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March 7, 2008

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

PROJECT NAME : Regency at Methuen  
PROJECT MUNICIPALITY : Methuen  
PROJECT WATERSHED : Merrimac  
EOEA NUMBER : 14167  
PROJECT PROPONENT : Jason Witham, Toll Brothers, Inc.  
DATE NOTICED IN MONITOR : January 23, 2008

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

Project Description

As described in the Expanded Environmental Notification Form (EENF), the project involves the phased (Phase I-III) development of a 240-unit age-restricted residential community on a 73-acre site containing an existing sand and gravel mining operation and located off Wheeler and Lowell Streets in Methuen. The project includes the demolition of a garage/office building and weigh scale associated with the existing sand and gravel mining operation, and the construction of 134 detached single family residential houses, 106 attached residential townhouse units, a 2,500 sf community clubhouse building with fitness center, meeting room, kitchen, lavatory and office space, in-ground pool (38'x60'), regulation size tennis court, and utilities and stormwater management infrastructure. The project will also include the construction of approximately 8,800 lf of internal roadway with sidewalks, and a total of approximately 280 surface parking spaces (240 resident parking spaces, 42 clubhouse surface parking spaces).

The project will generate approximately 1,350 vehicle trips per day (vtd). Vehicle access to the site will be provided via two separate site drives located along the project site's Wheeler Street frontage. As described in the EENF, this project will consume approximately 117,000 gallons per day (gpd) of water and will generate approximately 64,350 gpd of wastewater flows. The project also includes the construction of approximately .5 miles of new water and sewer main within municipal roadway right-of-ways and, and the construction of roadway improvements to Wheeler Street. As currently designed, the project's total carbon dioxide (CO<sub>2</sub>) emissions related to energy use and transportation is estimated in the EENF at 4,421 tons per year (tpy).

### Jurisdiction

The project is undergoing review and requires the preparation of an EIR pursuant to 301 C.M.R. 11.03 (1)(a)(1) and 11.03 (1)(a)(2) of the MEPA regulations, because it involves the alteration of 50 or more acres of land (approximately 60 acres total), and will result in the creation of 10 or more acres (22 acres total) of impervious area. The project is also undergoing review pursuant to 301 C.M.R. 11.03 (6)(b)(14) of the MEPA regulations because it will result in the generation of 1,000 or more (1,350 total) new vehicle trips per day on roadways providing access to a single location and construction of 150 or more (approximately 520 spaces total) new parking spaces at a single location.

Because the project proposes construction activities and alteration within the 100-foot buffer to Bordering Vegetated Wetlands (BVW), it will require an Order of Conditions from the Methuen Conservation Commission (and hence Superseding Order(s) from the Department of Environmental Protection (MassDEP) if any local Orders were appealed). The project will require a Sewer Extension Permit and a Section 401 Water Quality Certificate from MassDEP. As described in the EENF, the project site contains rare species habitat and thus requires review by the Natural Heritage Program and Endangered Species Program (NHESP). The project must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site of over one acre. This project is subject to the EEA Greenhouse Gas Emissions Policy and Protocol, and the SEIR must demonstrate consistency with the analysis and mitigation provisions therein. The Policy is available on-line at <http://www.mass.gov/envir/mepa/pdffiles/misc/GHG%20Policy%20FINAL.pdf>.

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 cause significant Damage to the Environment and that are within the subject matter of required or potentially required state permits. These include traffic, air quality, wetlands, rare species, stormwater management and historic resources.

Procedural

## Single EIR Request

The proponent filed an Expanded Environmental Impact Notification Form (EENF), in connection with a request to prepare a Single EIR (rather than the ordinary Draft and Final EIR) in accordance with section 11.06(8).

That section sets forth the following standards for an EENF, which is required for a Single EIR:

1. describe and analyze all aspects of the project and all feasible alternatives, regardless of any jurisdictional or other limitation that may apply to the scope;
2. provide a detailed baseline in relation to which potential environmental impacts and mitigation measures can be assessed; and,
3. demonstrate that the planning and design of the project uses all feasible means to avoid potential environmental impacts.

