CWMP/EIR) for the Town of Wilmington. The Phase I Waiver Request was presented within the NPC. I have carefully reviewed the NPC and supporting documentation, and written comments and hereby propose to **grant a waiver** (as defined below), allowing the project to proceed to the state permitting agencies without requiring the completion of an Environmental Impact Report (EIR).

Lowell Street Sewer Expansion Project

The proposed project involves the construction of approximately 1.5 miles of sewer along a portion of Lowell Street from Kiernan Avenue west to West Street in Wilmington. As described in the NPC, the project includes the construction of two pump stations (120 gpm, 274 gpm), 360 linear feet (lf) of gravity sewer and 360 lf of force main sewer on West Street, 7,500 lf of gravity sewer and 4,700 lf of force main on Lowell Street.

The proposed sewer extension will connect to the Town's existing sewer collection system at the intersection of Lowell Street and Main Street. The Lowell Street Sewer Expansion Project will provide municipal sewer service to 59 properties, and at full build-out will generate approximately 70,000 gallons per day (gpd) of wastewater flow. According to the information provided in the NPC, the project area will be served by municipal water from the Town of Wilmington and municipal sewer collection by the Town of Wilmington for treatment by the Massachusetts Water Resources Authority's (MWRA) Deer Island Wastewater Treatment Facility (WWTF). The proposed project will require one crossing of Maple Meadow Brook. The proponent has proposed to install a steel sleeve five feet below the existing Maple Meadow Brook culvert in Lowell Street to avoid any impacts to wetland resource areas located within the project corridor. The proposed project will not trigger any required EIR thresholds.

Project History

As initially proposed in 1991, the project involved construction of 7.25 miles of interceptor sewer, 1.48 miles of force main, and two pump stations. The project would have altered more than 2 acres of bordering vegetated wetlands, 3,000 linear feet of bank and 5,400 sf of land under water, and it would have crossed areas impacted with hazardous waste contamination, and several open space/conservation properties. A scope for an EIR was established in the ENF Certificate issued November 7, 1991.

A Notice of Project Change (NPC) was filed in January 1999 and proposed to develop the EIR in the form of a Town-wide Comprehensive Wastewater Management Plan (CWWMP), designed to quantify the Town's long-term sewer needs and identify alternative approaches for meeting those needs. A Special Review Procedure was developed for this project, consisting of a Phase I - Needs Report, followed by a Phase II - Draft and Final EIR/CWWMP. The scope for the Needs Report was issued April 15, 1999. In February 2000, the proponent submitted a Needs Report, along with a Phase I Waiver Request to extend sewer along a section of Lowell Street. The Secretary's Certificate, issued in April 2000, found the Needs Report lacking in substantive information and only marginally adequate, and required the Draft Environmental Impact Report (DEIR) to include a separate section to satisfactorily address the numerous deficiencies of the Needs Report, and conditioned the proponent's re-submission of its Phase I Waiver Request for the Lowell Street sewer extension project upon the submission of the Draft EIR in June 2003. The Secretary's Certificate also denied the Lowell Street Phase I Waiver Request until the Town satisfactorily addressed the inadequacies of the Needs Report as part of the Phase II DEIR filing.

A second NPC was filed in June 2001 and proposed to expand the scope of the study and EIR to include a comprehensive evaluation of existing and future water supply needs and town-wide stormwater control. The Secretary's Certificate issued in July 2003, adopted the proponent's proposed Comprehensive Water Resources Management Plan/Environmental Impact Report (CWRMP/EIR), and provided for the establishment of a Citizens Advisory Committee (CAC) and a group of technical advisors to provide input into the plan's development.

Settlement Agreement

In March 2001, the proponent entered into a Settlement Agreement with the Executive Office of Environmental Affairs (EOEA) that established a schedule for the proponent's submittal of Phase II documents, and identified areas of concern requiring additional information and analysis to be included in the DEIR. The Settlement Agreement required the proponent to submit the DEIR to the MEPA Office by October 2003, and to submit the Final Environmental Impact Report (FEIR) by May 2004. The Settlement Agreement also required that the DEIR identify and analyze one or more comprehensive approaches to address Wilmington's long-term water supply needs and long-term wastewater needs in a manner consistent with state policies and regulations and consistent with the goal of restoring and protecting the Ipswich River and associated watershed resources. Lastly, the Settlement Agreement required the Town's submittal of the Phase II DEIR as a condition for Wilmington's re-submittal of its Phase I Waiver Request for the Lowell Street sewer extension project.

