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August 29, 2008

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
DRAFT ENVIRONMENTAL IMPACT REPORT/NOTICE OF PROJECT CHANGE

PROJECT NAME : New Street Development
PROJECT MUNICIPALITY : Boston
PROJECT WATERSHED : Boston Harbor
EOEA NUMBER : 14102
PROJECT PROPONENT : New Street Realty Trust
DATE NOTICED IN MONITOR : June 25, 2008

Pursuant to the Massachusetts Environmental Policy Act (M.G. L., c. 30, ss. 61-62I) and Section 11.08 of the MEPA regulations (301 CMR 11.00), I hereby determine that the Draft Environmental Impact Report (EIR)/Notice of Project Change (NPC) submitted on this project **adequately and properly complies** with MEPA and its implementing regulations. In a Draft Amended Record of Decision (DAROD) also issued today, I have proposed to amend the Phase 1 Waiver to address the changes in Phase 1 of the project and associated mitigation. The proponent may prepare and submit the Final EIR for MEPA review.

Project Description

As described in the Expanded Environmental Notification Form (ENF), the proposed project consisted of the redevelopment of a waterfront site in East Boston in two phases. Phase 1 consisted of redevelopment and expansion of the existing 9-story building to create 148 residential units, construction of a 2-level parking garage to the north of the building, demolition of three existing buildings, construction of a Harbor Walk connection along the waterfront with a

connection to LoPresti Park, construction of a water taxi landing in the Designated Port Area (DPA) and water taxi waiting area adjacent to the DPA, removal of existing pile fields, construction of a DPA vehicle access route from New Street, creation of surface parking in the southeastern area of the site and creation of lawn and open space on the remainder of the site. Phase 2 consisted of construction of a new 6-story building to provide 62 residential units or 106 hotel/extended stay units, an underground parking garage, construction of a single story building for a restaurant or other Facility of Public Accommodation (FPA), construction of a recreational marina to the south of the DPA and dredging of approximately 2,300 cubic yards (cy) to support the marina.

Project Change

The project change consists of increasing the height of the existing building by an additional three stories for a total of 15 stories, adding an additional level to the garage at the northern end of the site for a total of three parking levels and removing a level of underground parking from the 6-story building. The addition to the redeveloped building will be setback from the edges of the existing building and will be 199 feet tall. The 6-story building will be a uniform height of 69 feet. The proponent continues to consider whether the 6-story building will contain residential units or hotel/extended stay units. The project change will increase the overall size of the project from approximately 225,919 gross square feet (gsf) to 264,298 gsf¹ and will provide an additional 28 residential units. The parking spaces increase from a proposed range of 149 to 225 to a range of 174 to 201 spaces (depending on whether car stacking technology is used). The Draft EIR/NPC indicates that Facilities of Private Tenancy (FPT) proposed within chapter 91 jurisdiction have increased from 527 sf to 1,200 sf. In addition, in a letter dated August 26, 2008, the proponent indicates that at the request of state agencies and other commentors it will shift construction of the water taxi landing and waiting area to the non-DPA watersheet and it will relocate a portion of the Harbor Walk, which was proposed to be pile supported, landward of the existing seawall. The letter notes that the commitment to shift the water taxi landing is premised on CZM concurring that the revised plan complies with the Secretary's 2003 DPA Boundary Decision and that the final Municipal Harbor Plan (MHP) Amendment will reflect the change.

The Draft EIR/NPC indicates that the change in building massing is proposed in response to recommendations that emerged from the City of Boston's Article 80 process. The removal of a level of underground parking is proposed in response to concerns regarding construction in the floodplain and the Draft EIR/NPC asserts that the removal of the underground parking level will significantly reduce the amount of hydrostatic forces that the structure will encounter.

The proposed changes to the parking structures are within chapter 91 jurisdiction. The proposed changes do not require any additional state agency actions or alter MEPA jurisdiction.

Project Site

¹ The document includes conflicting figures for total gsf. An email from the consultant, dated August 13, 2008, addresses the inconsistency and confirms that 264,298 gsf is the correct figure.

