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November 14, 2008

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

PROJECT NAME : Meadowbrook Estates Ventures  
PROJECT MUNICIPALITY : Kimball Road – Amesbury  
PROJECT WATERSHED : Merrimack River  
EOEA NUMBER : 12869  
PROJECT PROPONENT : Meadowbrook Estates Ventures, LLC  
DATE NOTICED IN MONITOR : October 8, 2008

As Secretary of Energy and Environmental Affairs, I hereby determine that the Draft Environmental Impact Report (DEIR) submitted on the above 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).

As described in the DEIR, the proposed project consists of the construction of a 268-unit (451,800 square foot (sf)) residential condominium subdivision, which was proposed pursuant to M.G.L. Chapter 40B. The project includes the construction of a subdivision roadway, 804 parking spaces, and a wastewater treatment facility with a groundwater discharge and a town water connection. The 155-acre site is adjacent to Lake Attitash, an Outstanding Water Resource.

Access to the site is proposed from Kimball Road with a gated emergency entrance leading to the Birches off the south end of the site. Using the Institute of Traffic Engineers (ITE) Handbook's land-use code 230, the proponent estimated that the project will generate approximately 1,484 new average daily vehicle trips on weekdays. The project includes 804 surface parking spaces.

The proposed project will be connected to existing municipal water service. It will

increase the consumption of water by about 72,000 gallons per day (gpd). The project will generate approximately 60,000 gpd of wastewater, which will flow to an onsite wastewater disposal system.

The project is subject to the requirement to prepare a mandatory EIR pursuant to Section 11.03(1)(a)(2) of the MEPA regulations because it creates ten or more acres of impervious area (21 acres). On December 12, 2006, the Housing Appeals Committee (HAC) issued a decision approving the proponent's Modified Comprehensive Permit Application Alternative (Alternative #5), which has been appealed by the Town of Amesbury. In this DEIR, the proponent has chosen Alternative #6, the Low Impact Development Alternative, as its Preferred Alternative. The project will require a new decision from the HAC for Alternative #6. It will require a Groundwater Discharge Permit from the Massachusetts Department of Environmental Protection (MassDEP). The project must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site. It will require an Order of Conditions from the Amesbury Conservation Commission for impacts to wetland resource area buffer zones and, on appeal only, a Superseding Order of Conditions from MassDEP. Because the project is subject to approval from the HAC, MEPA jurisdiction applies to all aspects of the project that may cause Damage to the Environment as defined in the MEPA regulations.

### Review of the DEIR

The DEIR included a detailed description of the project with a summary/history of the project. It described each state agency action required for the project. The DEIR demonstrated how the project is consistent with the applicable performance standards. The DEIR identified the two project phases and the time frame for each phase of the project. It discussed how this project is compatible with Executive Order 385 – Planning for Growth and Amesbury's Master Plan.

Alternative #6, the Low Impact Development Alternative is the proponent's Preferred Alternative. In addition to the Preferred Alternative and the No-Build Alternative (Alternative 1), the DEIR identified four other alternatives. The four other alternatives included Alternative #2 – the Cluster Single Family Home Development, Alternative #3 – the Conventional Subdivision, Alternative #4 – the Approved Comprehensive Permit Application, and Alternative #5 – the Modified Comprehensive Permit Application. The DEIR summarized the alternatives that were developed for the project site. It identified the full-build out of the parcel. The DEIR presented the maximum residential full-build-out plan to be allowed under current zoning (Alternative 3). It provided a comparative analysis that clearly showed the differences between the environmental impacts associated with each of the alternatives. For each alternative, the DEIR quantified the amount and described the type of land altered, and the amount of existing forest and other vegetation to be altered. The DEIR investigated the feasible methods for avoiding or minimizing adverse land impacts, such as erosion, sedimentation, and fragmentation of wildlife habitat. According to the DEIR, more than 80 percent of the site (approximately 128 acres) will remain

undeveloped open space. The DEIR depicted all protected open space areas on a reasonably scaled site plan.

