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April 27, 2018

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
ON THE  
FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

PROJECT NAME	: Town of Eastham Water System – Phase 2
PROJECT MUNICIPALITY	: Eastham
PROJECT WATERSHED	: Cape Cod
EEA NUMBER	: 15273
PROJECT PROPONENT	: Town of Eastham
DATE NOTICED IN MONITOR	: March 21, 2018

Pursuant to the Massachusetts Environmental Policy Act (MEPA; M.G.L. c. 30, ss. 61-62I) and Section 11.08 of the MEPA regulations (301 CMR 11.00), I have reviewed the Final Supplemental Environmental Impact Report (FSEIR) and hereby determine that it **adequately and properly complies** with MEPA and its implementing regulations.

Project Description and Procedural History

The original project (Phase 1) consisted of the construction of a municipal water system in the Town of Eastham. Construction of the Phase 1 system is substantially complete and the water system is now in operation.

Phase 1 was proposed to provide water service to approximately one-third of the properties in Eastham (2,021 properties) in the vicinity of the former town landfill. The groundwater in this area has been impacted by leachate from the landfill and nutrients from septic systems. The water system will replace the private drinking water wells that currently serve these properties. The project has been designed to meet an average water demand of 415,000 gallons per day (gpd) and included sufficient capacity in the distribution system to support expansion to the remainder of the Town.



Phase 1 included the following components:

- Two wells (comprised of well fields) with a combined capacity of 1,878,000 gpd;
- Two pump station buildings, one for each well, with well pump controls and water conditioning chemicals;
- A 130-foot high water storage tank with a capacity of 750,000 gallons;
- 45 miles of distribution system piping; and
- Fire hydrants associated with the distribution system to add fire protection for 80 percent of Eastham.

Two test wells were converted into production wells by equipping them with submersible pumps. The District G well and the Nauset Regional High School (NRHS) well are located on Town-owned land in the northern part of Eastham. A third well site, the District H well field, was identified as a potential source to expand the water system to the remainder of the Town.

The storage tank is located on Town-owned land in the vicinity of the District G well. The distribution system includes 12-inch diameter mains located primarily within the paved shoulders of Route 6 and the Town's other main roadways. The pipes have been constructed as looped transmission mains that will serve both as the backbone for an expanded town-wide system and service connections for abutting properties. Eight-inch lateral pipes were installed in secondary and subdivision roadways and in the landfill area to provide service connections to the municipal water system.

A Certificate on the Single Environmental Impact Report (EIR) was issued on January 30, 2015, which indicated that no additional review was required for Phase 1 and that the project could proceed to permitting. The Certificate also noted that expansion of the water system would require additional MEPA review.

A NPC (1<sup>st</sup> NPC) was filed in 2015 to disclose an additional State Agency Action for Phase 1 and to provide an opportunity for State Agency and public comment. Phase 1 required permanent subsurface easements on two sections of the Department of Conservation and Recreation's (DCR) Cape Cod Rail Trail (CCRT) right-of-way (ROW) which consisted of a conversion of land held for natural resources purposes in accordance with Article 97 of the Amendments to the Constitution of the Commonwealth to a purpose not in accordance with Article 97. As a result, Phase 1 required Article 97 legislation and a Construction and Access Permit from DCR. A Certificate on the 1<sup>st</sup> NPC was issued on June 19, 2015, which indicated that no additional MEPA review was required for Phase 1.

The second NPC (2<sup>nd</sup> NPC) proposed the expansion of the recently constructed municipal water system to provide water service to all remaining parcels not served under Phase 1 and described project components and potential impacts. Phase 2 includes the following components:

- Development of a third well field (District H);
- Construction of a second pump station building with well pump controls and water conditioning chemicals (District H);



- Construction of a second water storage tank (135-foot high) with a capacity of 750,000 gallons (District H);
- Installation of 82 miles of distribution system piping; and
- Installation of fire hydrants to extend fire protection to the remainder of the Town.

The Massachusetts Department of Environmental Protection (MassDEP) issued a New Source Approval for the District H well field which allows a withdrawal rate up to 1,310,000 gpd. The storage tank will be located on Town-owned property in the north-central area of District H near the existing water supply and groundwater monitoring wells.

Phase 2 will be constructed in a continuous effort between 2017 and 2022 and include five sub-phases (Phases 2A through 2E) for contracting purposes. A Certificate on the 2<sup>nd</sup> NPC was issued on April 14, 2017. It indicated that the project change required the preparation of a Draft Supplemental EIR (DSEIR) primarily to analyze alternatives to the District H well field and storage tank and potential impacts to a state-listed toad, the Eastern Spadefoot.

All of the phases include expansion of the distribution system; Phase 2B also includes construction of the District H well field and storage tank. The Town submitted a third NPC (3<sup>rd</sup> NPC) and a Phase 1 Waiver Request in May 2017 to construct Phase 2A of the municipal water system prior to completion of the DSEIR process for the remainder of Phase 2. A Final Record of Decision (FROD) was issued on July 28, 2017 which granted a Phase 1 Waiver and allowed Phase 2A to proceed prior to submission of the DSEIR.

