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CAPE COD
COMMISSION

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DECISION OF THE CAPE COD COMMISSION

DATE: FEBRUARY 5, 2015

TO: MARK WHITE, ENVIRONMENTAL PARTNERS GROUP
1900 CROWN COLONY DRIVE, STE. 402, QUINCY, MA 02169

FROM: CAPE COD COMMISSION

RE: DEVELOPMENT OF REGIONAL IMPACT DECISION

PROJECT APPLICANT: TOWN OF EASTHAM
C/O SHEILA VANDERHOEF, TOWN MANAGER
TOWN HALL
2500 STATE HIGHWAY
EASTHAM, MA 02642

PROJECT NUMBER: JR14023

PROJECT: EASTHAM WATER SUPPLY SYSTEM, EASTHAM, MA

LOCATION: TOWN OF EASTHAM

The Cape Cod Commission (Commission) hereby approves with conditions the Application of the Town of Eastham (Applicant) for the Eastham Water Supply System (Project) as a Development of Regional Impact (DRI) in accordance with Sections 12 and 13 of the Cape Cod Commission Act (Act). This decision is rendered pursuant to a vote of the Cape Cod Commission on February 5, 2015.

PROCEDURAL HISTORY

The Town of Eastham submitted an Expanded Environmental Notification Form (EENF) to the Executive Office of Energy and Environmental Affairs – MEPA Unit (MEPA) on October 14,

2014. The Commission provided comments on the EENF on November 19, 2014. MEPA issued a certificate on the EENF on November 26, 2014 allowing the Applicant to file a single Environmental Impact Report (SEIR), which is the functional equivalent of a Final Environmental Impact Report (FEIR). (The terms "SEIR" and "FEIR" are used interchangeably herein.)

Joint Review was initiated in December 2014, with the review of the single Environmental Impact Report for the Eastham Water System. The Applicant requested Joint MEPA/Commission Review pursuant to the Memorandum of Understanding between the Commission and MEPA. The FEIR was published in the MEPA Environmental Monitor on December 24, 2014. The Commission received the application for Joint Review from the Applicant's representative, Mark White, of Environmental Partners Group on December 19, 2014. Additionally, the Project is undergoing simultaneous FEIR/ DRI review pursuant to Section 13(b) of the Commission Act that provides in relevant part:

...for any development subject to the provisions of sections sixty-one to sixty-two H, inclusive, of chapter thirty of the General Laws, the commission shall conduct the public hearing referred to in subsection (a) within ninety days of the secretary of environmental affairs certification that no environmental impact report is required, or, if an environmental impact report is required, within forty-five days after the secretary of environmental affairs certifies the adequacy of the final environmental impact report; provided, however, that for any plan or project proposed by a public or quasi-public entity for managing wastewater, watersheds, water resources or water quality, the commission may conduct the public hearing under subsection (a) and issue the decision under subsection (e) jointly, prior to or concurrent with the issuance of a certificate by the secretary of energy and environmental affairs or a successor agency, certifying compliance with said sections 61 to 62H, inclusive, of chapter 30 of the General Laws...

A Joint MEPA/DRI Review public hearing was held on January 13, 2015 and the DRI hearing was continued to February 5, 2015 meeting of the Cape Cod Commission. Commission staff comments on the FEIR were submitted to MEPA on January 23, 2015 and a certificate on the FEIR was issued by the Secretary of EEA on January 30, 2015. The purpose of the January 13, 2015 public hearing was to gather information for the Joint MEPA/DRI Review of the Project and review a staff report and draft DRI decision prepared by Commission staff.

PROJECT DESCRIPTION

The system will involve construction of two well fields, a water storage tank, and 45 miles of distribution system piping. The two wells fields, located at so-called "District G" and the Nauset Regional High School (NRHS), have already been permitted by the Massachusetts Department of Environmental Protection (DEP) under their drinking water new water supply source approval program. The water storage tank is to be located at the Applicant's District G property, and will be located adjacent to an existing wireless communications tower. The distribution system includes transmission mains located throughout the town to provide the "backbone" of the distribution system that, should the Applicant decide to do so in the future, would also allow the Applicant to extend the system by installing laterals to these transmission mains.

