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March 9, 2018

FINAL RECORD OF DECISION

PROJECT NAME : Environmental Impact Report and Comprehensive Wastewater Management Plan / Main Lift Pumping Station Improvements (f/k/a Comprehensive Wastewater Management Plan)
PROJECT MUNICIPALITY : Taunton
PROJECT WATERSHED : Taunton
EEA NUMBER : 13897
PROJECT PROPONENT : City of Taunton, Public Works Department
DATE NOTICED IN MONITOR : February 21, 2018

Pursuant to the Massachusetts Environmental Policy Act (MEPA, M.G.L.c.30, ss. 61-62I) and Section 11.11 of the MEPA regulations (301 CMR 11.00), I have reviewed the 3rd Notice of Project Change (3rd NPC) and hereby **grant** a Phase 1 Waiver that will allow a portion of the Comprehensive Wastewater Management Plan (CWMP), as described in the 3rd NPC, to proceed to permitting prior to completing the MEPA review process for the CWMP.

As described below in greater detail, Phase 1 consists of construction of a new pump station and two 24-inch force mains to discharge at the existing Wastewater Treatment Facility (WWTF). The new pump station will replace an existing pump station which is undersized and unable to handle wet weather flows. During storm events, the existing pump station reaches its pumping capacity and discharges wastewater to the Taunton River through a permitted Combined Sewer Overflow (CSO) structure. Construction of the new pump station is part of a process to bring the City into compliance with an Order for Compliance from the U.S. Environmental Protection Agency (U.S. EPA) and the recently issued National Pollution Discharge Elimination System (NPDES) discharge permit.

Project Background

The purpose of the 3rd NPC is to resume the City's CWMP planning process which was initiated via submittal of an Environmental Notification Form (ENF) in October 2006 and followed by a Draft Environmental Impact Report (DEIR) in July 2009. On October 30, 2009, the Secretary issued a Certificate on the DEIR which determined it adequately and properly complied with MEPA and included a scope for a FEIR. When the DEIR was reviewed, the City was operating under a draft 2007 NPDES Permit. The EPA and MassDEP indicated that the future total nitrogen discharges from the WWTF would be regulated under the next-generation NPDES Permit. At that time, the schedule and timeframe for issuing the permit was unknown. Based on this, the City paused the CWMP planning process until the NPDES Permit was issued. The NPDES Permit was issued in April 2015 (Permit No. MA0100897) and the City has resumed the CWMP and FEIR planning process via the submittal of this 3rd NPC.

As described in the 2009 DEIR, the City of Taunton proposes to expand its sewer system to encompass an additional 14 priority Needs Areas identified within the CWMP. The DEIR proposed the expansion of the wastewater collection system (mostly within existing paved roadways) to the Needs Areas, an upgrade of the wastewater treatment facility for nutrient control and flow capacity, and implementation of a plan to eliminate the CSO structure located adjacent to West Water Street. According to the DEIR, total estimated wastewater flows included flows from these Needs Areas, future infill development within the existing sewer areas, and projected additional inter-municipal flows from Raynham, Dighton, Norton and Easton. The DEIR estimated that approximately 50 miles of gravity and force main sewers and 16 pump stations would be necessary to accommodate the expansion within the Needs Areas. The DEIR proposed an expansion of the existing WWTF from a current treatment capacity of 8.4 million gallons per day (mgd) (average daily flow) to 10.2 mgd by the year 2025. The recommended wastewater management plan was proposed by the City of Taunton in accordance with the requirements of an Administrative Consent Order (ACOP-SE-R006-1N-SEP) issued by Massachusetts Department of Environmental Protection (MassDEP) and an Order for Compliance issued by U.S. EPA.

Two NPCs requesting Phase 1 Waivers were filed between the ENF and DEIR. These projects were each granted a Phase 1 Waiver by the Secretary to allow the construction and extension of sewer service to multiple locations within the City of Taunton prior to the completion of MEPA review for the CWMP.¹

3rd Notice of Project Change Description

The 3rd NPC was submitted to address a Lapse of Time and to request a Phase 1 Waiver to allow construction of the Main Lift Pump Station and two sewer force mains prior to completion of the MEPA review process for the CWMP. Construction of a new or expanded Main Lift Pump Station was previously identified in the DEIR as a component of the CWMP. As described below in greater detail, the 3rd NPC presents a slightly revised version of the Main Lift Pump Station improvements compared to that previously presented in the DEIR.

