*The Commonwealth of Massachusetts*
*Executive Office of Energy and Environmental Affairs*
*100 Cambridge Street, Suite 900*
*Boston, MA 02114*

Deval L. Patrick
GOVERNOR

Timothy P. Murray
LIEUTENANT GOVERNOR

Ian A. Bowles
SECRETARY

Tel: (617) 626-1000
Fax: (617) 626-1181
http://www.mass.gov/envir

January 16, 2008

CERTIFICATE OF THE SECRETARY OF ENERGY & ENVIRONMENTAL AFFAIRS
ON THE
EXPANDED ENVIRONMENTAL NOTIFICATION FORM

| | |
|---|---|
| PROJECT NAME | : 1021 Kingston Place |
| PROJECT MUNICIPALITY | : Kingston |
| PROJECT WATERSHED | : South Coastal |
| EOEA NUMBER | : 14126 |
| PROJECT PROPONENT | : **Thorndike De**velopment Corporation |
| DATE NOTICED IN MONITOR | : November 12, 2007 |

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.03 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **requires** the preparation of an Environmental Impact Report (EIR). In a separate Draft Record of Decision (DROD) also issued today, I propose to grant a Phase 1 Waiver to allow design and permitting of Phase 1 to proceed to permitting prior to the completion of the EIR. A condition of the Phase 1 Waiver is that the cumulative environmental impacts of the project will be addressed in the EIR and construction of the proposed roadway improvements will not be initiated until the EIR process is complete.

Project Description

As described in the Expanded Environmental Notification Form (EENF), the project consists of the design and construction of a 1.8 million gross square foot (sf) mixed-use development in Kingston and construction of access roads including a slip ramp to Route 3 southbound. The Expanded ENF indicates that the project is proposed consistent with the Kingston Smart Growth District, an overlay district adopted pursuant to M.G.L. c. 40R Smart Growth Zoning. The development is proposed on a 109-acre parcel adjacent to the MBTA

commuter rail station. At full-build, the project will include 50,000 square foot (sf) of retail space, 250,000 sf of office space and 730-residential units. The project will include significant roadway improvements including geometric and signalization improvements along Smiths Lane at the Route 3 interchange (Exit 8) and northbound and southbound ramps and extension and reconstruction of Cranberry Road.

The project is proposed in two phases. Phase 1 consists of the off-site roadway improvements. Phase 2 consists of the site development. The proponent proposes to construct the roadway improvements prior to the occupancy of the development.

The project site is bounded by the MBTA commuter rail station to the north, Marion Drive and existing commercial development to the northwest, a sand and gravel pit to the south, Smelt Brook and its associated buffer zone to the southwest, and the Davis parcel to the northwest. The site has been altered significantly through sand and gravel removal operations. According to the Department of Fish and Game's (DFG) Natural Heritage and Endangered Species Program (NHESP), a portion of the project site is mapped as Priority Habitat of Rare Species. The project is located within the 2nd Brook Water District. The roadway improvements will extend from Smith's Lane to Marion Drive via the extension of Cranberry Road and include the construction of a loop ramp that will extend from Cranberry Road around the existing transfer station and the Kingston Wastewater Treatment Facility (WWTF) until its connection with Route 3 southbound. The current alignment of Cranberry Road crosses Smelt Brook and associated riverfront area and runs adjacent to the capped landfill. Wetland resource areas are located to the northeast of the proposed Route 3 slip ramp.

Potential environmental impacts for the entire project are associated with the alteration of 17.8 acres of land, the creation of 57.7 acres of new impervious area, alteration of 42,667 sf of riverfront area, generation of 12,410 average daily vehicle trips (adt), use of 263,700 gallons per day (gpd) of water (including 28,700 gpd for irrigation) and generation of 235,000 gpd of wastewater.

Potential environmental impacts for Phase 1 are associated with alteration of 2.1 acres of land, the creation of 2.1 acres of new impervious area and alteration of 21,177 sf of riverfront area.

