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September 16, 2011

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

PROJECT NAME : Daley Development  
PROJECT MUNICIPALITY : Lee  
PROJECT WATERSHED : Housatonic  
EOEA NUMBER : 14764  
PROJECT PROPONENT : Robert Daley  
DATE NOTICED IN MONITOR : July 6, 2011

Pursuant to the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62I) and Sections 11.03 and 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **does not require** the preparation of an Environmental Impact Report (EIR).

As described in the Environmental Notification Form (ENF), the proposed project involves the phased development of a 4-lot industrially-zoned subdivision on a 15.3-acre parcel formerly owned by the Mead/West Vaco Paper Mill and located on Pleasant Street (Route 102) in Lee. The southern portion of the project site borders on the Housatonic River. Most of the 15.3-acre project site is located within rare species habitat. According to the Proponent, the project's estimated potable water supply demand and wastewater flow (approximately 1,940 gallons per day (gpd) and 1,320 gpd respectively) will be served by the Town of Lee's municipal water supply and sewer systems, respectively. The site drive serving all four building lots will be located on Route 102. The project will result in the alteration of approximately 4.98 acres of land including 2.14 acres of Priority Habitat of a state-listed species of Special Concern.

Phase I

Phase I involves the construction of two light industrial buildings (5,400 square foot (sf), 10,800 sf) and a total of 45 surface parking spaces, and site grading and landscaping on two separate building lots located in the northeast and northwest sections of the project site, respectively.

As part of the Phase I construction work, the Proponent proposes to construct a 450 linear foot (lf) site drive from Route 102 that will serve the Phase I and Phase II development lots. The proposed Phase I development work will also include construction of stormwater management infrastructure and underground utilities designed to serve Phase I and Phase II that will result in 1.44 acres of impervious surface area.

### Phase II

As currently proposed, Phase II will include the construction of two additional light industrial buildings (8,100 sf, 10,800 sf) and a total of 38 surface parking spaces on separate development lots in the central portion of the project site abutting the north side and south side of the proposed internal site drive. Phase II construction activities will include site grading and landscaping together with the construction of stormwater management infrastructure and underground utilities to serve Phase I and Phase II and will result in 2.35 acres of impervious surface area.

### Permits and Jurisdiction

The project is undergoing review pursuant to Sections 11.03(2)(b)(2), of the MEPA regulations because it will result in greater than 2 acres of disturbance of designated Priority habitat that results in a "take" of a state-listed species of Special Concern. The project requires a Vehicular Access Permit from the Massachusetts Department of Transportation (MADOT), 401 Water Quality Certification from the Massachusetts Department of Environmental Protection (MassDEP) and an Order of Conditions from the Lee Conservation Commission (and, on appeal only, a Superseding Order from MassDEP). The project may require a Conservation and management Permit from the Natural Heritage and Endangered Species Program (NHESP). The project also requires a National Pollution Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site of over one acre from the United States Environmental Protection Agency (U.S. EPA).

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that may have significant environmental impacts and that are within the subject matter of required or potentially required state permits. In this case, MEPA jurisdiction exists over land alteration and water supply.

## REVIEW OF THE ENVIRONMENTAL NOTIFICATION FORM

### Wetlands

The project site abuts the Housatonic River to the south and includes approximately 1.15 acres of Land Under Water wetlands, 1,000 linear feet of Bank, 1.25 acres of Bordering Land Subject to Flooding (BLSF), 4.94 acres of Riverfront Area and approximately 1.36 acres of isolated wetlands (IVW) located along and adjacent to the project site's eastern boundary. The

project will not result in the alteration of wetlands resource areas. As discussed below, the Proponent originally committed to placing a Conservation Restriction (CR) on approximately 8.4 acres (54%) of the project site comprised of wetland resource areas, Riverfront and floodplain areas, and Priority Habitat areas. As described below, the Proponent provided additional information to the MEPA Office on September 9, 2011, proposing to increase the proposed CR area from 8.4 acres to 10.3 acres of the project site. The Proponent should evaluate the use of deed restrictions as a method of avoiding potential future wetland impacts from building owners and/or tenant activities and as a method of minimizing water quality impacts associated with snow removal activities.

### Rare Species

As described in the ENF, the project site is located within Priority habitat for the Wood Turtle (*Glyptemys insculpta*). In their comments, NHESP has indicated that the project will result in a "take" of the Wood Turtle. The Proponent has committed to permanently protect a total of approximately 10.45 acres (67%) of the project site for the permanent protection of the Wood Turtle habitat. The habitat protection area will be fenced to include the Proponent's originally proposed 8.3-acre CR commitment, located between the southern boundary of the 4-lot subdivision and the Housatonic River, and a 1.9-acre portion of the project site containing isolated vegetated wetlands and located along the subdivision's eastern boundary. The Proponent has also committed to fund the on-site management of turtle habitat, implement a turtle protection plan during project construction and install a turtle-proof barrier around the proposed project site. According to NHESP, the Proponent has committed to pursue the permanent protection of the 10.45-acre turtle habitat area through either a Conservation Restriction (CR) or land transfer to a qualified Land Trust.

As described in NHESP's comment letter, the Proponent's habitat protection commitment also includes provisions for the Proponent's seasonal storage of storage containers and equipment in a 40ft-wide by 450-ft long corridor to be located immediately adjacent to the 4-lot subdivision's southern boundary. I encourage the Proponent to install permanent boundary markers for this storage area that will clearly identify the extent of Proponent's storage area and the permanently protected CR land areas, and to avoid future impacts to wetlands resource areas, and watershed protection areas.