The 3.93-acre site is located in the southwestern corner of East Boston on the waterfront. It is bound by New Street and Maverick Landing to the east, LoPresti Park to the south, Boston Inner Harbor to the west and the Boston Towing and Transportation Companies property to the north. It is located in close proximity to Maverick Square and the Massachusetts Bay Transportation Authority's (MBTA) Blue Line Maverick Station. The site includes 50,434 sf of filled tidelands, 84,547 sf of flowed tidelands and 36,150 sf of uplands. These include private and Commonwealth tidelands. The northern half of the watershed adjacent to the project is designated as a DPA. The site is located within the New Street Complex which is listed in the Inventory of Historic and Archaeological Assets of the Commonwealth. The site contains a 9-story warehouse, a 5 story warehouse, a 3-story building, accessory structures and dilapidated wharves and piers. It is largely comprised of impervious surfaces and untreated stormwater from the site flows into Boston Harbor.

Permitting/Jurisdiction

The project is undergoing MEPA review and subject to preparation of a mandatory EIR pursuant to Section 11.03 (3)(a)(5) because it requires a state permit and consists of new non-water dependent use or expansion of an existing non-water dependent structure provided the use or structure occupies one or more acres of waterways or tidelands. The project requires a Chapter 91 License, a 401 Water Quality Certificate and a Temporary Construction Dewatering Discharge Permit from the Department of Environmental Protection (MassDEP). It requires approval of an amendment to the MHP by the Executive Office of Energy and Environmental Affairs (EEA) and review by the Massachusetts Historical Commission (MHC). It is subject to federal consistency review by Coastal Zone Management (CZM). Also, the project is subject to Article 80 Large Project Review by the Boston Redevelopment Authority (BRA), requires the development of a Construction Management Plan (CMP) and a Transportation Access Plan Agreement (TAPA) for review by the Boston Transportation Department (BTD). In addition, it requires an Order of Conditions from the Boston Conservation Commission (and a Superseding Order of Conditions from MassDEP in the event the local Order is appealed).

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that are within the subject matter of required or potentially required state agency permits, and that may cause significant Damage to the Environment as defined in the MEPA regulations. In this case, the subject matter of the required state permits (i.e. the Chapter 91 License) is sufficiently broad to confer MEPA jurisdiction over virtually all of the potential environmental impacts of the project.

Environmental Impacts

As described in the Draft EIR/NPC, potential environmental impacts associated with the project include nonwater dependent use of .9 acres of filled tidelands, generation of a maximum

of 2,390 average daily vehicle trips (adt) to 2,907 adt², use of 28,633 to 35,404 gallons per day (gpd) of water and generation of 36,610 to 40,130 gpd of wastewater. In addition, it will impact approximately 25,000 sf of Land Under the Ocean (LUO) and Fish Runs (consisting of temporary and permanent impacts), 50 sf of DPA and 30,800 sf of Land Subject to Coastal Storm Flowage (LSCSF). Proposed measures to avoid, minimize and mitigate impacts include the following: a .4 acre reduction in impervious surfaces, design of a building that is certifiable by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) program, improvements to the stormwater management system, provision of a water taxi and landing area, extension of the Harbor Walk, a \$25,000 contribution to the Boston Parks Department for the LoPresti Park Master Plan, creation of new landscaped areas and open space, removal of pile fields, removal of debris from the ocean floor, use of siltation booms and time-of-year (TOY) restrictions for in-water work. It is the proponent's intent for the design and programming of the site to create a waterfront destination that will increase use and enjoyment of the waterfront.

Procedural History

An Expanded ENF was submitted in conjunction with a Phase 1 Waiver request to allow the proponent to initiate Phase 1 of the project prior to completion of an EIR for the entire project. The November 1, 2007 Certificate on the Expanded ENF indicated that the project required the preparation of an Environmental Impact Report (EIR). A Final Record of Decision (FROD) was issued on December 3, 2007 which granted the Phase I Waiver subject to conditions identified in the FROD.

