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November 26, 2007

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
ON THE  
ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME: Doc's Restaurant at Long Wharf  
PROJECT MUNICIPALITY: Boston  
PROJECT WATERSHED: Boston Harbor  
EEA NUMBER: 14119  
PROJECT PROPONENT: Boston Redevelopment  
DATE NOTICED IN MONITOR: October 27, 2007

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **does not require** the preparation of an Environmental Impact Report (EIR).

Project Description

As outlined in the Environmental Notification Form (ENF), the project involves the redevelopment of the existing Long Wharf Pavilion into an enclosed waterfront restaurant that will also have outdoor seating and a take-out window. The Boston Redevelopment Authority (BRA) owns Long Wharf and is the project Proponent. The restaurant will be developed by the Eat, Drink Laugh Restaurant Group, who responded to a 2006 Request for Proposal (RFP) for the redevelopment of the Pavilion and who will lease the project site from the BRA. Long Wharf is open to the public and the Boston Harborwalk provides public access to the water and water-dependent uses in the area. At the end of Long Wharf, there is a large plaza that includes the Long Wharf Pavilion and a large brass and marble compass rose set into the ground.

The Long Wharf Pavilion was built in 1983 to serve as a Massachusetts Bay Transportation Authority (MBTA) ventilation building and Blue Line tunnel emergency egress. The existing brick

structure will be expanded by approximately 1,225 square feet (sf) as part of the project. The restaurant will incorporate approximately 1,900 sf of outdoor space on a seasonal basis, consisting of tables, chairs, umbrellas and planters. The 1,900 sf proposed seating area is larger than what was originally outlined in the ENF. The Proponent submitted additional materials to MEPA during the review period outlining the actual dimensions of the outdoor patio area. The patio size will be formally established during the Chapter 91 licensing process. There is no parking proposed as part of the project.

### Jurisdiction

The project is undergoing review pursuant to Section 11.03(3)(b)(5) of the MEPA regulations because it requires a Chapter 91 Waterways License for a new non-water dependent use in Commonwealth Tidelands. The project requires the Chapter 91 License from the Department of Environmental Protection (MassDEP); an Order of Conditions from the Boston Conservation Commission; and approval for a Conditional Use and a compliance approval or variance from the Article 25 Flood Hazard District from the Boston Zoning Board of Appeals.

The Proponent is not seeking financial assistance from the Commonwealth. Therefore, MEPA jurisdiction applies to those aspects of the project within the subject matter of required or potentially required state permits with the potential to cause damage to the environment. The Boston Conservation Commission has issued an Order of Conditions (OOC) for the project (DEP# 006-1134); however, the appeal period on the OCC will not have closed before the issuance of this Certificate and the potential exists for the project to require a Superceding Order of Conditions from MassDEP. Therefore, MEPA jurisdiction over the project extends to wetlands, stormwater and waterways.

### Wetlands and Stormwater

The entire project area currently consists of impervious surface. The existing 3,400 sf brick Pavilion will be expanded by approximately 1,225 sf. The additional 1,225 sf will convert surface runoff to roof runoff. Stormwater from the project site will continue to drain and receive treatment through the existing stormwater management system on Long Wharf. The Proponent should note comments from the Boston Water and Sewer Commission (BWSC) regarding the stormwater management plan for the project. Conditions related to stormwater management, catch basin cleaning and snow management were addressed in the Boston Conservation Commission's OOC.

The project site is located within the Flood Zone A2 as shown on the Federal Insurance Rate Map (FIRM). The existing floor elevation of the Long Wharf Pavilion is approximately one inch below the base flood elevation. The proposed expansion for Doc's Restaurant will include 1,225 sf of additional fill within Land Subject to Coastal Storm Flowage (LSCSF). The project's impacts to LSCSF and stormwater were reviewed by the Boston Conservation Commission during the Notice of Intent process. As outlined in the ENF, the project will be designed to withstand 100-year flood events, through the use of temporary thresholds placed during storm events. I expect the

Proponent will provide information to MassDEP regarding the adequacy of proposed flood mitigation in light of projected sea level rise, in conjunction with 310 CMR 9.37(2)(b)(2).