## MEPA Jurisdiction and Required Permits

The project is undergoing MEPA review and subject to preparation of a mandatory EIR pursuant to Section 11.03 (1)(a)(2) and (6)(a)(6) because it requires a state permit and consists of creation of ten or more acres of new impervious surfaces and generation of 3,000 or more new average daily trips (adt) on roadways providing access to a single location.[1] The project requires

1 The EENF indicates that the project is subject to a mandatory EIR threshold pursuant to Section 11.03 (6)(a)(2) because it includes construction of a new interchange on a completed limited access highway. The project, as proposed, consists of a slip ramp to Route 3 and is not considered an interchange for

a Sewer Connection Permit, a Major Post Closure Use Permit, Major Modification Permits (for the Landfill and for the Transfer Station) and a modification of a Small Handling Facility from the Department of Environmental Protection (MassDEP). It requires a Conservation and Management Permit from the Natural Heritage and Endangered Species Program (NHESP) and a Dam License from the Department of Conservation and Recreation. It requires a Construction and Access Permit from the Massachusetts Highway Department (MassHighway) and will require a land transfer between MassHighway and the Town of Kingston. The project may require an approval or easement from the Massachusetts Bay Transportation Authority (MBTA). The project must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site greater than one acre. Also, it requires numerous local permits and approvals including an Order of Conditions from the Kingston Conservation Commission (and hence a Superseding Order of Conditions from MassDEP in the event the local Order is appealed).

Phase 1, if presented as a separate project, would undergo MEPA review and be subject to preparation of a mandatory EIR pursuant to Section 11.03 (6)(a)(2) because it requires a state permit and consists of a new interchange on a completed limited access highway. Phase 1 requires a Major Post Closure Use Permit, Major Modification Permits (for the Landfill and for the Transfer Station) and a modification of a Small Handling Facility from the Department of Environmental Protection (MassDEP). It requires a Construction and Access Permit from the Massachusetts Highway Department (MassHighway) and includes a land transfer between MassHighway and the Town of Kingston. The project must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site of over five acres. Also, it will require an Order of Conditions from the Kingston Conservation Commission.

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that may have significant environmental impacts and that are within the subject matter of required or potentially required state permits. In this case, MEPA jurisdiction exists over land alteration, traffic/transportation, air quality, wetlands, drainage, rare species, wastewater, water supply and solid/hazardous waste.

Request for a Phase 1 Waiver

The proponent has requested a Phase 1 Waiver that will allow the proponent to proceed with Phase 1 of the project prior to preparing an EIR for the entire project. Based on a review of the EENF, consultation with state agencies and review of comment letters, I propose to grant a Phase I Waiver for this project. This decision is detailed in the DROD, also issued today, which will be published in the next issue of the Environmental Monitor for a fourteen-day comment period, after which I shall reconsider, modify or confirm the waiver.

---

the purpose of MEPA review.

Project Segmentation

The MEPA regulations include anti-segmentation provisions to ensure that projects, including any future expansion, are reviewed in their entirety. Proponents cannot evade, defer or curtail MEPA review by segmenting one project into smaller ones that, individually, do not meet or exceed MEPA thresholds. In determining whether work or activities constitute one project, the Secretary must consider whether the work or activities comprise a common plan or independent undertakings, regardless of whether there is more than one proponent, the timing of work and activities, and whether the environmental impacts caused by the work or activities are separable or cumulative.

Some commentors have expressed concern that the granting of a Phase 1 Waiver would constitute project segmentation and these commentors submitted a Request for Advisory Opinion requesting that the Town and MassHighway be identified as co-proponents of the project. Because the issues raised by the Request for an Advisory Opinion are within the subject matter of this ongoing review, a separate response will not be issued by the MEPA Office. These commentors assert that MassHighway and the Town should be co-proponents of the project because: 1) construction of the proposed slip ramp will take place on land belonging to the Town and MassHighway; 2) improvements are proposed to infrastructure owned by MassHighway; 3) the Town revised its zoning to support the development of the parcel as proposed and; 4) the significant infrastructure improvements required to support this project which will be implemented by the Town (i.e. expansion of Kingston's water supply, expansion of the Kingston WWTF, expansion and redesign of the Kingston transfer station and reuse of the capped landfill).

The proponent has disclosed, through the EENF, that it will design, fund and construct the proposed Route 3 southbound slip ramp and identified the approval process required by MassHighway for the implementation of this element of the project, including the need for a land swap between the Town and MassHighway. It has identified work that will be constructed on Town land, the municipal infrastructure improvements necessary to support the project and identified which elements require MEPA review, such as the expansion of the water supply and expansion of the WWTF. I agree with these commentors that MEPA review must be comprehensive and well coordinated. The Scope of the EIR and other MEPA review will be structured to achieve this objective. I do not find any evidence that the proponent is seeking to evade or defer MEPA review and, based on comment letters and consultation with the Town, it appears that the proponent and the Town are closely coordinating efforts. Improvements to MassHighway facilities are routinely funded, designed and/or constructed by project proponents. MassHighway ensures that these improvements are consistent with state and federal policy and design standards by participating in MEPA review and through its permit approval process.

