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April 17, 2009

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

PROJECT NAME : Proposed Article 97 Land Swap  
PROJECT MUNICIPALITY : High Street - Randolph  
PROJECT WATERSHED : Boston Harbor  
EOEA NUMBER : 14115  
PROJECT PROPONENT : The Lantana, c/o The Hart Family Limited Partnership  
DATE NOTICED IN MONITOR : March 11, 2009

As the Secretary of Energy and Environmental Affairs, I hereby determine that the Final Environmental Impact Report (FEIR) submitted on this project **adequately and properly complies** with the Massachusetts Environmental Policy Act (G. L., c. 30, ss.61-62I) and with its implementing regulations (301 CMR 11.00).

Project Overview

The project consists of the conversion of land held for natural resources purposes in accordance with Article 97 of the Amendments to the Constitution of the Commonwealth for the construction of an overflow parking lot with approximately 374 parking spaces for the Proponent's existing function hall facility. In order to construct the parking lot, the project requires the transfer of approximately 3.2 acres of land owned by the Department of Conservation and Recreation (DCR) that is part of the Blue Hills Reservation and abuts High Street (the DCR Parcel). Under the terms of Chapter 240 of the Acts of 2002, the Massachusetts Legislature mandated that the Division of Capital Asset Management and Maintenance (DCAM) convey the DCR Parcel to the Proponent in exchange for a parcel of equal size located off of High Street in Randolph (the Hart Parcel). In addition, the Act required the Commonwealth to

receive the difference between the full and fair market value of the parcels, either in cash or in-kind contributions.

The Proponent submitted an Environmental Notification Form (ENF) for review under MEPA in October 2007 that described the proposed change in use of the DCR Parcel to allow the site to be used as an overflow parking facility. In order to ensure that feasible alternatives to the proposed disposition had been evaluated and that the project was consistent with the EEA Article 97 Land Disposition Policy, I required the Proponent to prepare a Draft Environmental Impact Report (DEIR). The DEIR provided additional alternatives analysis for the location of the proposed parking facility, as well as modifications to the site layout to further avoid or reduce environmental effects. However, in response to concerns that the valuation of the DCR and Hart Parcels contained in the DEIR were outdated, in a Certificate dated June 27, 2008 I required the proponent to prepare an FEIR with updated appraisals of the two parcels in order to ensure that the project had adequately and properly mitigated its environmental impacts and complied with the EEA Article 97 Policy and with the Legislature's mandate to provide full and fair market value.

As previously noted in my prior Certificates, the conversion of land held for Article 97 purposes must be closely scrutinized in order to protect these lands from development pressures and to preserve the Commonwealth's legacy of open space conservation and protection. However, in this case the Legislature has specifically directed DCAM to convey the DCR Parcel, which means the only remaining issue before me is the sufficiency of the compensation proposed in exchange for that parcel. Therefore, as discussed further herein, I have carefully reviewed the FEIR and the comments received from state agencies, the Friends of the Blue Hills, Mass Audubon, and numerous concerned citizens and, on balance, I find that the FEIR has included the information required by the Scope for the FEIR and by Chapter 240 of the Acts of 2002. I also find that the Proponent's mitigation package of land transfers and in-kind contributions is sufficient to meet the requirements of the EEA Article 97 Policy. Subject to the remaining conditions outlined below, the project may proceed without further MEPA review.

### Project Description

As described in the FEIR, the proposed parking lot will have one driveway onto High Street across the street from the existing Lantana parking lot driveway. Approximately 2.9-acres of terrestrial, forested habitat, classified as a Mixed Oak Forest natural community, will be cleared as a result of parking lot development. No work is proposed within the Certified Vernal Pool (CVP #2494) located near the site or its associated 100-foot buffer.