The EENF received an extended public comment period pursuant to Section 11.06(1) of the MEPA regulations. I find that the EENF **does provide** adequate information about baseline conditions, potential impacts of the project and mitigation options that can address these impacts. Based on a review of the EENF and comments submitted on it, I hereby find that the EENF meets the regulatory requirements and I am permitting the proponent to file a Single EIR in fulfillment of Section 11.03 of the MEPA regulations. The following Scope is intended to identify additional analysis and information necessary to complete MEPA review and ensure that impacts are fully analyzed and adequate mitigation proposed.

## SCOPE

Project Description and Permitting

The Single EIR should provide updates on the status of each state permit or agency action required, or potentially required, for the project, and the project's ability to meet applicable performance standards. The Single EIR should include an update on the local permitting process, particularly with respect to any state highway issues discussed.

### Alternatives Analysis

The proponent may carry forward its Preferred Alternative into the Single EIR. Additional project alternatives are not required; however the SEIR should continue to investigate all feasible methods of avoiding, reducing, or minimizing impacts to land.

The proposed project creates approximately 22 acres of new impervious surfaces. The SEIR should evaluate alternatives that minimize the amount of impervious surfaces associated with the project. As described in the EENF, the proponent has committed to set aside approximately 13 acres (18%) of the project site as open space with walking trails. The proponent has proposed to provide a 'passive open space easement' to ensure that this Open Space area is protected and preserved for passive open space purposes. The SEIR should include a map that delineates which areas of the site are proposed to permanently remain as open space following project completion, and it should disaggregate landscaped open space and undisturbed open space. I strongly encourage the proponent to consider placing the proposed passive open space area located within the project site under a Conservation Restriction (CR) to ensure for their permanent protection. The proponent should also update its traffic analysis in accordance with this Scope.

### Wetlands

As currently proposed, the project will impact approximately 3,533 sf of bordering vegetated wetlands (BVW). The project will also involve alterations within the 100-foot wetland buffer zone for site grading and roadway construction, buildings, houses, and stormwater management infrastructure. The project, as currently designed, locates a limited amount of new building construction and parking area improvements within the buffer zone of bordering vegetated wetlands (BVW), and buffer zone to two or more certified vernal pools located within the project site and within the proponent's proposed roadway improvement and sewer extension corridors.

The Single EIR should quantify the amount of direct wetland resource area alterations proposed, including removal or height reduction of tree and shrub canopy from forested wetlands (crown area, not basal area), expected alterations from the proposed project and construction-related disturbances associated with the project. The SEIR should include a reasonably scaled map that delineates wetland boundaries and buffer zones on the site and within the proponent's proposed roadway improvement and sewer extension corridors. The plans should also note any applicable local buffer zone requirements. The SEIR should explain the significance of each wetland resource area on the site to the interests enumerated in the Wetlands Protection Act. The proponent should consult with the Natural Heritage Program and Endangered Species Program (NHESP) to determine if the project site contains existing quarry areas that may meet the vernal pool certification guidelines in accordance with the Division of Fish and Wildlife Vernal Pool Certification Criteria.

The Commonwealth has endorsed a “No Net Loss Policy” that requires that all feasible means to avoid and reduce the extent of wetland alteration be considered and implemented. The SEIR should continue to examine alternatives that avoid impacts to wetland resource areas, their associated buffer zones, riverfront protection areas and 100-year flood plain areas. Where it has been demonstrated that impacts are unavoidable, the SEIR should demonstrate that the impacts have been minimized, and that the project will be accomplished in a manner that is consistent with the Performance Standards of the Wetlands Regulations (310 CMR 10.55(4)).

