



The Commonwealth of Massachusetts

Executive Office of Environmental Affairs

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July 10, 2003

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS ON THE ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : Low Street Sewer Relief Project
PROJECT MUNICIPALITY : Newburyport
PROJECT WATERSHED : Parker River
EOEA NUMBER : 13040
PROJECT PROPONENT : Town of Newburyport Sewer Department
DATE NOTICED IN MONITOR : May 24, 2003

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.03 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **requires** the preparation of an Environmental Impact Report.

As described in the Environmental Notification Form (ENF), the Low Street sewer is comprised of 8" and 10" sewer pipe that is more than 50 years old and suffers from existing structural and capacity constraints. The proposed Low Street Sewer Relief project will expand the City of Newburyport's existing wastewater collection system to accommodate additional wastewater flows (approximately 150,000 gpd) from new development located at the northern end of Low Street. The project involves the construction of approximately 1.23 total miles of new sewer main to be located west of Low Street in the former I-95 Northbound roadbed. The project corridor extends south from Storey Avenue to Russell Terrace and Russell Terrace Extension, and continues south within the former I-95 Northbound roadbed to Hale Street. The new sewer will connect to the City of Newburyport's existing wastewater collection system at the existing Hale Street Pump Station. The project will also involve the elimination of an existing pump station located near Russell Terrace.

Although not described in the ENF, the City of Newburyport is also proposing to repair and re-line specific problematic segments of the existing Low Street sewer to continue accommodating approximately 250,000 gpd of projected average daily flow demand and approximately 850,000 gpd of future peak sewer flow demand.

The additional wastewater flow to be conveyed through the proposed sewer project (150,000 gpd) will not exceed the capacity of the City of Newburyport's wastewater treatment plant (3,400,000 gpd). The proposed project will require four crossings under existing culverts on the Little River, a tributary to the Parker River, and will impact approximately 50 sf of BVW, and approximately 21,700 sf of Riverfront Area. A small portion of the proposed sewer (approximately 590 ft) will be located within private property located between Russell Terrace Extension and the former I-95 Northbound roadbed and will require a permanent easement for its construction and maintenance.

The project is undergoing review pursuant to sections 11.03 (5)(b)(3)(c), because the project involves the construction of one or more new sewer mains ½ or more miles in length. The project will require an Order of Conditions from the Newburyport Conservation Commission (and hence a Superseding Order if the local Order were appealed). This project will also require a Sewer System Extension Permit from DEP and a Highway Access Permit from the Massachusetts Highway Department (MHD). The former I-95 Northbound roadbed (approximately 56 acres), was transferred to the City of Newburyport by the Massachusetts Highway Department (MHD) in 1995.

According to information provided by the proponent, the City of Newburyport may not have sufficient existing sewer collection capacity to accommodate the additional wastewater flows anticipated from the proposed sewer expansion project. The proposed project's total wastewater flows (150,000 gpd) may exceed the existing sewer collection capacity of Hale Street's existing 18" sewer. As a result, the Hale Street sewer would be unable to accept any additional wastewater flows anticipated from future residential development (approximately 1,000 units) located west of the project corridor ('West End'), or from the future development of industrial-zoned land (170 acres) abutting the project corridor's eastern boundary. In their comments, DEP has requested that the proponent evaluate the capacity of the Hale Street sewers to accept additional flows from future development in the area of the proposed project.

SCOPE

Projected Wastewater Flows and Sewer System Capacities

The EIR should contain a detailed analysis of Newburyport's existing wastewater flows. Specifically, the analysis should identify the wastewater flows currently collected along

Hale Street, Low Street and Graf Road, and should include the wastewater flows anticipated from the proposed sewer project. The EIR should make future projections for these flows and should include an estimate for the additional flows anticipated from the build-out of West End-related residential development, and from the development of industrial zoned land abutting the eastern boundary of the project corridor. The analysis should include a detailed discussion of any existing and projected capacity constraints associated with the City of Newburyport's sewer collection and treatment system including, but not limited to, the capacity of pump stations located at Hale Street and Graf Road, and any sewer interceptors located downstream of the Hale Street and Graf Road Pump Stations.

According to the comments received from DEP, the City of Newburyport has implemented a policy that requires new connections to the municipal sewer system to remove three gallons of infiltration and inflow (I/I) for every gallon of additional wastewater to be discharged to the municipal sewer system. The EIR should explain how the proponent intends to implement Newburyport's I/I policy to ensure that future development does not impact sewers downstream of the proposed project.

The EIR should also include a detailed description of the rehabilitation program proposed for the Low Street sewer line, including sewer line repairs and relining activities, designed to address issues of wastewater overflow, infiltration and flow capacity constraints.