The water system is to be almost entirely constructed on previously disturbed land and existing roadway areas and rights of way. The overall land area where construction activities will occur is estimated to be 22.8 acres. 96% of the project area is associated with water main installations, which will occur predominantly within existing roadway areas. The storage tank and well fields are to be constructed in previously disturbed areas, of which only approximately 0.46 acres will occur in undisturbed area. New structures resulting from the Project consist of a small pump house at each of the two well fields (26' x 11' in size) and a water storage tank. The water storage tank will have a foundation footprint of approximately 800 square feet (32' diameter) and will be approximately 135' tall.

The application materials indicate that small portions of the Project are located in the towns of Wellfleet and Orleans to provide a "looped" system. The Applicant has offered to have an inter-town connection to the Orleans water supply system, which many other towns on the Cape have implemented. If necessary, as permitting for the Project proceeds, alternative plans without portions of the Project in Wellfleet or Orleans shall be submitted to the Commission in the future for review and approval.

JURISDICTION

The Project comes under the jurisdiction of the Commission pursuant to Section 2(d)(i) of the Commission's *Enabling Regulations* which requires proposed development for which an Environmental Impact Report (EIR) is required to be prepared under the provisions of MEPA (MGL Chapter 30, Sections 61 to 62H, inclusive) to undergo Development of Regional Impact (DRI) review.

RECORD MATERIALS

TABLE 1: MATERIALS SUBMITTED FOR THE RECORD

<i>Materials from Cape Cod Commission</i>	<i>Date Sent</i>
Staff report	1/7/14
Minutes from 1/13/15 hearing	1/23/15
<i>Materials from Applicant</i>	<i>Date Sent</i>
DRI Distribution List	12/18/14
Environmental Impact Report, dated 12/15/14	12/19/14
Email Mark White to Jeffrey Ribeiro re: Project Benefits	1/9/15
<i>Materials from Public Agencies/Towns/State/Federal</i>	<i>Date Sent</i>
n/a	
<i>Materials to/from Members of the Public</i>	<i>Date Sent</i>
n/a	

FINDINGS

The Commission hereby finds as follows:

GENERAL FINDINGS

GF1. The Project consists of two well fields, a water storage tank, and 45 miles of distribution system piping.

GF2. The Project comes under the jurisdiction of the Commission pursuant to Section 2(d)(i) of the Commission's *Enabling Regulations*, which requires proposed development for which an EIR is required to be prepared under the provisions of MEPA to undergo mandatory DRI review.

GF3. The Secretary issued a Final Certificate on January 30, 2015 stating that the single EIR adequately and properly complies with MEPA and its implementing regulations.

GF4. The first substantive DRI public hearing on the Project was held on January 13, 2015, continued to February 5, 2015.

GF5. According to the application materials and review by Commission staff, the Project is consistent with local development by-laws and the town's Local Comprehensive Plan as the first stated goal in the LCP is to "*Protect/improve water quality and supply.*"

GF5(a). While the proposed water tower is beyond the height limitations for District G as set forth in the Town of Eastham Zoning By-laws, the project does not deviate from the by-law's intent, stating in part:

"the Water Resource Protection District is designed to protect the public health by preventing contamination of the ground and surface water resources providing a portion of the potential public water supply for the Town of Eastham."

GF6. The Project has previously received complete funding from Eastham Town Meeting.

GF7. Benefits of the Project are that it:

1. Allows the Town to meet, at least in part, the first goal of its LCP;
2. Provides for a comprehensive, predictable, cost effective, and safe drinking water supply for current and future needs of the Town;
3. Provides for a fast-track, permanent solution for drinking water to properties in the vicinity of the landfill that have degraded water quality;
4. Facilitates regional cooperation between municipal and other governmental agencies;
5. Provides fire protection coverage to 85% of the community;
6. Positions of the Town to expand its water system to serve the entire community, should it decide to do so in the future;
7. Allows the Town to take advantage of favorable funding opportunities that are being made available through the State Revolving Fund; and
8. Provides free potable water to Nauset Regional High School through a recorded easement between the Town and the school district.