The proponent has proposed to construct approximately 2,350 sf of on-site wetlands replication. The proponent will need to provide wetlands replication at a ratio of at least 1:1 for any unavoidable impacts to wetlands. For any amount of required wetlands replication, a detailed wetlands replication plan should be provided in the SEIR which, at a minimum, includes replication location(s), elevations, typical cross sections, test pits or soil boring logs, groundwater elevations, the hydrology of areas to be altered and replicated, list of wetlands plant species of areas to be altered and the proposed wetland replication species, planned construction sequence, and a discussion of the required performance standards and monitoring. The SEIR must demonstrate that the proposed wetlands mitigation plan is consistent with the MassDEP’s Massachusetts Inland Wetland Replication Guidelines.

The SEIR should identify project construction and post-construction conditions and commitments, including but not limited to, the use of a Deed Restriction or Conservation Restriction, to include BVW, IVW, certified vernal pools and wetland buffer areas on any residential properties that will be located within 600 feet of any vernal pools or within the 100-foot wetlands buffer zone, as a method for avoiding future impacts from homeowner and/or condominium association activities. In the absence of the proponent’s use of a Deed Restrictions or Conservation Restrictions, the SEIR should address MassDEP’s comments and include information required by MassDEP for a 401 Water Quality Certification.

#### Rare Species Habitat

As described in the EENF, portions of the project site are located within rare species habitat for the Bald Eagle (*Haliaeetus leucocephalus*), Clubtail Dragonfly (*Stylurus spiniceps*), and the UMBER Shadowdragon (*Neurocordulia obsoleta*). According to the comments received from NHESP, the proposed project could adversely affect the rare species habitat located within the project site and disrupt the feeding, breeding, nesting, overwintering, and migratory behavior of rare turtles and salamanders. The project as currently design has the potential to adversely affect a take of the rare species listed above. The SEIR should include a site inventory and habitat assessments to determine which areas of the site might constitute suitable habitat for the rare turtles and salamander species listed above and any other rare species known to exist within the project site. The habitat assessments should include an identification and survey of any on-site vernal pools that may be located within the project site.

The proponent should also survey the wetland resource areas located along Wheeler Street and

adjacent to the proponent's proposed Wheeler Street roadway improvements. The SEIR should present the results of the habitat inventory on an appropriately scaled map. For those areas found to be suitable habitat, the SEIR should include surveys at appropriate times of year to determine if rare species are actually present. The proponent should contact the NHESP to determine the appropriate survey protocols.

### Stormwater/Drainage

As described by the proponent, the project site will be developed consistent with MassDEP's Stormwater Management guidelines and the City of Methuen's stormwater requirements. As described in the EENF, the proposed stormwater management plan will include the use of best management practices (BMPs) including approximately 2,000 lf of water quality swales, deep sump catch basins with water quality treatment units, and the use of nine stormwater detention basins and infiltration trenches to provide for the on-site infiltration of surface stormwater and roof runoff. As described in the EENF, the proponent's stormwater management plan will achieve a Total Suspended Solids (TSS) removal rate of 80 percent.

MassDEP has requested that the Single EIR should include a detailed description of the proposed project's stormwater management plan. This section of the SEIR should describe how the project's source controls, pollution prevention measures, erosion and sediment controls, and the post-development drainage system will be designed in compliance with MassDEP's Stormwater Management Policy (SMP), and the revisions, which were incorporated into the wetlands and 401 Water Quality Certification regulations on January 2, 2008. The Proponent should use the MassDEP Stormwater Management Handbook when addressing this issue. The SEIR should demonstrate that the design of the drainage system is consistent with this policy's standards for water quality, recharge to groundwater, and peak runoff impacts, and with the City of Methuen's Storm Water Program and its National Pollutant Discharge Elimination System (NPDES) Phase II Stormwater General Permit (CGP).

A Storm Water Pollution Prevention Plan (SWPPP) may be required prior to construction as a requirement of the CGP. In the alternative, the SEIR should explain why the proponent is proposing a drainage system design not recommended by MassDEP. If the proponent ties into an existing municipal stormwater system or the MHD system, the SEIR should clarify the permits required and if there will be a recharge deficit on-site. In addition, a maintenance program for the proposed drainage system will be needed to ensure its effectiveness. This maintenance program should outline the actual maintenance operations, sweeping schedule, responsible parties, and back-up systems. The SEIR should investigate feasible methods of reducing the project's impervious surfaces to increase the points of infiltration within the project site.