The proponent will provide sidewalks along one side of the development's internal roadway system (Figure 10-1). There are presently no sidewalks in this area of Amesbury. The proponent is proposing walking trails within the project site. No proposed bicycle facility improvements are included with this project.

The DEIR identified the wetland resource areas and buffer zones present on the site on a reasonably scaled plan. It addressed the significance of the wetland resources on site, including public and private water supply; riverfront areas; flood control; storm damage prevention; fisheries; shellfish; and wildlife habitat. The DEIR demonstrated that the proponent has minimized impacts to on-site and off-site wetlands to the maximum feasible extent, and has sufficiently mitigated any unavoidable impacts. It reported that no wetlands replication will be required as part of the proposed project.

The DEIR did not identify any impacts from the project on the local drinking water supply. It identified that exterior irrigation water would come from on-site wells and rain barrels.

The stormwater management system will be designed in compliance with the Department of Environmental Protection's (MassDEP) Stormwater Guidelines. Because the site is located within the watershed of an Outstanding Resource Water (ORW), the proponent will treat the first one-inch of runoff from the site. The DEIR showed that the proponent will minimize the drainage impacts to these resources to the maximum extent feasible. It provided the drainage calculations for the different storm events for pre- and post-construction. The DEIR identified the quality of proposed stormwater flows. No offsite roadway work with drainage improvements is proposed as part of the project. Due to the extensive wetland network within the site and the proximity to ORWs, the stormwater management system is projected to achieve about a 90 percent pollutant removal rate. The DEIR included a copy of the draft Stormwater Pollution Prevention Plan for the project site in Section 4.3. It identified the maintenance and inspection program for the stormwater system and the sweeping program. This maintenance program outlined the actual maintenance operations, responsible parties, and back-up systems. Proposed construction activities, including mitigation, erosion and sedimentation control, phased construction, and drainage discharges or overland flow into wetland areas, were evaluated. The locations of detention basins and their distances from wetland resource areas, and the expected water quality of the effluent from said basins were identified. This analysis addressed current and expected post-construction water quality. Sufficient mitigation measures were incorporated to ensure that no downstream impacts would occur. The drainage analysis ensured that on- and off-site wetlands are not impacted by changes in stormwater runoff patterns. The DEIR responded to MassDEP's recommendation that the proponent investigate Low Impact Development (LID) stormwater techniques and it revised the proponent's Preferred Alternative accordingly. It included a Turf Management Plan and a Snow Management Plan.

According to the DEIR, the project will generate approximately 60,000 gpd, which will be managed by a proposed onsite wastewater treatment facility (WWTF) with a groundwater discharge. The DEIR described two wastewater alternatives for the project: the Sequencing Batch Reactor (SBR) method and the Membrane Biological Reactor (MBR) process. It demonstrated that the WWTF's groundwater discharge area does not impact the ORWs.

The DEIR summarized the results of an intensive (locational) archaeological survey that was requested by the Massachusetts Historical Commission (MHC). It proposed appropriate mitigation. The proponent developed an archaeological site avoidance and preservation plan for the project as requested by MHC.

The DEIR presented a discussion on potential construction period impacts and identified feasible measures to avoid or eliminate these impacts. It stated that about 4,000 cubic yards of gravel and 5,800 cubic yards of loam for final grading will be required for the project. This gravel and loam fill may be required to be hauled to the site. This would result in approximately 190 and 275 truck trips respectively. Trucking routes were identified as from the south via I-495 to Route 150 to Route 110 to Kimball Road and the project site and from the north via Route 108 to Bear Hill Road to Amesbury Road to Kimball Road to the project site.

#### SCOPE

The FEIR should resolve the remaining issues outlined below, as required by this Certificate. It should include a copy of this Certificate. The FEIR should follow the MEPA regulations at 301 CMR 11.07 for outline and content, as modified by this Certificate. It should address the comments listed at the end of this Certificate, to the extent that they are within the required scope.