¹ The Final Records of Decision (FROD) which granted the Phase 1 Waivers were issued on March 22, 2007 and October 9, 2009.

The 3rd NPC also identifies a Lapse of Time and the following developments that have occurred since completion of the DEIR which warrant additional review and analysis in the CWMP:

- Infiltration and Inflow (I/I) Reduction Projects – The City has completed twelve phases of Sewer System Evaluation Survey (SESS) projects which have removed an estimated 4 mgd of I/I from the collection system (based on the 1-year storm).
- Sewer Extensions – The City completed the “Winthrop Street, Williams Street, and Davenport Terrace Sewer Extension and Matthews Drive Septic System Replacement” project and the “Winthrop Street West Sewer Extension Project” which addressed sewer needs in Needs Areas U, Z, K, and a portion of L.
- Needs Analysis and Future Flow Projections – The needs analysis and flow projections were developed in 2004 and 2005. The lapse of time warrants a re-evaluation of the Needs Areas and reassessment of future flow projections to address changes in conditions (i.e. age of sewer system, failure rates, etc.) and development that is in the planning stages and/or that has occurred since the DEIR was filed.
- New Nutrient Limits – The DEIR based the design of the WWTF on the assumption of a future total nitrogen limit of 8 mg/l. The current NPDES Permit targets a total nitrogen limit of 3 mg/l. This requires a re-examination of the treatment technologies and improvements to be incorporated into the WWTF in order to comply with the nitrogen limits.
- Energy Audits – The City completed energy audits at the WWTF for the process equipment and the building systems.
- Mobile Home Consent Orders – In 2016, MassDEP issued Administrative Consent Orders (ACO) that require the City to extend sewer service to two mobile home parks located in Needs Area C.
- CSO Mitigation - The DEIR proposed two alternatives to mitigate the majority of the CSO’s in Taunton: Alternative 1 – Local Storage and Pumping and Alternative 2 – Local Pumping and Remote Storage. The 3rd NPC indicated that Alternative 2 has been identified as the preferred alternative.
- WWTF Flow Limits – The DEIR proposed an expansion of the WWTF from 8.4 mgd (average daily flow) to 10.2 mgd based on the assumption that the future NPDES Permit would increase allowable flow limits. The NPDES permit does not include an increased flow limit and, as a result, expansion of the WWTF’s capacity via a surface water discharge is no longer included in the project. The 3rd NPC indicates that groundwater disposal options and discharge locations will be evaluated in the EIR.

The City of Taunton is permitted to discharge pollutants from a CSO located ahead of the Main Lift Pump Station on West Water Street. The DEIR indicated that the CSO becomes active when wet weather flows to the existing Main Lift Pump Station exceed its pumping capacity of 22.4 mgd. Mechanical and pipe failure at the existing pump station was also identified as a contributing factor to CSO events. The DEIR identified infrastructure capacity upgrades and an expansion of the Main Lift Pump station as a component of the CWMP necessary to accommodate the increased capacity of the WWTF and to mitigate CSO events. Specifically, the DEIR proposed a New Main Lift Pump Station with a peak design flow capacity of 25.5 mgd that would discharge to the WWTF via a new 36-inch diameter force main. The DEIR indicated that the existing 20-inch and 24-inch force mains would be maintained and utilized for pumping to a CSO wet weather remote storage

facility (as described in CSO Alternative 2). The 3rd NPC presents a slightly modified version of this scenario. As described in the 3rd NPC, Phase 1 includes construction of a Main Lift Pump Station with peak design flow capacity of 25 mgd and two 24-inch diameter force mains that will follow the alignment of the existing sewer lines to discharge to the WWTF. The 3rd NPC proposes to abandon the 20-inch diameter force main and to maintain the 24-inch force main to the WWTF. The 3rd NPC indicates that removal of inflow within the collection system that has occurred since the DEIR was filed has provided the ability to slightly reduce the pump station's design flow (from 25.5 to 25 mgd). According to the 3rd NPC, the wet weather CSO remote storage facility associated with CSO Alternative 2 is not included as part of Phase 1 but is included in the CWMP.

