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March 31, 2006

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

PROJECT NAME	: Everett Power Project
PROJECT MUNICIPALITY	: Everett
PROJECT WATERSHED	: Mystic
EOEA NUMBER	: 13734
PROJECT PROPONENT	: TDK Properties, LLC
DATE NOTICED IN MONITOR	: February 22, 2006

Pursuant to the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62H) and Sections 11.04 and 11.06 of the MEPA regulations (301 C.M.R. 11.00), I hereby determine that this project **requires** the preparation of an Environmental Impact Report (EIR).

According to the Expanded Environmental Notification Form (ENF), the project involves the construction of a peaking power generating facility, consisting of eight, portable GE TM2500 turbine generators fueled either by ultra low sulfur distillate oil or natural gas on a 40 acre site in Everett. The turbines will have a total, nominal capacity of 200 megawatts to provide power during peak electric demand periods and to support the transmission grid during emergencies and system imbalances. The project also includes the construction of twelve, 20,000 gallon tanks for fuel oil, and three, 20,000 gallon tanks for water.

The project is undergoing review and requires the preparation of an EIR pursuant to section 11.03 (7)(a)(1) of the MEPA regulations, because the project involves the development of a new electric generating facility with a capacity greater than 100 megawatts. The project will require numerous state permits and agency actions, including: Approval to Construct from the Energy Facilities Siting Board (EFSB); Air Plans Approval for a non-major source from the Department of Environmental Protection (DEP); a Chapter 91 Permit from DEP; a permit from the Massachusetts Water Resources Association (MWRA) for construction proximity to MWRA water or sewer line (Ch. 372, Acts of 1984, Section 8(m)); a permit for tank of capacity greater

than 10,000 gallons (527 CMR; 502 CMR 5) from the State Fire Marshall Office and an Order of Conditions from the Everett Conservation Commission (and hence a Superseding Order from DEP if the local Order were appealed). The project may also require several federal environmental permits. Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction is limited to those aspects of the project that are likely to directly or indirectly cause Damage to the Environment and that are within the subject matter of required or potentially required state permits or agency actions. Given the numerous permits and agency actions (and the broad scope of the EFSB and DEP permit reviews), MEPA subject matter jurisdiction exists over virtually all of the potential environmental impacts of the project.

In accordance with Section 11.05(7) of the MEPA regulations, the proponent has submitted an Expanded ENF with a request that I allow the proponent to fulfill its EIR obligations under MEPA with a Single EIR, rather than require the usual two-step Draft and Final EIR process. The Expanded ENF received an extended public comment period pursuant to Section 11.06(1) of the MEPA regulations. Section 11.06(8) of the MEPA regulations requires that I make rigorous findings regarding the quality and depth of analysis in the Expanded ENF. In fact, section 11.06(8) sets a higher standard for judging the appropriateness of an Expanded ENF to allow for a single EIR than for judging the adequacy of a Draft EIR (see sections 11.06(8), 11.07(3), and 11.08(8)(b)(1) of the MEPA regulations). I have reviewed the proponent's request for a Single EIR in accordance with Section 11.06(8) of the MEPA regulations, and I hereby find that the Expanded ENF describes and analyzes all aspects of the project and all feasible alternatives; provides a detailed baseline in relation to which potential environmental impacts and mitigation measures can be assessed; and demonstrates that the planning and design of the project use all feasible means to avoid potential environmental impacts. I will therefore allow the proponent to prepare a Single EIR in fulfillment of the requirements of Section 11.03 of the MEPA regulations.

I have received numerous comments on the Expanded ENF for this project. Some of the commenters have stated their opposition to the project and asked that I deny the project on environmental grounds. I do not have the authority to deny the project, or to act as an agent of appeal for local land use decisions. MEPA is not a permitting process. Rather, it is a process designed to ensure public participation in the state environmental permitting process, and to ensure that state permitting agencies have adequate information on which to base their permit decisions. The EIR process is meant to ensure that potential environmental impacts are described fully and avoided, minimized, and mitigated to the maximum feasible extent.

The proposed project serves to provide a new, clean source of peaking electrical generation in an area of Massachusetts where electric generating capacity is in short supply, which compromises reliability. While I fully understand the need for more reliable electrical generation, the project will be a new, non-major source of air pollutants. Therefore, the project must meet the Best Available Control Technology (BACT) requirements for air pollutants as required by DEP's

Division of Air Quality Control as well as demonstrate that the project will comply with DEP's Noise Policy. The resolution of these critically important issues, as well as other environmental issues as further detailed below, will likely impact the final layout and design of the project. I strongly encourage the proponent to continue consultation with local, state, federal and other agencies and concerned citizens to resolve the remaining issues and develop mitigation.