Phase 2A includes installation of additional water mains in three areas of Town (north, central, and south Eastham) as an extension of the Phase 1 water system. Phase 2A consists of approximately 21 miles of water mains, the majority of which will be eight-inch diameter and will be located primarily within existing roadways. Approximately 60 percent of these roads are paved; 40 percent are dirt roads. Fire hydrants will be installed approximately every 500 feet. A curb box for service connections will be provided for each property at the edge of the roadway ROW. The water system has adequate capacity to meet demand associated with Phase 2A.

Phase 2A has received funding through the MassDEP Drinking Water State Revolving Fund (SRF) program. Phase 2A construction commenced in December 2018 and is expected to require one year for completion. Construction activities associated with Phase 2B and District H are anticipated to commence in the fall of 2018. The Town conducted a habitat assessment of the Eastern Spadefoot in the vicinity of District H and coordinated with the Natural Heritage and Endangered Species Program (NHESP) which determined that the project was consistent with the performance standards of a Conservation and Management Plan (CMP). Early construction of Phase 2A expedited the provision of a safe and reliable water supply to Eastham residents. A Certificate on the DSEIR was issued on March 2, 2018, which determined the DSEIR adequately and properly complied with MEPA and its implementing regulations and required the submission of a FSEIR.

### Project Site

Eastham is bordered to the east by Cape Cod Bay, to the west by the National Park Service's Cape Cod National Seashore (CCNS), to the south by the town of Orleans, and to the



north by the town of Wellfleet. A portion of the Inner Cape Cod Bay Area of Critical Environmental Concern (ACEC) extends into the southern part of Eastham.

The District G site is located on Town-owned land about one-half mile south of the Eastham-Wellfleet municipal boundary, east of DCR's CCRT and north of Oakleaf Road. The 400-foot diameter Zone I wellhead protection area around the District G well is also located on Town-owned property. The land use within the Zone II wellhead protection area is predominately residential and forested. No potential sources of contamination have been identified in the Zone I area.

The NRHS well is located in the northeast corner of property owned by the NRHS. It is located 3,000 feet north of the intersection of Cable Road and Nauset Road. The high school is served by a well at this site that will be discontinued once the municipal system becomes operational. The Zone I wellhead protection area is located on land owned by the NRHS District and the CCNS. Land uses within the Zone II area are predominately forested and residential, with a small number of commercial and recreational uses. No potential sources of contamination have been identified within the Zone II.

The District H site is located in the east-central area of the Town and consists of a series of properties that comprise the Water Resource Protection District H zoning district. The District consists of parcels owned by the Town, CCNS, and some private owners. The well field is located approximately 900 feet east of the intersection of Nauset Road and Schoolhouse Road. The Zone I is located on land owned by the Town and CCNS. Municipal zoning was established to protect the District H well field. It prohibits any activities that would result in contamination of the groundwater and surface water resources at District H.

Portions of the project will be located in or adjacent to historic districts or properties listed in the State and National Register of Historic Places, including the CCNS, the Old Towne Center Historic District, and several cemeteries. In addition, portions of the project site are located within areas mapped as *Priority Habitat* for state-listed rare species by NHESP in the Massachusetts Natural Heritage Atlas (14<sup>th</sup> Edition).

#### Environmental Impacts and Mitigation

Phase 1 will withdraw an average of 415,000 gpd of water from two wells. Ultimately it will withdraw water from all three wells. Phase 2 will withdraw an average of 748,000 gpd of water from three wells. The total water demand for the project is 1,083,000 gpd, increasing to 1,163,000 gpd as vacant properties are built out. However, there will be little to no increase in pumping from the aquifer because it currently supplies water for the Town's residents through private drinking wells.

Phase 1 will temporarily alter 21.8 acres of land and Phase 2 will temporarily alter 42.1 acres of land associated with the installation of water mains, primarily within existing roadway areas. In Phase 2, the storage tank and well field at District H will be constructed in a 0.46-acre undisturbed area. Portions of the project are located within the CCNS, the Inner Cape Cod Bay ACEC, and within the buffer zone of wetlands resource areas. Phase 1 required the installation of water main under two sections of DCR parkland, totaling 12,700 square feet (sf) and resulted in a



“take” of a state-listed rare plant species habitat (Common’s Panic-Grass). Phase 2 will likely result in the “take” of Eastern Spadefoot, a species state-listed as “Threatened”.

### Jurisdiction and Permitting

Phase 1 was subject to MEPA review and required the preparation of a mandatory EIR pursuant to 301 CMR 11.03(4)(a)(3) because it requires State Agency Actions and will construct new water mains ten or more miles in length. It also exceeds the ENF threshold pursuant to 301 CMR 11.03(11)(b) because it is located in an ACEC. Phase 1 will require a State Highway Access Permit from the Massachusetts Department of Transportation (MassDOT), a permanent easement and a Construction and Access Permit from DCR, and several permits from MassDEP, including a Water Withdrawal Permit (BRP WM 03), Approval to Construct Water Supply Source greater than 70 gallons per minute (BRP WS 20), and an approval for Drinking Water Systems that serve more than 3,300 people (BRP WS 32). Phase 1 required a CMP from the NHESP. The project is subject to the MEPA Greenhouse Gas (GHG) Emissions Policy and Protocol.

Phase 1 also required an Order of Conditions (OOC) from the Eastham Conservation Commission and a National Pollutant Discharge Elimination System Construction General Permit (NPDES CGP) from the U.S. Environmental Protection Agency (EPA). Phase 1 was reviewed and approved by the Cape Cod Commission (CCC) as a Development of Regional Impact (DRI).