Joint MEPA/BRA Review

MEPA review is being coordinated with the local review procedure conducted by the BRA in accordance with Article 80 of the Boston Zoning Code. The Draft EIR/NPC also serves as the Draft Project Impact Report (DPIR).

As noted previously, the project requires an amendment to the East Boston Municipal Harbor Plan. The Draft EIR/NPC indicates that the East Boston Waterfront District Municipal Harbor Plan Amendment was submitted by the City to CZM prior to the filing of the Draft EIR/NPC. Comment letters indicate that the Final EIR should not be submitted until the MHP Amendment process has been completed. I agree that the Final EIR should not be submitted until the MHP process has been completed to ensure that all relevant terms and conditions of the approval effectively inform the MEPA review process.

² If the project is only residential, it will generate approximately 2,390 adt; if the project includes a hotel, it will generate approximately 2,907 adt.

Review of the Final EIR

General

The Draft EIR includes a detailed description of the project, briefly describes each state agency action required for the project and each phase of the project, and includes existing and proposed conditions plans. It does not provide an overlay of the proposed conditions plan on the existing conditions plan as specifically requested in the Draft EIR Scope. It includes a Responses to Comments Section as required. It addresses the project's consistency with Executive Order 385, the East Boston MHP and the East Boston Master Plan. In addition, the document describes the status of the East Boston Waterfront District Municipal Harbor Plan Amendment. Consistency with the Commonwealth's Sustainable Development Principles and the Metropolitan Area Planning Council's (MAPC) Metro Plan 2000 are not specifically addressed.

The proponent was not required to analyze alternatives to the No Build Alternative and the Preferred Alternative. The Scope did require that the proponent provide a comparison of the No Build and Preferred Alternative in terms of impacts on tidelands, open space and traffic. The Final EIR did not include this analysis.

Sustainable Design

The Draft EIR/NPC indicates that the project will conform with Article 37 of the City of Boston Zoning Code, which requires that major building projects design and construct buildings that are certifiable by the U.S. Building Council's LEED program. It indicates that the project will meet or exceed the Energy Star Homes program standards for energy efficiency. Although the proponent will not seek LEED certification for the building, the Draft EIR/NPC includes the LEED checklist to identify measures that will be included in the project design and operations. These include: green roofs on each of the residential buildings, reserved parking spaces for a car-sharing service, an energy efficient exterior through use of an insulation and vapor/air barrier system on the outside of the structure and membrane flashing integrated into the windows and doors, purchase of Energy Star rated appliances and mechanical equipment, energy efficient lighting with individual controls, and daylighting of 75% of the space in the 6-story building.

Chapter 91/Tidelands

The Draft EIR describes the status of the East Boston Waterfront District Municipal Harbor Plan Amendment. The Amendment was recently submitted to CZM for review and approval subject to the Harbor Planning regulations (301 CMR 23.00). The primary focus of the Amendment is to seek substitute provisions to the minimum use limitations and numerical standards of the Waterways Regulations for three project sites along the East Boston waterfront including 6-26 New Street, Boston East and 125 Sumner Street. Proposed substitute provisions for New Street include allowing FPTs within 100 feet of the project shoreline, allowing building heights, in excess of those allowed under the Waterways Regulations, closer to the water's edge and changes to the public access network for an increased width of the Harbor Walk. The project includes 1,200 sf of FPT within 100 feet of the project shoreline and the 6-story building, a portion of which is located within chapter 91 jurisdiction, will be a uniform height of 69 feet.

Without the MHP Amendment, the height of the building would be limited to 55 feet within 100 feet of the project shoreline to a maximum of 65 feet within chapter 91 jurisdiction.

The Draft EIR/NPC indicates that additional FPAs will be provided to mitigate the allowance of FPTs within 100 feet of the shoreline. The project will provide 8,000 sf of FPAs including a 6,000 sf restaurant, portions of the access drive under the 6-story building, a parking area within the 6-story building and a portion of the surface parking area. The restaurant is being designed as a year-round structure with indoor and outdoor seating. The document does not clearly identify how the access drive and parking areas will be programmed to meet standards for FPAs under the Waterways Regulations.