The Hart Parcel is a 3.2 acre parcel of land located in proximity to the Route 24 off ramp with access to Route 93/128 in Randolph. It is vegetated with variations of the Mixed Oak Forest community. The Proponent has also purchased an additional 2.0 acres of land (the Blue Hill River Parcel) to provide added ecological value and land area contiguous to the Blue Hills Reservation in connection with this transfer. This 2.0 acre parcel of land abuts the Blue Hill River, south of Route 93/128 and east of Route 28 in the Town of Randolph. This acquisition will increase the amount of land to be conveyed to the Commonwealth to approximately 5.2 acres (a mitigation ratio of 1.6:1). Both parcels will be transferred to the Commonwealth to

offset the development of the proposed event parking lot proposed within the Reservation. In addition, the Proponent has committed to provide in-kind contributions to benefit the Blue Hills Reservation to DCR to offset economic disparities between the DCR and Hart Parcels, to a value of approximately \$320,000 dollars. These contributions include staffing a trail maintenance program, purchase of maintenance vehicles for the Park, and purchase of tools and equipment.

### Jurisdiction

The project is subject to MEPA review because it requires a real estate transfer from DCAM and because it exceeds the MEPA review threshold at 301 CMR 11.03(1)(b)(3) for the conversion of land held for natural resources purposes in accordance with Article 97 of the Amendments to the Constitution of the Commonwealth to any purpose not in accordance with Article 97, and also the threshold at 301 CMR 11.03(6)(b)(15) for the proposed construction of 300 or more parking spaces. The project must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit from the U.S. Environmental Protection Agency (EPA) for stormwater discharges from a construction site. The project will require an Order of Conditions from the Randolph Conservation Commission for impacts to buffer zones of wetland resource area (and, in the case of an appeal, a Superseding Order from Massachusetts Department of Environmental Protection (MassDEP)). The project will require a Massachusetts Endangered Species Act (MESA) filing with the Natural Heritage and Endangered Species Program (NHESP). Because the project involves a transfer of Article 97 land, MEPA jurisdiction over the project is broad and extends to all aspects of the project that may cause Significant Damage to the Environment as defined in the MEPA regulations.

### Review of the FEIR

The purpose of MEPA review is to ensure that a Proponent studies feasible alternatives to a proposed project, fully discloses the environmental impacts of a proposed project, and incorporates all feasible means to avoid, minimize, or mitigate Damage to the Environment. I have fully examined the record before me, including but not limited to the Scope contained in the Certificate on the ENF issued on December 3, 2007; the Draft EIR (DEIR) filed in response and the Certificate on the DEIR issued on June 27, 2008; the FEIR; and the comments entered into the public record. Although I understand and share the concerns many have expressed concerning the proposed project, I find that the FEIR is sufficiently responsive to the requirements of the MEPA regulations and the Scope to meet the regulatory standard for adequacy.

While recognizing that the Acts of 2002 require DCAM to dispose of the property, the MEPA statute and regulations, as well as the Administrations' Article 97 Land Disposition Policy, enabled me to ensure that the project adequately mitigated its impacts if they could not be avoided or minimized. In the DEIR Certificate I noted that the adequacy of the proposed mitigation could not be determined until the appraisals for the subject parcels had been updated. Therefore, I required that the Proponent prepare and submit the FEIR to ensure that the Commonwealth would receive fair and appropriate compensation for the disposition of the DCR Parcel.

The FEIR contained descriptions of the project and proposed mitigation that demonstrated consistency with the Article 97 Land Disposition Policy. Specifically, the FEIR contained summary descriptions of the required updated appraisals of both the DCR Parcel and the Hart Parcel which were completed by DCAM and approved by the Office of the Inspector General as required under the provisions of Chapter 240 of the Acts of 2002. As noted by many commenters, the FEIR did not contain the full appraisal documentation. In response to inquiries from the public, including the Friend's of the Blue Hills, concerning the lack of full appraisal documentation in the FEIR for this project, I required DCAM to provide an explanation in writing of DCAM's position and reasoning for withholding the requested appraisals from public inspection prior to closing. In a letter dated April 3, 2009, addressed to the MEPA Office and distributed to the FEIR distribution list, DCAM states that it is the policy of DCAM not to make available for public inspection an appraisal used for the Commonwealth real estate property acquisition or disposition pursuant to a special statute, such as Chapter 240 of the Acts of 2002, until the transaction has been closed. According to the letter from DCAM, this policy has been adopted to ensure that the integrity of the Commonwealth's valuation deliberations and purchase and sale negotiations are not compromised. I also note that the Massachusetts Public Records Act contains exemptions from disclosure of appraisals that may apply in this situation. As a result, I find that the lack of full appraisal documentation does not render the FEIR inadequate under MEPA.

