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April 3, 2009

DRAFT RECORD OF DECISION

PROJECT NAME : Long-Term Combined Sewer Overflow Control Plan
PROJECT MUNICIPALITY : Chicopee
PROJECT WATERSHED : Connecticut River
EEA NUMBER : 12283
PROJECT PROPONENT : City of Chicopee
DATE NOTICED IN MONITOR : February 25, 2009

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 Notice of Project Change (NPC) and request for a Phase I Waiver and hereby propose to grant a waiver that will allow the proponent to proceed with what is described further herein as "Phase 2" of the project prior to preparing the Final Environmental Impact Report (FEIR).

Project Description

Based on the proponent's recommended Work Plan, this Phase I Waiver Request is for the City of Chicopee's Long-Term Combined Sewer Overflow (CSO) Control Plan's revised Phase 2 projects. The proponent's recommended Work Plan has been approved by the Department of Environmental Protection (MassDEP) and the U.S. Environmental Protection Agency (EPA). The revised Phase 2 projects would include the Separation of the Broadway/Beauchamp Terrace Area (Drainage Areas 31 and 32.1) for CSO Elimination, the Partial Separation of the Upper Granby Road/Area (Drainage Area 8) for CSO Reduction, and the Separation of the McKinstry Avenue/Lorraine Street Sewer Area (Drainage Area 7.1) for CSO Reduction. These projects would become the Phase 2 CSO projects in the Final Long-Term Control Plan (FLTCP)/FEIR. The Phase 2 projects will result in a significant reduction of CSO volumes and frequencies, eliminating about 28-percent of Chicopee's total annual CSO volume. They are considered to be the most beneficial Phase 2 projects based on the potential improvements in river water quality, the reduction of public health threats created by river

discharges and backups of sewerage into streets and homes, and the condition of the existing piping network.

The Broadway/Beauchamp Terrace Area is Drainage Areas 31 and 32.1. These areas will be affected by the proposed sewer separation. Drainage Area 31 is comprised of about 64,500 linear feet of combined sewers within a tributary drainage area of about 420 acres. The separation of the combined sewers will eliminate the CSO 31.3 diversion structure, which currently discharges an estimated 24 million gallons (mg) annually over the course of 42 overflow events to the Chicopee River. The complete separation of Drainage Area 31 will also likely reduce the volume and frequency of discharges from CSO 31.1 because the sewerage from Areas 31 and 29 combine prior to flowing through a siphon under the Chicopee River. Drainage Area 32.1 has a total of about 5,800 linear feet of combined sewers and a total tributary drainage area of 57 acres. The combined wastewater flows from Area 32.1 are directed to CSO 32.1. There are several advantages to separating Drainage Areas 31 and 32.1 concurrently. Flows from a portion of Area 31 will be redirected to enter the Chicopee River interceptor at a point further upstream adjacent to CSO 32.1 where more capacity exists in the interceptor than at the siphon at CSO 31.1 and the tributary interceptor near CSO 31.3. A portion of the wastewater flow from Drainage Area 31 will combine with flows from Area 32.1 and enter the interceptor near CSO 32.1. The construction of the new pipes allows for the cost-effective separation of the remaining combined sewers in Area 32.1. The sewer separation will involve construction of sewers within the right-of-way (ROW) of existing roadways. The proponent believes that no permits are required for this portion of project.

The Upper Granby Road Area or Drainage Area 8 has a total of about 55,000 linear feet of combined sewers and a total tributary drainage area of 317 acres. The combined sewer flows from Drainage Area 8 are directed to CSO Diversion Structures 7.1 and 8 and to the Jones Ferry CSO Treatment Facility, which discharges to the Connecticut River. The Jones Ferry CSO Treatment Facility, which is scheduled to be completed in 2009, has been sized to treat 125 percent of the combined sewer flows from Drainage Area 7.1 during the 3-month frequency storm event. The proponent believes that the facility will have some reserve capacity to treat some of the flows from Drainage Area 8. Some separation in Drainage Area 8 is required to enable the Jones Ferry Facility to treat flows up to the 3-month frequency storm event. The Upper Granby Road Sewer Separation involves the separation of approximately 25,000 linear feet of combined sewers within a tributary drainage area of 40 acres. The separated storm drain will be directed along an abandoned railbed, which will have infiltration trenches to reduce flows before discharging to an unnamed brook in the vicinity of Dale Street. The downstream remainder of Drainage Area 8 will continue to flow toward the Jones Ferry CSO Treatment Facility.