SCOPE

General

As modified by this scope, the EIR should conform to the general guidance for outline and content contained in section 11.07 of the MEPA regulations. The EIR must address the substantive issues raised in the comment letters received and listed at the end of this Certificate, to the extent that the comments are within the subject matter jurisdiction of MEPA. The EIR should contain a copy of this Certificate and copies of each comment letter received and listed at the end of this Certificate. The proponent should circulate the EIR to those who commented on the Expanded ENF, and to any state agencies from which the proponent will seek permits or approvals. In addition, the proponent should make available a reasonable number of copies of the EIR free of charge on a first come, first served basis.

Alternatives

The EIR should discuss in more detail the exact layout of the preferred alternative including more detail on the anticipated interconnection to the National's Grid's 115kV bulk power system versus the running a generator lead directly from the project site to the Everett Substation. The EIR should also analyze alternative site layouts, to arrive at a site layout that minimizes overall impacts. Specifically, the EIR should examine alternative site layouts that that increase buffer zones between the site and adjacent land uses. The EIR should include a more detailed site plan identifying project elements and locations.

Project Description/ Project Permitting/ Regulatory Environment

The EIR should briefly describe each state permit or agency action required for the project, and should discuss how the project meets the performance standards associated with the various permits. The EIR should also discuss applicable environmental regulatory requirements, and demonstrate that the proposed project is consistent with applicable regulations. The EIR should also provide information regarding the consistency of the project will any applicable local or state open space plans, and it should include an update on the status of the local review and approval process (see Section 11.01(3) of the MEPA regulations).

I note the City of Everett's comments that "the City believes that it may be feasible to host the proposed temporary generating facility for a limited number of years without compromising the long-term land planning objectives of the City and the MVDC (Mystic Valley Development

Commission)." The EIR should:

- Discuss how the proposed project will be a temporary generating facility;
- Describe how the proposed project will not compromise the long-term land use planning objectives of the City of Everett and the MVDC; and
- Include details on what the mechanisms will be to ensure that when the City of Everett and the MVDC are ready to move forward with the planned redevelopment of the site, the temporary generating facility will pose no impediment.

The EIR should provide sufficient detail for the state permitting agencies to make informed permitting decisions, and otherwise meet their Section 61 obligations. I also encourage the proponent to include similar information for federal permits and regulations as well.

The EIR should include analysis of project design, layout, and site conditions. It should contain a site plan that includes information on lighting, vegetative plantings and/or buffers, and the components of the drainage system. The EIR should also include schematics and diagrams to describe the proposed facility in terms of structural design, the power generation process and its parameters, and the pollution control system.

Air Quality

As a new, non-major source of air pollutants the proponent performed and included analysis from a US EPA approved screening computer dispersion model to demonstrate compliance with the applicable National and Massachusetts Ambient Air Quality Standards. Information in Appendix H in the Expanded ENF demonstrates that the project will have insignificant impacts on air quality. The data also show that the project meets the Best Available Control Technology (BACT) requirements for air pollutants. To meet the requirements for BACT the project is proposing to use clean fuels, but not add-on emission controls. The proponent should work with DEP's Division of Air Quality Control to demonstrate that the project meets the requirements for DEP's Air Plan Approval. The EIR should include information demonstrating that the project will meet these requirements.

The ENF indicates that the project will fall below applicable thresholds for federal National Emissions Standards for Hazardous Air Pollutants for stationary gas turbines. However, the proponent will be required to comply with the federal New Source Performance Standard for stationary gas turbines. The EIR must demonstrate in more details how the project will comply with these standards. I encourage the proponent to contact DEP's Division of Air Quality Control about these and any other air quality issues.

Noise

The EIR must demonstrate how the project will comply with the DEP Noise Policy (DAQC Policy 90-001). DEP will also require the proponent to file a BWP AQ SFP-3, Supplemental

Form for Survey of Noise Potential. The EIR should also quantify what the incremental cost would be of reducing increases in noise from the facility below the level required by that policy. The EIR should specifically evaluate the feasibility of holding net noise increases at the property line and at the nearest residential receptors to 7 dBA, 3 dBA, 1 dBA, and 0 dBA (in effect, this portion of the scope requires a "noise BACT" analysis).

I also strongly encourage the proponent to commit to implement all feasible noise attenuation measures given the close proximity of the proposed facility to both a school and residential neighborhood.

