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November 22, 2002

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CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS
 ON THE
 NOTICE OF PROJECT CHANGE
 AND
 PHASE 1 DRAFT RECORD OF DECISION

PROJECT NAME : Long-Term CSO Control Plan/EIR
 PROJECT MUNICIPALITY : Chicopee
 PROJECT WATERSHED : Connecticut River
 EOE A NUMBER : 12283
 PROJECT PROPONENT : City of Chicopee
 DATE NOTICED IN MONITOR : October 23, 2002

Pursuant to the Massachusetts Environmental Policy Act (MEPA) (G.L.c.30, ss. 61-62H) and Section 11.10 of the MEPA regulations (301 CMR 11.00), I have reviewed the Notice of Project Change (NPC) and request for a Phase I waiver submitted on this project. I propose to grant a Phase 1 Waiver (as defined below), allowing the first phase of the project to proceed to the state permitting agencies prior to completion of the Final Environmental Impact Report (FEIR) for the entire project.

Project Description

As described in the NPC, the project change consists of the re-evaluation of the Phase 1 projects of the proponent's Draft Long-Term Control Plan (LTCP)/DEIR in order to identify the most significant Combined Sewer Overflow (CSO) discharges and the abatement alternatives to address this overflow. The proponent is currently under an Administrative Consent Order (ACO) from the U.S Environmental Protection Agency (USEPA) date June 3, 1999, to initiate the preparation of LTCP for the abatement of CSO discharges. Since the DEIR, the proponent has revised its annual estimated bypass volume, which is significantly less than its original estimate. The proponent has now identified CSO 7.1 as the most significant source of CSO discharges. The new Phase 1-Recommended Plan combines the majority of elements from the original DLTCP Phases 1, 2, and 3, and adds an additional project, a satellite treatment facility located at CSO 7.1. I note that the Wastewater Pollution Control Facility (WPCF) bypass effluent pumping was eliminated from the proposed Phase 1 projects due to the infrequent occurrence of the Connecticut

River at high flood stage, which necessitates effluent pumping.

The recommended Phase 1 projects include:

- Project 1 - Chlorination of existing wet weather bypass at the WPCF (40 mgd Upgrade);
- Project 2 - Separation of sewer shed Area 22/25 (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 it would begin in 2002 and be completed at the end of 2005. Sub-phase 1B would include Projects 6 and 7, and it would begin in 2003 and be completed at the end of 2009. DEP has estimated that these projects in Phase 1 would eliminate or abate approximately 180.4 million gallons (mg) per year of existing CSO discharge to the Connecticut River. The proponent has estimated that Phase 1 will cost approximately \$19.8 million.

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 August 24, 2000.

Jurisdiction

The project will require DEP permits and it may seek Commonwealth financial assistance from DEP. It may have to comply with the U.S. Environmental Protection Agency's National Pollution Discharge Elimination System (NPDES) General Permit for stormwater discharges. It may need 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 have significant environmental impacts.

Waiver Request

On October 10, 2002, the proponent requested that I grant a waiver to allow Phase I of the project to proceed in advance of completion of the FEIR. The waiver request was submitted with the NPC. As proposed, Phase I consists of the design and construction of the Phase 1 projects outlined in the NPC.

Criteria for a Phase I Waiver

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 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 and after consultation with the relevant state agencies, I find that:

1. The Phase 1 projects will significantly reduce CSOs and improve water quality in the Connecticut and Chicopee Rivers. Negative impacts to rare or endangered species are not anticipated. The short-term impacts from construction activities for Phase I projects will be temporary. Short-term construction noise and dust are expected in the areas where the projects are proposed. Traffic disruptions are anticipated during construction, primarily for the sewer separation

projects. These impacts will be insignificant. The proponent has proposed Mitigation Measures for impacts, which are outlined in its November 22, 2002 Addendum.

2. In response to the Secretary's Certificate of February 15, 2002, on the DEIR, the proponent has submitted the NPC to revise its proposed Phase 1 work to include the most significant and cost-effective CSO abatement projects and to address the concerns regarding the lengthy implementation schedule, eliminating more CSOs sooner, and increasing the proponent's financial commitment to the project. The proponent has combined projects from its original DEIR Phases 1, 2, 3, 6, and 8 into its proposed Phase 1. It has eliminated approximately 180 mg per year of CSOs. Phase 1 abates 95 percent of the existing WWTP bypass, 56 percent of the existing CSO discharge to the Connecticut River, and 16 percent of the CSO discharge to the Chicopee River. Phase 1 projects will alleviate existing sewage backup conditions in portions of Chicopee's collection system. The proponent has increased its financial commitment from \$3.8 million to \$19.8 million for its NPC proposed Phase 1 projects.
3. Ample and unconstrained infrastructure exists. The proponent owns all the property where projects would be built.
4. The project is severable. Once Phase 1 is complete, none of the Phase 1 projects rely on the construction of future phases or eliminate any possible abatement alternative for drainage areas included in future phases.
5. The terms of the ACO between the proponent and DEP/USEPA require compliance with applicable DEP and other regulatory requirements. DEP will condition its approvals to compliance with the MEPA Certificate. The proponent has provided an Addendum to the Secretary dated November 22, 2002. In this Addendum, the proponent has committed to complying with the above findings and to provide the Final EIR on/or before December 31, 2003.

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 propose to grant the Phase I waiver requested for this Long-Term CSO Control Plan, subject to the above findings. This Draft Record of Decision shall be published in the next issue of the *Environmental Monitor* for a fourteen-day

EOEA #12283 DRAFT Record of Decision November 22, 2002

comment period, after which I shall reconsider, modify, or confirm the waiver.

Date

Bob Durand

cc: Ralph Hinricks, DEP/Boston
Craig Givens, DEP/WERO

Comments received:

DEP/WERO, 11/12/02
Tighe & Bond, 11/22/02

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BD/WTG