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December 29, 2010

DRAFT RECORD OF DECISION

PROJECT NAME	: Easton Comprehensive Wastewater Management Plan
PROJECT MUNICIPALITY	: Easton
PROJECT WATERSHED	: Taunton River
EOEA NUMBER	: 13418
PROJECT TOWN	: Town of Easton
DATE NOTICED IN MONITOR	: October 25, 2010

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 the Notice of Project Change (NPC) and hereby **propose to grant a waiver** allowing Phase I of the project to proceed prior to completion of the mandatory Environmental Impact Report (EIR).

OVERVIEW

The Town of Easton is developing a Comprehensive Wastewater Management Plan (CWMP) to address the short-term and long-term issues relating to the Town's wastewater treatment and disposal needs. The goal of the CWMP is to examine the full range of Easton's wastewater management needs, identify environmentally sustainable treatment and disposal alternatives that respond to the community's needs, and to meet water quality and public health standards. The result will be a comprehensive plan outlining how the Town of Easton will treat and dispose of its sanitary sewage for the next 20 years.



Request for Phase 1 Waiver

The Town submitted an NPC describing proposed changes to the Town's CWMP. In a separate Certificate also issued today, I have discussed the proposed project changes and issued a revised scope for the Town's preparation of the Phase II CWMP/DEIR. Included with the NPC submittal, the Town has also requested a waiver that will allow the Town to proceed with the construction of the North Easton Village Sewer Project, Phase 1 of the project, described in the NPC as the construction and operation of a 50,000 gpd wastewater treatment facility, prior to completing the preparation of a mandatory Environmental Impact Report (EIR) for the entire CWMP project. As described in the NPC/Phase I Waiver Request submittal, the Town is proposing to construct a new 50,000 gpd WWTF to be located on a portion of an 8.2-acre parcel, currently under private ownership and the site of the former Ames Shovel Works in North Easton Village (Shovel Shop site) located off Main Street and Oliver Street in Easton. In addition to accommodating the new North Easton Village WWTF, the Shovel Shop site will also accommodate the groundwater disposal of up to 36,000 gpd of treated wastewater. The Town has also identified an existing soil absorption field located on a parcel of YMCA-owned property abutting the Shovel Shop WWTF site that can accommodate up to 14,000 gpd of groundwater discharge of treated wastewater effluent from the proposed North Easton Village WWTF. According to the Town, the North Easton Village WWTF will accommodate the wastewater flows (approximately 22,000 gpd) associated with a new mixed-use (residential and office) development proposed to be located on a 5.5-acre portion of the Shovel Shop site and approximately 28,000 gpd of wastewater flows from a portion of the North Easton Village sewer Needs Area.

Permits and Jurisdiction

This project is subject to the preparation of a mandatory EIR pursuant to Section 11.03(5)(a)(3) of the MEPA regulations because the project is receiving Financial Assistance from the Commonwealth and will likely involve construction of more than ten miles of new sewers. The project may also exceed other thresholds depending on final project design. The project will require several permits from the Department of Environmental Protection (MassDEP) for sewer extensions as well as compliance with revised water quality discharge limits specified in the federal National Pollutant Discharge Elimination System (NPDES) permits issued by the U.S. Environmental Protection Agency (EPA). The project will require an Order of Conditions from the Easton Conservation Commission; a 401 Water Quality Certification and Sewer Extension Permit from the Department of Environmental Protection (MassDEP); and possibly a Groundwater Discharge Permit from MassDEP. The project may also require review by the Water Resources Commission (WRC) under the Interbasin Transfer Act (ITA).

Because the Town of Easton is seeking Financial Assistance from the Commonwealth for the project, MEPA jurisdiction extends to all aspects of the project that may, directly or indirectly, cause Damage to the Environment as defined in the MEPA regulations.

#### Summary of Potential Environmental Impacts Associated with Phase I

According to the NPC/Phase I Waiver submittal, the North Easton Village Sewer project will not impact bordering vegetated wetlands (BVW), land under water wetlands (LUWW) or inland bank. The Phase I project will result in the permanent alteration of approximately 3,220 sf of the 100-foot wetland buffer zone and 8,900 sf of the 200-foot Riverfront Area (RA) associated with the installation of gravity sewers and the construction of two pump stations adjacent to Queset Brook, Shovelshop Pond and Longwater Pond. The Town has committed to employ trenchless direction drilling to avoid impacts to resource areas associated with the proposed construction of sewers crossing Cressent Brook in Pond Street and Sullivan Avenue.