According to the FEIR, upon completion of the MEPA process, DCR will execute an updated Management and Use Agreement (MUA), and DCAM will complete the land swap of the DCR Parcel with the Hart Parcel, including the conveyance by the Proponent of the Blue Hill River Parcel together, with the in-kind consideration as provided under Chapter 240 of the Acts of 2002.

### Mitigation

The Proponent worked with representatives from various state agencies, including: DCR, DCAM, the Massachusetts Division of Fish and Wildlife's Natural Heritage and Endangered Species Program (NHESP) and the Massachusetts Historic Commission (MHC) to develop a mitigation program that included modifications to the site plan for the event parking facility and a reduction in both the parking area and the associated impacts from the development, identification of in-kind services to benefit the Blue Hills Reservation including staffing a trail maintenance program, purchase of maintenance vehicles for the Park, purchase of tools and equipment, and purchase of an additional land parcel in proximity to the Blue Hill River.

I commend the Proponent in particular for the commitment to the purchase an additional two acres of property abutting the Blue Hill River south of Route 93/128 and east of Route 28 in Randolph (the Blue Hill River Parcel) and to convey the Blue Hill River Parcel to DCR at no cost as part of its mitigation proposal. Conveyance of the Blue Hill River Parcel to DCR will strengthen connections between DCR properties located along the Blue Hill River, including the newly-acquired Pacella parcel. The inclusion of the Blue Hill River Parcel in the land swap will also ensure that the Proponent will achieve an acceptable 1.6:1 ratio of newly protected land to mitigate the disposition. Additionally, the Proponent has committed to reserve ten spaces in the proposed parking lot for trail access by visitors to the Blue Hills Reservation.

The Final EIR identifies measures to avoid, minimize and mitigate adverse effects on the environment and includes revised draft Section 61 Findings for use by the state permitting agencies. The FEIR indicates that the Proponent is committed to the following mitigation measures:

#### *Open Space and Conservation Land*

As provided in Chapter 240 of the Acts of 2002, the Proponent has committed to swap approximately 3.2 acres of land located within the Blue Hills Reservation in exchange for an equal sized parcel located adjacent to the Reservation. This parcel swap, supplemented by the 2.0-acre Blue Hill River Parcel, results in a net gain in acreage dedicated to open space. Of the 3.2-acre DCR Parcel, the proposed parking facility will occupy approximately 2.9 acres, including on site drainage and subsurface detention areas serving the impervious area, with the remaining 0.3 acres constituting a buffered landscaped area. The site landscaping will consist of shade trees and new indigenous plantings and will be incorporated into the design of the parking lot to enhance both its aesthetic and functional qualities.

The proposed parking lot will contain 10 marked and dedicated parking spaces at the relocated entrance to Smith Trail, reserved for use by patrons of the Blue Hills Reservation. These spaces provide the only dedicated parking access to this portion of the Blue Hills Reservation (the portion south of I-93 and west of Route 24). The new relocated trail head will provide a clearly marked trail entrance for this portion of the Reservation.

Under the existing MUA, the Proponent has agreed to make in-kind contributions to the DCR to offset economic disparities between the DCR and Hart Parcels, to a value of approximately \$320,000 dollars. These contributions include equipment purchases, funding for trail maintenance and improvements. These contributions will be confirmed in an amendment to the MUA.

#### *Wetland Resource Areas*

The proposed project avoids alteration to wetland resource areas and buffers. Wetland resource areas identified in the vicinity of the site include Bordering Vegetated Wetlands (BVW), Bordering Land Subject to Flooding (BLSF) and a Certified Vernal Pool that are delineated and/or identified south and west of the proposed DCR Parcel. The Proponent has committed to incorporate erosion and sedimentation controls in the form of silt fence and hay bales will be erected along the limit of work adjacent to these resource area buffers prior to earth moving activities.