Project Site

As described in the DEIR, the municipal sewer system consists of approximately 100 miles of collection system piping and 20 pump stations. The Taunton WWTF discharges to the Taunton River and must maintain compliance with NPDES Permit discharge limitations. The WWTF is designed to treat an average daily flow of 8.4 mgd and a peak daily flow of 17.4 mgd, and can hydraulically handle flows up to 22.4 mgd through the process systems. According to the DEIR, the City of Taunton has recorded average daily wastewater flows in 2006, 2007, and 2008 of 8.1 mgd, 7.0 mgd, and 7.2 mgd, respectively. However, springtime flows have exceeded the permitted flow level of 8.4 mgd for extended periods of time, and peak wet weather flows in the system can exceed 18 mgd. The Taunton WWTF also treats flows from portions of the towns of Raynham, Dighton, and Norton. The City of Taunton is also presently implementing an extensive Inflow and Infiltration (I/I) removal program to increase capacity of the system.

The existing Main Lift Pump Station ("Pump Station") has been identified as a critical component in the City's wastewater collection system as it conveys all of the wastewater generated in the service area to the WWTF. It was constructed in 1947 and was updated in 1975 and 2002. The Pump Station has a capacity of 22.4 mgd which is exceeded during wet weather events, resulting in CSO discharges. The 3rd NPC indicates that the Pump Station experiences occasional mechanical and pipe failures and that it requires immediate replacement. The Pump Station discharges to the WWTF through a 20-inch and 24-inch force main (each approximately 1,650 linear feet (lf)). It is located on West Water Street and is generally bounded by a vacant parcel to the north, the Taunton River to the east, an industrial property to the south, and West Water Street to the west. The Taunton River is mapped as Priority and Estimated Habitat as mapped by the Division of Fisheries and Wildlife's (DFW) Natural Heritage and Endangered Species Program (NHESP). According to the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map (FIRM) for Bristol County (Map No. 25005C0163G, effective July 16, 2015), the entirety of the project site is located within a designated AE Zone (Areas subject to inundation by the 1-percent-annual-chance flood event).

The DEIR indicated that the majority of the Needs Areas identified in the CWMP are largely already developed. Portions of the Recommended Plan are located in Priority and/or Estimated Habitat as mapped by the NHESP. Additionally, the CWMP proposes to extend sewers to areas located within the Canoe River Aquifer, Hockomock Swamp, and Three Mile River Areas of Critical Environmental Concern (ACEC).

Environmental Impacts and Mitigation

As described in the 3rd NPC, Phase 1 of the project will create approximately 10,000 sf of impervious area and will impact the following wetland resource areas: Bordering Vegetated Wetlands (BVW) (13,246 sf), Bordering Land Subject to Flooding (BLSF) (30,149 sf and loss of 8,129 cubic feet (cf) of storage), Land Under Water (449 sf), Riverfront Area (2,629 sf), and Bank (30 lf).

The 3rd NPC indicated that Phase 1 will reduce the amount of bacteria and other pathogens present in wastewater effluent from entering the Taunton River by reducing the size and frequency of CSO events. Measures to avoid, minimize, and mitigate Phase 1 impacts include: the use of erosion and sediment control measures during construction, provision of 83,561 cf of compensatory storage at the proximate Weir Riverfront Park, limiting areas of disturbance by locating work within previously disturbed areas where possible, measures to reduce the pump station's energy use and resulting greenhouse gas emissions, and locating critical infrastructure a minimum of 3 ft above the Base Flood Elevation (BFE).