The Scope outlined below will require the proponent to identify how municipal infrastructure expansion in more detail and provide sufficient information to demonstrate that the proposed changes are feasible, consistent with state policy and permit requirements/standards, and that adequate mitigation will be provided. In addition, the proponent will be required to identify any secondary growth impacts resulting from the proposed project and disclose any

additional land holdings in the vicinity of the project and plans for development.

## SCOPE

### General

The EIR should follow the general guidance for outline and content contained in section 11.07 of the MEPA regulations, as modified by this Certificate. Impacts and mitigation associated with each phase of the project should be included in the EIR.

### Project Description

The EIR should include a thorough description of the entire project and all project elements and construction phases. The EIR should include an existing conditions plan illustrating resources (including water supply) and abutting land uses (including the commuter rail station, the transfer station, the wastewater treatment plant) for the entire project area and a proposed conditions plan (or plans) illustrating proposed elevations, structures, access roads, stormwater management systems, and sewage connections associated with each phase of the project. The EIR should also include a site circulation plan illustrating how motor vehicles, pedestrians and cyclists will be accommodated on the site for each phase of the project. The EIR should clearly identify proposed connections to existing open space, the MBTA commuter rail station and other locations. Plans must be provided for the entire site at a reasonable scale (e.g. 40 or 60 scale).

### Project Permitting and Consistency

The EIR should briefly describe each state permit required for the project and each phase of the project and should demonstrate that the project meets applicable performance standards. The EIR should identify any and all interests in real estate that the developer may need or any other action required by the MBTA. In accordance with section 11.01 (3)(a) of the MEPA regulations, the EIR should discuss the consistency of the project with any applicable local or regional land use plans. The EIR should also address the project's consistency with the Commonwealth's Sustainable Development Principles and Executive Order 385 (Planning for Growth). The EIR should address any secondary growth impacts associated with the regional roadway improvements and identify developable parcels in the vicinity of the project site. This should include identification of any land within the project vicinity that the proponent owns or has an option to acquire, identify development allowed by underlying zoning and identify any plans for development of land in the project vicinity by other entities.

Alternatives Analysis

The construction of 1.8 million sf of development is proposed on the site of a sand and gravel operation. It proposes to incorporate many elements to reduce project impacts that are routinely recommend during MEPA review. The location of the project (adjacent to an existing commuter rail station) and mixed use nature of the development will minimize associated vehicle trips as identified in the traffic analysis. In addition, the local requirement that the project be developed consistent with the Leadership in Energy and Environmental Design for Neighborhood Development (LEED-ND) will further minimize the environmental footprint of the project. The EIR identifies other development proposals proposed for this site that were not supported by the Town. The Town of Kingston has clearly indicated its support of the project and the project's consistency with its zoning. None of the comment letters from state agencies or others identify additional alternatives that should be studied. Therefore, the Scope of the EIR will be limited to the review of the project proposed in the EENF. The EIR will require a more detailed project description and a comprehensive review of wetlands, water quality, rare species, water supply, wastewater and transportation impacts. In addition, the proponent will be required to evaluate additional transportation mitigation measures, provide an alternatives analysis that addresses the performance standards for work within the riverfront area and alter the project design or introduce measures to reduce impacts to rare species.

Greenhouse Gases

I am pleased that the project will be designed consistent with LEED-ND standards and applaud the Town for incorporating this requirement. As noted above, the siting, programming and design of the project will reduce the project's overall environmental impacts. MEPA has introduced a GHG Policy that is applicable to certain projects undergoing MEPA review. Because this project was filed prior to the adoption of the Policy, a GHG analysis would not be required. As a condition of the Phase 1 Waiver I am requiring that the proponent comply with the EEA GHG Policy. The proponent will be required to identify the total emissions of carbon dioxide ($CO_2$) associated with the project and evaluate measures to reduce GHGs. I encourage the proponent to consider designing the project consistent with the Massachusetts LEED Plus standard for new buildings (which emphasizes energy efficiency) , to incorporate renewable energy technology (e.g solar, fuel cells, geothermal and combined heat and power) into the project design and incorporate Low Impact Development (LID) techniques into the site design. Comments from the MBTA and the Town of Kingston identify potential wind energy projects adjacent to the project. In addition, efforts to encourage source reduction and recycling through building design and operations could have a significant impact on GHG emissions. I encourage the proponent to explore partnering with the MBTA and/or the Town on these efforts. The proponent should consult with EEA staff regarding the development of the GHG analysis and mitigation measures.