Phase 2 is also subject to MEPA review and, if reviewed as a separate project, would exceed a mandatory EIR threshold pursuant to 301 CMR 11.03(4)(a)(3) because it requires State Agency Actions and will construct new water mains ten or more miles in length. Phase 2 also exceeds ENF thresholds at 301 CMR 11.03(2)(b)(2) because it will disturb greater than two acres of designated priority habitat that results in a “take” of a state-listed rare species and at 301 CMR 11.03(11)(b) because it is located in an ACEC. Phase 2 will require a modification to the Water Withdrawal Permit (BRP WM 03)<sup>1</sup>, Approval to Construct Water Supply Source greater than 70 gallons per minute (BRP WS 20), and an approval for Drinking Water Systems that serve more than 3,300 people (BRP WS 32) from MassDEP. Phase 2 will require a CMP from NHESP. Phase 2 will also require an OOC from the Eastham Conservation Commission (and, on appeal only, a SOC from MassDEP) and a NPDES CGP from EPA. Phase 2A was incorporated into the Town’s Phase 1 DRI approval. The balance of Phase 2 will require further review by CCC as a new DRI.

Because the Town is seeking Financial Assistance from the Commonwealth for all phases of the project, 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.

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<sup>1</sup> The Town will request a modification of the water withdrawal permit, which authorizes overall water withdrawals from all of the well fields, to increase withdrawal from 415,000 gpd to 1,163,000 gpd to accommodate the Phase 2 system demand.



### Review of the FSEIR

The FSEIR was responsive to the Scope, which was limited to providing a detailed response to comments submitted on the DSEIR and outstanding issues identified regarding rare species and wetlands in comments on the 3<sup>rd</sup> NPC. It describes the project, potential environmental impacts, and mitigation measures. It includes a draft CMP application which outlines mitigation for impacts to rare species. Phase 2 remains unchanged from that presented in the DSEIR. The FSEIR provides updated draft Section 61 Findings and a summary of mitigation commitments. Comments from MassDEP, CCC, and the Association for the Preservation of Cape Cod (APCC) strongly support the Town's efforts to develop a Town-wide municipal water supply.

Comments from NHESP indicate that the Town is working cooperatively to address outstanding details regarding the proposed mitigation plan. A qualified conservation entity has indicated its willingness to hold a conservation restriction (CR) on the proposed open space and the Town will submit a recordable open space plan, draft declaration of restriction, draft CR, and draft funding plan (to ensure long-term monitoring and management of early-successional habitats) to NHESP for its review and approval. The Town will also submit a groundwater and vernal pool monitoring/reporting schedule to NHESP to assess whether water withdrawals from the well field will impact vernal pool water levels, hydro-periods, and breeding conditions for Eastern Spadefoot. In addition to the ten-year monitoring protocol described in the FSEIR, monitoring and reporting will continue for as long as the well field remains in active operation. The CMP will allow the timing/volume of groundwater withdrawals to be further modified to avoid or minimize impacts if the monitoring program indicates that well field operations are impacting Eastern Spadefoot and its habitats.

### Mitigation/Draft Section 61 Findings

The FSEIR contains updated draft Section 61 Findings associated with each separate State Agency Action identified for Phase 2. Final Section 61 Findings for Phase 1 have not yet been issued from MassDOT, NHESP, and MassDEP; these are anticipated to be issued once Phase 1 is complete. In order to ensure that all GHG emissions reduction measures adopted by the Town as the Preferred Alternative are actually constructed or performed by the Town, the Town shall provide a self-certification to the MEPA Office indicating that all of the required mitigation measures, or their equivalent, have been completed.

The following mitigation measures have been implemented during construction of Phase 1 and will be implemented during construction of Phase 2:

#### *Water Conservation*

- Prepare a Drought Management Plan that includes a seasonal demand management strategy;
- Prepare an Emergency Management Plan;
- Prepare a Conservation Plan that includes a public education and outreach program;
- Conduct regularly scheduled (annual or bi-annual) leak detection surveys;
- Meter all water system connections;



- Implement a water meter repair and replacement policy and a meter calibration and sealing program;
- Establish a water pricing structure, reviewed periodically, that includes the full cost of system operations, maintenance, and protection;
- Implement a residential water conservation program with a goal of achieving a 65 residential gallons per capita day (rgpcd) use standard consistent with MassDEP's Sustainable Water Management Initiative (SWMI); and
- Encourage owners to use water-efficient plumbing fixtures.

#### *Water Supply*

- Implement wellhead protection zoning controls to ensure protection of those areas of the District H site that lie outside the CCNS and are not covered by the Town's Water Resource Protection District H;
- Implement additional mitigation (groundwater recharge) as required by MassDEP for additional water withdrawals from District H as part of the Water Management Act (Withdrawal) Permit process (increase withdrawal to 1,163,000 gpd for the Town-wide system); and
- Monitor surface water elevation of Hatches Creek to assess whether withdrawals from municipal wells affect the creek.

#### *GHG*

- Energy use associated with private drinking wells will be replaced with the operation of appropriately sized, premium-efficiency pumps and motors at the District G, NRHS, and District H well fields;
- Pumping systems will include variable frequency drives;
- Pump stations will be equipped with high-efficiency lighting, automatic motion-detection lighting and climate controls, and high R-value insulation in the walls and ceilings; and
- Water conservation measures identified above and in the Water Conservation Plan will avoid GHG emissions associated with higher levels of water use.

