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DRAFT RECORD OF DECISION

PROJECT NAME : Long-Term Combined Sewer Overflow Control Plan
PROJECT MUNICIPALITY : Springfield
PROJECT WATERSHED : Connecticut River
EEA NUMBER : 11525
PROJECT PROPONENT : Springfield Water and Sewer Commission
DATE NOTICED IN MONITOR : December 21, 2011

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 1 Waiver and hereby propose to grant a waiver that will allow the proponent to proceed with what is described further herein as targeted sewer separation within the CSO-008 (Washburn Street) tributary area, wastewater system optimization, and stormwater management prior to preparing the Final Environmental Impact Report (FEIR).

Project Description

The Springfield Water and Sewer Commission (referred to as the Commission hereafter) has proposed long-term controls for Combined Sewer Overflows (CSOs) in the City of Springfield. These long-term controls were described and evaluated in the draft *Long-Term CSO Control Plan/Draft Environmental Impact Report (LTCP/DEIR)* that was filed with MEPA in March of 2000. The Commission has developed a modified Phase 1 recommended plan for the Connecticut River. This modified plan consists of the targeted sewer separation within the CSO-008 (Washburn Street) tributary area, wastewater system optimization, and stormwater management. The project includes the following components:

- Increase in-line storage and flow control by installing three bending weirs/orifice throttle structures;

- Complete sewer separation of approximately 1,700 linear feet along Birnie Avenue;
- Relocate the 008 regulator to Washburn and Plainfield Streets in order to remove inflow from the 36-inch drain along Plainfield Street; and
- Install grassed areas for stormwater management on Chapin Terrace.

The Commission has determined that this modified recommended plan would provide an equal level of CSO control to the Connecticut River. The modified recommended plan focuses on removing stormwater from the combined sewers through partial targeted sewer separation, in-line storage and peak flow attenuation, inflow removal through the relocation of the regulator structure, modification to the overflow weir in the new structure, and stormwater management practices.

Permits and Jurisdiction

The project requires 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 project will require Treatment Works Modifications Permits and Sewer Extension Permits from MassDEP. It may have to comply with the U.S. Environmental Protection Agency'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 Springfield Conservation Commission (SCC) for work within resource areas and buffer zones. The proponent may seek project approval from the SCC as a limited project.

Because the Commission was requesting funding for the project from MassDEP's State Revolving Fund (SRF), MEPA jurisdiction was broad and extended to all aspects of the project that were likely, directly or indirectly, to cause Damage to the Environment, as defined in the MEPA regulations.

Because of NPDES permit violations and the issuance of Administrative Order (AO) 087, the evaluation of alternatives and preliminary design development for CSO 008 (Washburn) is being advanced ahead of implementation of controls at other CSO facilities along the Connecticut River Interceptor (CRI). The Commission's 2011 LTCP update included a comprehensive plan for CSO abatement at all CSO facilities along the CRI. The target for abatement at the CSO activations is to control to the fifth largest storm during the Typical Year, which allows for only four untreated overflows during the one-year period. The Commission has also updated its monitoring programs and hydraulic model.

The project described in this NPC will require a Treatment Works Plan Approval (BRP WP 68) from MassDEP. It will also require a review with the U.S. Army Corps of Engineers. An Order of Conditions will be required from the SCC. The NPC project will require an NPDES

General Permit for stormwater discharges from a construction site. Further MEPA review is required in the FEIR. I propose to grant the Phase 1 Waiver in a separate Draft Record of Decision (DROD). The impacts of Phase 1 of the project will be incorporated into the assessment of overall impacts for the project in the Final EIR.

Summary of Potential Environmental Impacts

The Commission anticipates that CSO 008 – Washburn Street tributary area project will occur within a small portion of Riverfront Area and the 100-foot buffer zone of wetlands. 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 treating CSO discharges to the Connecticut River, the project will provide improved water quality impacts. The DROD contains conditions to ensure that the impacts from the Phase 1 project is avoided, minimized, and mitigated to the maximum extent feasible.

Summary of Proposed Mitigation Measures

The Commission 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 Commission will utilize settling tanks to treat construction dewatering prior to its discharge. Hazardous materials used during construction will be stored, transported, and disposed of in accordance with state and federal regulations. It will follow the Massachusetts Contingency Plan if contaminated soil or groundwater is encountered. The Commission's contractors will be required to obtain coverage and comply with the NPDES General Permit for stormwater discharges. If the catch basins within the construction area are in poor condition, the proponent will replace them with catch basins with deep sumps and hoods to improve stormwater quality.

The Commission 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 Commission will apply calcium chloride to exposed soil to reduce dust, as necessary. The area of disturbance will be reduced to the extent possible. The Commission will provide a Traffic Control Plan for construction activities to Springfield 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 December 7, 2011, the Commission requested that I grant a waiver to allow this portion of the project 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 Commission and after consultation with the state permitting agencies, I find that the Waiver Request has merit and that the Commission 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 the targeted sewer separation in the outfall CSO-008 (Washburn Street) tributary area, system optimization, and stormwater management would result in undue hardship for the Commission 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. In response to the Secretary's Certificate on the DEIR of June 23, 2000, the Commission has submitted the NPC to revise its proposed Phase 1 work program for the CSO-008 area to include the most significant and cost-effective CSO abatement projects and to address the concerns about controlling CSOs as soon as feasible, and increasing the proponent's financial commitment to the project. The Commission has changed the original recommended projects for the CSO-008 area by substituting targeted sewer separation, sewer system optimization, and stormwater management. On September 30, 2011, the design of the Washburn CSO project was completed and submitted to MassDEP and the EPA. The Commission will be seeking construction bids for the project for a construction start date of July 2012. The Washburn Street project would eliminate approximately 63.2 million gallons (MG) during the Typical Year of existing CSO discharges to the Connecticut River and improve water quality in the Connecticut River.
2. The proposed Washburn Street project has been approved by MassDEP and the EPA. Failure to complete the project on time may subject the Commission to penalties. Therefore, to not allow the Commission to realize the economy of undertaking the above changes to the CSO-008 area as a Phase 1 Waiver may cause undue hardship.
3. The Commission will implement Best Management Practices (BMPs) during construction within each respective drainage area to minimize disturbance and impacts to adjacent resources. All new catch basins installed as part of the project will feature deep sumps and hoods. The Commission 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 Washburn Street project will be temporary. Short-term construction noise and dust are expected in the areas where the project is proposed. The Commissions' contractors will be required to utilize proper engine maintenance and engine mufflers to reduce noise and pollution. The Commission will implement measures to control construction period dust. Traffic disruptions are anticipated during construction, but the area of disturbance will be reduced to the extent possible. The Commission will develop a Traffic Control Plan to identify measures to mitigate traffic impacts during the project permitting processes.
4. Ample and unconstrained infrastructure exists. The Commission will be working within the public way of existing streets and can obtain easements and additional permits for construction within ROWs, and purchase any private property needed for construction.
5. The project is severable. Once the Washburn Street project is complete, none of the project 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) No. 08-037 dated September 26, 2008, between the Commission and the EPA require compliance with applicable MassDEP and other regulatory requirements. MassDEP will condition its approvals to compliance with

the MEPA Certificate. The Commission will comply with the above findings, and it will provide the Final LTCP/FEIR within twelve months of when the EPA and MassDEP have agreed on a work plan in their Administrative Order (AO) for the Commission.

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 February 8, 2012 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 February 22, 2012. 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 1 of the project prior to preparing an FEIR for the entire project, subject to the above findings and conditions, if applicable.

January 27, 2012

Date

Richard K. Sullivan Jr.

RKS/WTG