#### Summary of Proposed Mitigation Measures

The Town has committed to employ erosion controls measures during Phase I project construction to avoid and minimize potential release of sediment to resource areas abutting the project corridor associated with Queset Brook, Shovelshop Pond and Longwater Pond. The Town has also committed to restore impacted upland buffer zone areas following the completion of all project construction activities.

#### Phase I Waiver Request

Section 11.11 of the MEPA regulations provides that I 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 I find that strict compliance with the provision or requirement would: (a) result in an undue hardship for the Town, unless based on delay in compliance by the Town; 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 Town to proceed with phase one of the project prior to preparing an EIR, I 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 Phase I Waiver Request, supporting documentation, and the comments received, and make the following findings:

1. According to the information provided in the NPC/Phase I Waiver Request, this phase of the Town of Easton's Comprehensive Wastewater Management Plan project will involve the construction of a new 50,000 gpd WWTF to be located on a portion of an 8.2-acre parcel, currently under private ownership and the site of the former Ames Shovel Works in North Easton Village (Shovel Shop site) located off Main Street and Oliver Street in Easton. In addition to accommodating a new North Easton Village WWTF, the Shovel Shop site will accommodate the groundwater disposal of up to 36,000 gpd of treated wastewater. The Town has also identified an existing soil absorption field located on a parcel of YMCA-owned property abutting the Shovel Shop WWTF site that can accommodate up to 14,000 gpd of groundwater discharge of treated wastewater effluent from the proposed North Easton Village WWTF;
2. The Town's construction of the proposed Phase I – North Easton Village Sewer Project's sewer collection and conveyance system will be located primarily within existing roadway right-of-ways (ROW) and will result only in impacts to approximately 3,220 sf of the 100-foot buffer zone and 8,900 sf of the 200-foot Riverfront Area (RA) associated with Queset Brook, Shovelshop Pond and Longwater Pond. Comments I have received from MassDEP do not express any concerns pertaining to the potential impacts associated with Phase I of the project, and they do not object to the granting of the Phase I Waiver. The Phase I project has been designed to meet MassDEP's Stormwater Management Policy standards and practices. The Town will need to employ appropriate erosion and sedimentation control measures during project construction;
3. Because the project will take place mostly in existing right-of-ways, and its purpose to replace failing on-site septic systems, I find that the project is consistent with the Waiver criteria requiring that ample and unconstrained infrastructure exists to support the proposed North Easton Village Sewer Project. I also find that the Phase I - North Easton

Village Sewer Project is severable and that its construction will not prevent the Town from identifying and studying additional feasible wastewater treatment alternatives in the forthcoming Phase II CWMP/DEIR.

4. The North Easton Village Sewer Project will require review and approval from MassDEP and the Easton Conservation Commission. I anticipate that MassDEP's review and approval process will contain terms such as a condition or restriction so as to ensure due compliance with MEPA and 301 CMR 11.00; and,

I find that granting this waiver is necessary to avoid undue hardship to the Town, and that further MEPA review at this time would not serve to avoid or minimize Damage to the Environment. In fact, allowing the Town to complete the proposed Phase I project work will allow the Town to reduce or eliminate adverse impacts to surface water bodies and public drinking water supplies from a significant number of problematic and/or failing on-site wastewater disposal systems located in the North Easton Village Tier I Needs Area, which will reduce ongoing damage to the environment. The Town will continue to work closely with MassDEP, DOER and the MEPA Office during the preparation of the DEIR.

### Conclusion

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 next issue of the *Environmental Monitor* 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 January 14, 2011. Based on written comments received concerning the DROD, I shall issue a Final Record of Decision or a Scope within seven days after the close of the public comment period, in accordance with 301 CMR 11.15(6).

December 22, 2010  
Date

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Ian A. Bowles, Secretary

EEA # 13418

Draft Record of Decision

December 29, 2010

Comments Received:

12/14/10

Massachusetts Historic Commission (MHC)

12/22/10

Department of Environmental Protection (MassDEP) – SERO

12129110

Old Colony Planning Council

IAB/NZ/nz

DROD EEA #13418