#### *Rare Species*

- Implement a groundwater and vernal pool water elevation monitoring program at District H, in consultation with CCC, associated with permit conditions;
- Preconstruction surveys will be performed to identify areas of Common's Panic-grass (*Dichanthelium ovale ssp pseudopubescens*) to support identification of measures to avoid and/or minimize impacts during project design and permitting;
- Submit a Turtle Protection Plan to NHESP for review and approval prior to the start of any construction activities at District H. This Plan will be prepared by a qualified biologist pre-approved by NHESP and will describe the procedures for protection of turtles during construction; and
- Submit a CMP application to NHESP to demonstrate that the project will meet the performance standards for the Eastern Spadefoot including:

- Permanently protecting approximately 19.90 acres of the property as open space and state-listed species habitat through an Executive Office of Energy and Environmental Affairs approved conservation restriction, to be held by a qualified land trust, nonprofit organization or government entity;
- Restoring and/or creating approximately 2.4 acres of high quality early-successional habitat within the proposed open space pursuant to a NHESP-approved habitat restoration and long-term management plan;
- Developing a dedicated funding plan to ensure long-term monitoring and management of early-successional habitats;
- Implementing a NHESP-approved plan to protect state-listed species during construction;
- An alternatives analysis on operations of the proposed District H well field and management of withdrawals from the two supply wells to minimize groundwater drawdown effects at VP-11 to the extent possible; and
- Implementing a long-term monitoring program to evaluate the effects of water withdrawals on vernal pool hydrology, and working with NHESP to adjust operations and or withdrawal rates as necessary to avoid and minimize impacts.

#### *Wetlands/ACEC*

- Restore buffer zones;
- Implement and maintain erosion and sedimentation controls in accordance with the Stormwater Pollution Prevention Plan prepared for the NPDES CGP; and
- Limit the majority of construction activities to roadways and associated ROWs within the ACEC.

#### *Invasive Species*

- Prepare an invasive species control plan in accordance with CCC's DRI requirement.

#### *Cultural and Historical Resources*

- The Town will implement mitigation measures developed in consultation with MHC, CCC, CCNS, the Eastham Historic Commission, the Public Archaeological Laboratory, Inc. (PAL), and the Mashpee Wampanoag and the Gay Head/Aquinnah Wampanoag tribal historic preservation officers to identify and address archaeologically sensitive areas and ensure the overall project will avoid, minimize, and mitigate impacts to historic and archaeological resources; and
- Avoid and minimize impacts to archeological resources by performing pre-construction surveys as appropriate, contractor awareness programs, and construction phase monitoring.

#### *Traffic Management*

- Develop a Traffic Management Plan for each contract area;
- Maintain traffic signage around work zones;



- Avoid construction during the summer tourism season, from Memorial Day to mid-September; and
- Address restrictions on construction activities in more detail in the State Highway Access Permit.

#### *Solid and Hazardous Waste*

- Manage the excavation and disposal of contaminated soils in accordance with the Massachusetts Contingency Plan (MCP) and under the oversight of a Licensed Site Professional (LSP);
- Return excavated material to the trench if suitable;
- Segregate and recycle asphalt; and
- Dispose of all other material in accordance with the Solid Waste Regulations at 310 CMR 19.00.

#### *Construction*

- Implement erosion and sedimentation controls within 100 feet of any wetland resource areas;
- Use of silt socks during trench dewatering to prevent sedimentation;
- Install silt sacks in catch basins to prevent sediment from entering the drainage system;
- Prohibit stockpiling of aggregate material in the work zone;
- Separately stockpile excavated material not suitable for backfilling from other construction material and surround with sedimentation and erosion controls;
- Stabilize and restore disturbed areas adjacent to work areas;
- Require contractors to use Ultra Low Sulfur Diesel Fuel (ULSD) in their motorized equipment; and
- Require contractors to comply with the anti-idling provisions of 310 CMR7.11.

#### Conclusion

Based on a review of the FSEIR, comments letters, and consultation with State Agencies, I find that the FSEIR adequately and properly complies with MEPA and its implementing regulations. Outstanding issues can be addressed during State and local permitting and review. No further MEPA review is required and the project may proceed to permitting. State Agencies should forward copies of the final Section 61 Findings to the MEPA Office for publication in accordance with 301 CMR 11.12.

April 27, 2018

Date

  
Matthew A. Beaton



## Comments received:

04/09/2018 Massachusetts Historical Commission (MHC)  
04/12/2018 Massachusetts Division of Marine Fisheries (DMF)  
04/18/2018 Association to Preserve Cape Cod (APCC)  
04/19/2018 Cape Cod Commission (CCC)  
04/20/2018 Massachusetts Department of Environmental Protection (MassDEP) –  
Southeast Regional Office (SERO)  
04/20/2018 Massachusetts Natural Heritage and Endangered Species Program (NHESP)

MAB/PPP/ppp





MASSWILDLIFE

## DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581  
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Jack Buckley, *Director*

April 20, 2018

Matthew A. Beaton, Secretary  
Executive Office of Energy and Environmental Affairs  
Attention: MEPA Office  
Purvi Patel, EEA No. 15273  
100 Cambridge St.  
Boston, Massachusetts 02114

<i>Project Name:</i>	<i>Town of Eastham Water System (Phase 2)</i>
<i>Proponent:</i>	<i>Town of Eastham</i>
<i>Location:</i>	<i>District H (Well Field and Storage Tank), Town of Eastham</i>
<i>Document Reviewed:</i>	<i>Final Supplemental Environmental Impact Report</i>
<i>EEA No.:</i>	<i>15273</i>
<i>NHESP No.:</i>	<i>09-27553</i>

Dear Secretary Beaton:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") has reviewed the *Final Supplemental Environmental Impact Report* ("FSEIR") for the proposed Town of Eastham Water System (Phase 2) and would like to offer the following comments regarding the proposed District H well field and storage tank (Phase 2B).