The separation of the combined sewers associated with this project will reduce overflows from CSO 7.1 by an estimated 3 events and 11.5 mg annually. This project will reduce the

frequency of overflows at CSO 7.1 toward the goal of four or fewer overflows per year. The sewer separation project will involve the construction of sewers within the right-of-way (ROW) of existing roadways, as well as along an abandoned railbed. A Massachusetts Highway Department (MassHighway) Permit to access a state highway will be required. Chapter 40 Section 54A permission from the Executive Office of Transportation (EOT) may also be needed for construction within an abandoned railroad ROW. The proponent will also request a right-of-entry permit from the Westover Metropolitan Development Corporation for the use of the abandoned railbed.

The McKinstry Avenue/Lorraine Street Area or Drainage Area 7.1 sewer separation project includes the installation of about 2,500 feet of storm drain piping. It will convey the separated storm drainage from Meadow Street to the west along McKinstry Avenue to the storm sewer at the junction of Jones Ferry Road and Chicopee Street. Sewers along Meadow Street were separated in the mid-1990s for a state-funded road reconstruction project. Because there was no dedicated stormwater line in the vicinity, the storm drain from Meadow Street was connected back into the combined sewer at McKinstry Avenue. The project will connect that storm drain to the storm drain on Jones Ferry Road. It also includes the construction of separate storm drains in the Lorraine and Stedman Street neighborhoods. In total, the project will eliminate approximately two overflow events for a total of 22 mg per year from CSO 7.1. The project will involve the construction of sewers within the right-of-way of existing roads.

As described in the NPC, Phase 2 would be able to proceed prior to the submission of the FEIR. 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 will complete the design of Phase 2 in 2009, and it will complete construction of the three Phase 2 projects by July of 2013. The proponent has estimated that the proposed Phase 2 projects will eliminate or abate approximately 58 mg per year of existing CSO discharges to the Chicopee and Connecticut Rivers, or about 28 percent of the City of Chicopee's total CSO volume. The proponent has estimated that the Phase 2 projects will cost approximately \$36.5 million.

Project History

In 2000, an Environmental Notification Form (ENF) was submitted for the proponent's Combined Sewer Overflow (CSO) Plan. The Secretary issued a Certificate on the ENF requiring a mandatory EIR on August 24, 2000. In 2002, the proponent submitted the Draft Long-Term Control Plan (DLTCP)/DEIR. On February 15, 2002, the Secretary found that the DEIR was adequate.

The DEIR recommended a Hybrid Citywide CSO Abatement Alternative (referred to as the Hybrid Alternative hereafter) as the Preferred Alternative. The Hybrid Alternative included

separation, treatment, and structural modifications to the wastewater system. It was divided into fifteen phases, which were estimated to cost approximately \$145.4 million. The prioritization for abatement projects or phases was based on: 1) the cost-effectiveness and 2) the ability to remedy the in-system problems in designated drainage areas. Phase 1 was comprised of the upgrade of the 40 mg per day Water Pollution Control Facility (WPCF) (Phase A), the elimination of CSO 4.2, and various projects to address sources of inflow, sewer backups, and street flooding. Phase 2 included Phase B of the WPCF upgrade, the modification of the Paderewski Flood Pump Station for off-line storage, and the modification of the CSO 34.3 diversion structure to maximize flow to the interceptor. Phase 3 consisted of the separation of Drainage Areas 22, 25, and 1. Phase 4 included the separation of Drainage Area 3 and the direct connection of Drainage Area 7.2 to the interceptor. The implementation of the first four phases would cost a total of approximately \$27.3 million and would be implemented as Phase 1 for the overall project. In the Certificate on the DEIR, the Secretary recommended that the timetable for the proponent's Recommended Plan be revised to speed-up the implementation of the project.

At the end of 2002, the proponent submitted an NPC that re-evaluated the Phase 1 projects in the DEIR. The NPC identified CSO 7.1 as the most significant source of CSO discharges and revised Phase 1 from the DEIR. The NPC- recommended Phase 1 projects included:

- Project 1 - Chlorination of the existing wet weather bypass at the WPCF (40 mg per day Upgrade);
- Project 2 - Separation of sewer shed Areas 22 and 25 (CSO Elimination);
- Project 3 - Modification of CSO 34.3 (CSO Reduction);
- Project 4 - Modification of CSO 9 (CSO Reduction);
- Project 5 - Separation of sewer shed Area 4.2 (CSO Elimination);
- Project 6 - Construction of a Satellite Treatment Facility at CSO 7.1 (CSO Reduction); and
- Project 7 - Separation of sewer shed Area 1 (CSO Elimination).