The Draft EIR indicates that the project will meet the requirements of the CZM Designation Decision on the East Boston DPA which removed the DPA designation from all land areas on the site and placed restrictions on the development of the site. Repair of the seawalls was completed in March 2007. The proponent will remove the pile fields within the DPA watersheet, create a permanent access route to from Sumner Street to the Water Dependent Use Zone (WUZ) and DPA and include language in all residential lease forms or condominium deeds that describes the existence of water-dependent industrial facilities and associated activities. The vehicular access route will be routed through a 14-foot high passageway in the 6-story building to the northwestern part of the site where a permeable construction technology will be used so that the space can serve as open space when not in use. In addition, to minimize potential conflicts with existing industrial uses including noise impacts, the parking structure at the north end of the site is being designed to create a buffer between the adjacent industrial property and the residential buildings and double-glazed windows will be installed in the residential buildings.

In addition, the Draft EIR/NPC identifies the following project elements to ensure that the project will improve the parcel's connectivity to public resources and open space surrounding it and serve to complement existing uses: provision of approximately 500 linear feet of Harborwalk along the project's shoreline with a minimum width of 12 feet, a connection to LoPresti Park and two public viewing areas along the waterfront to improve public access to the waterfront and a commitment to provide \$25,000 towards the development of a master plan for LoPresti Park improvements. In response to comments submitted during the review period of the Draft EIR/NPC, the proponent has indicated, in a letter dated August 26, 2008, that it will shift the Harbor Walk landward of the seawall and is willing to shift the water taxi landing and waiting area to the non-DPA watersheet.

The Draft EIR/NPC indicates that the marina configuration is conceptual at this time. It will include two main floats, approximately 18 finger piers and two supporting ramps on the west side of the southern wharf. The total surface area of the floats and ramps will be 5,200 sf and will be supported by approximately 50 16-inch diameter piles. It indicates that approximately 2,300 cy of dredge material will be hydraulically removed, dewatered on site and disposed of at an appropriate location for the type of material encountered. The Draft EIR/NPC does not provide detailed information or plans regarding the proposed dredging nor does it identify measures that will be incorporated to minimize dredging related impacts.

CZM comments indicate that, within the context of the MHP amendment, CZM will evaluate the substitute provision analysis of the MHP Amendment to justify building height, ground-floor uses, setback areas and offsetting measures required for the New Street project and offer recommendations for the Secretary's final decision. MassDEP and CZM comments reiterate that the Final EIR should not be submitted for review until I have issued a decision on the East Boston Waterfront District Municipal Harbor Plan Amendment. MassDEP comments request clarification on several issues and identify additional information required to assess consistency with the Waterways Regulations.

A comment letter from Senator Anthony Petrucci and Representative Carlo Basile express support for the redevelopment of this site, the proposed uses and, specifically, for the design of the vehicular access route. Comments from The Boston Harbor Associates (TBHA) regarding the DPA vehicle access route note that it could present conflicts between users of the open space and vehicles.

Wetlands and Drainage

The Draft EIR/NPC identifies impacts to wetland resource areas associated with project elements and provides a plan illustrating wetland resource areas. It indicates that project impacts are associated with dredging, removal of piers and debris from the ocean floor, and construction of the water taxi landing and marina. It appears that impact areas associated with elements of the project overlap but this section does not clearly indicate where so it is difficult to identify total impacts to resource areas. The project will include design and construction of a new stormwater system including construction of a closed drainage system consisting of deep sump catch basins and collection of runoff from roof areas in drywells with overflows to Boston Harbor. The Draft EIR/NPC does not address regulatory standards associated with the 401 Water Quality Certificate or indicate the project's consistency with these standards.