### Chapter 91

The project site is composed entirely of previously authorized filled Commonwealth tidelands and is subject to the City of Boston Municipal Harbor Plan (MHP), approved by the Secretary of Environmental Affairs on May 22, 1991. The project site has two existing Chapter 91 Licenses (License No. 977 granted in 1983 to the MBTA for a ventilation shaft, emergency egress for the Blue Line and a shade pavilion and License No. 988 issued in 1983 to the BRA for renovations to the area surrounding the pavilion). The Proponent is seeking a new Chapter 91 License from MassDEP for 0.15 acres of new non-water dependent use. MassDEP has determined that the proposed restaurant use is a non-water dependent Facility of Public Accommodation.

The Proponent has requested a reconfiguration of the Water-Dependent Use Zone, which is allowed under the MHP if the proposal will promote public use or other water dependent activity in a clearly superior manner and if there is no reduction in the amount of total setback area which would be required by 310 CMR 9.51(3)(b). The required Chapter 91 setback area for the project site is 22,780 sf and the project will provide 26,600 sf of setback area. Therefore, the total setback area proposed for the project exceeds the water-dependent use zone set back required under 310 CMR 9.51(3)(b) and (c) by 3,880 sf.

The Proponent argues in the ENF that the expanded and reconfigured setback area will promote water-dependent activity on and adjacent to the project site. MassDEP supports the reconfiguration of the water-dependent use zone because the project will help to activate public waterfront parkland. While I have received several comments opposing the development of a restaurant at the project site, I expect the MassDEP licensing process to ensure that public benefits are commensurate with the project's impacts in Commonwealth tidelands.

Additionally, the Boston Conservation Commission's OOC contains several special conditions related to public access to the site. The Proponent will be required to ensure that the restaurant's restrooms and seasonal seating and tables near the take-out window are available to the general public regardless of patronage. The Proponent will also maintain existing benches and binoculars on Long Wharf for the life of the lease and will allow public access to, and seating on the steps that lead from the proposed building towards the harbor. The Proponent and MassDEP should ensure that the project will not adversely affect the continuing functions of the MBTA Blue Line ventilation shaft and emergency egress.

### Historic Resources

The project is located within the Long Wharf and Custom House Block District, which is listed in the National Register of Historic Places. The Long Wharf and Custom House Block Historic District is also a National Historic Landmark. The Long Wharf Pavilion was constructed in 1983 after the site's designation as a historic district in 1966. Comments from the Massachusetts

Historical Commission (MHC) on the ENF state that the proposed project will not have an adverse effect on historic resources. The Proponent should note comments from the City of Boston regarding materials that should be submitted to the Boston Landmarks Commission.

### Conclusion

I have determined that the ENF has sufficiently defined the nature and general elements of the project and has proposed measures to avoid and mitigate environmental impacts. I am satisfied that any remaining issues can be adequately addressed during the permitting and review process. The proposed project, as described in the ENF, requires no further review under MEPA. The Proponent should address comments from the BWSC regarding water and wastewater service and comments from the City of Boston Environment Department regarding sustainable design during the local approval process.

November 26, 2007

Date



Ian A. Bowles

### Comments received:

|            |  |
|------------|--|
| 11/10/2007 | Dorothy Keville                        |
| 11/10/2007 | Todd Thomas                            |
| 11/11/2007 | Robert Skole                           |
| 11/12/2007 | Office of Coastal Zone Management      |
| 11/13/2007 | Selma H. Rutenburg                     |
| 11/13/2007 | Stephanie Hogue                        |
| 11/14/2007 | Boston Water and Sewer Commission      |
| 11/14/2007 | BSC Group, Inc., for the Proponent     |
| 11/14/2007 | Department of Environmental Protection |
| 11/15/2007 | Peggy Koehl                            |
| 11/15/2007 | Massachusetts Historical Commission    |
| 11/15/2007 | Sanjoy Mahajan                         |
| 11/16/2007 | Anne M. Pistario                       |
| 11/16/2007 | Pasqua Scibelli                        |
| 11/16/2007 | Susan Benveniste                       |
| 11/16/2007 | Shirley Kressel                        |
| 11/16/2007 | Victor Brogna                          |
| 11/16/2007 | David A. Kubiak                        |
| 11/17/2007 | Sheila Ross                            |
| 11/20/2007 | Conservation Law Foundation            |

EEA #14119

ENF Certificate

November 26, 2007

11/20/2007 City of Boston Environment Department  
11/20/2007 The Boston Harbor Association

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