#### *Stormwater Management System*

The Proponent has stated that the stormwater management system will be designed to include a combination of Low Impact Development (LID) Best Management Practices (BMPs) to reduce source control and promote infiltration, with conventional BMPs to control peak rates related to the increase in impervious areas associated with the development of the site. The

stormwater management system will be designed to remove a minimum of 80 percent of the post development site's average annual load of total suspended solids. The Proponent has committed that all stormwater system design elements will meet the minimum standards set forth in the National Pollution Discharge and Elimination Systems (NPDES) permit requirements, the MassDEP's Stormwater Discharge Policy and Guidelines, and the Town of Randolph's Stormwater Discharge Policy. Final design of the stormwater system will be submitted to DCR for review and approval.

### *Rare Species*

In consultation with NHESP, the disturbed area associated with the proposed parking lot has been limited to 2.9 acres and shifted north by approximately nine feet so that it is entirely out of the 100-foot buffer to the BVW and certified vernal pool. The Proponent will also permanently protect the 0.3-acre perimeter buffer to the parking area.

The Proponent must submit an updated Massachusetts Endangered Species Act (MESA) filing with NHESP, pursuant to 321 CMR 10.18. The FEIR contains information on a Marbled Salamander Habitat Assessment Report completed in December 2007 indicates that construction of the proposed parking area will not appreciably effect local populations of marbled salamanders. NHESP has stated in a comment letter that NHESP anticipates being able to issue a "no take" finding for the project.

### *Historic and Archaeological Resources*

The Massachusetts Historical Commission (MHC) indicated in a letter dated October 25, 2007, that, in the opinion of MHC, the isolated archeological find at the site of the proposed parking facility does not meet the Criteria of Eligibility (36 CFR Part 60) for listing in the National Registry or Historic Places. However, upon further investigation a potential rock shelter site was located near the proposed event lot within the Blue Hills Reservation. Although the rock shelter site is located out of the proposed area of development, the Proponent has committed, as a precautionary measure, that the shelter will be protected from any construction disturbance. In addition, a barrier fence will be installed to deter Blue Hills Reservation users from accessing the rock shelter area.

### Conclusion

The FEIR adequately and properly complies with MEPA and its implementing regulations. Outstanding issues can be addressed through the remaining consultation and transactions with DCR and DCAM. No additional MEPA review is required.

April 17, 2009

Date



Ian A. Bowles

## Comments received:

03/16/09 Friends of the Blue Hills, 1<sup>st</sup> Comment Letter  
03/30/09 Lester Tyrala  
03/30/09 Larry Koff  
03/31/09 Anne Ladd  
03/31/09 Robert Romeri  
04/02/09 Bridget Sitkoff  
04/02/09 Jane Marsching  
04/02/09 Patti Scott  
04/02/09 Patricia Barros  
04/02/09 Rebekah Schlesinger  
04/02/09 Steve Dunn  
04/03/09 Division of Capital Asset Management and Maintenance (DCAM)  
04/03/09 Peter Jackson  
04/04/09 Kate Hayes  
04/06/09 Paul Dobbs  
04/07/09 Dennis Maher  
04/07/09 Borderland State Park Advisory Council  
04/08/09 Rick Kesseli  
04/08/09 Cheryl Miller  
04/08/09 Henri Barbaro  
04/09/09 Friends of the Blue Hills, 2<sup>nd</sup> Comment Letter  
04/09/09 Mass Audubon  
04/09/09 Division of Fisheries and Wildlife's NHESP  
04/10/09 Thomas Palmer  
04/10/09 Department of Environmental Protection (MassDEP-CERO)  
04/13/09 John Travers  
04/14/09 Ardis Johnston  
04/14/09 Blue Hill Adventure & Quarry Museum, 1<sup>st</sup> Comment Letter  
04/14/09 Department of Conservation and Recreation (DCR)  
04/14/09 Stephen Kaiser  
04/15/09 Blue Hill Adventure & Quarry Museum, 2<sup>nd</sup> Comment Letter

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