The FEIR should include a detailed description of the project with a summary/history of the project. It should provide an existing and a proposed site plan. The FEIR should repeat the description of each state agency action required for this project that is contained in the DEIR. It should show that the project is consistent with the applicable performance standards. The FEIR should contain sufficient information to allow the permitting agencies to understand the environmental consequences related to the project.

The alternatives analysis should revisit clearly presenting the alternative driveway configurations at the site. The FEIR should consider the impacts the proposed driveway alignment may have on on-site wetland resources. The FEIR should demonstrate the project's consistency with any local or regional open space plan, and discuss the legal mechanism by which open space will be protected in perpetuity.

#### Wetlands

The FEIR should quantify and describe impacts to wetlands buffer zones and describe

measures to minimize buffer zone impacts. The FEIR should also explain whether the local conservation commission has accepted the resource area boundaries and any disputed boundary should be identified.

### Stormwater

The FEIR should discuss the consistency of the proposed stormwater management system with the MassDEP Stormwater Management Regulations and should address the comments submitted by MassDEP on this issue. It should investigate feasible methods of reducing impervious surfaces, including reduced parking areas and/or more compact layouts.

In addition, a revised draft Stormwater Pollution Prevention Plan should be submitted that addresses DEP's comments on the draft provided in the DEIR.

### Wastewater

The FEIR should identify and describe the proponent's preferred treatment method for the WWTF and key design issues. The proponent should meet with MassDEP staff to discuss the permitting requirements as requested by MassDEP. The FEIR should include an update on the proponent's discussions with MassDEP and discuss any outstanding issues with respect to permitting.

### Rare Species

According to the Natural Heritage and Endangered Species Program (NHESP), it appears that a small portion of the project site is located within priority habitat. The proponent should consult with NHESP to determine whether a filing is required to comply with the Massachusetts Endangered Species Act. If a filing is required, the FEIR should discuss the rare species impacts of the project and any measures to avoid or minimize such impacts.

### Mitigation

The FEIR should include a separate chapter on mitigation measures. This chapter on mitigation should include a draft Section 61 Finding for MassDEP and HAC. The Proposed Section 61 Finding should contain 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 should also be included.

In the DEIR, the proponent has committed to provide the following mitigation measures:

- Implement the Stormwater Pollution Prevention Plan during construction;
- Provide temporary fencing around the historic and archaeological resources and remove

- all fencing at construction completion;
- Provide permanent fencing around the Colby Cemetery;
  - Develop walking trails through the open space area;
  - Provide Low Impact Development (LID) and Best Management Practices (BMP) for the stormwater collection system;
  - Provide a stop sign at the intersection of Meadowbrook Road with Kimball Road and advance warning signs along Kimball Road;
  - Construct sidewalks along one side of the subdivision roadways; and
  - Upgrade the emergency access roadway to a 12-foot wide paved roadway.

### Response to Comments

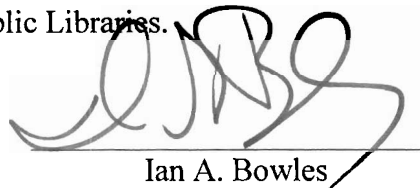
In order to ensure that the issues raised by commenters are addressed, the FEIR should include a detailed response to comments, including in particular the comments submitted by the City of Amesbury. However, this directive is not intended to, and shall not be construed to enlarge the scope of the FEIR beyond what has been expressly identified in the initial scoping certificates or this Certificate.

### Circulation

The FEIR 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 Amesbury and Merrimac officials. A copy of the FEIR should be made available for public review at the Amesbury and Merrimac Public Libraries.

November 14, 2008

DATE



Ian A. Bowles

### Comments received:

MHC, 10/8/08

NHESP, 10/13/08

Amesbury lakes & Waterways Commission, 10/27/08

Lake Attitash Association, 10/31/08

W.C.Cammatt Engineering, 11/3/08

Daley and Witten, 11/7/08

MassDEP/NERO, 11/7/08

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