As previously indicated in our comments on the *Supplemental Draft Environmental Impact Report* ("SDEIR"), the Division anticipates that the Project, as proposed, will likely result in a Take of Eastern Spadefoot (*Scaphiopus holbrookii*), a species state-listed as "Threatened." Projects resulting in a Take of state-listed species may only be permitted if they meet the performance standards for a Conservation and Management Permit (CMP; 321 CMR 10.23). In order for a project to qualify for a CMP, the applicant must demonstrate that the project has avoided, minimized and mitigated impacts to state-listed species consistent with the following performance standards: (a) adequately assess alternatives to both temporary and permanent impacts to the state-listed species, (b) demonstrate that an insignificant portion of the local population will be impacted, and (c) develop and agree to carry out a conservation and management plan that provides a long-term net benefit to the conservation of the state-listed species.

As provided in Appendix B of the FSEIR, the Proponent recently submitted a Draft CMP Application to the Division for review and comment. The Draft CMP Application confirms that the Proponent intends to meet the performance standards of a CMP by: (a) permanently protecting  $\pm 19.90$  acres of the property as open space and state-listed species habitat through an Executive Office of Energy and Environmental Affairs - Division of Conservation Services approved conservation restriction, to be held by a qualified land trust, nonprofit organization or government entity; (b) restoring and/or creating  $\pm 2.4$  acres of high quality early-successional habitat within the proposed open space pursuant to a Division-approved habitat restoration and long-term management plan; (c) developing a dedicated funding plan to ensure long-term monitoring and management of early-successional habitats; (d) implementing a Division-approved plan to protect state-listed

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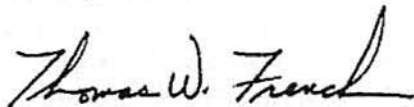
species during construction; and (e) implementing a long-term monitoring program to evaluate the effects of water withdrawals on vernal pool hydrology, and working with the Division to adjust operations and or withdrawal rates as necessary to avoid and minimize impacts.

The Proponent and its representatives continue to work cooperatively with the Division to address the outstanding details outlined in our comments on the SDEIR related to the proposed mitigation plan. The Proponent has received preliminary confirmation from a qualified conservation entity indicating its willingness to hold a conservation restriction on the proposed open space, and has indicated that it is currently preparing a recordable open space plan, draft declaration of restriction, draft conservation restriction, and draft funding plan (to ensure long-term monitoring and management of early-successional habitats) for Division review and approval.

Based on recent consultations with the Proponent, it is our understanding that the Proponent is also currently preparing a groundwater and vernal pool monitoring (and reporting) schedule for Division review and approval. The purpose of the groundwater and vernal pool monitoring (and reporting) schedule will be to assess whether water withdrawals from the well field affect vernal pool water levels, hydro-periods and breeding conditions for Eastern Spadefoot in general. In addition to the ten year monitoring protocol detailed in the FSEIR, monitoring and reporting will continue for as long as the well field remains in active operation. As indicated in the FSEIR, the CMP will ensure that, if the monitoring program indicates that well field operations are impacting Eastern Spadefoot and its habitats, the timing and or volume of groundwater withdrawals may be further modified to avoid or minimize impacts.

The Division believes that a suitable long-term Net Benefit can be achieved as detailed herein, and anticipates being able to issue a CMP for Phase 2B. However, the Division will not render a final decision until the MEPA review process and its associated public comment period is complete, and until all required materials have been submitted to the Division. If you have any questions about this letter, please contact Jesse Leddick, Chief of Regulatory Review, at [jesse.lednick@state.ma.us](mailto:jesse.lednick@state.ma.us) or 508-389-6386. We appreciate the opportunity to comment on this project.

Sincerely,



Thomas W. French, Ph.D.  
Assistant Director

Cc: Jacqueline Beebe, Town Administrator  
Mark White, Environmental Partners Group, Inc.  
Mark Cooperman, EcoTerra Design & Consulting Group, LLC  
Cape Cod Commission  
Cape Cod National Seashore  
MassDEP Southeast Regional Office

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Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

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Charles D. Baker  
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Lieutenant Governor

Matthew A. Beaton  
Secretary

Martin Suuberg  
Commissioner

April 20, 2018

Mathew A. Beaton,  
Secretary of Environment and Energy  
Executive Office of Environmental Affairs  
ATTN: MEPA Office  
100 Cambridge Street, Suite 900  
Boston, MA 02114

RE: FSEIR Review EOEEA # 15273  
EASTHAM.Town of Eastham Water  
System - Phase 2

Dear Secretary Beaton,

The Southeast Regional Office of the Department of Environmental Protection (MassDEP) has reviewed the Final Supplemental Environmental Impact Report (FSEIR) for the proposed Water System - Phase 2 Project in Eastham, Eastham, Massachusetts (EOEEA # 15273). The Project Proponent provides the following information for the Project:

The Secretary's Certificate on the DSEIR for the Phase 2 Eastham Water System was issued on March 3, 2018 and requires the Town to prepare a Final Supplemental Environmental Impact Report that provides updated Section 61 findings and provides comprehensive responses to comments received on NPC #1, NPC #2, NPC #3 and the DSEIR. The FSEIR references the DSEIR for background, purpose, alternatives considered, environmental characteristics and proposed mitigation measures associated with the Phase 2 water system; and provides updated Section 61 findings and response to comments on each of the NPCs and the DSEIR.