I encourage the proponent to continue to evaluate additional 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. Clustering of buildings is an example of how LID can preserve open space and minimize land disturbance. LID can also protect natural resources by incorporating wetlands, stream buffers and mature forests as project design features. 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

As described in the EENF document, the proponent relied on traffic studies conducted at three other similar age-restricted development projects located in Massachusetts (The Village at Great Hill – Toppsfield, Eagles landing – Tewksbury, Danford Village – Billerica) to derive an estimate of approximately 826 new vehicle trips per day (vtd) to be generated by the proposed Regency at Methuen project. The SEIR should include a description of the existing age-restricted development projects used in the proponent's comparative traffic count studies. Using the Institute of Transportation Engineers (ITE) *Trip Generation* manual's land use code 230 (Residential Condominium/Townhouses), the proposed age-restricted residential condominium development project is likely to generate a total of 1,350 vehicle trips per day. According to the proponent, the new vehicle trips anticipated from the project will not have a significant impact on traffic within the study area. Project area intersections including the project site drives/Wheeler Street intersection, the Wheeler Street/Lowell Street intersection and the Wheeler Street/Lowell Boulevard intersection, will operate at acceptable levels.

The proponent has committed to a number of proposed off-site roadway improvements to Wheeler Street, and the Wheeler Street/Lowell Street intersection and the Wheeler Street/Lowell Boulevard (Rt 110) intersection as mitigation for the proposed project's impacts to traffic. Specifically, the proponent has committed to widening and realigning a 4,200 lf section of Wheeler Street including 3,600 lf along the project site's Wheeler Street frontage from 24' to 36', and repaving a 600 lf of roadway including 200 lf of Lowell Street and 400 lf along Wheeler Street Extension. The proponent has also committed to construct traffic signage at each of the two project site drives/Wheeler Street intersections, the Wheeler Street/Lowell Street intersection and the Wheeler Street/Lowell Boulevard intersection.

I understand the proponent continues to consult with the City of Methuen to design the proponent's proposed off-site roadway improvements for the proposed Regency at Methuen condominium development project. The Single EIR should include an update summary of the proponent's consultations with the City of Methuen. The Single EIR should provide an updated site circulation plan that clearly demonstrates how cars, trucks, bicycles, and pedestrians will

circulate safely through the site.

#### Transportation Demand Management (TDM)

The proponent should include in the SEIR a detailed discussion of all feasible Transportation Demand Management (TDM) measures for reducing project generated vehicle trip generation. The TDM plan should consider the use of implementation of a carpooling and vanpooling program; implementation of a ridesharing program, and promotion of the use of public transit service that may currently provide limited service through the project area along Lowell Street, Lowell Boulevard and Wheeler Street. The TDM plan should identify existing transit, pedestrian, and bicycling transportation modes within the project area, and propose on-site and off-site improvements to attract to increase their usage. The Single EIR should demonstrate the proponent's commitment to implement, monitor, and continuously fund a proposed TDM plan.

#### Transit

The SEIR should provide an inventory of public transit and bus services in the project area that connect to the local commuter rail station to identify opportunities for providing existing Merrimack Valley Regional Transit Authority (MVRTA) bus and/or Shuttle service to and/or within the project site.. The proponent should work closely with MVRTA's Office of Special Services, MassRIDES, and the City of Methuen to identify specific opportunities for serving the Regency at Methuen project. Specifically, the proponent should work with local officials to identify bus connections and potential shuttle bus services from activity nodes and residential areas to the project site. The Single EIR should include an update of the proponent's discussions with MVRTA and others for providing existing bus service and/or shuttle service to the project site. The proponent should propose mitigation for proposed project impacts on existing bus services.

