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July 18, 2007

DRAFT RECORD OF DECISION

PROJECT NAME : Rand-Whitney Packaging Corporation
PROJECT MUNICIPALITY : Boylston
PROJECT WATERSHED : Blackstone
EOEA NUMBER : 14038
PROJECT PROPONENT : **Rand-Whitney** Packaging Corporation
DATE NOTICED IN MONITOR : June 11, 2007

Pursuant to the Massachusetts Environmental Policy Act (MEPA)(G. L. c. 30, ss. 61-62H) and Section 11.11 of the MEPA regulations (301 CMR 11.00), I have reviewed this project and propose to grant a waiver from the requirement to prepare a mandatory Environmental Impact Report (EIR).

Project Description

As described in the Expanded Environmental Notification Form (EENF), the proponent proposes to construct a light-industrial manufacturing facility with warehouse space, and attached office space on an industrial-zoned 21.19-acre site located off Shrewsbury Street (Rt 140) in Boylston. The project includes the construction of a 275,000 square foot (sf) light manufacturing and warehouse building, approximately 15,000 sf of attached two-story general office space, and 164 surface parking spaces for distribution trucks and employee vehicles. The proponent has proposed to widen and improve a recently constructed (2004) wetland crossing/site drive (approximately 1,600 linear feet (fl)) located off Rt 140. Using the Institute of Traffic Engineers Trip Generation land use code (LUC) 140 for Manufacturing, and LUC 710 for General Office, the proposed project is estimated to generate approximately 114 vehicle trips on the average weekday.

As described in the EENF, the project's potable water supply needs (4,883 gallons per day, (gpd)) will be serviced by the Town of Boylston. The proponent has proposed to construct an on-site septic system in compliance with Title 5 requirements to be located in the northwestern portion of the project site to serve the wastewater flows (4,650 gpd) from the proposed project.

MEPA Jurisdiction

The project is subject to MEPA review and exceeds the mandatory EIR threshold at Section 11.03 (1)(a)(2) and 11.03 (3)(b)(1)(d) of the MEPA regulations, because the project involves the creation of ten or more acres of impervious area (approximately 10.4 acres total) and the alteration of 5,000 sf or more (approximately 8,640 sf total) of bordering vegetated wetlands (BVW), respectively. The project will require a 401 Water Quality Certification from MassDEP, and may require a 404 Programmatic General Permit from the US Army Corps of Engineers (ACOE). 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. The project will also require an Amended Order of Conditions from the Boylston Conservation Commission (which was issued on September 7, 2004). MEPA jurisdiction is limited to the subject matter of the state permit required, including: land alteration, wetlands and rare species.

Waiver Request

On May 30, 2007, the proponent requested a waiver from the requirement for the preparation of an EIR in the EENF. A supplemental letter providing more information regarding the waiver request was sent to the ENF distribution list on May 30, 2007.

Criteria for Waiver

Section 11.11 of the MEPA regulations provides that a waiver may be granted upon a finding that strict compliance with the regulations will result in undue hardship and will not serve to minimize or avoid damage to the environment. In the case of categorically included projects, this finding shall be based on the following circumstances: 1) the project is likely to cause no damage to the environment; and 2) ample and unconstrained infrastructure exists to support the project. The terms agreed to as a condition of the waiver will bring about benefits in excess of those that could be achieved in the absence of a waiver.

Standards for All Waivers

The MEPA regulations at 301 CMR 11.11(1) state that I may waive any provision or requirement in 301 CMR 11.00 not specifically required by MEPA and may impose appropriate and relevant conditions or restrictions, provided that I find that strict compliance with the provision or requirement would:

- (a) result in an undue hardship for the Proponent, unless based on delay in compliance by the Proponent; and
- (b) not serve to avoid or minimize Damage to the Environment.

Determinations for an EIR Waiver

The MEPA regulations at 301 CMR 11.11(3) state that, in the case of a waiver of a mandatory EIR review threshold, I shall at a minimum base the finding required in accordance with 301 CMR 11.11(1)(b) stated above on a determination that:

- (a) the project is likely to cause no Damage to the Environment; and,
- (b)
 - (b) ample and unconstrained infrastructure facilities and services exist to support the project, when subject matter jurisdiction is broad in scope, or those aspects of the project within subject matter jurisdiction, when jurisdiction is limited to the subject matter of state agency permits.

Findings

Based upon the information submitted by the proponent and after consultation with the state permitting agencies, I find that the Waiver Request has merit and that the proponent has demonstrated that the proposed project meets the standards for all waivers at 301 CMR 11.11(1). I find that strict compliance with the requirement to submit a mandatory EIR would result in an undue hardship for the Proponent and would not serve to avoid or minimize Damage to the Environment. In accordance with 301 CMR 11.11(3), the latter finding is based on my determination that:

- **The proponent has committed to significantly reducing impervious surface area within the project site (10.38 acres), below the maximum allowed (15.89 acres) under the Town of Boylston's existing Zoning Bylaws. The proponent has also committed to preserving approximately 10.98 acres of the project site (50% total) including Lock's Mill Pond, sections of Sewall Brook and wetland resource and habitat areas as open space. The proponent has committed to comply with MassDEP's Stormwater Management Policy (SMP), and the Town of Boylston's stormwater program.**

- The proponent has also committed to construct the project's proposed site drive improvements on the south side of Route 140 so as to align with the existing East Temple Street/Route 140 intersection located on the north side of Route 140.

- The Rand-Whitney Packaging project will impact a significant amount of bordering vegetated wetlands (BVW) and wetland buffer area. As a condition of my granting the proponent's Waiver request, I am requiring the proponent to submit to the MEPA Office a detailed description of the project's cumulative impacts and proposed wetlands mitigation commitments for the project file.

Conclusion

Based on these findings, it is my judgment that the waiver request has merit and meets the tests established in Section 11.11. MassDEP has sufficient permitting authority to ensure that the proponent complies with the findings of this Certificate. Therefore, I propose to grant the waiver requested for this shopping center project, subject to the above findings. I have determined that this waiver request has merit.

I hereby propose to grant the waiver requested for this project, from the requirement to prepare a mandatory Environmental Impact Report (EIR), subject to the above findings and conditions, This Draft Record of Decision (DROD) will be published in the next edition of the *Environmental Monitor* in accordance with 301 CMR 11.15(2), which begins the public comment period. The public comment period lasts for 14 days. Based on written comments received concerning the DROD, I shall issue a Final Record of Decision or a Scope within seven days after the close of the public comment period, in accordance with 301 CMR 11.15(6).

July 18, 2007

Date

Ian A. Bowles, Secretary

Comments received:

07/02/07 Department of Environmental Protection (MassDEP) - CERO
EOEEA #14038 DROD
IAB/NCZ/ncz