### ***Bureau of Water Resources Comments***

Wetlands and Waterways Program: The FSEIR has satisfactorily responded to the Wetlands Program comments on the Draft Supplemental EIR.

Water Management: The Water Management Act (WMA) program has reviewed the Draft Supplementary Environmental Impact Report (DSEIR) submitted by the Town of Eastham for Phase 2 of building its water system. On May 8, 2015 the WMA program issued Eastham permit #9P2422086.01 authorizing the town to withdraw up to 0.415 million gallons per day (MGD) from three wells (District G, District H, and NRHS) for Phase 1 of the Project. The permit



included a mitigation plan for mitigating the increase above baseline (5,850 gallons per day) for Phase 1 withdrawals. For Phase 2, the town will need to submit permit application WM 03 for a new permit to increase its authorized rate up to 1.163 MGD, the average day demand at full build-out. The new WMA permit will require Eastham to document additional mitigation activities for the Phase 2 increased rate above baseline beyond the mitigation accounted for in the existing WMA permit. We met with town representatives and expect the town to be able to meet the additional mitigation requirements. No other additional permitting requirements are anticipated.

**Drinking Water Program:** The MassDEP Drinking Water Program continues to strongly support the Town of Eastham's municipal drinking water system. The Town has applied for all necessary Drinking Water permits to date, and is operating the system in compliance with the Massachusetts Drinking Water Regulations.

***Bureau of Waste Site Cleanup Comments:***

While DEP-SERO acknowledges and appreciates the Proponent's intent to protect the health and safety of its contractors, the Proponent has not fully addressed DEP-SERO's concerns.

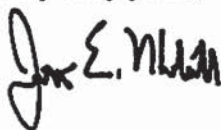
C-25	DEP-SERO	A soil management plan should be developed prior to the installation of the water main that describes how any soil that has to be removed will be properly characterized and disposed of based upon the concentration of contaminants in the soil. The easement area is a bike path along a rail trail. Therefore, during and after installation of the water main, the work should be conducted following procedures outlined in the document entitled "Best Management Practices for Controlling Exposure to Soil during the Development of Rail Trails."	The Phase 2 distribution system will cross an abandoned railroad crossing (e.g., the Cape Cod Rail Trail) in one location. The contract documents for the construction of the Phase 2 distribution system will require that the Contractor submit a Health and Safety Plan which shall include requiring that individuals involved in the excavation of potentially impacted soils be properly informed and trained in the recognition and response strategies involved with the hazards posed by the contaminants.
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Specifically, it is not clear how the Proponent intends to manage potentially-contaminated excavated soil from the area where the distribution system will cross the abandoned railroad crossing (a portion of the Cape Cod Rail Trail). DEP-SERO's comment, as shown above, states, in part, "A soil management plan should be developed prior to the installation of the water main that describes how any soil that has to be removed will be properly characterized and disposed of based upon the concentration of contaminants in the soil." The Proponent's response does not indicate that a soil management plan will be developed. The Soil Management Plan should describe, but is not limited to, how and where any excavated soil will be stored (on poly, near the area of excavation, covered), etc., a sampling plan based on the volume of soil excavated, and potential disposal and/or reuse options. The Proponent's response in *Table 2 – Response to Comments* does not adequately address these concerns. The Proponent should follow procedures as outlined in the document "Best Management Practices for Controlling Exposure to Soil during the Development of Rail Trails" to aide in developing a Soil Management Plan for this Project.

***Other Comments/Guidance***

MassDEP staff is available to provide additional guidance to the Proponent upon request. If you have any questions regarding this comment letter please do not hesitate to contact George Zoto at (508) 946-2820.

Very truly yours,



Jonathan E. Hobill,  
Regional Engineer,  
Bureau of Water Resources

JH/GZ

Cc: DEP/SERO

ATTN: Millie Garcia-Serrano, Regional Director  
David Johnston, Deputy Regional Director, BWR  
Maria Pinaud, Deputy Regional Director, BAW  
Gerard Martin, Deputy Regional Director, BWSC  
Jennifer Viveiros, Deputy Regional Director, ADMIN  
Jim Mahala, Acting Chief, Wetlands and Waterways, BWR  
Dan Gilmore, Wetlands and Waterways, BWR  
Jim McLaughlin, Drinking Water Program, BWR  
Duane LeVangie, Chief, Water Management Act, BWR/Boston  
Richard Friend, Water Management Act, BWR/Boston  
Mark Dakers, Chief, Solid Waste, BAW  
Doug Coppi, Solid Waste, BAW  
Allen Hemberger, Site Management, BWSC



