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January 9, 2009

FINAL RECORD OF DECISION

PROJECT NAME : Long-Term CSO Control Plan  
PROJECT MUNICIPALITY : Springfield  
PROJECT WATERSHED : Connecticut River  
EOEA NUMBER : 11525  
PROPONENT : Springfield Water and Sewer Commission  
DATE NOTICED IN MONITOR : December 24, 2008

Pursuant to the Massachusetts Environmental Policy Act (MEPA) (G.L.c.30, ss. 61-62I) and Section 11.11 of the MEPA regulations (301 CMR 11.00), I have reviewed this project and hereby grant a Phase I Waiver (as defined below), allowing this phase of the project to proceed to the state permitting agencies prior to completion of the Final Environmental Impact Report (FEIR). On November 4, 2008, the proponent submitted a Notice of Project Change (NPC), and it requested a Phase I Waiver on December 3, 2008. A Draft Record of Decision (DROD) proposing to grant the waiver was published for public comments in the Environmental Monitor on December 24, 2008. In accordance with 301 CMR 11.15(2), a fourteen-day comment period was held. No comments were received.

Project Description

Based on the Preliminary Design Report and its updated model prepared by the proponent for the CSO 007/049 Sewer Separation project, the proponent identified a new more optimal and cost-effective project with a similar level of CSO control as a prior design proposed for this project through a previous NPC. This new project, as described in the current NPC, will provide the proponent with a substantial reduction in the area affected by construction activities, and at a significantly lower cost. The proponent is now proposing sewer separation of the CSO

007 (Roland Street) tributary area, enlarging the dry weather flow connection at the CSO 049 (Springfield Street) regulator, and no separation in the CSO 049 tributary area.

The CSO 007 tributary area is comprised of about 288 acres to be affected by the proposed sewer separation and would include approximately 24,600 linear feet of new pipe. About 36,000 linear feet of new pipe is no longer proposed for sewer separation in the CSO 049 area. The CSO 007 area will include the construction of a 48-inch to 54-inch diameter sanitary sewer to convey the flow from the CSO 049 regulator through the CSO 007 area to the Connecticut River Interceptor. The diameter of the pipe has increased to account for the additional flow conveyed as a result of the increase in dry weather flow connection capacity at the CSO 049 regulator. The proponent will provide new drainage pipes to replace under-sized drains in parts of the CSO 007 area. At outfalls 007 and 049, the total annual CSO volume is estimated to increase by 0.45 million gallons (MG) compared to the prior NPC. However, this NPC will still achieve a significant reduction in the existing E. coli bacteria load from CSO to the Connecticut River from these two outfalls. The revised project will save approximately \$12 million over the prior NPC. On March 13, 2008, the EPA approved this change to the project.

As described in the NPC, Phase I, as currently proposed, would proceed prior to the submission of the FEIR, and the proponent has the funding allocated for it in its approved long-term capital budget. Delaying the project until the FEIR has been completed will result in continued water quality degradation from CSO drainage area discharges, and potential penalties from the EPA. The proponent completed the design on June 15, 2008 and will complete construction by May 15, 2011. The proponent has estimated that the proposed Phase I project will eliminate or abate approximately 28 million gallons (mg) per year of existing CSO discharges to the Connecticut River or about 98 percent of the existing E. coli bacteria load from these two outflows in a typical year. The proponent has estimated that this project will cost approximately \$25.5 million.

### Project History

In 1998, an Environmental Notification Form (ENF) was submitted for the proponent's Combined Sewer Overflow (CSO) Plan. The Secretary issued a Certificate on this ENF requiring a mandatory EIR on April 10, 1998. In 2000, the proponent submitted the Draft Long-Term Control Plan (LTCP)/EIR. On June 23, 2000, the Secretary found that the DEIR was adequate. The cost of the preferred plan for CSO control was \$140.5 million and was prohibitive for the City of Springfield. The DEIR recommended a plan costing about \$13.7 million for Phase I, which reflected an affordability analysis acceptable to the U.S. Environmental Protection Agency (EPA). Phase I of the recommended plan consisted of the construction of a screening and disinfection treatment facility at Clinton Street in Springfield. The treatment facility would be sized to treat the CSO flows from the largest storm in the typical year from outfall 010 (Clinton Street). The proponent also requested a Phase I Waiver to allow for the proposed Mill River CSO project to proceed prior to the submission of the FEIR. On July 31, 2000, the Secretary granted a Phase I Waiver for the Mill River CSO project in a Final Record of Decision (FROD). This Phase I Waiver included an optimization project (modifying the CSO regulators) in the Mill River. It also included the Watershops Pond stormwater management plan, which