Growth Management and Segmentation

Executive Order #385 (Planning For Growth) requires that state and local agencies engage in protective and coordinated planning oriented towards resource protection and sustainable economic development. For reasons of both environmental protection and fiscal prudence, investments in public infrastructure should be carefully targeted toward those areas for which clear existing needs have been established and for areas where denser development is appropriate, thereby relieving development pressures on open space, agricultural lands, and other valuable natural resources. I note that according to the ENF, the proponent is proposing to construct sewer expansion improvements to the City of Newburyport's wastewater collection system in an area of Newburyport that continues to be subject to industrial-based development pressure. As a result, the proposed project may enable industrial-zoned properties located adjacent the proposed sewer improvement area to connect to the City's municipal sewer system.

Although not mentioned in the ENF, this project corridor was also originally proposed as an integral component of Newburyport's Abandoned Interstate I-95 Acquisition and Reuse Plan project submitted to MEPA by the City of Newburyport in October 1990 (EOEA #8450).

As described in the 1995 Draft EIR, the use of the former I-95 Northbound roadbed was proposed to facilitate the establishment of a direct access corridor road to Newburyport's existing industrial park and to facilitate the development of approximately 170 acres of developable industrial-zoned land located along the north side of Hale Street.

Pursuant to the anti-segmentation provision of the MEPA regulations, Section 11.01 (2)(c), and in accordance with Executive Order 385 (Planning for Growth) and consistent with my treatment of comparable projects (see EOEA #12684, #12451 and #12474), I must consider the environmental impacts associated with the potential development of industrial-zoned land bounded by the proposed project corridor to the west, Hale Street to the south, Crow Lane, Storey Avenue (Rt. 113), and Russell Terrace to the north, and Low Street to the east, as a likely consequence of the proposed Low Street Sewer Relief project.

The EIR should discuss both the full impacts of the proposed project and the potential secondary growth impacts and increased wastewater flows that may be induced by the proposed sewer improvement project particularly as they may arise out of the full build-out of industrial-zoned land abutting the eastern boundary of the project corridor. The EIR should contain a detailed analysis of the full-build projections of these flows and volumes. I encourage the proponent to consult with the City of Newburyport, DEP and the Growth Management Policy staff at the Executive Office of Environmental Affairs in preparing this section of the EIR. When considering the future full build-out of the development of that land will meet mandatory EIR thresholds related to land alteration, impervious surfaces, wetlands, wastewater, and possibly traffic. Depending upon the status of planning for the associated undeveloped land component, the EIR should function as a "master plan" to guide the necessary infrastructure layout and development for the future development of the industrial-zoned land abutting the eastern boundary of the project corridor in a manner that minimizes overall impacts. I strongly encourage the City of Newburyport and private landowners to consult further with the MEPA Office on the appropriate scope and timing of further review.

Wetlands/Drainage

The EIR should identify the wetland resource areas (including any banks, intermittent streams, perennial streams, land under the water, bordering land subject to flooding, and isolated land subject to flooding) and buffer zones present in both components of the project on a reasonably scaled plan. The EIR should identify the significance of the wetland resources present, including value to public and private water supply, flood control, storm damage prevention, prevention of pollution, riverfront area, and fisheries and wildlife habitat.

The EIR should analyze both direct and indirect (i.e. changes in drainage patterns) impacts on wetlands resulting from the project. The EIR should demonstrate that the proponent has minimized both direct and indirect impacts (to both on-site and adjacent off-site wetlands) to the maximum feasible extent. The EIR should explain any local wetland requirements, and how compliance with these requirements affects project design.

In their comments, the DEP has requested that the proponent provide mitigation for any unavoidable impacts to wetland resource areas, including but not limited to the removal of invasive species such as Purple Loosestrife (*Lythrum salicaria*), Reed Canary Grass (*Phalaris arundinacea*) and Common Reed (*Phragmites australis*). The EIR should respond to DEP's comments.

The EIR should also demonstrate how the proponent proposes to prevent or avoid, to the maximum extent feasible, the project's impacts to the existing hydrologic processes and drainage patterns found within the project corridor. The EIR should describe how the proponent proposes to use bentonite seals to prevent hydraulic interruption of groundwater flows at each of the four crossings of the Little River.

Rare Species

According to the information contained in the ENF, the project corridor contains land areas designated by the Natural Heritage & Endangered Species Program (NHESP) as containing Priority Habitat of Rare Species and Estimated Habitat of Rare Wildlife and Certified Vernal Pools. The project corridor contains at least one rare species; the Upland Sandpiper (*Bartramia longicauda*). A number of commenters have indicated that the project corridor may contain additional rare species habitat for the Blue-Spotted Salamander (*Ambystoma laterale*), and the Spotted Turtle (*Clemmys guttata*).

The EIR should include a site inventory to determine which areas of the proposed sewer pipe corridor might constitute suitable habitat for any rare species known to exist in Newburyport. The EIR should present the results of the habitat inventory on an appropriately scaled map. For those areas found to be suitable habitat, the EIR should include surveys at appropriate times of year to determine if rare species are actually present. The proponent should contact the Natural Heritage Program to determine the appropriate survey protocols. The EIR should include sufficient information on rare species to determine if the project will require a Conservation Permit pursuant to the Massachusetts Endangered Species Act. If necessary, the EIR should include an alternatives analysis to evaluate methods of avoiding or minimizing impacts on rare species, and the document should fully explain any permitting implications under the Massachusetts Endangered Species Act.