#### Pedestrian and Bicycle Facilities

The SEIR should describe the internal vehicular and pedestrian circulation plans for the project site. The SEIR should show on a reasonable scaled map of the project site, where the proponent proposes new sidewalks, pedestrian crossings, pedestrian pathways and vehicle/pedestrian safety signage in a map of the area. The proponent should discuss the feasibility of providing a sidewalk along Wheeler Street and along the proposed two site driveways. I strongly encourage the proponent to continue to work closely with the City of Methuen and others to evaluate the feasibility of constructing any additional traffic, transit, pedestrian, and bicycle improvements within the project area in response to the regional and local traffic concerns that may arise out of the proposed age-restricted residential condominium development project.

#### Parking

Parking at the site is proposed to include a total of approximately 520 surface parking spaces (approximately 480 resident parking spaces, 42 clubhouse surface parking spaces). The Single



EIR should indicate how the parking supply was developed and demonstrate that the parking supply is the minimum necessary to accommodate project demand without encouraging additional single occupant vehicle trips. Implementation of transportation demand measures and provision of good bicycle and pedestrian access can further reduce the amount of parking needed. If the parking supply is greater than the amount required under local zoning, the SEIR should explain why, and discuss the impacts of excess parking upon the proposed Transportation Demand Management (TDM) program. The Single EIR should evaluate a smaller parking supply to further reduce the amount of impervious surfaces on the site.

### Green House Gas Emissions (GHG)

To address growing concern about the impacts of climate change and support development of solutions, the Executive Office of Energy and Environmental Affairs (EEA) recently developed a Greenhouse Gas (GHG) Policy. This Policy requires those project proposals filed with the MEPA Office on or after November 1, 2007 to conduct a quantitative analysis of greenhouse gas emissions and associated mitigation measures. The EEA Greenhouse Gas Emissions Policy and Protocol Policy is available on-line at <http://www.mass.gov/envir/mepa/pdf/files/misc/GHG%20Policy%20FINAL.pdf>.

The EENF includes the proponent's assessment and analysis of the direct, indirect and transportation greenhouse gas emissions associated with the Regency at Methuen residential condominium development project employing an energy model (Tech Environmental Energy Model) not identified in the GHG Policy. The SEIR should respond to MassDEP's comments and should provide additional information and a detailed discussion to demonstrate the comparability of the proponent's energy model with the energy models identified in the GHG Policy.

The proponent's GHG analysis also identified mitigation measures related to site planning, building design and transportation to avoid, minimize and mitigate these emissions. According to the information provided in the EENF document, the proposed preferred alternative development project will result in the generation of approximately 1,735 tons per year (tpy) of direct emissions of CO<sub>2</sub>, 3,274 tpy of indirect emissions of CO<sub>2</sub>, and 646 tpy of project-related transportation emissions of CO<sub>2</sub> (5,655 tpy CO<sub>2</sub> total). The final design for the proponent's preferred project alternative incorporates the proponent's commitments for mitigation measures related to sustainable site planning and building design and transportation which are expected to reduce the project's total CO<sub>2</sub> emissions by 22% to approximately 4,421 tpy.

According to the comments received from MassDEP, the proponent's GHG analysis should include a calculation and comparison of the GHG emissions associated with the preferred alternative and at least one project alternative with greater GHG emissions-related mitigation than the preferred alternative. When comparing the preferred project alternative to other alternatives with greater GHG reduction, the proponent should identify which GHG emissions-

related mitigation were rejected, and explain the reasons for rejecting them. The SEIR should respond to MassDEP's comments and should include a comparison of the GHG emissions associated with the preferred alternative with at least one project alternative with greater GHG emissions-related mitigation than the preferred alternative. The SEIR should identify which GHG emissions-related mitigation were rejected, and explain the reasons for rejecting them.

