

# The Commonwealth of Massachusetts

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June 23, 2006

## RECORD OF DECISION

PROJECT NAME	: Comprehensive Wastewater Management Plan
PROJECT MUNICIPALITY	: North Attleborough
PROJECT WATERSHED	: Ten Mile
EOEA NUMBER	: 11869
PROJECT PROPONENT	: North Attleborough Board of Public Works
DATE NOTICED IN MONITOR	: March 22, 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 **grant** a second Phase I Waiver to allow an additional phase of the project to proceed, pending the preparation of a Draft Environmental Impact Report (DEIR) for the project. I have issued a Certificate on the 2<sup>nd</sup> Notice of Project Change, dated May 10, 2006, which contains revisions to the Scope for the DEIR.

### Project History:

In 1984, the Town of North Attleborough prepared a wastewater facilities master plan for the installation of town-wide sanitary sewers and a wastewater treatment facility (WWTF). The Town submitted an Environmental Notification Form (ENF) to the MEPA Office in February 1999 to develop a Comprehensive Wastewater Management Plan (CWMP) to establish a long-term sewerage program for the unsewered areas Town of North Attleborough. The Town's CWMP involved the upgrading and expanding the municipal wastewater collection system to accommodate areas in need of sewer service identified as Needs Areas A and B. The Town's sewer upgrading and expansion project includes the installation of approximately 26.5 miles of sewer and a number of sewer pump stations.

The ENF also included a request for a Phase I Waiver to construct a portion North Attleborough's town-wide sewer expansion project prior to completion of the overall environmental review for the comprehensive wastewater management planning process. As described in the ENF, the Phase I project involved the construction of approximately 25,000 linear feet (lf) of sewers to serve four areas of North Attleborough with established sewer needs described in the ENF as the Lake Como area, the Lindsey Acres area, the Broadway Extension area, and the Quinn and Whipple Extension area. A Certificate on the ENF was issued in April 1999, and required the proponent to prepare a Draft CWMP/EIR and a Final CWMP/EIR to provide information pertaining to Needs Analysis, Alternative Analysis, Planning for Growth, Wetlands, and Historic and Archaeological Resources. The Secretary's Record of Decision (ROD) approving the Phase I Waiver Request was issued in June 1999.

#### 1<sup>st</sup> Notice of Project Change/ Phase I Waiver Request

Pursuant to Section 11.10 (2) of the MEPA Regulations, the proponent filed a NPC in July 2006 because more than three years had elapsed from the time of publication of the ENF for this project. Since the issuance of the Secretary's Certificate on the ENF (April 1999), and the September 2005 ROD, the proponent has undertaken a number of sewer construction activities in furtherance of its CWMP including, but not limited to the construction of sewers in the Lake Como and Lindsey Acres areas of North Attleborough, and upgrades to its WWTF.

The 1<sup>st</sup> NPC contained a request for a second Phase I Waiver to extend municipal sewers to existing residential homes located along Oakridge Avenue, adjacent to Greenwood Lake, in the northeast section of North Attleborough, prior to completion of the overall environmental review for the comprehensive wastewater management planning process. According to the proponent, the proposed Oakridge Avenue Sewer Expansion area was originally identified as a High Priority ("Group A") sewer needs area in the Town of North Attleborough. The Oakridge Avenue sewer expansion project will include the installation of approximately 9,190 lf of new low pressure sewer main, and one new pumping station. The Oakridge Avenue project was designed to serve the wastewater flows (approximately 19,000 gpd) from approximately 92 existing single-family residences, many with failing on-site septic systems, located along Oakridge Avenue in North Attleborough, and to accommodate the potential future wastewater flows from a small number of existing homes with problematic or failing on-site septic systems located next to Greenwood Lake in the Town of Mansfield.

The wastewater flows from the Oakridge Avenue Sewer Expansion Project, together with North Attleborough's existing wastewater flows from previously constructed municipal sewers (3.5 MGD), will be conveyed to North Attleborough's Wastewater Treatment Facility (WWTF) for treatment and discharge. According to the information contained in the 1<sup>st</sup> NPC, the Town's existing sewer collection and treatment system has the capacity to accommodate the additional wastewater flows anticipated from the Oakridge Avenue sewer expansion project.

The addition of the Oakridge Avenue sewer expansion project's wastewater flows will not exceed the North Attleborough WWTF permitted treatment capacity of (4.61 MGD) under the current National Pollution and Discharge Elimination System (NPDES) Permit for the Town of North Attleborough's WWTF. A Secretary's Certificate and Record of Decision were issued for the 1<sup>st</sup> NPC and Phase I Waiver Request in August 2005. The ROD granted the Phase I Waiver with a number of conditions allowing the proposed Oakridge Avenue sewer expansion project to proceed while the DEIR is being prepared.