Land Alteration

The EIR should quantify the amount of land alteration the amount of earth work involved in meeting final grades and the amount of impervious surfaces associated with the project. The EIR should investigate all feasible methods of avoiding, reducing or minimizing impacts to land. The EIR should identify how excavation and fill will be balanced across the site and include assess the impacts from earth moving and blasting on wetlands and rare species. The blasting plan should identify blasting locations and provide more information on technical specifications and/or operations to avoid perchlorate contamination.

Transportation

As noted previously, the project is estimated to generate approximately 12,410 unadjusted average daily vehicle trips (adt) using appropriate Institute for Traffic Engineers (ITE) land use codes and 7,668 adt when adjusted for internal shared trips, pass-by trips and transit trips. The project will include construction of 1,500 new parking spaces.

The EENF includes a traffic analysis and an alternatives analysis for evaluation of major roadway mitigation measures. The traffic analysis identifies existing and future safety and capacity issues and identifies roadway improvements planned by the project proponent to mitigate its contribution to increased traffic volume and address longstanding congestion issues. In addition, it indicates that the proponent will develop a Transportation Demand Management program to encourage transit use and minimize single occupancy vehicle (sov) trips. The alternatives analysis identified 12 alternatives that were previously reviewed by the Town and MassHighway. These alternatives included provision of on and off ramps to Route 3, redesign of the Independence Mall access routes and geometric and signalization improvements (stand alone and in conjunction with access to Route 3) and were based on their consistency with state and federal design criteria, transportation benefits, environmental impacts and feasibility. The EENF includes a more detailed analysis of three of these alternatives (Alternative 2, Alternative 9 and Alternative 11) that were selected based on input from MassHighway.

Comments from the Executive Office of Transportation (EOT) indicate that the traffic analysis generally conforms to the EEA/EOT Guidelines for EIR/EIS Traffic Impact Assessment and support the proponent's selection of the Route 3 southbound slip ramp as the Preferred Alternative to address existing transportation issues and mitigate transportation demand associated with the project. Also, comments from EOT and the Old Colony Planning Council (OCPC) highlight the regional benefits of the proposed roadway improvements.

The EIR should include conceptual designs for all roadway improvements of sufficient scale (i.e. 80-scale) to verify the feasibility of constructing such improvements. The plans should show proposed lane widths and offsets, layout lines and jurisdictions and the land uses (including access drives) adjacent to areas where improvements are proposed. Any mitigation within the state highway layout must conform to MassHighway standards, including but not limited to, provisions for lane, median and shoulder widths, bicycle lanes and sidewalks. The

EIR should identify wetlands, drainage and other environmental impacts associated with off-site roadway improvements. All plans should incorporate infrastructure expansions associated with the project and the Town' long-term planning goals (i.e. expansion of the wastewater treatment plant and leaching fields and zoning for wind turbines).

The EIR should include a detailed response to the comments provided by EOT and provide a revised traffic analysis. EOT comments note that the trip generation includes significant credits for internal capture of trips and transit trips. Although the EENF documents the proponent's assumptions and includes a sensitivity analysis for the transit mode shares, EOT comments indicate concern with the adjusted trip generation rates. The proponent should consult with its staff regarding revised assumptions for the traffic analysis. In addition, comments from the MBTA identify capacity constraints on the existing service that will influence the amount of transit trips that can be accommodated during the peak period. The proponent should consult with the MBTA regarding appropriate assumptions for increasing capacity of its peak hour service and to develop a strong program to encourage off-peak ridership.