NHESP anticipates that the Proponent will continue to work closely with NHESP to design a suitable land protection plan for the project site that will meet the requisite performance standards to support a Conservation and Management Permit pursuant to the Massachusetts Endangered Species Act (MESA) and MESA Regulations (321 CMR 10.04(3)(b)). The Proponent should forward a copy of the Proponent's proposed rare species impact minimization and mitigation plan, including a copy of the Proponent's executed and recorded CR, proposed deed restriction documentation, and final project site plan identifying the designated conservation areas and development areas to the MEPA Office for the project file.

### Stormwater

As described in the ENF, the project's stormwater management plan has been designed to meet MassDEP's Stormwater Management Regulations and standards. The proposed stormwater management plan includes deep-sump catch basins, and two stormwater detention basins with sediment forebays to achieve a Total Suspended Solids (TSS) removal rate of greater than 80 percent and provide for the on-site infiltration of a portion of the project's on-site surface stormwater and roof runoff. The proposed stormwater management plan also includes the construction of two on-site stormwater detention basins with forebays to be located in the center and western portions of the project site. I encourage the Proponent to continue to evaluate opportunities for incorporating sustainable design alternatives including Low Impact Development (LID) techniques in the project's site design and stormwater management plans. LID techniques incorporate stormwater best management practices (BMPs) and can reduce impacts to land and water resources by conserving natural systems and hydrologic functions. The primary tools of LID are landscaping features and naturally vegetated areas, which encourage detention, infiltration and filtration of stormwater on-site. Other tools include water conservation and use of pervious surfaces. For more information on LID, visit <http://www.mass.gov/envir/lid/>. Other LID resources include the national LID manual (Low Impact Development Design Strategies: An Integrated Design Approach), which can be found on the EPA website at: <http://www.epa.gov/owow/nps/lid/>.

### Traffic

Using the Institute of Transportation Engineers (ITE) Trip Generation manual's land use code 130 (Industrial Park), 942 (Automotive Care Facility) and 770 (Business Park) the Proponent estimates that the phased project will generate a total of 349 new trips on an average weekday. Phase I is expected to generate approximately 119 vehicle trips and Phase II is estimated to generate approximately 230 vehicle trips on an average weekday. The main site drive for the project will be provided at a new site drive/Route 102 intersection located within the state highway layout.

According to the comments received from MassDOT, the proposed project is not expected to have a significant impact on the state highway system. MassDOT has recommended that the site driveway plan be consistent with the design guidelines included in the *MassDOT Project Development and Design Guide, January 2006*. MassDOT has also recommended that the Proponent design and implement a Transportation Demand Management (TDM) Plan to reduce the project's estimated new vehicle trips. The Proponent's TDM should include the promotion of carpooling, van pooling and public transportation. The Proponent should contact the Berkshire Regional Transit Authority (BRTA) to identify the feasibility for providing a bus stop/shelter on Route 102 in the vicinity of the project site. The Proponent should also explore the possibility of activating the existing dormant rail spur located adjacent to the project site's southern boundary for use in the movement of materials to and from the project site.

### Construction Period

The Proponent should analyze construction-period impacts, including temporary impacts to wetlands, and the extent of any blasting and/or re-grading during construction. The Proponent should consult with the Town of Lee, and MassDEP to ensure that the Proponent will meet any performance standards associated with a federal NPDES permit for all proposed project construction activities. I encourage the Proponent to consider participating in MassDEP's Clean Construction Equipment Initiative/MassDEP Retrofit Program consisting of an engine retrofit program and/or use of low sulfur fuel to reduce exposure to diesel exhaust fumes and increase the removal of particulate matter (PM) by approximately 25% beyond that which can be removed by retrofitting diesel-powered equipment. 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, residential areas and wellhead protection areas.

### Sustainable Design

I encourage the Proponent to incorporate sustainable design elements into the project design. The basic elements of a sustainable design program may include, but not be limited to, the following measures:

- Optimization of natural day lighting, passive solar gain, and natural cooling;
- Use of energy efficient HVAC and lighting systems, appliances and other equipment, and use of solar preheating of makeup air;
- Favoring building supplies and materials that are non-toxic, made from recycled materials, and made with low embodied energy;
- Provision of easily accessible and user-friendly recycling system infrastructure into building design;
- Development of a solid waste reduction plan;
- Development of an annual audit program for energy consumption, waste streams, and use of renewable resources;
- LEED certification; and
- Water conservation and reuse of wastewater and stormwater.

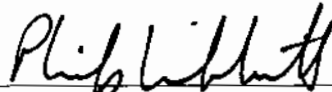
### Conclusion

The review of the ENF has served to adequately disclose the potential impacts associated with this project.

Based on a review of the ENF, the comment letters, and consultation with the relevant public agencies, I find that the impacts of the project do not warrant further MEPA review. The Proponent can resolve any remaining issues during the permitting process.

September 16, 2011

Date

  
for Richard K. Sullivan Jr., Secretary

Comments Received:

09/08/2011 Natural Heritage and Endangered Species Program (NHESP)  
08/25/2011 Berkshire Regional Planning Commission  
09/09/2011 Housatonic Valley Association (HVA)  
09/09/2011 Massachusetts Department of Transportation (MassDOT)  
09/12/2011 Department of Environmental Protection (MassDEP) - WERO

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