**Patel, Purvi (EEA)**

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**From:** Logan, John (FWE)  
**Sent:** Thursday, April 12, 2018 1:00 PM  
**To:** Patel, Purvi (EEA)  
**Cc:** Potti, Pooja (FWE)  
**Subject:** Eastham Water System Phase 2 FSEIR

Secretary Matthew A. Beaton  
Executive Office of Energy and Environmental Affairs (EEA)  
Attn: MEPA Office  
Purvi Patel, EEA No. 15273  
100 Cambridge Street, Suite 900  
Boston, MA 02114

Dear Secretary Beaton:

The Division of Marine Fisheries (MA DMF) has reviewed the Final Supplemental Environmental Impact Report (FSEIR) by the Town of Eastham for Phase 2 of the proposed Eastham water system. Phase 2 includes construction of one well field, a water storage tank, and 82 miles of distribution system piping. The project was reviewed with respect to potential impacts to marine fisheries resources and habitat.

Some of the proposed distribution system piping would traverse coastal streams supporting documented diadromous fish runs. Diadromous fish species that use these systems for foraging, passage, nursery, and/or spawning habitat include alewife (*Alosa pseudoharengus*), American eel (*Anguilla rostrata*), Atlantic tomcod (*Microgadus tomcod*), and white perch (*Morone americana*). In response to the previous Draft SEIR, MA DMF recommended use of appropriate containment techniques to prevent construction debris and loose sediments from entering any bordering waterways. The FSEIR addresses this previous recommendation by noting that filter sock will be installed along roadways adjacent to wetland resources and coastal streams and inspected daily.

MA DMF finds this approach to be suitable and has no further recommendations 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) 742-9722.

---

John Logan, Ph.D.  
MA Division of Marine Fisheries  
836 South Rodney French Boulevard  
New Bedford, MA 02744  
(508) 742-9722  
<http://www.mass.gov/eea/agencies/dfg/dmf/>  
[https://www.researchgate.net/profile/John\\_Logan](https://www.researchgate.net/profile/John_Logan)  
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**The Commonwealth of Massachusetts**  
William Francis Galvin, Secretary of the Commonwealth  
Massachusetts Historical Commission

April 5, 2018

Jacqueline Beebe  
Town Administrator  
Town of Eastham  
2500 State Highway  
Eastham, MA 02642

RE: Eastham Water System, Phase 2, Eastham, MA. MHC #RC.48184. EEA #15273.

Dear Ms. Beebe:

Staff of the Massachusetts Historical Commission (MHC) have reviewed the Final Supplemental Environmental Impact Report (FSEIR), received March 20, 2018, for the project referenced above.

The FSEIR references historic and archaeological resources for Phase 2 project impacts. The MHC looks forward to reviewing the results of ongoing identification efforts for Phase 2A, Contract 12 and 13, District H wellfield portion and future Contracts within Phase 2, including the results of archaeological monitoring within previously proposed Phase 2A Contract 9 project impact areas at the Shore Road Site and Mary Chase Road.

The MHC will continue to participate in consultation to avoid, minimize or mitigate adverse effects to significant historic and archaeological resources consistent with the Post-Review discoveries plan implemented for the project. If project plans change for future project phases, then current project information should be submitted to the MHC for review and comment.

These comments are offered to assist in compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (36 CFR 800), M.G.L Chapter 9, Sections 26-27C (950 CMR 70-71) and MEPA (301 CMR 11). If you have any questions or require additional information, please contact Jonathan K. Patton, Archaeologist/Preservation Planner, at this office.

Sincerely,

A handwritten signature in cursive script, appearing to read "Brona Simon".

Brona Simon  
State Historic Preservation Officer  
Executive Director  
State Archaeologist  
Massachusetts Historical Commission

xc: Neil Andres, Superintendent, Eastham Department of Public Works  
Steve McCurdy, DEP-BRP  
Secretary Matthew A. Beaton, EEA, Attn: Alex Strysky, MEPA Unit  
Bettina Washington, Wampanoag Tribe of Gay Head (Aquinnah)  
Ramona Peters, Mashpee Wampanoag Tribe  
Mark N. White, Environmental Partners Group, Inc.  
Deborah C. Cox, PAL, Attn: Holly Herbster



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**Via Email**

April 18, 2018

Matthew A. Beaton, Secretary  
Secretary of Energy and Environmental Affairs  
Executive Office of Energy and Environmental Affairs (EEA)  
Attn: MEPA Office, Purvi Patel, Project Analyst  
100 Cambridge Street, Suite 900  
Boston MA 02114

**Re: *Final Supplemental Environmental Impact Report (FSEIR)*  
*Town of Eastham Water System Phase 2 – EEA No. 15273*  
*Town of Eastham*  
*(Commission Project No. 18002)***

Dear Secretary Beaton:

The Cape Cod Commission (Commission) provides the following comments on the FSEIR submitted by Environmental Partners Group on behalf of the Town of Eastham for the above referenced project.

The Commission reviewed and approved Phase 1 of the Eastham water system as a Development of Regional Impact (DRI). Phase 2A of the water system was incorporated into the Town's Phase 1 DRI approval as a modification to that DRI decision. The balance of Phase 2, as discussed in the above referenced FSEIR, will ultimately require further review by the Commission as a new DRI.