Comments from the EOT and the Old Colony Planning Council (OCPC) indicate that additional analysis of Smith's Lane, including the Smith's Lane Bridge and intersections with Crescent Street and Main Street (Route 3A) should be included in the EIR. EOT comments note that the bridge may need to be widened to further address traffic capacity issues along this roadway. In coordination with MassHighway and the Town of Kingston, the proponent should identify improvements to improve these intersections and consider incorporating them into its mitigation package. Comments from the Kingston Board of Sewer Commissioners indicate that designs must incorporate adequate site distances and turning ratios to support truck traffic to Town facilities.

Alternatives identified in the EENF do not include provision of access to the north of the project site. Providing such access could further balance the traffic flow from the project and provide vehicular access for residents north of the project site to the commuter rail station, Town facilities and new retail and commericial projects. The EIR should analyze the benefits of providing additional access and indicate whether such access can be incorporated into the project design.

The EIR should identify implementation of roadway improvements in the vicinity that will be completed by other project proponents (e.g. EEA #14024 Independence Mall Theatery) and identify how projects and mitigation can be coordinated to maximize air quality and transportation benefits and minimize construction period impacts.

The EIR should identify the parking ratios associated with each aspect of the project, explain how the number of parking spaces was determined and describe how shared parking has been incorporated into the project. The EIR should demonstrate that the parking supply is the minimum necessary to accommodate project demand.

The EENF indicates that a land swap between MassHighway and the Town of Kingston is necessary to accommodate the ramp design and ensure adequate land available around the

WWTF. EOT comments note that a MassHighway canvas must be circulated and approved prior to the land swap.

Air Quality

In accordance with the State Implementation Plan (SIP) for ozone attainment, the proponent must conduct an indirect source review analysis because the project includes non-residential uses that will generate 6,000 or more new adt. This analysis should be conducted in accordance with MassDEP Guidelines for Performing Mesoscale Analysis of Indirect Sources. The proponent should consult with MassDEP for guidance and for confirmation of the appropriate study areas. If hydrocarbon emissions are greater than the No Build scenario, the EIR should include appropriate mitigation including TDM measures.

The TDM program should explore all feasible measures to reduce site trip generation from all elements of the project. The EIR should identify the exiting modes along the corridor such as transit, walking and bicycling; analyze their existing and future conditions based on the project impacts; and provide improvements to attract mode usage. The proponent should consult with the MBTA to design a safe and direct connection to the commuter rail station. I note the proponent's inclusion of actual transit subsidies which is an effective measure to encourage transit use. EOT comments request additional information on this measure. If appropriate, the site should include amenities to encourage transit usage such as bus shelters and bus turnouts and provide pedestrian connections to existing land uses within close proximity to the site. The proponent should coordinate with the MBTA, the Greater Attleboro Regional Transit Authority (GATRA) and MassRides to reduce overall vehicle trips and achieve the transit mode shares identified in the traffic analysis.

Wetlands and Drainage

As noted previously, the project will require an Order of Conditions from the Kingston Conservation Commission. The Conservation Commission will review the project for consistency with the Wetlands Protection Act (WPA) and the MassDEP Stormwater Management Policy. The project area contains Bordering Vegetated Wetlands (BVW), Inland Bank, Land Under Water (LUW), Isolated Land Subject to Flooding (ILSF), Bordering Land Subject to Flooding (BLSF) and Riverfront Area associated with Smelt Brook. The project does not propose any direct alteration to wetlands. According to the EENF the total activity proposed in the Riverfront area is 42,667 square feet. Of this total, 21,177 square feet is associated with Phase 1 activities and 21,490 square feet will be associated with Phase 2.

The EIR should include plans that reflect the most recently approved delineation of all applicable resource area boundaries including riverfront areas, buffer zones, 100-year flood elevations, priority and/or estimated habitat, wetland replication areas, water supply and waterways. It should describe the nature of all impacts that cannot be avoided including grading, clearing and construction-related disturbances and whether they are temporary or permanent in

nature.

The EIR should include a stormwater management plan that demonstrates that source controls, pollution prevention measures, erosion and sediment controls and the drainage system will comply with the MassDEP Stormwater Management Policy and standards for water quality and quantity both during construction and post-development. It should also address consistency with the local wetlands bylaw. The EIR should identify the quantity and quality of flows and design a system that can approximate current rates. The rates of stormwater runoff should be analyzed for the 10, 25, and 100-year storm events. The EIR should include an operations and management plan to ensure the long-term effectiveness of the stormwater management system. The locations of detention basins, distances from resource areas and the expected quality of the effluent from the basins should be identified. A copy of the Stormwater Pollution Prevention Plan (SWPPP) should be included in the EIR. In addition, the EIR should include supporting data for regulatory review by DCR regarding the proposed stormwater basin that may be classified as a dam.