To address concerns with construction of below grade parking within the 100-year floodplain (Zone A2), the Draft EIR/NPC indicates that a level of underground parking has been eliminated from the project and confirms that structures will be constructed consistent with the State Building Code requirements (Sixth Edition, Section 3107.0).

MassDEP comments indicate that the proponent should consider incorporation of low impact development (LID) practices into the project design, as required by the stormwater provisions included in the revised Wetlands Regulations (310 CMR 10.05(6)(n)).

Traffic and Transportation

The Draft EIR/NPC includes a traffic analysis that identifies trip generation and distribution, provides a level-of-service (LOS) analysis for study area intersections and identifies related mitigation. The Draft EIR/NPC indicates that the project will generate a maximum of 2,907 average daily vehicle trips (adt) on a weekday based on Institute of Transportation Engineers (ITE) unadjusted trip rates. The traffic analysis indicated that adjustment of these rates to account for walking, bicycle and transit trips results in a maximum of 1,354 adt. It indicates that signalized and unsignalized intersections are operating at a LOS A or B and that all

intersections will continue to operate under LOS A or B under Build conditions. It indicates that the parking ratio for residential units is .69 spaces per unit to .81 spaces per unit and that the parking ratio for the hotel use is .60 to .70. spaces per 1,000 sf. It indicates that these ratios are lower than or within the BTD guidelines for parking ratios in East Boston of .75 to 1.25 spaces per unit and .75 to 1.25 spaces per 1,000 square feet. It indicates that the proponent is committed to development and implementation of a Transportation Demand Management (TDM) Program which includes provision of transit information to building tenants, parking spaces for a car-sharing service and secure bicycle parking.

Water/Wastewater

The Draft EIR/NPC indicates that the project will require 28,633 to 35,404 gpd of water and will generate 26,075 gpd to 32,185 gpd of wastewater. Wastewater will be discharged to the East Boston Branch Sewer in New Street managed by the Boston Water and Sewer Commission (BWSC). It indicates that the sewer system has sufficient capacity to accommodate the increase in flows from the project. It does not specifically identify how the project will meet its commitments to remove extraneous clean flow (Infiltration and Inflow (I/I) to offset increased wastewater flows. The proponent will work with the Groundwater Trust to install a groundwater observation well at the site and off-site to be used to monitor construction activities and to expand the monitoring network in East Boston.

Historic and Archaeological Resources

The Draft EIR/NPC indicates that the site lies within the New Street Complex which is listed in the Inventory of Historic and Archaeological Assets of the Commonwealth. The Public Archeology Lab (PAL) has conducted a reconnaissance historic and archaeological survey, a summary of which is included in the document. It identifies an Area of Potential Effect (APE) that includes the project site, nearby properties in East Boston and Charlestown. It asserts that the project will have minimal visual impacts on properties listed in the National Register, that the seawalls on the site are eligible for listing in the National Register, identifies two areas of the project that have the potential to contain archaeological resources and does not identify any areas of archaeological sensitivity for the intertidal and submerged portions of the project area.

Comments from MHC indicate that it has not received the technical historic and archaeological survey report for review and comment. MHC requires this information to evaluate impacts and to provide technical review and comment on the findings.

Construction Period Impacts

The Draft EIR identifies measures to minimize construction related impacts including, but not limited to, the following: use of erosion control/sedimentation measures, use of wheel wash areas, construction of temporary gravel entrance berms at the main exits of the site, protection of stockpiled materials and use appropriate mufflers on construction equipment. To minimize water quality impacts associated with in-water work, siltation booms will be used and the toy restrictions recommended by DMF will be observed. In addition, the proponent has committed to divert approximately 75% of C&D waste from landfills and the Responses to

Comments Section indicates that the proponent will participate in the MassDEP Diesel Retrofit Program to mitigate diesel emissions associated with the construction period to the maximum extent feasible.

Mitigation

As required, the Draft EIR/NPC includes a separate chapter on mitigation measures and Draft Section 61 Findings for all state permits. This section does not identify estimates of the costs of the proposed mitigation, provide a schedule for implementation, or specifically identify the parties responsible for implementing the mitigation.