LAND USE FINDINGS

LUF1. Land Use Goal LU1 (Compact Growth and Resource Protection) seeks to minimize adverse impacts of development on the land by using land efficiently and protecting sensitive

resources, and to create vibrant communities by directing growth and redevelopment to appropriate locations. Given that the land surrounding the well sites has been zoned for water protection as required by DEP, the proposed development does not present a threat to the resources and/or characteristics intended to be protected and maintained by its land use category and meets Minimum Performance Standard (MPS) LU1.1 (Development Location).

LUF2. While MPS LU1.2 (Compact Development) only applies to building development, the Project may be a vehicle for future projects to meet the MPS as it is assumed that the Project, as well as the LCP Build-out analyses, will drive more efficient redevelopment patterns within the town by allowing for development that is more compact.

LUF3. MPS LU2.1 (Connections to Existing Infrastructure) is likewise met as the proposed project is intended to support and serve existing and future needs, based on the town's existing compact development patterns.

ECONOMIC DEVELOPMENT FINDINGS

EDF1. MPS ED4.1 (Demonstrated Need and Public Benefit) states that new infrastructure projects "shall improve the availability, reliability, quality, and cost of services." Given that there is no existing municipal water service in the town; that private drinking water wells serve properties in the town; and that drinking water wells in some parts of the town have been compromised, the Project is essential to ensure that safe drinking water is available throughout the Town of Eastham to serve present and future needs.

WATER RESOURCES FINDINGS

WRF1. The Project consists of the delivery of 378,000 gpd annual average flow of high quality drinking water to provide relief to residents in the down-gradient area of the municipal landfill and other residential and commercial users of private wells that have experienced decreased quality of their drinking water from private wells. The Project will provide for seasonal average demands of 734,000 gpd with capacity to provide for peak day demands exceeding 1,000,000 gpd. The Project consists of developing two water supply sites in District G and the Nauset Regional High School with permitted capacities of 995,000 and 833,000 gpd respectively. The Applicant has previously received new source approval and water withdrawal permits from DEP for the wells.

WRF2. MPS WR1.2 (Identification of Drinking Water Wells) requires identification of proposed drinking water wells and existing private drinking water wells on abutting properties within 400 feet. The Applicant has assessed the impact of the development on the water quality of these wells and all other existing wells that may potentially be affected by the proposed development. The application materials include the results of the pump tests, groundwater modeling, and impact analysis showing no significant impact to existing private wells.

WRF3. The RPP addresses the potential impacts from water withdrawals on surface water dependent ecosystems. The application materials include the results of the pump tests, groundwater modeling, and impact analysis which are requirements for projects with a water withdrawal exceeding 20,000 gpd. The application materials and supplemental reports indicate

the absence of surface water dependent ecosystems in proximity to the wells and the area of drawdown, as well as a barely measureable decrease in stream flow at Hatches Creek under average pumping conditions. To further comply with MPS WR1.3 (Groundwater Study Requirement), this decision shall be conditioned on Commission review and approval of a monitoring plan to evaluate groundwater levels at Hatches Creek and the pumping wells prior to any construction commencing.

WRF4. While current project plans do not show any new turf or landscaping associated with the Project, the Applicant must submit a Turf and Landscape Management Plan if any turf or landscaping is included as project plans are finalized, in order to comply with MPS WR1.5 (Turf and Landscape Management Plan).

WRF5. The Project meets RPP Best Development Practices (BDPs) WR1.6 (Management of Water Withdrawals/Wastewater Discharges) and WR1.7 (Use of Water-conservation Technologies) through requirements imposed by DEP and the Commission.

WRF6. DEP requires that the Applicant adopt a Wellhead Protection bylaw for the delineated Zone IIs, meeting BDP WR1.9 (Greater Protection of Groundwater/Surface Water). The prohibitions and performance standards of the bylaw once adopted will provide preventative measures, similar to the RPP, to protect the water quality. The Applicant shall provide copies of the bylaw to Commission staff for review prior to adoption, and as adopted.