The EIR should evaluate alternatives that minimize the amount of impervious surfaces associated with the project including minimizing parking supply, providing structured or underground parking and use of permeable pavement. The EENF indicates that the proponent will incorporate Low Impact Development (LID) techniques into the project design. The EIR should identify how these measures will be incorporated. The EIR should include a design for the proposed groundwater recharge to Smelt Brook.

The EIR should analyze project impacts to Smelt Brook including an assessment of wildlife and fisheries habitat and water quality. The proponent should indicate whether it will develop a Restoration and Management Plan for Smelt Brook as suggested by the Jones River Watershed. The EIR should identify how undeveloped areas, including wetland buffers, will be enhanced, managed and/or protected.

Comments from MassDEP indicate that the widening of Cranberry Road across Smelt Brook should be described and illustrated in more detail in the EIR. These comments note that, if additional design demonstrates that filling or dredging of wetlands is required to support it, the project may require a 401 Water Quality Certificate. The EIR should an alternatives analysis for proposed work within the riverfront area that can be used by the Conservation Commission and/or MassDEP to evaluate consistency with the Wetlands Protection Act.

Rare Species and Wildlife Habitat

As noticed previously, a portion of the project site is mapped as Priority Habitat of Rare Species. This includes the southwestern area of the site and the Davis Parcel. Phase 1 does not include any rare species habitat.

Comments from NHESP indicate that it is likely the project will require a Conservation and Management permit and note that the proponent has completed a limited on-site Eastern

Box-Turtle survey. The EIR should include the results of the survey, identify impacts from the development as well as proposed leaching fields and address the potential for additional development on the portion of the Davis parcel that is not reserved for leaching fields and/or conservation. The proponent should consult with the NHESP program prior to filing the EIR and provide a detailed plan to address endangered species concerns in the EIR. If NHESP determines that a Conservation and Management Permit will be required, the EIR should include an outline of a Conservation and Management Plan.

Open Space

The EENF indicates that 42 acres of land will be preserved, including 14 acres of the Davis parcel to be deeded to the Town of Kingston for groundwater discharge related to the expansion of the WWTF. The EIR should identify the type of open space that will be provided and whether and how the land will be protected in perpetuity (e.g. placement of a conservation restriction (CR)). The EIR should include project plans that identify open space, conservation land and recreational trails.

Water Supply

The EENF indicates that the project will use approximately 263,700 gpd of water, including 28,700 gpd for on-site irrigation wells. Water service will be provided by the Town of Kingston. The EENF indicates that the project will incorporate water conservation measures.

In September 2007, an ENF (EEA #14100 Municipal Supply Well) was filed by the Town to pump water from Well 1-86. The proponent is funding the design and permitting for the Well 1-86 project. The ENF indicated that the well would support demand associated with the 1021 Kingston Place project and indicated that the well may intercept groundwater flowing to Smelt Brook. Also, the ENF indicated that the 1021 Kingston Place proponent would construct leaching fields to provide approximately 100,000 gpd of groundwater recharge to the area of the Plymouth Carver Sole Source Aquifer drained by Smelt Brook. The ENF asserted that the addition of the well would not cause the Town to exceed its Water Management Act authorization limits. The Certificate on the ENF identified additional information that the Town would need to provide to MassDEP during project review and information that the 1021 Kingston Place proponent should provide in the EIR for this project.

Comments from MassDEP note that the addition of a municipal well is undergoing review through its New Source Approval process. In addition, the Town must submit an application to amend its existing WMA permit to include this well. MassDEP also notes that the current authorization will expire on August 31, 2010, that the Town will be required to apply for a new permit and that new demand projections will be generated at that time for all permittees. These comments also note that, based on average annual water demand and demand associated with 1021 Kingston Place, the Town would exceed its current authorizations unless sufficient water conservation measures result in increased water supply.

The EIR should identify all water supply infrastructure associated with the project, identify proposed mitigation measures to conserve water and minimize overall water demand. The proponent should consider project design and landscaping that could eliminate the need for these wells. If the remain within the project design, the location of the wells and associated impacts should be identified in the EIR. It should include a detailed mitigation plan identifying the design and maintenance of the stormwater infiltration that can be evaluated for its effectiveness and feasibility and demonstrate that the mitigation is sufficient to offset the impact.