### Water Supply and Wastewater

The project will require 117,000 gpd of potable water supply and will generate approximately 64,350 gpd of wastewater flow. Both water and wastewater needs will be met through existing municipal systems, administered by the City of Methuen. According to the information provided in the EENF document, the City of Methuen has adequate water supply and wastewater treatment capacity to serve the project's potable water demand and wastewater flows.

### Water Supply

The Single EIR should demonstrate that the proposed method for serving the project's water supply need is feasible. At a minimum, the Single EIR should demonstrate that the proponent has secured permission from the City of Methuen to receive the proposed project's water supply flows. I strongly encourage the proponent to incorporate water conservation and water use efficiency in the project design to comply with the March 1989 state plumbing code. Specifically, the proponent should commit to employing efficient residential water conservation technologies for the project including water saving devices, low flow toilets, and low flow appliances (dishwashers, washing machines). The proponent should also consider implementing an Irrigation Management Plan (IMP) to further reduce the project's irrigation water demand.

An IMP could involve the use of amended soils and compost, the planting of native and drought-tolerant species of trees, shrubs, and turf grasses, an automated water efficient irrigation system, and a water management protocol for drought conditions. I ask that the proponent consult with MassDEP, and refer to the Massachusetts Water Resources Commission's *Lawn and Landscape Water Conservation, An Addendum to the Water Conservation Standards for the Commonwealth of Massachusetts, October 2002*, during the final design of the proponent's IMP.

### Wastewater

The estimated wastewater flows (approximately 64,350 gpd) from the proposed age-restricted residential development project will be conveyed to the City of Methuen's municipal sewer conveyance system and to the Greater Lawrence Sanitary District in North Andover for treatment and disposal. The EENF proposes to extend an existing sewer force main in Lowell Street, and construct an onsite sewer pump station to connect the proposed project to the City of Methuen's sewer system. The location of the proposed new Lowell Street sewer main should be shown on SEIR site plans. According to the information provided in the EENF, the City of

Methuen's sewer collection system has sufficient design capacity to accommodate the proposed project's additional wastewater flows. The Single EIR should demonstrate that the proposed method for serving the project's wastewater flow is feasible, and evaluate what impacts, if any, the project's wastewater flows will have on the frequency and volume of combined sewer overflows (CSO) at the GLSD facility. The Single EIR should demonstrate that the proponent has secured permission from the City of Methuen to discharge its wastewater flows.

The proposed construction of a new sewer extension within Lowell Street will also enable existing Street and Lowell Street residences currently serviced by on-site Title V septic systems, to connect to the municipal sewer system. In accordance with Executive Order 385 (Planning for Growth) and section 11.01 (3)(a) of the MEPA regulations, the SEIR should identify the land use located within the proposed Lowell Street sewer improvement corridor, and contain a detailed analysis of the potential secondary growth impacts and increased wastewater flows that may be induced by the proposed sewer extension and improvements from the proposed Regency at Methuen age-restricted residential development project. The SEIR should include full-build projections of these flows and volumes. The SEIR should include a discussion on wastewater reuse alternatives and include the results of any wastewater reuse feasibility analysis conducted for the project area.

### Historic and Archaeological Resources

In their comments on the EENF, the Massachusetts Historical Commission (MHC) has indicated that portions of the project site are located adjacent to several ancient archaeological sites associated with the Native American land use and occupation that are likely to contain significant archaeological resources. MHC has requested that the proponent conduct an intensive (locational) archaeological survey for the entire Regency at Methuen project site.

The proponent should consult with MHC and MHC's Inventory of Historic and Archaeological Assets of the Commonwealth to ensure that the proposed project avoids, minimizes and mitigates any adverse impacts to significant archaeological resources that may be located in the project area. The SEIR should include a description of the proponent's archaeological survey activities and a summary of their results.

### Sustainable Design

A new development of the size of the proposed project presents a host of opportunities for incorporating sustainable design elements and sustainable construction into project design, consistent with the goals of Executive Order 385. Sustainable design elements, over the course of the project design life, can both prevent Damage to the Environment and reduce operating costs to the proponent. To the extent feasible, the proponent should 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;
- 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.