Jurisdiction and Permitting

The CWMP is undergoing MEPA review and is subject to preparation of a Mandatory EIR pursuant to 301 CMR 11.03(5)(a)(3) of the MEPA regulations because it requires State Agency Actions and Financial Assistance and involves the construction of one or more new sewer mains of ten or more miles in length. The DEIR indicated that implementation of the CWMP requires an Access Permit from the Massachusetts Department of Transportation (MassDOT), a Sewer Connection/Extension Permit from MassDEP, and a Chapter 91 License from MassDEP for the construction of the outfall pipe. It may also require a Groundwater Discharge Permit, Treatment Works Approval, and Utility-Related Abatement measure (URAM) Plan from MassDEP and a Conservation and Management Permit (CMP) from the NHESP. It will require one or more Orders of Conditions from the Taunton Conservation Commission (or in the case of an appeal, a Superseding Order of Conditions from MassDEP). I note that the project no longer requires a Sewer Extension Permit from MassDEP because regulatory revisions transferred permitting authority to the local sewer authority.

According to the DEIR, construction of the proposed outfall from the CSO facility will require a permit from the U.S. Army Corps of Engineers and the project will require a National Pollutant Discharge Elimination System (NPDES) Surface Water Discharge Permit Modification, a NPDES Construction General Permit, and NPDES General Permit for Construction Dewatering, and a NPDES Remediation General Permit from the U.S. EPA.

As described in the 3rd NPC, the Phase 1 project will require a 401 Water Quality Certification (WQC) from MassDEP. The Taunton Conservation Commission issued an Order of Conditions (MassDEP File No. SE 73-2721) for Phase 1 on September 21, 2017 which was not appealed.

The Phase 1 project will receive Financial Assistance from the Commonwealth in the form of a \$17 million loan from the Clean Water State Revolving Fund (SRF). The Town anticipates applying for additional SRF loans for subsequent project elements. Therefore, MEPA jurisdiction is broad and extends to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment, as defined in the MEPA regulations.

Request for a Phase 1 Waiver

The Proponent requested a three-week extension of the comment period on the 3rd NPC and provided additional information on January 16, 2018 to supplement the 3rd NPC. The supplemental information included a request for a Phase 1 Waiver that would allow construction of the new Main Lift Pump Station and associated sewer force main to proceed prior to completion of the FEIR for the CWMP. It identified the environmental impacts of the project, including Phase 1, and described measures to be undertaken by the Proponent to avoid, minimize, and mitigate Damage to the Environment. For the purposes of clarity, the term 3rd NPC throughout this document includes the content of the 3rd NPC, as well as this supplemental information. The comment period closed on January 30, 2018. Comments from MassDEP on the 3rd NPC were supportive and did not request or identify the need for further MEPA review for Phase 1. The Certificate on the 3rd NPC includes a Scope for the CWMP.

I issued a Draft Record of Decision (DROD) on February 9, 2018 proposing to grant the Phase 1 Waiver. The DROD was subject to a 14-day public comment period. The only comment received on the DROD was submitted by the Division of Marine Fisheries (DMF). DMF does not request additional measures to avoid or minimize impacts and is generally supportive of the Phase 1 Waiver request.

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 a mandatory EIR review threshold that will allow the proponent to proceed with Phase 1 of the project prior to preparing an EIR, I shall base the finding 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 in the 3rd NPC, supplemental information, consultation with State Agencies and review of public comments, I find that the Waiver Request has merit and that the City has demonstrated that the Main Lift Pump Station Improvements Project (Phase 1) meets the standards for all waivers at 301 CMR 11.11(1). The project will increase the capacity and reliability of the Main Lift Pump Station and force mains which will reduce the size and frequency of CSO events. These improvements were recommended in the DEIR as a component of the CWMP. The project is part of a process to comply with the requirements of an Order for Compliance issued by the EPA and the City's recently issued NPDES Permit. The Order for Compliance requires the City to eliminate discharges from the permitted CSO and the NPDES Permit prohibits dry weather overflow events from the CSO. Delaying construction of the Pump Station would interfere with both of these goals. Continued operation of the pump station in its current condition will increase the likelihood of a CSO event during dry weather conditions (due to pump failure and lack of redundancy), and during wet weather events due to insufficient pump capacity. The requirement to file the FEIR prior to Phase 1 would constitute an undue hardship because it would delay the water quality improvements in the Taunton River and potentially cause the City to violate the timeline for compliance with the Order for Compliance and its NPDES Permit. I find that strict compliance with the requirement to submit an EIR prior to completion of the FEIR for the CWMP would result in an undue hardship and would not serve to avoid or minimize Damage to the Environment. The 3rd NPC demonstrates that the City will avoid, minimize and mitigate environmental impacts to the maximum extent practicable. In addition, I note comments supporting the Waiver from MassDEP.