Conclusion

Based on a review of the Draft EIR/NPC, the Scope issued on the ENF, consultation with public agencies and a review of the comment letters, I hereby find that the Draft EIR adequately and properly complies with MEPA and its implementing regulations. The Final EIR must provide adequate information to enable state agencies to evaluate the project's consistency with regulatory standards. The proponent may prepare and submit the Final EIR for MEPA review. The Scope included below identifies outstanding issues that should be addressed.

SCOPE

The Final EIR should include a copy of this Certificate and all comment letters. The format of the Final EIR can be determined by this Certificate and the requirements of Article 80 and the scope issued by the BRA. Impacts and mitigation associated with the full-build of the project should be included in the Final EIR.

Project Description and Permitting

The Final EIR should include an existing conditions plan at a suitable size and scale (e.g. a minimum of 11"x17" and a 1" = 40' scale) that includes the watersheet, mean high and low water marks, all flood zones as currently identified by FEMA and detailed existing topograph. It should also include an overlay of the proposed project (at the same scale) on the existing conditions plan to compare the location of proposed structures and proposed topography to the existing features. Scaled plans will support the evaluation of the proposed redevelopment consistent with the dimensional requirements of the waterways regulations and better illustrate the pedestrian-level open space environment.

In addition, this Section should address the project's consistency with the Commonwealth's Sustainable Development Principles and the Metropolitan Area Planning Council's (MAPC) Metro Plan 2000.

Alternatives Analysis

The Final EIR should identify and compare the impacts of the No Build Alternative and the Preferred Alternative. It should identify reductions in impervious surfaces and impacts to tidelands, open space and traffic for each alternative.

Chapter 91/Tidelands

Comments from MassDEP identify additional information needed to assess the project's consistency with the Waterways Regulations. MassDEP comments reiterate that all FPTs within chapter 91 jurisdiction and 100 feet of the project shoreline should be reprogrammed as a condition of the Amended Phase I Waiver, recommend that the water taxi be moved to non-DPA portion of site, indicate that the proponent should provide more detail regarding how the project is designed or programmed to ensure there will be no disruption to the adjacent water-dependent industry and require clarification on how the one-story wharf building within the DPA of the project site has been sited and designed to meet the security needs of the adjacent property. In addition, MassDEP comments request clarity regarding the specific size and proposed use of structures within chapter 91 jurisdiction relative to the overall site. The Final EIR should include a table that lists site dimensions and uses to document compliance with the Waterways Regulations and, specifically, the provisions at 310 CMR 9.51(3)(d), 9.53(2)(b), and 310 CMR 9.53(2)(c), or with substitute provisions of an approved MHP. These comments also note that the definition of building footprint extends to the drip line and includes overhangs, balconies, and other expansions that are not clear to the sky.

The Final EIR should provide direct and clear responses to the issues raised by MassDEP. It should include a table listing the site dimensions and uses. It should clearly identify how the proposed FPAs are consistent with regulatory standards and should consider substituting FPAs associated with the access drive with programming that will increase use of the site by the public, such as an increase in public parking or other amenities. The Final EIR should provide more detail regarding the size and use of the proposed water taxi structure and landscape plans for the entire site including the Harbor Walk. The Final EIR should identify interim and final finishes for the Harbor Walk, identify how the connection to LoPresti Park will be treated and indicate whether a path can be created from the Harbor Walk terminus to New Street. The Final EIR should provide a detailed description and plans for the marina and associated dredging including how the project will comply with the relevant provisions of the Waterways Regulations (310 CMR 9.35 - 9.40). In addition, the Final EIR should identify how potential conflicts between vehicles using the DPA access route and users of the open space can be avoided including consideration of permanent signage. The Final EIR should include draft language that will be included in all deeds and leases identifying the existence of nearby water-dependent industrial facilities and associated activities including the permanent vehicle access route.

