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January 9, 2008

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

PROJECT NAME : Tom Berkowitz Trucking Site Assignment Modification
PROJECT MUNICIPALITY : Northbridge
PROJECT WATERSHED : Blackstone River
EOEA NUMBER : 14145
PROJECT PROPONENT : Tom Berkowitz Trucking
DATE NOTICED IN MONITOR : December 10, 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).

The project consists of three main components: an expansion of the site assigned area of an existing waste transfer station; an increase in the amount of tonnage that may be received; and addition of construction and demolition material as an allowable waste. The Environmental Notification Form (ENF) proposes that the site assigned area, which is currently 0.23 acres, be increased to encompass the entire 2.69-acre parcel. The current site assignment applies to the buildings only. The proponent seeks to expand the site assigned area to include other portions of the site currently used to store equipment and containers for recyclable materials. The ENF proposes increasing the tonnage limit from 35 tons per day to 100 tons per day (for six days per week). The ENF does not propose any new construction.

The project is undergoing review pursuant to Section 11.03(9)(b)(1) because it involves an increase in capacity for storage and processing of 50 or more tons per day of solid waste. The proposed project will require a Site Suitability for a Major Modification of the Existing Site Assignment from the Massachusetts Department of Environmental Protection (MassDEP). The project may require an Order of Conditions from the Northbridge Conservation Commission (and, on appeal only, a Superseding Order from MassDEP).

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 state agency permits with the potential to cause Damage to the Environment as defined in the

MEPA regulations. In this case, MEPA jurisdiction extends to solid waste, wetlands, land and stormwater.

A number of commenters noted that project site is located in Riverfront Area for the Mumford River. MassDEP has indicated that an expansion of a site assignment in a Riverfront Area would be prohibited under 310 CMR 16.40(3)(d)(6). In a May 23, 2007 Administrative Deficiency letter to the proponent, MassDEP identified the need to determine whether the proposed waste handling area expansion is in the Riverfront Area. MassDEP requested that the proponent submit a Request for Determination of Applicability (RDA) to the Town of Northbridge Conservation Commission and inform MassDEP of the action taken by the Commission. However, MassDEP has not received any information to date from the proponent on this issue. I note the Northbridge Board of Health comment letter also, which indicates that an RDA has not been submitted.

As further detailed in the MassDEP comment letter and in other comment letters received, the proponent has been cited by MassDEP for violations of the Surface Water Discharge Permit Program (310 CMR 3.00) and the Wetlands Regulations (310 CMR 10.00). The violation involved discharge of non-sanitary wastewater directly to a bordering vegetated wetland (from a catch basin at the trailer ramp of the trash processing area). The proponent continues to be in non-compliance with an Administrative Consent Order and Penalty (ACOP) agreement entered into with MassDEP, which required that the discharge to wetlands be eliminated by connecting the catch basin to the Town of Northbridge sewer system. MassDEP has indicated that a solid waste permit would not be issued until the facility comes into compliance with the ACOP.

Based on review of the ENF and comments received, and consultations with relevant agencies, it does not appear that the proponent has taken all feasible measures to avoid and minimize or mitigate impacts to wetlands resources. In addition, until the Riverfront Area question is resolved, it is not clear whether or not the proposed expansion is permissible. The proponent should provide MassDEP with revised existing conditions and proposed conditions plans that show how the catch basin located at the Trailer Ramp will be connected to the sewer system, and commitments from the proponent on a timeline for compliance with the ACOP agreement. The proponent should also provide MassDEP with the information requested regarding Riverfront Area and the RDA.

I have determined that the ENF has sufficiently defined the nature and general elements of the project and that the project as described in the ENF does not warrant the preparation of an EIR. However, the ENF indicates that the project will not impact Riverfront Area or other wetlands resources. If there is any material change to the project as proposed in the ENF based on the outcome of the RDA process, the proponent will be required to file a Notice of Project Change (NPC) pursuant to Section 11.10 of the MEPA regulations.

January 9, 2008
DATE


Ian A. Bowles, Secretary

Comments Received:

12/19/07 Shelly J. Buma
12/20/07 Town of Northbridge, Board of Health
12/25/07 Denise O'Brien
12/28/07 Richard T. Moore, State Senator
12/30/07 Diane Mackintosh
12/31/07 Carrie Maynard
12/31/07 Fred Consigli
12/31/07 Neal B. Mitchell, Jr. PE
12/31/07 Shelly J. Buma (on behalf of the citizens for the Preservation of Northbridge)
01/07/08 Department of Environmental Protection, Central Regional Office
(amended comments)

IAB/AE/ae