Construction Period

The proponent should evaluate construction period impacts, including impacts from earth moving, impacts to vegetation, potential impacts from erosion and sedimentation, traffic impacts on adjacent roadways, and impacts to impacts to private property and adjacent land uses, and analyze feasible measures that can be employed to avoid or eliminate these impacts. The proponent should coordinate construction activities with City officials and abutting property owners.

All construction-related refueling and equipment maintenance activities should be conducted under cover on impervious surface areas with containment, and outside of any wetlands resource areas, endangered species habitat areas, and residential areas. The proponent should require its contractors to retrofit diesel-powered equipment with emissions controls, such as particulate filters or traps, and use low-sulfur diesel fuel.

As described during the MEPA scoping session, the proponent proposes to use open trench construction and to remove a 12' wide strip over the entire 4,500' length of the former I-95 Northbound paved (40' wide) roadway. The proponent has proposed to fill and cover the trench area with a compact, sand and gravel mix material. I encourage the proponent to consider making further improvements along the project corridor. Specifically, I ask the proponent to consult with the Newburyport Conservation Commission, DEP, the Parker River Clean Water Association, and other local concerned citizens to design a mitigation and maintenance plan for the project corridor that would commit to the removal of additional amounts of impervious surface material, reseed and replant of sections of the construction corridor, and connect to the Little River Nature Trail located at the northern end of the project corridor and to Hale Street located at the southern end of the project corridor.

Mitigation

The EIR should include a separate chapter on mitigation measures. It should provide a clear commitment to implement these mitigation measures and should describe the timing of their implementation. This chapter on mitigation must include proposed Section 61 Findings for all state permits. The proposed Section 61 Findings must contain a clear commitment to mitigation, an estimate of the individual costs of the proposed mitigation and the identification of the parties responsible for implementing the mitigation. A schedule for the implementation of mitigation must also be included.

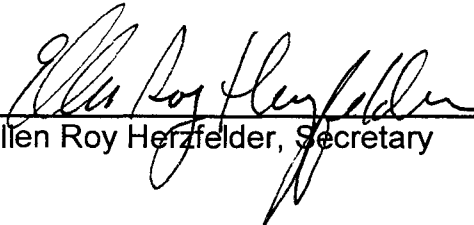
Comments

The EIR should follow MEPA regulation 11.07 as modified by this scope and must address the issues raised in the enclosed comment letters. It must be circulated to commenters for the MEPA review periods.

EIR Distribution

The EIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should also be sent to the list of "comments received" below and to Newburyport town officials. A copy of the EIR should be made available for public review at the Newburyport Public Library.

July 10, 2003
DATE


Ellen Roy Herzfelder, Secretary

Comments received:

6/03/03	Gloria Braunhardt
6/06/03	Stephen J. Moore
6/06/03	University of Massachusetts - Boston
6/07/03	Natalea G. Brown
6/09/03	Albert Decie
6/10/03	Albert Decie
6/11/03	Norman Rehn
6/11/03	Susan Abruzzi
6/11/03	Mike Dorsey
6/11/03	Kris Van Dine
6/11/03	Joe Teixeira
6/11/03	Christine M. Sanford
6/11/03	Jerry A. Mullins, Sheila A. Mullins
6/11/03	Citizens for Environmental Balance
6/11/03	City of Newburyport, Conservation Commission
6/11/03	John A. Van Loan
6/12/03	City of Newburyport, Conservation Commission
6/12/03	Parker River Clean Water Action
6/12/03	Marlene Schroeder
6/12/03	Ronald S. Klodenski
6/12/03	John A. Van Loan
6/12/03	MA Department of Environmental Protection – NERO
6/12/03	Marlene Schroeder
6/13/03	MassAudubon
6/16/03	Bob Metcalfe
6/16/03	Richard Moran
6/16/03	Thomas E. Jones

EOEA#13040

ENF Certificate

7/10/03

6/16/03 Marlene Schroeder
6/18/03 Weston & Sampson Engineering, Inc.
6/19/03 Weston & Sampson Engineering, Inc.
6/19/03 Massachusetts Highway Department (MHD)
6/20/03 Margaret Laufer
6/23/03 Gloria Braunhardt
6/12/03 Marlene Schroeder
6/13/03 Weston & Sampson Engineering, Inc.
6/13/03 Massachusetts Division of Marine Fisheries
7/07/03 Weston & Sampson Engineering, Inc.
7/08/03 Weston & Sampson Engineering, Inc.
7/16/03 MA Department of Environmental Protection – NERO

ENF #13040
ERH/NCZ/ncz