Phase I Waiver Request

As described in this third NPC, the Town of Wilmington is now requesting a Phase I Waiver to construct the Lowell Street Sewer Extension Project thereby allowing its construction to proceed in advance of Wilmington's submittal of the Phase II DEIR document and the preparation of the CWRMP/EIR for the Town of Wilmington.

As described in the NPC, the Massachusetts Highway Department (MHD) has scheduled the reconstruction of Lowell Street (Route 129) for calendar year 2003. The proponent has indicated that approval of the Phase I Waiver Request is necessary to enable the proposed sewer extension project to proceed concurrently with the roadway reconstruction to avoid the undue hardship to the proponent from the five-year moratorium imposed by MHD on proposed utility projects in newly paved areas. In their comments, MHD has indicated that the design plans for the reconstruction of Lowell Street are currently under review with a number of Right-of-Way (ROW) and environmental issues remaining to be resolved. If the project bidding and award process proceeds without delay, the Lowell Street reconstruction project could begin in the Fall of 2003 or Spring of 2004.

According to the comments received from the U.S. Environmental Protection Agency's Region 1 (EPA) and others, the proposed project will result in the additional transfer of water out of the Ipswich River Basin. As noted in many of the comments received on this NPC, and in other MEPA Certificates (EOEA #12514), existing local water withdrawals by communities located in the Ipswich River basin, including the Town of Wilmington, are causing severe stresses on the ecosystem of the Ipswich River basin. Restoring the water balance in the Ipswich River basin will require a combination of improved stormwater management and groundwater recharge, reducing the amount of wastewater exported out of the basin for treatment, and supplementing or replacing existing water supplies.

In their comments, the Department of Environmental Protection (DEP) noted that the Town of Wilmington will be withdrawing significantly less water from the Ipswich basin and relying on out-of-basin sources through the Town's existing emergency connections for approximately 50% of the Town's drinking water supply needs because the Town has suspended the use of their drinking water wells in the Maple Meadow Brook aquifer due to potential water quality concerns. DEP supports the proponent's waiver request subject to the following conditions;

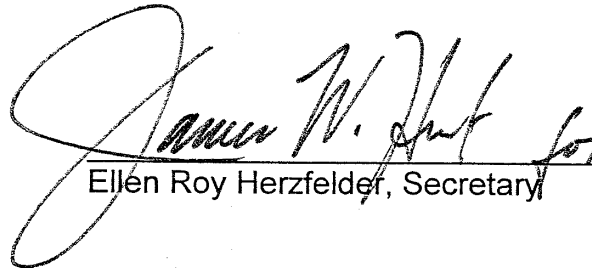
- 1) the Town complete and submit the DEIR to the MEPA Office by October 31, 2003,
- 2) the Town implement the recommended mitigation measures to be contained in the Final EIR/CWRMP as may be approved by the Secretary, and
- 3) the Town comply with all relevant regulatory requirements.

I adopt DEP's comments as my own, and I strongly encourage the proponent to continue to work closely with DEP to design and include a comprehensive mitigation plan as part of the preparation of the CWRMP/EIR for the Town of Wilmington that will help to offset the need for any proposed water withdrawal or municipal sewerage projects in Wilmington.

I find that the NPC/Phase I Waiver request contains sufficient information upon which to make a determination that the construction of this project will not constrain the Town of Wilmington from exercising any option in its Town-wide Comprehensive Wastewater Management Plan, and that 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.

Based on these facts, I hereby propose to grant the request for a Phase I waiver for the Lowell Street Sewer Expansion Project in Wilmington subject to the aforementioned findings and conditions. This Draft Record of Decision (DROD) shall be published in the June 10, 2003 issue of the *Environmental Monitor* for a fourteen-day comment period, after which I shall reconsider, modify, or confirm the waiver.

May 23, 2003
DATE


Ellen Roy Herzfelder, Secretary

Comments received:

- 04/08/03 US Environmental protection Agency (EPA)
- 04/13/03 Ipswich River Watershed Association
- 04/14/03 Massachusetts Department of Environmental Protection (DEP) – NERO
- 04/14/03 Michael McCoy
- 04/14/03 Martha K. Stevenson
- 04/14/03 Water Supply Citizens Advisory Committee – MWRA
- 04/15/03 Gina Snyder
- 04/15/03 Ivamarie Rideout
- 04/24/03 SEA Consultants, Inc.
- 04/25/03 SEA Consultants, Inc.
- 05/19/03 SEA Consultants, Inc.

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ERH/NCZ/ncz