



# The Commonwealth of Massachusetts

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July 15, 2005

## DRAFT RECORD OF DECISION PHASE I WAIVER

PROJECT NAME : Comprehensive Wastewater Management Plan

PROJECT MUNICIPALITY : Raynham

PROJECT WATERSHED : Taunton

EOEA NUMBER : 13507

PROJECT PROPONENT : Raynham Board of Sewers Commissioners

DATE NOTICED IN MONITOR : April 9, 2005

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 propose to **grant** a Phase I Waiver to allow the first phase of the project to proceed, pending the preparation of a Draft Environmental Impact Report (DEIR) for the project. In a separate certificate, dated July 15, 2005 I issued a scope for the DEIR.

### Project Description:

As described in the Environmental Notification Form (ENF), the Town of Raynham proposes to expand its existing municipal wastewater collection system with the construction of new sewers to serve the southeast portion of Raynham (Phase 6). The Phase 6 sewer construction work will include approximately 10.6 miles of new gravity and force main sewers and 9 new pumping stations.

According to the proponent, the Town of Raynham and the City of Taunton continue to operate under an Intermunicipal Agreement (IMA) that provides for the treatment and discharge of up to 0.6 mgd of the Town's Raynham's wastewater at the City of Taunton's West Water Street Wastewater Treatment Facility (WWTF).

The wastewater flows from Phase 6 (189,000 gpd), together with Raynham's wastewater flows from previously constructed Phases 1-5 (675,000 gpd), will be conveyed to the City of Taunton's West Water Street Wastewater Treatment Facility (WWTF) for treatment and discharge. According to the information contained in the ENF, the Town's existing sewer collection and conveyance system has the capacity to accommodate the additional wastewater flows anticipated from the proposed Phase 6 sewer expansion project. I note that the addition of Raynham's Phase 6 wastewater flows appears to exceed Raynham's existing wastewater treatment allowance at the City of Taunton's West Water Street WWTF, but does not appear to exceed the permitted capacity of the Taunton West Water Street WWTF (8.4 mgd) under the current National Pollution and Discharge Elimination System (NPDES) Permit for the City of Taunton's West Water Street WWTF.

The proposed Phase 6 sewer expansion project is undergoing review pursuant to Section 11.03 (5)(a)(3) and (5)(b)(3)(a) of the MEPA regulations, because the project involves construction of sewer mains ten or more miles in length (approximately 10.6 miles total) and the construction of one or more new sewer mains, and the expansion in the flow to a wastewater treatment facility by 10% (28% total) of existing capacity, respectively. The project will require an Order of Conditions from the Raynham Conservation Commission; a Construction Permit from the Massachusetts Highway Department (MHD), and a 401 Water Quality Certification and Sewer Extension Permit from the Department of Environmental Protection (DEP). Because the proponent is seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to all aspects of the project that may cause significant Damage to the Environment.

#### Phase I Waiver Request

The proponent has requested a Phase I Waiver to proceed with a portion of the proposed Phase 6 sewer project, described in the ENF as Contract 1, prior to completion of the overall environmental review for the comprehensive wastewater management planning process. The Contract 1 portion of the Phase 6 project involves the installation of approximately 3.5 miles of new sewer main, and one sewer pump station (Pine Street Pump Station) to serve the wastewater flows (approximately 63,000 gpd) from approximately 190 existing single family residences, many with failing on-site septic systems, located along Locust, Everett, Judson, and Forest Streets, Parkwood, Walter and Leonard Drives, and portions of Fairbanks Road and Quechechan Circle. Nearly all of the proposed Contract 1 sewers will be located within the rights-of-way of existing public roadways. Approximately 1,100 linear feet of new sewer main will be located outside of existing public roadway rights-of-way. Nearly all of the proposed new sewers will be located within the rights-of-way of existing public roadways. Approximately 1,100 linear feet of new sewer main will be installed with directional drilling outside of existing public roadway rights-of-way.

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 ENF and supporting documentation, written comments and comments received at the scoping session.

1. As described in the ENF/Phase I Waiver Request, the Contract 1 portion of the Phase 6 sewer expansion project will not impact wetlands resources areas. A small amount of work is proposed within the 100-foot buffer zone of bordering vegetated wetlands (BVW). According to the proponent, the project has been designed to meet DEP's Stormwater Management Policy standards and practices. The proponent has also agreed to employ appropriate erosion and sedimentation control measures during project construction.