WRF7. Project plans show the use of propane for emergency power generators at the site, meeting MPS WR2.2 (Prohibition on Hazardous Materials/Wastes). Any release of propane gas will not impair the quality of groundwater, thus this decision shall be conditioned on the use of propane or similar natural gas as the only fuel used at the well sites for such purposes.

WRF8. To comply with MPS WR7.9 (Best Management Practices During Construction), this decision shall be conditioned on the Applicant providing final project plans that show construction Best Management Practices (BMPs) for erosion and sedimentation controls are specified and in place prior to construction to prevent erosion, control sediment movement, and stabilize exposed soils for review and approval by Commission staff.

WRF9. As the Project proposes no wastewater, MPS' under Water Resources Goals WR3 (Marine Water Recharge Areas), WR4 (Freshwater Ponds and Lakes), and WR6 (Public and Private Wastewater Treatment Facilities) do not apply.

NATURAL RESOURCES FINDINGS

NRF1. Portions of the project will occur within the boundaries of the Inner Cape Cod Bay Area of Critical Environmental Concern (ACEC). The RPP prohibits new development within ACECs, but does not prohibit redevelopment. Because so much of the work is proposed within existing disturbed areas, the Project complies with MPS CR2.5 (Barrier Beaches, Coastal Dunes and Their Buffers).

NRF2. As no portions of the Project are located offshore, MPS' under the RPP issue area of Marine Resources does not apply.

NRF3. The two well sites and water tank will be located on previously disturbed town-owned properties and will require minimal additional clearing. These three sites are located within mapped habitat for rare species, but are not adjacent to wetlands or vernal pools. According to the application materials, the water main installations largely consist of redevelopment within existing road rights of way and will result in minimal clearing. Thus, as outlined in Technical Bulletin 92-002 *Guidelines for Natural Resources Inventory*, it is appropriate to release the Applicant from preparation of a Natural Resources Inventory under MPS WPH1.1 (Natural Resources Inventory).

NRF4. In order to comply with other MPS under RPP Wildlife and Plant Habitat Goal WPH1 (Prevent Loss, Minimize Adverse Impact, and Maintain Diversity), the Applicant shall continue to work closely with the Natural Heritage and Endangered Species Program (NHESP) to minimize impacts and mitigate, as necessary. Based on conversations with the Applicant, a "No Take" letter is anticipated. This decision shall be conditioned on the Applicant providing Commission staff a copy of said letter and other pertinent correspondence with NHESP prior to any construction commencing.

NRF5. In order to comply with MPS under RPP Wetlands Goal WET1 (Wetlands Protection), all work proposed within the buffer zone to wetlands and/or within the boundaries of the ACEC, including but not limited to water main installations, shall be designed to minimize disturbance and utilize BMPs during construction. The RPP allows for utility work within buffer zones so long as impacts are minimized and there are no other feasible alternatives. This decision shall be conditioned on Commission review and approval of said plans prior to any construction commencing on portions of the Project depicted therein.

NRF6. MPS' under the RPP issue area of Open Space Protection/Recreation do not apply, as there is a minimal amount of clearing associated with the project and mitigation is not required from municipal entities.

TRANSPORTATION FINDINGS

TRF1. As there are no new, proposed ongoing vehicle trips beyond the construction phase of the project, and no new access or egress points from Rte. 6 proposed, no associated permanent and sustained transportation impacts are expected. Thus, MPS' under the RPP issue area of Transportation do not apply.

TRF2. MassDOT has jurisdiction over the work within the Rte. 6 right of way, and the Applicant shall work with MassDOT to manage transportation impacts during the construction phase of the Project. This decision shall be conditioned on the Applicant obtaining all necessary federal, state, and local roadwork permits, and that the Commission is provided with a copy of such permits and approval prior to commencement of project construction on portions of the Project for which they are required.

WASTE MANAGEMENT FINDINGS

WMF1. Project plans show the use of propane for emergency power generators at the site, meeting MPS WM1.2 (Hazardous Materials/Waste Restrictions). Any release of propane gas will

not impair the quality of groundwater, thus this decision shall be conditioned on the use of propane or similar natural gas as the only fuel used at the well sites for such purposes.