involved the installation of best management practices. In 2003, the proponent completed this work.

The proponent has continued to re-evaluate the Phase I projects of the proponent's DEIR in order to identify the most significant CSO discharges and the abatement alternatives to address this overflow. In 2004, the proponent submitted a second NPC, which expanded the Phase I Waiver to include the Chicopee River CSO control project, which consisted of the storage of CSO flows to achieve a six-month level of control (no more than two activations annually). This preferred plan would be implemented through a combination of underground storage tanks, box culverts, or conveyance infrastructure within roadways and public rights-of-way and/or privately-owned lots adjacent to the Chicopee River. Although this proposed work was not evaluated in the DEIR dated March 31, 2000, it achieved compliance with the U.S. Environmental Protection Agency (EPA) and the Department of Environmental Protection (MassDEP) CSO control policies for the area tributary to the Chicopee River, and it achieved a higher level of CSO control than in the DEIR. On December 10, 2004, the Secretary certified the NPC and granted the Phase I Waiver request. The project is under design and on schedule, and satisfies the current EPA Administrative Order (A/O).

After reassessing the CSO control alternatives and updating and recalibrating the collection system model along the Connecticut River, the proponent developed additional recommendations in 2006 after discussions with EPA and MassDEP. The modified Phase I recommended plan for the Connecticut River, as described in the NPC, consists of the separation of the combined sewers tributary to outfalls 007 (Rowland Street) and 049 (Springfield Street). CSO discharges from outfall 049 would be eliminated, and CSO discharges from outfall 007 will be controlled up to and including the two-year, 24-hour storm. The project described in the third NPC provides a greater level of CSO control to the Connecticut River compared to the earlier proposed screening and disinfection facility at Clinton Street. The sewer separation would result in a more cost-effective project for the proponent compared to the previously recommended plan. On November 9, 2006, the FROD was issued that granted the Phase I Waiver request.

#### Categorical Inclusion

The project is included for the preparation of a mandatory EIR pursuant to Section 11.03 (5)(a) of the MEPA regulations because the magnitude of the project will likely exceed the thresholds for this section. The Certificate with the Scope for the EIR was issued on April 10, 1998. The DEIR Certificate was determined to be adequate on June 23, 2000.

#### Jurisdiction

This project will require Treatment Works Modifications Permits and Sewer Extension Permits from MassDEP. It will require Construction Access Permits from the Massachusetts Highway Department. The proponent will seek Commonwealth financial assistance from MassDEP. It may have to comply with the U.S. Environmental Protection Agency's National Pollution Discharge Elimination System (NPDES) General Permit for stormwater discharges. The project may need Programmatic General Permits from the U.S. Army Corps of Engineers. Orders of Conditions may be required from the Springfield Conservation Commission (SCC) for

work within resource areas and buffer zones. The proponent may seek project approvals from the SCC as a limited project. Because the proponent may be seeking funding from the Commonwealth, MEPA jurisdiction extends to all aspects of the project that may cause Damage to the Environment as defined in the MEPA regulations.

### Waiver Request

On December 3, 2008, the proponent requested that I grant a waiver to allow this Phase I portion of the project to proceed in advance of completion of the FEIR. The waiver request was submitted with the NPC. As proposed, the project would include the design and construction of the project outlined in the NPC.

### Criteria for a Phase I Waiver

Section 11.11 of the MEPA Regulations provides that I 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 I find that strict compliance with the provision or requirement would: a) result in undue hardship to the proponent, unless based on delay in compliance by the proponent; and b) not serve to minimize or avoid damage to the environment.