The proponent would implement Phase 1 in two sub-phases. Sub-phase 1A includes Projects 1 through 5, and was planned to begin in 2002 and be completed at the end of 2005. Sub-phase 1B would include Projects 6 and 7, and it was planned to begin in 2003 and be completed at the end of 2009. The Department of Environmental Protection (MassDEP) has estimated that the projects in Phase 1 would eliminate or abate approximately 180.4 mg per year of existing CSO discharge to the Chicopee and Connecticut Rivers. The proponent has estimated that Phase 1 would cost approximately \$19.8 million.

On December 26, 2002, the Secretary approved the Phase 1 Waiver Request and determined that the NPC was adequate. The project is under design and on schedule, and satisfies

the current EPA Administrative Order (AO), dated July 27, 2006. The AO requires the preparation of a long-term control plan (LTCP) for the abatement of CSO discharges. The proponent's Work Plan for the preparation of FLTCP/FEIR was approved by MassDEP and the EPA on September 2, 2008. It requires the FLTCP/FEIR to be submitted to MassDEP, the EPA, and MEPA on or before May 1, 2009.

MEPA Jurisdiction

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 August 24, 2000. The DEIR Certificate was determined to be adequate on February 15, 2002. The project will require Treatment Works Modifications Permits and Sewer Extension Permits from MassDEP. It will require Construction Access Permits from the Massachusetts Highway Department (MassHighway). The proponent will also request a ROW entry permit from the Westover Metropolitan Development Corporation for the use of the abandoned railbed. It will seek Commonwealth financial assistance from MassDEP. The proponent may have to comply with the EPA's National Pollution Discharge Elimination System (NPDES) General Permit for stormwater discharges. The project may require a Programmatic General Permit from the U.S. Army Corps of Engineers. Orders of Conditions will be required from the Chicopee Conservation Commission (CCC) for work within resource areas and buffer zones. The proponent may seek project approval from the CCC 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.

Summary of Potential Environmental Impacts

The proponent has estimated that the Phase 2 Projects have the potential to impact about 500 square feet (sf) of Bordering Vegetated Wetlands (BVW). They may also impact buffer zone areas to wetland resource areas. However, the majority of all construction will be within the right-of-way of existing streets. There will be temporary and short-term traffic disruptions, air pollution, and noise and dust impacts during construction. By reducing and/or removing CSO discharges to the Chicopee and Connecticut Rivers, the project will provide improved water quality impacts.

Summary of Proposed Mitigation Measures

The proponent will implement Best Management Practices (BMPs) during construction to reduce impacts from stormwater runoff within the construction area. These BMPs will include the implementation of erosion and sediment controls prior to construction in sensitive areas. The proponent will utilize proper engine maintenance and mufflers to reduce noise and construction

impacts. It will cover soil stockpiles and wet disturbed areas to reduce dust. The proponent will apply calcium chloride to exposed soil to reduce dust, as necessary. The area of disturbance will be reduced to the extent possible. The proponent will provide a Traffic Control Plan for construction activities to Chicopee public safety officials. It will supply prior notification to all businesses and residents of construction access to their properties prior to construction. The project proponent will restore the disturbed pavement, sidewalks, and landscaping in-kind.

Waiver Request

On February 17, 2009, the proponent requested that I grant a waiver to allow this portion of the project (Phase 2) to proceed in advance of completion of the FEIR. The waiver request was submitted with the NPC. The NPC identified the environmental impacts of the project change, and it described the measures to be undertaken by the proponent to avoid, minimize and mitigate the project impacts.

Standards for All Waivers

The MEPA regulations at 301 CMR 11.11(1) state that I may waive any provision or requirement in 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 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.