Visual

The Expanded ENF included an analysis of the visual impacts of the proposed project. The EIR should provide visual renderings for the exact layout of the preferred alternative including more detail on the anticipated interconnecting to the National's Grid's 115kV bulk power system versus the running a generator lead directly from the project site to the Everett Substation, including renderings of the proposed project as viewed from nearby residential and other appropriate vantages in the project area. The EIR should also visualize site layouts that increase buffer zones between the site and adjacent land uses. The EIR should disclose the height of the project, and should discuss methods of mitigating visual impacts.

Stormwater

The Expanded ENF states that the proposed future use of the site would not alter subsurface conditions, or impact the soil and vegetation cap or the asphalt cap. While this limitation may ensure conformance with the activity and use limitation (AUL) on this contaminated site, it will significantly restrict the design of a stormwater management system. The EIR should contain information on vertical and horizontal distances of the stormwater management system from the caps, and an explanation of how the stormwater system will be designed to either avoid disturbing subsurface soils and the caps, or how the system will be designed in accordance with the AUL, which conditions the construction of utilities that impact soils and/or the caps. The EIR must provide a more detailed plan of the stormwater management system on the project site.

The Expanded ENF indicates that the project would be an area of higher potential pollutant load, as defined in Standard 5 of the Stormwater Management Policy. In addition, the use of certain Best Management Practices (BMP) is restricted, including retention basins and sand filters. For both of these BMPs, sealing or lining of the bottoms is necessary. The EIR should demonstrate conformance with the applicable restrictions.

Waterways

As described in the Expanded ENF portions of the proposed walkway, plantings and riverside

viewing locations proposed as mitigation for the project will be on formerly filled tidelands and are expected to require a Chapter 91 License for water dependent use. The EIR should identify the formerly filled tidelands on the site on a reasonably scaled plan. The EIR should also identify the significance of the resources. The EIR should analyze both direct and indirect (i.e. changes in drainage patterns) impacts on tidelands resulting from the project, and quantify the amount of direct tideland impact.

Hazardous Waste

The EIR should disclose whether any known or suspected contamination exists on the site, and include a status update on any site remediation pursuant to the Massachusetts Contingency Plan. The EIR should also document the storage and use of any hazardous materials associated with construction and operation of the plant, and should include the appropriate Material Safety Data Sheets.

DEP has informed me of a release of #6 fuel oil to the soil and groundwater occurring at this site; Release Tracking Number RTN 3-0311. I advise the proponent that removing contaminated soil, pumping contaminated groundwater, or working in contaminated media must be done under the provisions of MGL c.21E/21C and OSHA. Failure to obtain the necessary permits under these provisions beforehand may result in considerable delay of the project as well as administrative penalties. The appropriate soil and groundwater tests should be conducted well in advance of the start of construction and professional environmental consulting services should be readily available to provide the contractor the technical guidance required to facilitate any necessary permits. The EIR should contain information that the project will obtain these necessary permits.

Construction Management

The EIR should include a thorough analysis of construction period impacts and mitigation. The EIR should analyze construction period impacts on wetland resources and tidelands, on air quality (e.g. through generation of noise and fugitive dust), and on traffic.

Mitigation

The EIR should include a separate chapter that details the mitigation to which the proponent has committed. The EIR should also include Draft Section 61 Findings for use by the state permitting agencies.

March 31, 2006
Date

Stephen R. Pritchard

Comments received:

03/15/06	Mike Cohen
03/16/06	Mr. and Mrs. James Ells
03/16/06	Sandra Mulready
03/16/06	Gary Caputo
03/17/06	Joseph Siciliano, Jr.
03/17/06	P. Mangraviti
03/20/06	Alex Steinbergh, Water Everett, LLC
03/20/06	Kelly Doherty
03/21/06	Patricia Ells
03/23/06	Mayor John Hanlon, City of Everett
03/23/06	Nancy and Steffen Koury
03/23/06	Massachusetts Water Resources Authority
03/23/06	Kayla Nowell
03/24/06	Mayor Michael McGlynn, City of Medford
03/24/06	City of Medford, Energy and Environment office
03/24/06	Medford Clean Energy Committee
03/24/06	City of Medford Conservation Commission
03/24/06	Mayor Ricjard Howard, City of Malden
03/24/06	Thomas W. Lincoln
03/24/06	Everett Board of Aldermen
03/24/06	Joseph Nicotera
03/24/06	President Lawerence Bacow, Tufts University
03/24/06	Amie Kravetz
03/24/06	Susan Altman
03/24/06	Bill Kavanagh
03/24/06	Preotle, Lane & Associates, Ltd.
03/24/06	Department of Environmental Protection, NERO
03/24/06	Mystic River Watershed Association
03/24/06	Massachusetts Division of Energy Resources
03/29/06	ISO New England

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