Wetland Resources

The Final EIR should identify total impacts to wetland resource areas, identify whether

they are temporary or permanent in nature and clarify where these impacts overlap. As noted in the previous section, the Final EIR should provide information on the dredging methods to be used, the volume of material to be dredged, the proposed disposal site and associated mitigation measures. The Final EIR should clearly address consistency with regulatory standards that will be applied during permitting for the 401 Water Quality Certificate. Prior to filing the Final EIR, the proponent should consult with MassDEP, the Division of Marine Fisheries (DMF) and the Boston Conservation Commission regarding mitigation measures for the in-water work. The Final EIR should propose detailed mitigation commitments based on these consultations.

The proponent should consider whether low impact development (LID) practices (in addition to the use of structured parking) can be incorporated into the project design consistent with requirements of the stormwater provisions of the wetlands regulation.

Wastewater

The Final EIR should indicate whether wastewater associated with the marina is included in the wastewater estimates and, if not, the Final EIR should include a revised estimate. Comments from MassDEP and the Boston Water and Sewer Commission (BWSC) request additional information regarding proposed I/I mitigation. Prior to submission of the Final EIR, the proponent should consult with MassDEP and the Boston Water and Sewer Commission (BWSC) to identify how the proponent will fulfill its commitment to provide I/I mitigation. I note that a commitment to I/I mitigation is a condition of the Phase 1 Waiver. The Final EIR should identify a specific plan to meet this commitment.

Comments from BWSC also urge the proponent to consider incorporation of water conservation measures into the building design including use of sensor operated faucets and toilets in common areas of the buildings and soil moisture indicators and rainfall sensors for sprinkler systems should be considered. In addition, I encourage the proponent to consider installation of cisterns for reuse of rooftop runoff for landscaping.

Historic Resources

Comments from MHC indicate that it has not received the technical historic and archaeological survey report for review and comment. MHC requires this information to evaluate impacts and to provide technical review and comment on the findings in consultation with the US Army Corps of Engineers as the Lead Federal Agency for the Section 106 of the National Historic Preservation Act review. The full report should be provided to MHC and included in the Final EIR. The Final EIR should include determinations of effect and findings that are achieved through the completion of the Section 106 review and consultation process to consider and resolve any significant adverse effects to historic and archaeological resources.

Construction

The Final EIR should identify the proponent's level of participation in the MassDEP Diesel Retrofit Program including a commitment to use equipment verified by the U.S. Environmental Protection Agency (EPA), identification of technologies that will be used and whether the proponent will use on-road low-sulfur diesel (LSD) fuel for construction vehicles.

Mitigation

The Final EIR should include an updated section on mitigation measures. The Final EIR should include a table that summarizes the proposed mitigation measures, identifies the costs of proposed measures, identifies the parties responsible for implementing the mitigation and identifies the schedule for implementation. The Final EIR should be incorporated into revised Draft Section 61 Findings.

Responses to Comments

To ensure that the issues raised by commentors are addressed, the Final EIR should include a response to comments. This directive is not intended to, and shall not be construed to, enlarge the scope of the Final EIR beyond what has been expressly identified in the initial scoping Certificate or this Certificate. The Final EIR should include a copy of this Certificate and a copy of each comment letter received. The format should include a direct narrative response to each comment.

Circulation

The Final 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 and to City of Boston officials. A copy of the Final EIR should be made available for public review at the Boston Public Library. The proponent should provide a hard copy of the Final EIR to each state and city agency from which the proponent will seek permits or approvals.

August 29, 2008

Date


for Ian A. Bowles

Comments received:

- 7/30/08 Coastal Zone Management (CZM)
- 8/18/08 Department of Environmental Protection/Northeast Regional Office

(MassDEP/NERO)
7/18/08 Massachusetts Historical Commission (MHC)
8/21/08 Senator Anthony Petrucci and Representative Carlo Basile
8/18/08 Boston Water and Sewer Commission (BWSC)
8/26/08 City of Boston/Environment Department
8/20/08 The Boston Harbor Association
8/18/08 John Vitagliano

IAB/CDB/cdb