In accordance with 301 CMR 11.11(4), the latter finding is based on my determination that:

1. The potential environmental impacts of Phase 1, taken alone, are insignificant.

Potential impacts associated with Phase 1 are below mandatory EIR thresholds. Phase 1 will include adequate measures to avoid, minimize and mitigate project impacts. Potential environmental impacts of Phase 1 are primarily limited to permanent impacts associated with construction of the Pump Station and temporary impacts associated with installation of the force mains. The force mains will be installed primarily within existing roadways and previously disturbed areas. Construction of the Pump Station will create approximately 10,000 sf of impervious area. The Taunton Conservation Commission reviewed Phase 1 and determined that it is consistent with the Wetlands Protection Act (WPA), the Wetlands Regulations (310 CMR 10.00), and associated performance standards, including Stormwater Management Standards (SMS), as indicated by the Order of Conditions issued on September 21, 2017. As a limited project and redevelopment project, the stormwater management system has been designed to comply with the SMS to the maximum extent practicable.

2. Ample and unconstrained infrastructure facilities and services exist to support Phase 1.

Phase 1 consists of construction of a new Pump Station and force mains to reduce the size and frequency of CSO events to the Taunton River. The project will be supported by existing services and facilities, including the WWTF. While the wet weather pumping capacity of the station is increasing from 22.4 mgd to 25 mgd; the pumping rate from the Pump Station will be limited to the treatment capacity of the WWTF until such time as the WWTF improvements (including CSO management) are constructed following the completion of MEPA review of the CWMP. Based on the foregoing, I find that ample and unconstrained infrastructure exists to support Phase 1.

- 3. 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.**

The construction of this phase is severable from the implementation of future phases of the project, which will undergo additional MEPA review in a FEIR. Construction of Phase 1 will not preclude the City from avoiding, minimizing, or mitigating environmental impacts associated with future phases.

- 4. 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.**

Phase 1 will require a 401 WQC from MassDEP. I hereby direct MassDEP to include a condition in the Permit that requires compliance with MEPA and 301 CMR 11.00 prior to implementation of other components of the CWMP. Implementation of the CWMP may not commence until completion of the MEPA review process. Based on the foregoing, I find that Phase 1 of the project can commence prior to the completion of the MEPA review process.

Conclusion

Based on these findings, I have determined that this waiver request has merit. A DROD was issued on February 9, 2018, and was published in the *Environmental Monitor* on February 21, 2018 in accordance with 301 CMR 11.15(2), which began the public comment period. The public comment period lasted for 14 days and concluded on March 7, 2018. Accordingly, I hereby **grant** a Phase 1 Waiver to allow a portion of the CWMP, as described in the 3rd NPC, to proceed to permitting and construction prior to completing the MEPA review process for the CWMP.

March 9, 2018

Date



Matthew A. Beaton

Comments received on the DROD:

02/22/2018 Division of Marine Fisheries (DMF)

MAB/PRC/prc

Czepiga, Page (EEA)

From: Logan, John (FWE)
Sent: Thursday, February 22, 2018 12:39 PM
To: Czepiga, Page (EEA)
Cc: Potti, Pooja (FWE)
Subject: Main Lift Pump Station Improvements Project, Taunton, EEA#13897

Secretary Matthew A. Beaton
Executive Office of Energy and Environmental Affairs (EEA)
Attn: MEPA Office
Page Czepiga, EEA No. 13897
100 Cambridge Street, Suite 900
Boston, MA 02114

Dear Secretary Beaton:

The Division of Marine Fisheries (MA DMF) has reviewed the Phase 1 Waiver Request by the City of Taunton for the Main Lift Pump Station Improvements Project. The project was reviewed with respect to potential impacts to marine fisheries resources and habitat.

Based on the information provided, MA DMF has no recommendation for sequencing, timing, or methods that would avoid or minimize impact at this time.

Questions regarding this review may be directed to John Logan in our New Bedford office at (508) 990-2860 ext. 141.

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