In the case of a partial waiver of a mandatory EIR review threshold that would allow the proponent to proceed to Phase I of the project prior to preparing an EIR, this finding shall be based on one or more of the following circumstances: 1) the potential environmental impacts of Phase I are insignificant; 2) ample and unconstrained infrastructure and services exist to support Phase I; 3) the project is severable, such that Phase I does not require the implementation of any other future phases; and 4) the agency action on Phase I will contain conditions that ensure due compliance with MEPA.

### Findings

Based upon the information submitted by the proponent, the supplemental information provided by the proponent on December 3, 2008, and after consultation with the relevant state agencies, I find that:

1. The proponent has developed this project change as more optimal and cost-effective with a similar level of CSO control to the prior proposed project. Therefore, to not allow the Springfield Water and Sewer Commission to realize the economy of undertaking these above changes to the 007 and 049 CSO areas as a Phase I Waiver may cause an undue hardship.
2. The Phase I project will reduce CSOs and improve water quality in the Connecticut River. The proponent will implement Best Management Practices (BMPs) within the respective drainage areas by installing deep sump catch basins with hoods. The City of Springfield will provide regular inspection and maintenance program and a street sweeping program. Negative impacts to rare or endangered species are not anticipated. The short-term impacts from construction activities for the Phase I project will be temporary. Short-term construction noise and dust are

expected in the areas where the project is proposed. The proponent's contractor will be required to utilize proper engine maintenance and engine mufflers to reduce noise and pollution. It will cover soil stockpiles and wet disturbed soil areas to reduce dust. Traffic disruptions are anticipated during construction, but the area of disturbance has been significantly reduced by this project change. The proponent will develop a traffic mitigation plan during the project permitting process.

3. In response to the Secretary's Certificate of June 23, 2000, on the DEIR, the proponent has submitted the NPC to revise its proposed Phase I work to include the more significant and cost-effective CSO abatement projects and to address the concerns regarding controlling more CSOs sooner, and increasing the proponent's financial commitment to the project. The proponent has changed the original recommended alternative in the DEIR for the CSO control from this portion of the Connecticut River to the NPC's Preferred Alternative. The design has been revised to eliminate the proposed sewer separation in the 049 CSO area. The construction of the project will be completed by the proponent prior to May 15, 2011. The project change would eliminate approximately 28 million gallons of CSO per year or about 98 percent of the existing E. coli bacteria load from CSO to the Connecticut River from these two outfalls in a typical year.

4. Ample and unconstrained infrastructure exists. The proponent will be working within the public way of existing streets and can obtain easements or purchase any private property needed for construction.

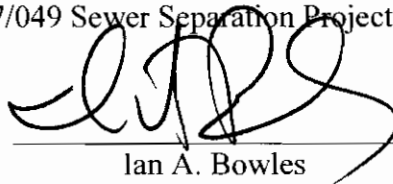
5. The project is severable. Once Phase I is complete, none of the Phase I project would rely on the construction of future phases or eliminate any possible abatement alternatives for the drainage area included in future phases.

6. The terms of the Administrative Order (AO) No. 08-037 dated September 26, 2008, between the proponent and the EPA require compliance with applicable MassDEP and other regulatory requirements. MassDEP will condition its approvals to compliance with the MEPA Certificate. The proponent will comply with the above findings, and it will provide the FEIR (updated CSO Long-Term Control Plan) by September 30, 2011.

Based on these findings, it is my judgment that the waiver request has merit and meets the tests established in Section 11.11. Therefore, I grant the Phase I Waiver requested for the Phase I construction of the CSO 007/049 Sewer Separation Project, subject to the above findings.

January 9, 2009

Date



Ian A. Bowles

Comments received on the DROD:

None.

Comments received on the NPC:

AECOM Water, 12/3/08

SWSC, 12/3/08

PVPC, 12/8/08

MassDEP/WERO, 12/10/08

CRWC, 12/15/08

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