### **2nd Notice of Project Change/Phase I Waiver Request:**

The proponent has filed this 2<sup>nd</sup> NPC/Phase I Waiver Request to expand its existing municipal wastewater collection system to serve to five infill project areas (Cliff's Area, Jill Marie Area, Woodcrest Drive, River's Edge Project, and a proposed residential apartment complex located off Park Street) located within the Town of North Attleborough prior to completion of the overall environmental review for the comprehensive wastewater management planning process. As described in this 2<sup>nd</sup> NPC submittal, the proposed infill sewer extension project has been designed to serve the wastewater flows (approximately 41,000 gpd) from 3 single-family houses, a 11-unit proposed condominium complex, and a 168-unit apartment complex, located in areas with failing on-site septic systems, and within existing sewer areas of North Attleborough. According to the information contained in the 2nd NPC, the Town's existing sewer collection and treatment system has the capacity to accommodate the additional wastewater flows anticipated from the proposed infill sewer expansion project, and will not exceed the North Attleborough WWTF permitted treatment capacity of (4.61 MGD) under the current National Pollution and Discharge Elimination System (NPDES) Permit for the Town of North Attleborough's WWTF.

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 2<sup>nd</sup> NPC, supporting documentation, and written comments.

1. As described in the 2<sup>nd</sup> NPC, the Small Sewer Infill Project will involve the construction of approximately 3,900 lf of sewer main with existing municipal roadways rights-of-way, and approximately 675 lf of cross-country sewer main construction. According to the proponent, the project has been designed to meet DEP's Stormwater Management Policy standards and practices. The proponent will need to employ appropriate erosion and sedimentation control measures during project construction. The proponent's sewer infill project will not impact bordering vegetated wetlands resource areas.
2. The wastewater flows from the Small Sewer Infill sewer expansion project will be serviced by the Town of North Attleborough's Wastewater Treatment Facility (WWTF). According to the proponent, the Town of North Attleborough's sewer collection and treatment systems have the capacity to accommodate the additional total wastewater flows anticipated from the five individual sewer expansion infill projects.

As I indicated in the August 2005 ROD on the 1<sup>st</sup> NPC/Phase I Waiver Request, my approval of the proponent's Oakridge Avenue sewer expansion project was subject to a number of conditions and requirements. Those conditions and requirements are hereby modified and superseded by the conditions and requirements listed below. I agree to grant approval of this 2<sup>nd</sup> NPC/Phase I Waiver for the construction of the Small Sewer Infill Project, subject to the conditions and requirements listed below that are to be completed prior to North Attleborough's submittal of any new NPC/Phase I Waiver requests to the MEPA Office for any additional sewer construction projects.


- the Town of North Attleborough agree to seek funding in fiscal year 2007 to complete the preparation of its CWMP/EIR, in accordance with the original Scope contained in the Secretary's Certificate on the ENF (April 1999), and any additional modifications, and revisions to the Scope identified in the May 10, 2006 Secretary's Certificate on the 2<sup>nd</sup> Notice of Project Change,
- the Town of North Attleborough agree to submit to the MEPA Office a final proposed Scope of Work for the Town of North Attleborough's Draft and Final CWMP (CWMP/DEIR, CWMP/FEIR),

- the Town of North Attleborough commit to work closely with DEP and the MEPA Office to prepare a proposed schedule for the completion and submittal to the MEPA Office of the Town's Draft and Final CWMP (CWMP/DEIR, CWMP/FEIR), and that the Town of North Attleborough submit to the MEPA Office a copy of the Town's Draft and Final CWMP (CWMP/DEIR, CWMP/FEIR) completion schedule, and
- the Town of North Attleborough design and implement an approved infiltration and inflow (I&I) removal program approved by DEP. At a minimum, North Attleborough's I&I program must achieve DEP's requirements for I&I offsets for the Oakridge Avenue (NPC 1) wastewater flows, and the flows from the proposed Small Infill Sewer Projects (NPC 2).

The project will require a Sewer Extension Permit from the Department of Environmental Protection (DEP). I anticipate that DEP'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 grant the Phase I Waiver subject to the aforementioned findings and conditions.

June 23, 2006  
Date

  
Stephen R. Pritchard  
Stephen R. Pritchard, Secretary

Comments received: None

FROD #11869  
SRP/NCZ/ncz