WMF2. The project will create some construction and demolition (C&D) waste during installation, thus this decision shall be conditioned on the Applicant providing a narrative C&D waste plan prior to the commencement of construction to comply with MPS WM2 (C&D Waste Plan).

WMF3. Other MPS' under the issue area of Waste Management do not apply, as the Project will not result in any significant creation of solid waste once operational.

ENERGY FINDINGS

EF1. The RPP issues area of Energy only addresses building development and wind energy conversion facility development. Therefore, the standards and goals do not apply.

AFFORDABLE HOUSING FINDINGS

AHF1. Goals and standards under the issue area of Affordable Housing do not apply to municipal infrastructure projects, such as a municipal water service system.

HISTORIC PRESERVATION/COMMUNITY CHARACTER FINDINGS

HPCCF1. The photo renderings of the proposed District G storage tank provide views from several locations. The photo renderings show where the water tank is likely to be visible, and confirm that historic areas of town and key visitor areas are outside of the visibility zone. While a portion of the Cape Cod Rail Trail will have a clear view, it is a limited portion where there are already industrial uses so the tower's visibility is unlikely to have a significant impact on the trail users' experience. Thus, the Project meets MPS HPCC2.3 (Avoid Adverse Visual Impacts).

HPCCF2. The FEIR has listed and described in the context of the proposed construction layout all of the Town's historic districts including the Old Town Center Historic District, a local historic district; the Town Hall Center Historic District; the Fort Hill Rural Historic District; the Collins Cottage Historic District. The Applicant did not include individual historic properties such as town cemeteries and buildings previously considered for an historic district in the Rock Harbor area.

HPCCF3. To comply with MPS HPCC1.1 (Historic Structures), this decision shall be conditioned on Commission review and approval of final construction plans that address work on adjacent road layouts and the installation of hydrants within historic districts and adjacent to individual National Register or National Register eligible properties, including but not limited to the cemeteries and Bridge Road historic properties.

HPCCF4. The Massachusetts Historical Commission (MHC) has provided comments during the MEPA process that focus on potential archaeological resources. More detailed construction plans will be needed as permitting proceeds to determine how sensitive historic and archaeological resources which may be encountered may be appropriately accommodated

during installation. To comply with MPS HPCC1.3 (Archeological Sites), this decision shall be conditioned on the Applicant providing Commission staff a copy of any pertinent correspondence between the Applicant and MHC and/or the National Park Service/Cape Cod National Seashore.

HPCCF5. While current project plans do not show any new turf or landscaping associated with the project, the Applicant must submit a landscape plan for review and approval by Commission staff if any turf or landscaping is included as project plans are finalized. Likewise, a photometric plan and fixture details must be submitted for review and approval by Commission staff if any exterior lighting is included as project plans are finalized.

CONCLUSION

Based on the Findings above, the Commission hereby concludes and finds further that:

1. Subject to and upon satisfaction of the conditions identified in this decision, the Project is consistent with the Act and the 2009 Regional Policy Plan (as amended).
2. The Project is consistent with Eastham's Local Comprehensive Plan.
3. The Project is consistent with municipal development by-laws, subject to the Applicant obtaining all required local approvals, licenses, and permits for the Project, including but not limited to an Order of Conditions from the Eastham Conservation Commission, a zoning variance from the Eastham Zoning Board of Appeals for water tower height, and a road opening permit.
4. The Project is consistent with regulation adopted pursuant to the Cape -wide Fertilizer Management District of Critical Planning Concern, which is the only DCPC applicable to the Project. The Eastham Conservation Commission and Board of Health adopted implementing regulations pursuant to said DCPC, though the Project does not propose any establishment of turf, or use of any fertilizer or other nutrient containing material as a fertility source for turf.
5. The probable project benefit outweighs the probable project detriment.

The Commission hereby approves the application of the Town of Eastham for its Water Supply System as a DRI, subject to the following conditions:

GENERAL CONDITIONS

GC1. This decision is valid for a period of 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of this written decision.