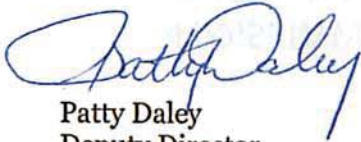
The town has provided documentation to further DRI review relative to the goals of the Cape Cod Regional Policy Plan. Commission staff looks forward to reviewing a final Conservation Management Permit issued by, and developed in coordination with, the Natural Heritage and Endangered Species Program, and working with the town to further develop the water-level monitoring plan to minimize potential impacts to rare species habitat.

The Commission strongly supports efforts undertaken by the Town of Eastham to develop a town-wide municipal water supply, where such infrastructure supports both the economic and public health of the Eastham community, and supports the Secretary in issuing a Certificate on the FSEIR, allowing the town to proceed to project permitting.



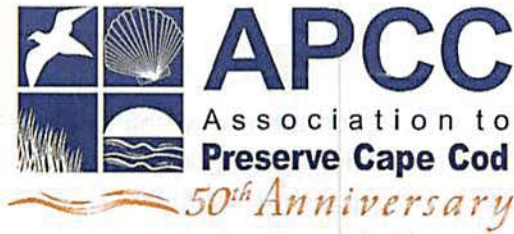
Thank you for the opportunity to provide comments on the Town of Eastham's FSEIR for Phase 2 of the town-wide water system. Cape Cod Commission staff are available to answer any questions about these comments.

Sincerely,



Patty Daley  
Deputy Director

CC: Mark White, Environmental Partners Group  
Jacqueline Beebe, Eastham Town Administrator  
Paul Lagg, Eastham Town Planner  
Cape Cod Commission Chair  
Cape Cod Commission Committee on Planning and Regulation Chair  
Eastham Cape Cod Commission Representative



April 17, 2018

Andrew Gottlieb  
Executive Director

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Secretary Matthew A. Beaton  
Executive Office of Energy and Environmental Affairs  
Attention: MEPA Office  
100 Cambridge Street, Suite 900  
Boston, MA 02114

RE: Eastham Water System – Phase 2 MEPA Final Supplemental EIR, EEA #15273

Dear Secretary Beaton:

The Association to Preserve Cape Cod (APCC), the Cape's leading nonprofit environmental advocacy and education organization, offers the following comments regarding the Eastham Water System Phase 2 Final Supplemental Environmental Impact Report (FSEIR).

In previous comments submitted throughout the MEPA review process for this project, APCC has expressed strong support for development of the Eastham water system. At the same time, we have also stated our concern over the project's potential impacts on rare species habitat. In particular, APCC has focused much of our written comments on the project's possible impacts to eastern spadefoot toad, a state-listed Threatened species, and the potential for water withdrawal from the proposed District H wells to adversely impact surface water levels of area vernal pools that may be used as spadefoot toad breeding habitat.

Review of the Draft Conservation and Management Permit (CMP) as well as the applicant's written responses to APCC's comments submitted for the Draft Supplemental EIR—both found in the FSEIR—show that the proposed monitoring plan and other habitat conservation and restoration efforts offer measures to mitigate construction impacts to habitat and provide a phased approach to withdrawal rates intended to prevent impacts to area vernal pools. Specifically, the CMP requirements include:

- Active restoration areas providing habitat improvements for eastern spadefoot toad that also connect to abutting larger habitat areas.
- The inclusion of additional conservation restriction measures available to Eastham that will provide for added protection of eastern spadefoot toad habitat, considering that the property is located within the Cape Cod National Seashore and has conservation restrictions associated with it.

482 Main Street | Dennis, MA 02638  
Tel: 508-619-3185 | [info@apcc.org](mailto:info@apcc.org) | [www.apcc.org](http://www.apcc.org)

A NON-PROFIT ORGANIZATION. DUES AND CONTRIBUTIONS TAX DEDUCTIBLE AS PROVIDED BY LAW.



- Current and ongoing hydrological monitoring of vernal pools in the vicinity of the District H wellfield, which will provide data for future evaluation of wellfield operations and whether use of the wells is affecting surface water levels in the vernal pools to the extent that eastern spadefoot toad habitat is affected.

APCC is reassured by the CMP requirement that District H withdrawals will be maintained at a lower level and gradually increased under continued evaluation and in consultation with the Natural Heritage and Endangered Species Program. According to the FSEIR, the permitted withdrawal rates of the other two well sites, District G and NHRS wells, can satisfy the average summer day demand for the water system. District H will provide system redundancy and aid the town in meeting forecasted peak day demand.

In response to APCC's written comments for the Draft Supplemental EIR, the FSEIR states that if monitoring shows withdrawals need to be limited during spadefoot toad breeding season, District H withdrawal rates will be adjusted through consultation with NHESP. This condition should be specified in the final draft of the CMP. In an additional response to APCC's comments on the Draft Supplemental EIR, the FSEIR also states that conditions of the CMP will be incorporated into the DEP Water Management Act Permit.

The information provided in the FSEIR helps address APCC's previous written comments. APCC is also mindful that Phase 2 of the Eastham water system project must still undergo Cape Cod Commission review as a Development of Regional Impact, which will present further opportunity to review and comment on any potential refinements to the conditions in the CMP.

Completion of the MEPA review process represents a significant step forward for this project, which will ultimately provide a safe, clean public water supply to every resident and business in Eastham. APCC enthusiastically supports the town's efforts in this endeavor.

Sincerely,



Andrew Gottlieb  
Executive Director