Determinations for a Phase 1 Waiver

The MEPA regulations at 301 CMR 11.11(4) state that, in the case of a partial waiver of an EIR review that will allow the proponent to proceed with Phase 1 of the project prior to preparing an EIR, I shall base the findings required in accordance with 301 CMR 11.11(1)(b) on a determination that:

- (a) the potential environmental impacts of Phase 1, taken alone, are insignificant;
- (b) ample and unconstrained infrastructure facilities and services exist to support Phase 1;
- (c) the project is severable, such that Phase 1 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
- (d) the agency action(s) on Phase 1 will contain terms such as a condition or restriction, so as to ensure due compliance with MEPA and 301 CMR 11.00 prior to commencement of any other phase of the project.

Findings

Based upon the information submitted by the proponent, the supplemental information provided by the proponent on March 26, 2009, and after consultation with the state permitting agencies, I find that the Waiver Request has merit and that the proponent has demonstrated that the proposed project meets the standards for all waivers at 301 CMR 11.11(1). I find that strict compliance with the requirement to submit an EIR prior to completion of Phase 1 of the project would result in undue hardship for the proponent and would not serve to avoid or minimize Damage to the Environment. In accordance with 301 CMR 11.11(4), the latter finding is based on my determination that:

1. The proponent has developed this project change as part of its revised Work Plan, which has been approved by MassDEP and the EPA. Phase 2 is considered the most significant and cost-effective alternative, and will allow the City to remove CSO discharges more quickly than they could without the waiver. Therefore, to not allow the City of Chicopee to realize the economy of undertaking the above changes to Drainage Areas 31, 32.1, 7.1, and 8 as a Phase I Waiver may cause undue hardship.
2. The Phase 2 projects will reduce CSO discharges and improve water quality in the Chicopee and Connecticut Rivers. The proponent will implement Best Management Practices (BMPs) during construction within each respective drainage area to minimize disturbance and impacts to adjacent resources. It will install stormwater infiltration along the railbed in Drainage Area 8. All new catch basins installed as part of the project will feature deep sumps and hoods. The City of Chicopee will provide a 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 2 projects will be temporary. Short-term construction noise and dust are expected in the areas where the project is proposed. The proponent's contractors will be required to utilize proper engine maintenance and engine mufflers to reduce noise and pollution. The proponent will implement Best Management Practices to control construction period dust. Traffic disruptions are anticipated during construction, but the area of disturbance will be reduced to the extent possible. The proponent will develop a Traffic Control Plan to identify measures to mitigate traffic impacts during the project permitting process.
3. In response to the Secretary's Certificate on the DEIR of February 15, 2002, the proponent has submitted the NPC to revise its proposed Phase 2 work program to include the most significant and cost-effective CSO abatement projects and to address the concerns about controlling a greater number of CSOs as soon as feasible, and increasing the proponent's financial commitment to the project. The proponent has changed the original recommended projects by combining more of the projects into the first phases of the project. The construction of Phase 2 will be completed by the proponent prior to July of 2013. This NPC/Waiver would eliminate or abate approximately 58 mg per year of existing CSO discharges to the Chicopee and Connecticut Rivers, or about 28 percent of

the total CSO volume.

4. Ample and unconstrained infrastructure exists. The proponent will be working within the public way of existing streets and can obtain easements and additional permits from MassHighway, EOT, and the Westover Metropolitan Development Corporation for construction within ROWs, and purchase any private property needed for construction.
5. The project is severable. Once Phase 2 is complete, none of the Phase 2 projects would rely on the construction of future phases or eliminate any possible abatement alternatives for the drainage areas included in future phases of the project.
6. The terms of the Administrative Order (AO) dated July 27, 2006, 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 May of 2009.

Conclusion

I have determined that this waiver request has merit, and am issuing this DROD, which will be published in the next edition of the *Environmental Monitor* on April 8, 2009 in accordance with 301 CMR 11.15(2), which begins the public comment period. The public comment period lasts for 14 days and will end on April 22, 2009. Based on written comments received concerning the DROD, I shall issue a Final Record of Decision within seven days after the close of the public comment period, in accordance with 301 CMR 11.15(6). I hereby propose to grant the waiver requested for this project, which will allow the proponent to proceed with Phase 2 of the project prior to preparing an FEIR for the entire project, subject to the above findings, and conditions, if applicable.

April 3, 2009

Date

Ian A. Bowles

Comments received:

Tighe & Bond, 2/26/09

Pioneer Valley Planning Commission, 3/12/09

Connecticut River Watershed Council, 3/24/09

Tighe & Bond, 3/26/09

Natural Heritage Endangered Species Program, 3/26/09

Massachusetts Department of Environmental Protection/Western Regional Office, 3/27/09

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