GC2. Failure to comply, and remain in compliance, with all findings and conditions stated herein, and with all related Commission laws and regulations, shall be deemed cause to revoke or modify this decision.

GC3. The Applicant shall obtain all necessary federal, state, and local permits for the proposed project, including but not limited to roadway permits. Specifically, prior to the issuance of a Preliminary Certificate of Compliance, the Applicant shall obtain all necessary municipal permits, licenses and approvals for the project, including but not limited to a Wetlands Order of Conditions.

GC3(a). The project's consistency with municipal development by-laws or ordinances shall be evidenced and confirmed by the Applicant obtaining all said necessary municipal permits, licenses and approvals.

GC4. No development work, as the term "*development*" is defined or referred to in the Cape Cod Commission Act (Act), Regulations, and as approved herein, shall be undertaken until this decision is final and the Commission Clerk certifies that the decision appeal period has elapsed or if such an appeal has been filed, until the appeal has been finally dismissed, adjudicated, or otherwise disposed of.

GC5. Prior to issuance of any Preliminary Certificate of Compliance by the Cape Cod Commission for development as the term "*development*" is defined in the Cape Cod Commission Act, and as approved herein, the Applicant shall submit final project plans as approved by state, federal, and local authorities for review by Commission staff who shall determine their consistency with this decision. If Commission staff determines that the final plans are not consistent with the Eastham Water System FEIR, dated December 15, 2014, prepared by Environmental Partners Group, approved, referenced, and incorporated herein, the Commission shall require that the Applicant seek a modification to this decision for further review and approval of the project plans changes in accordance with the "*Modification*" section of the Commission's *Enabling Regulations* in effect at the time the modification is sought.

GC6. All plans and documents required to be submitted as conditions of this decision shall hereby be incorporated into this condition as and when received, reviewed, and approved by Commission staff.

GC7. Prior to undertaking any development as the term "*development*" is defined or referred to in the Commission Act, Regulations, and as approved herein, the Applicant shall obtain a Preliminary Certificate of Compliance from the Commission that evidences that all conditions in this decision required to have been satisfied prior to the issuance of a Preliminary Certificate of Compliance have been satisfied, and that the Project is in compliance with this decision. The Commission may issue Partial or multiple Preliminary Certificates of Compliance if the Applicant proceeds to develop the Project in segments or phases, and in this event, Commission staff will establish a schedule in which outstanding Conditions must be satisfied prior to issuance of any subsequent Certificates of Compliance.

GC8. The Applicant shall obtain a Final Certificate of Compliance from the Commission prior to system operation that evidences that all conditions in this decision have been satisfied and that the Project is in compliance with this decision.

GC9. Commission staff will undertake a review of the Project's compliance with this decision, including the applicable conditions hereof, upon the Applicant's request to the Commission for issuance of any Preliminary or Final Certificate of Compliance. At the time the Applicant requests such a Certificate, it shall provide Commission staff a list of key project contact(s), along with their telephone numbers, mailing addresses, and email addresses, in the event questions arise during the Commission's compliance review. As part of its compliance review,

Commission staff may make, and the Applicant hereby authorizes, site inspections upon reasonable notice to the Applicant, as such visits are needed. Upon review, the Commission shall either prepare and issue the requested Certificate, or inform the Applicant in writing of any compliance deficiencies and the remedial action required for the issuance of the requested Certificate.

GC10. Prior to the issuance of a Preliminary Certificate of Compliance, but not until the appeal period for this decision has elapsed, or if such an appeal has been filed, until the appeal has been finally dismissed, adjudicated or otherwise disposed of, the Applicant shall record a copy of this decision with the Barnstable Registry of Deeds and provide a copy of the same to Commission staff of such recording. This decision shall not be effective until a copy of the same has been so recorded.

GC11. Prior to issuance of a preliminary Certificate of Compliance, the Applicant shall provide evidence to the Commission that a copy of this decision has been provided to the general contractor for the Project.

