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February 17, 2006

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS ON THE FINAL ENVIRONMENTAL IMPACT REPORT

PROJECT NAME : KeySpan Sagamore Line Reinforcement Project
 PROJECT MUNICIPALITY : Sandwich, Barnstable, Yarmouth, Dennis, Harwich
 PROJECT WATERSHED : Cape Cod
 EOE A NUMBER : 13543
 PROJECT PROPONENT : Colonial Gas Company, d/b/a KeySpan Energy Delivery
 New England ("KeySpan")
 DATE NOTICED IN MONITOR : January 11, 2006

As Secretary of Environmental Affairs, I hereby determine that the Final Environmental Impact Report (FEIR) submitted on this project **adequately and properly complies** with the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and with its implementing regulations (301 CMR 11.00). A project change identified in the FEIR, that would affect Article 97 lands, has been withdrawn by the proponent. As further detailed below, if there is a change in the location of the pipeline and take station, a Notice of Project Change (NPC) will be required.

The proposed project involves construction of approximately 13.1 miles of new high-pressure, distribution pipeline in the towns of Yarmouth, Dennis, Harwich, Sandwich and Barnstable. The pipelines will parallel and tie into the existing KeySpan system on Cape Cod. The project is composed of three segments: The western segment (6.6 miles of 20-inch diameter pipeline) begins on Service Road in Sandwich on the eastern side of Route 130 and ends west of the Route 149/Route 6 intersection in Barnstable. The middle segment is approximately 4.9 miles in length (12-inch diameter pipeline) beginning at the KeySpan LNG facility in South Yarmouth and ending at Depot Street/Main Street in Harwich. The eastern segment (1.6 miles of 12-inch diameter pipeline) begins at the Depot Road/Route 39 intersection and ends at the Church Street/Route 39 intersection in East Harwich.

The project is undergoing environmental review and requires the preparation of a mandatory EIR pursuant to Sections 11.03(7)(a)(3) of the MEPA regulations because it involves construction of a new fuel pipeline ten or more miles in length. The project is also undergoing

environmental review pursuant to Section 11.03(2)(b)(2) because it may involve a “take” of a state-listed rare species, and Section 11.03(10)(b) because it may involve destruction of a state-listed archaeological site

The project will require an Approval to Construct from the Energy Facilities Siting Board (EFSB) and a Bridge Crossing Approval from the Department of Telecommunications and Energy (DTE). The proponent will be required to submit a Development of Regional Impact (DRI) application to the Cape Cod Commission. The project will require permits to perform construction within the state highway from the MassHighway Department (MHD). The project requires a permit for a Reconnaissance Survey from the Massachusetts Historical Commission (MHC). The project may require Orders of Conditions from the Yarmouth and Dennis Conservation Commissions (and in the event of an appeal, a Superseding Order from the Department of Environmental Protection (DEP)). The project may require a Chapter 91 License from DEP. The project will require a National Pollutant Discharge Elimination System (NPDES) Construction Activities Permit from the US Environmental Protection Agency (EPA).

The project, as proposed in the FEIR, would require an Act of Legislation for disposition of Article 97 lands, an easement from the Department of Conservation and Recreation (DCR), an Access Permit from MHD for crossing Route 130, and may require a Conservation and Management Permit from the Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program (NHESP). As described below, the proposed project change that would affect Article 97 lands and require additional permits, has since been withdrawn.

The proponent is not seeking financial assistance from the Commonwealth. Therefore, MEPA jurisdiction applies to those aspects of the project within the subject matter of required state permits with the potential to cause damage to the environment. In this case, MEPA jurisdiction extends to energy, rare species, traffic, wetlands, waterways, historical and archaeological resources, and land – including Article 97 land disposition, and stormwater management.

Project Change

Since the filing of the FEIR, the proponent has withdrawn a component of the project, which was identified as a project change in the FEIR. The FEIR proposed an extension to the western segment of the pipeline that would cross Route 130 and extend approximately 190 feet into Shawme-Crowell State Forest. The proposed extension was added in order to connect with the proposed Algonquin Gas Transmission (AGT) meter and regulation station (take station). This component of the project would require an Act of Legislation because it would affect lands protected under Article 97 of the Amendments to the Constitution of the Commonwealth. The project change proposed in the FEIR would also be subject to the Massachusetts Endangered Species Act (MESA) regulations (321 CMR 10.00) and would require an Access Permit from MHD for crossing Route 130. I received a letter from the proponent, dated February 17, 2006, stating that this component of the project is being withdrawn, and that the proposed western segment of the pipeline will terminate on Service Road, on the eastern side of Route 130, as proposed in the Draft EIR.