According to the comments received from Massachusetts Historical Commission (MHC), the Phase 6 sewer expansion project area contains numerous archeologically significant sites associated with the Native American and Euroamerican occupation of the Taunton River drainage area. The proposed Pine Street Pump Station location within the Contract 1 project area is archeologically sensitive and likely to contain archeological sites associated with Native American occupation of the Taunton River area. MHC has requested that the proponent complete an intensive (locational) archeological survey of the Contract 1 area as a condition of the Phase I Waiver. I adopt these comments as my own, and condition my approval of the proponent's Phase I Waiver request accordingly. The proponent should provide MHC with additional information, including current original photos of the proposed Contracts 2-4 project areas, and cross-country areas (including the area identified for directional drilling), and detailed plans depicting existing and proposed conditions within the Phase 6 sewer expansion project area.

2. The wastewater flows from the Contract 1 portion of the proposed project will be serviced by the City of Taunton's West Water Street Wastewater Treatment Facility (WWTF). According to the proponent, the Town of Raynham's sewer collection and conveyance systems have the capacity to accommodate the additional wastewater flows anticipated from Contract 1 portion of the proposed Phase 6 sewer expansion project. The Contract 1 wastewater flows appear to exceed Raynham's existing wastewater treatment allowance (0.6 mgd) at Taunton's West Water Street WWTF, but do not appear to exceed the total amount of wastewater that can be discharged from the West Water Street WWTF directly to the Taunton River under the Taunton facility's current National Pollution and Discharge Elimination System (NPDES) Permit.

In their comments, DEP has indicated its support for the proponent's Phase I Waiver request, and would agree to issue the proponent a permit for the construction of a dry sewer within the Contract I area subject to the following requirements;

- the Town of Raynham satisfactorily demonstrate to DEP that the City of Taunton has sufficient capacity at its West Water Street WWTF to process the additional wastewater flows anticipated from the proponent's Contract 1 portion of the Phase 6 sewer expansion project,
- the Town of Raynham satisfactorily demonstrates to DEP that the Town of Raynham and the City of Taunton are actively engaged in a productive process that will likely result in the successful negotiation of an Intermunicipal Agreement (IMA) to address Raynham's need for additional sewer treatment capacity at the West Water Street

WWTF to treat the Town of Raynham's wastewater flows, including at a minimum, the additional wastewater flows anticipated from the Contract 1 sewer expansion area,

- only existing homes located within the Contract 1 project area will be allowed sewer connection permits prior to the completion of the Town of Raynham's CWMP, and the Secretary's issuance of a MEPA Certificate for the Town of Raynham's CWMP/FEIR,
- the Town of Raynham will not issue sewer extension permits for any new development proposing to be connected to the Contract 1 sewers prior to Raynham's completion of the CWMP, and the Secretary's issuance of a MEPA Certificate for the Town of Raynham's CWMP/FEIR, and
- the Town of Raynham will develop and implement an approved infiltration and inflow (I&I) removal program. Raynham's I&I program must achieve DEP standards for I&I offsets for the Contract 1 wastewater flows.

I adopt DEP's comments and proposed requirements as my own, and condition my approval of the proponent's Phase I Waiver request accordingly.

3. As a further condition of my granting the Phase I Waiver, I am requiring the proponent to prepare in a separate chapter of the DEIR a detailed discussion of the history of sewer construction in the Town of Raynham. This section of the DEIR should include a description of the construction activities and environmental impacts associated with each of the previous five MEPA submittals, as well as for the completed town-wide sewer construction program contemplated by the Town of Raynham.
4. The project will require a Sewer Extension Permit from the Department of Environmental Protection (DEP). I anticipate that DEP's permit review 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.

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 propose to grant the Phase I Waiver subject to the aforementioned findings and conditions.

This Draft Record of Decision (DROD) shall be published in the July 23, 2005 issue of the *Environmental Monitor* for a fourteen-day comment period, after which I shall reconsider, modify, or confirm the waiver.

July 15, 2005  
Date

  
Stephen R. Pritchard, Secretary

Comments received:

04/25/05	Epsilon Associates, Inc.
04/29/05	Department of Conservation and Recreation (DCR)
05/06/05	Massachusetts Highway Department (MHD)
05/10/05	Massachusetts Historical Commission (MHC)
05/10/05	MA Riverways Program
05/10/05	Division of Fisheries & Wildlife (NHESP)
05/26/05	Epsilon Associates, Inc.
06/14/05	MA Department of Environmental Protection – SERO
07/07/05	Massachusetts Historical Commission (MHC)

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