GC12. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall obtain, and provide evidence to the Commission of the same, any licenses, consents, easements or other property rights necessary to construct the Project, including from private property owners, the Cape Cod National Seashore, town of Wellfleet, town of Orleans. If locating the Project partially in the towns of Orleans or Wellfleet is determined infeasible, an alternative Project layout entirely within the town of Eastham shall be provided to Commission staff for review and approval prior to project construction, or any relevant phase thereof, approval of such alternative layout to be reflected in a Certificate of Compliance.

WATER RESOURCES CONDITIONS

WRC1. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide a monitoring plan to evaluate groundwater levels at Hatches Creek and the pumping wells for review and approval by Commission staff. The monitoring plan shall indicate that the Commission will receive copies of regular water supply reporting to DEP including Annual Statistic Reports and consumer confidence reports.

WRC2. Prior to issuance of a Final Certificate of Compliance, the Applicant shall provide copies of the Wellhead Protection bylaw for the delineated Zone IIs to Commission staff for review prior to adoption, and as adopted.

WRC3. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide final construction plans for review and approval by Commission staff that show construction Best Management Practices (BMPs) for erosion and sedimentation controls are specified and in place prior to construction to prevent erosion, control sediment movement, and stabilize exposed soils.

WRC4. The Project shall use only propane or similar natural gas as the only fuel used at the well sites for emergency power generation.

NATURAL RESOURCES CONDITIONS

NRC1. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide for review and approval by Commission staff final construction plans for all work proposed within the buffer zone to wetlands and/or within the boundaries of the ACEC, including but not limited to water main installations, that minimize disturbance and utilize BMPs during construction.

NRC2. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide Commission staff a copy of a "No Take" letter from NHESP and/or any other pertinent correspondence from NHESP. The Applicant shall comply with any conditions required by NHESP to ensure no impact to rare species.

NRC3. Prior to issuance of a Preliminary Certificate of Compliance, the town shall develop invasive species best management practices for Commission staff review and approval for the construction and operational phases of the Project.

WASTE MANAGEMENT CONDITIONS

WMC1. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide a narrative C&D waste plan for review and approval by Commission staff.

HISTORIC PRESERVATION/COMMUNITY CHARACTER CONDITIONS

HPCCC1. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide for review and approval by Commission staff final construction plans that address work on adjacent road layouts and the installation of hydrants within historic districts, and identify and address individual State or National Register properties adjacent to the Project, including but not limited to the cemeteries and Bridge Road historic properties identified as eligible for the National Register.

HPCCC2. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide Commission staff a copy of any pertinent correspondence between the Applicant and MHC and/or the National Park Service/Cape Cod National Seashore, including correspondence regarding archaeological resources that may exist in the Project layout.

HPCCC3. The Applicant shall submit a final landscape plan for review and approval by Commission staff if any turf or landscaping is included as project plans are finalized, in which case Commission approval of such plan shall be evidenced in a Certificate of Compliance.

HPCCC4. The Applicant shall submit a photometric plan and fixture details for review and approval by Commission staff if any exterior lighting is included as project plans are finalized, in which case Commission approval of such plan shall be evidenced in a Certificate of Compliance.

SEE NEXT PAGE FOR SIGNATURES

SIGNATURES

Executed this 5th day of February 2015.

Richard E. Roy
Signature

Richard E. Roy
Print Name and Title

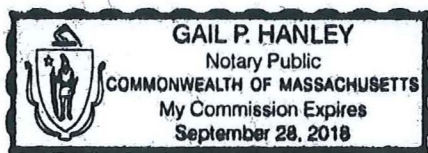
COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

February 5, 2015

Before me, the undersigned notary public, personally
appeared Richard E. Roy,

in his/her capacity as Chairman of the Cape Cod
Commission, whose name is signed on the preceding document, and such person
acknowledged to me that he/she signed such document voluntarily for its stated
purpose. The identity of such person was proved to me through satisfactory evidence of
identification, which was [] photographic identification with signature issued by a
federal or state governmental agency, [] oath or affirmation of a credible witness, or [x]
personal knowledge of the undersigned.



Gail P. Hanley
Notary Public

My Commission Expires: 9-28-18