The proponent's letter indicates that planning and coordination is on-going with AGT regarding the location of the proposed take station. If the pipeline extension into Shawme-Crowell State Forest is proposed again in the future, the proponent should submit an NPC that addresses impacts to Article 97 lands and demonstrates consistency with all the conditions of the EOE Article 97 Land Disposition Policy. The NPC should also address rare species issues and consultations with NHESP, and the requirement for an easement from the Department of Conservation and Recreation (DCR). I expect that any subsequent MEPA filing will address the cumulative impacts associated with the proposed KeySpan project and the AGT project.

Rare Species

Portions of the project are located within designated Priority Habitat of rare species (PH 1470 and PH 1762). NHESP has determined that proposed activities in PH 1762 are exempt from the Massachusetts Endangered Species Act (MESA) regulations (321 CMR 10.00). However, as described above, the FEIR included a proposed change to the western segment of the pipeline. This proposed change, which included non-exempt activities in PH 1470 subject to MESA review, has since been withdrawn by the proponent.

The proponent has agreed to siltation fencing and other measures to protect rare species during construction activities. The proponent should continue consultations with NHESP for guidance on measures to avoid and minimize or mitigate any adverse impacts to rare species associated with the project. The proponent should provide sufficient information to the Cape Cod Commission (CCC) during DRI review to demonstrate that the project is consistent with the Regional Policy Plan standard and does not adversely affect the habitat of local populations of rare wildlife and plants.

Wetlands and Waterways

The proponent should consult with DEP to determine if a Chapter 91 License or modification of an existing license is required for the proposed Bass River crossing. The proponent should provide documentation to the CCC during DRI review that demonstrates how the project will meet DEP Chapter 91 License requirements. The preferred route for the proposed pipeline is located within wetlands resource areas at the Bass River crossing and at a culverted stream crossing on Great Western Road. The FEIR indicates that the project will avoid bordering vegetated wetlands and will occur in existing paved areas within the buffer zone. The proponent should provide detailed construction plans of the proposed wetlands crossings to the CCC as part of the DRI review and as the design of each segment is finalized.

Historic and Archaeological Resources

The Massachusetts Historical Commission (MHC) has determined that the preferred route for the middle segment is unlikely to affect any significant historic and archaeological resources, although portions of the eastern and western segments may impact historic and archaeological resources. I strongly encourage the proponent to avoid locating the pipeline in areas outside the paved town rights-of-way that are assigned a moderate to high archaeological sensitivity. If alternative pipeline routing cannot avoid archaeologically sensitive portions of the

eastern and western segments, the proponent should conduct an Intensive Archaeological (Locational) Survey in accordance with 950 CMR 70. The proponent should consult with MHC regarding the survey and any measures that may be necessary to avoid and minimize or mitigate impacts to historic and archaeological resources. The proponent has committed to consultations with the South Dennis Historic District Commission regarding proposed activities within the District. The proponent should also work with the Harwich Historical Commission to address potential impacts in the area of Union Cemetery in Harwich.

As further detailed in it's comment letter, the CCC will use the results of MHC's findings on the archaeological survey for Phase I of the middle segment to determine if the project is consistent with RPP standards related to archaeological resource protection.

Construction

The proponent should continue consultations with MHD to regarding construction and access permits. The proponent should provide a revised Environmental Construction Plan (ECP) to the Cape Cod Commission that reflects the proponent's commitments to prohibit vehicle refueling, lubrication and maintenance in the field.

Mitigation

The proponent has committed to a range of mitigation measures in the FEIR, including but not limited to:

- Preparation of detailed traffic management plans in cooperation with local officials;
- Construction vehicle emission controls;
- Best Management Practices (BMPs) to minimize noise associated with construction;
- A prohibition on refueling and maintenance of construction vehicles in the field;
- An Environmental Inspector, independent of the contractor, to report directly to the proponent;
- Implementation of an Environmental Construction Plan (ECP), which addresses environmental responsibilities and communications, construction sequencing, erosion and sediment controls, stormwater management and spill prevention, siltation fencing and surveys to protect rare species, and wetlands protection measures.

I find that the FEIR is sufficiently responsive to the requirements of the MEPA regulations and the Scope to meet the regulatory standard for adequacy. The project may proceed to state permitting. However, I remind the proponent that a submission of a NPC is required if there is a change in the location of the pipeline and take station. State agencies should submit final Section 61 findings to the MEPA Office for the project record.

February 17, 2006

DATE



Stephen R. Pritchard, Secretary

Comments Received

02/10/06 Division of Fisheries and Wildlife,
Natural Heritage and Endangered Species Program
02/10/06 Massachusetts Historical Commission
02/10/06 Cape Cod Commission
02/10/06 Department of Environmental Protection, Southeast Regional Office
02/17/06 Samuel G. Mygatt, Epsilon Associates, Inc.

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