Wastewater

As described in the EENF, the project will generate 235,000 gpd of wastewater flow. The EENF indicates that the WWTF, which is authorized to treat 375,000 gpd, will be expanded to accommodate flow from this project and to meet town-wide needs. The expansion plans will include construction of leaching fields for groundwater discharge. The proponent will fund the design of the project and fund certain infrastructure improvements as identified in its infrastructure agreement with the Town. The EENF indicates that the Town will submit an ENF for expansion of the WWTF and will file related permit applications and approvals. The proponent and the Town should work together to coordinate the filing of the ENF for the WWTF either prior to the filing of the EIR or concurrent with the filing of the EIR. MassDEP should be consulted prior to filing to ensure that related groundwater reports include adequate data and analysis.

In the event that wastewater is treated and discharged on-site by the proponent, the EIR will need to provide adequate technical information and analysis to demonstrate the feasibility of on on-site treatment plant and/or groundwater discharge system and ensure that consistency with regulatory standards can be addressed during MEPA review, including adequate separation between leaching fields and wetland resource areas and stormwater infiltration beds. The EIR should include adequate information to identify potential sites for the treatment facility and leaching fields, include a hydrogeologic report, a wastewater time of travel study, demonstrate that representative sampling of the site has been conducted, include a map of test pit and boring locations and include soil logs.

The close proximity of the project to the WWTF and/or inclusion of an on-site system creates the potential for re-use of gray water. The proponent should consider its incorporation into the project design (consistent with MassDEP's January 3, 2000 *Interim Guidelines on Reclaimed Water (Revised)).*

Construction Period

The EIR should evaluate construction period impacts, impacts to vegetation, potential impacts from erosion and sedimentation, traffic impacts on adjacent roadways. The EENF indicates that the proponent will require contractors to use on-road ultra low sulfur diesel (ULSD) fuel for Phase 1 of the project. I encourage the proponent to use the ULSD for all

project phases. The EIR should identify how access to Town facilities and the MBTA Kingston Commuter Rail Station will be provided during construction.

Mitigation

The EIR should include a separate chapter on mitigation measures. It should include a Draft Section 61 Finding for all state permits that includes 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, based on the construction phases of the project, should also be included.

Response to Comments

The EIR should contain a copy of this Certificate and a copy of each comment received. The EIR should respond to the comments received to the extent that the comments are within MEPA jurisdiction. I recommend that the proponent use either an indexed response to comments format, or a direct narrative response. The EIR should present any additional narrative or analysis necessary to respond to the comments received.

Circulation

The EIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should be sent to any state agencies from which the proponent will seek permits or approvals, to the list of "comments received" below, and to Kingston officials. A copy of the EIR should be made available for review at the Kingston public library.

January 16, 2008
Date

Ian A. Bowles

Comments Received:

| | |
|---|---|
| 1/9/08 | Department of Environmental Protection/Southeast Regional Office (MassDEP/SERO) |
| 1/9/08 | Department of Fish and Game/Natural Heritage and Endangered Species Program (DFG/NHESP) |
| 1/15/08 | Executive Office of Transportation (EOT) |
| 1/9/08 | Massachusetts Bay Transportation Authority (MBTA) |
| 1/9/08 | Old Colony Planning Council |

| | |
|---|---|
| 1/9/08 | Town of Kingston/Office of the Kingston Town Planner |
| 1/9/08 | Town of Kingston/Board of Selectmen |
| 11/27/07 | Town of Kingston/Board of Sewer Commissioners |
| 1/8/08 | Town of Kingston/Board of Sewer Commissioners (second letter) |
| 12/28/07 | Town of Kingston/Conservation Commission |
| 1/8/08 | Weston&Sampson for the Town of Kingston |
| 1/9/08 | Coler & Colantonio Inc. for the Kingston Board of Sewer Commissioners |
| 1/10/08 | Jones River Watershed Association |
| 12/10/07 | Helen Gavin, Mildred Leonardi and Jennifer DiRico |
| 1/7/08 | Helen Gavin |
| 1/8/08 | Mildred and William Leonardi |
| 12/20/07 | Dan Sapir |

IAB/CDB/cdb