### Construction Period Impacts

The SEIR should evaluate construction period impacts, including erosion and sedimentation, air quality and solid waste disposal and commit to measures to minimize construction impacts. MassDEP has noted that demolition and construction activities must comply with both Solid Waste and Air Quality control regulations. The proponent should carefully review MassDEP's comments and demonstrate the project's consistency with the applicable Solid Waste and Air Quality control regulations. Specifically, the proponent should consult with MassDEP during the preparation of the Single EIR to develop appropriate construction-period diesel emission mitigation, which could include the installation of after-engine emission controls such as diesel oxidation catalysts (DOCs) or diesel particulate filters (DPFs). I ask that the proponent participate in MassDEP's Clean Air Construction Initiative (CACI) and the MassDEP Diesel Retrofit Program to mitigate the construction-period impacts of diesel emissions to the maximum extent feasible.

The CACI program helps proponents identify appropriate mitigation for minimizing air pollution from construction vehicles such as retrofit of construction equipment with particulate filters and oxidation catalysts and/or use of on-road low sulfur diesel (LSD) fuel. The proponent should commit to using lower emission equipment in addition to requiring its contractors to retrofit diesel-powered equipment with emissions controls, such as particulate filters or traps, and use low-sulfur diesel fuel. Pursuant to MassDEP's Clean Construction Equipment Initiative, the proponent should require its contractors to use On-Road Low Sulfur Diesel (LSD) fuel in their off-road construction equipment which can increase the removal of particulate matter (PM) by approximately 25 percent beyond that which can be removed by retrofitting diesel-powered equipment. For more information on these technologies, see: <http://www.epa.gov/otaq/retrofit/verif-list.htm>.

If blasting will be required during project construction, the proponent will need to prepare a blast design plan pursuant to the Board of Fire Protection Regulations (577 CMR 13.09) for the proposed construction of roads, buildings and utilities within the project site. Blasting mixtures

that include perchlorate have been identified as the source of contamination in many Massachusetts public water supplies.

### Mitigation/ Section 61 Findings

In a separate chapter of the Single EIR, the proponent should include a summary and explanation of all environmental mitigation to which the proponent is committed. This chapter should include a Draft Section 61 Finding (in the form of an updated letter of commitment for the MHD access permit) for all state permits that includes a clear commitment to mitigation, an estimate of the individual costs of the proposed mitigation, and the identification of the parties responsible for implementing the mitigation. A schedule for the implementation of mitigation, based on the construction phases of the project, should also be included. The Single EIR should include conceptual plans for the proposed roadway improvements of sufficient detail to verify the feasibility of constructing such improvements. The conceptual plans should clearly show proposed lane widths and offsets, layout lines and jurisdictions, and the land uses (including access drives) adjacent to proposed improvements. Any proposed mitigation located within the state highway layout must conform to MHD standards including provisions for lane, median and shoulder widths and bicycle lanes and sidewalks.

### Response to Comments

In order to ensure that the issues raised by commenters are addressed, the Single EIR should include a response to comments. This directive is not intended to, and shall not be construed to, enlarge the scope of the Single EIR beyond what has been expressly identified in the initial scoping certificate or this certificate.

### Circulation

The Single EIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should also be sent to the list of "comments received" below, to any state agencies from which the proponent will be seeking state permits and approvals, and to Methuen officials. A copy of the Single EIR should be made available for public review at the Methuen Public Library.


Based on the review of the Expanded ENF and the comments received, I am satisfied that the Expanded ENF meets the standard for adequacy contained in Section 11.06 of the MEPA regulations.

EEA #14167

EENF Certificate

3/07/08

March 7, 2008  
Date

  
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Ian A. Bowles, Secretary

Comments received:

02/04/08      Massachusetts Historic Commission (MHC)

02/29/08      Massachusetts Department of Environmental Protection (MassDEP) – NERO

EENF #14167  
IAB/NCZ/ncz