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March 7, 2008

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

PROJECT NAME: Sugarbush Meadows
PROJECT MUNICIPALITY: Sunderland
PROJECT WATERSHED: Connecticut
EEA NUMBER: 14183
PROJECT PROPONENT: Levi-Nielsen Company, LLC
DATE NOTICED IN MONITOR: February 6, 2008

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).

I acknowledge the receipt of several comments requesting the preparation of an EIR for the project. While legitimate concerns particularly regarding the project's traffic impacts have been raised, the potential environmental impacts of the project do not warrant further MEPA review. I ask that the Massachusetts Highway Department and the Housing Appeals Committee consider the detailed comments from the Town of Sunderland and the Franklin Regional Council of Governments (FRCOG) during their permitting processes.

Project Description

As outlined in the Environmental Notification Form (ENF), the project involves the construction of five residential apartment buildings consisting of a total of 150 units. Thirty-eight of the 150 units will be designated for affordable housing in accordance with MGL Chapter 40B. The project will also include a community building, a community play area, paved parking areas, an on-site wastewater treatment facility, an on-site water supply, and a

stormwater management system. The 63.3-acre project site is located west of Amherst Road (Route 116) and south of Plumtree Road in Sunderland, MA.

Jurisdiction

The project is undergoing review pursuant to the following sections of the MEPA regulations: 301 CMR 11.03(1)(b)(2) because it will result in the creation of more than 5 acres of new impervious surface and 301 CMR 11.03(6)(b)(14) because it will result in the generation of more than 1,000 new average daily trips (adt) to a single location and require the construction of more than 150 new parking spaces.

The project requires the following permits and/or approvals: a National Pollutant Discharge Elimination System (NPDES) General Permit from the U.S. Environmental Protection Agency (EPA); a Highway Access Permit from the Massachusetts Highway Department (MassHighway); a Groundwater Discharge Permit, an Approval to Site a Source and Conduct Pumping Tests for Sources Under 70 Gallons per Minute, and an Approval Application to Construct a Source Less Than 70 Gallons per Minute from the Department of Environmental Protection (MassDEP); review from the Division of Fisheries and Wildlife (DFW) Natural Heritage and Endangered Species Program (NHESP); an Order of Conditions from the Sunderland Conservation Commission; and a Street Entrance Permit and a Building Permit from the Town of Sunderland.

The Sunderland Zoning Board of Appeals (ZBA) denied the Proponent's application for a Comprehensive Permit. The Proponent has appealed the Sunderland ZBA denial with the Housing Appeals Committee (HAC). MEPA jurisdiction over the project is tied to the subject matter of required or potentially required state permits. However, because a Comprehensive Permit has not been issued for the project, MGL 40B confers broad MEPA jurisdiction that extends to all aspects of the project with the potential to cause significant Damage to the Environment.

Wetlands

The project site contains the following resource areas: Bank, Bordering Vegetated Wetland (BVW), Isolated Vegetated Wetland (IVW), Land Under Water Bodies, and Riverfront Area. MassDEP has issued a Superceding Order of Resource Area Delineation (SORAD) confirming the BVW delineation on site. The SORAD excluded a potential IVW adjacent to a jurisdictional stream. According to the ENF, the project will not alter this potential resource area. The project requires an Order of Conditions (OOC) from the Sunderland Conservation Commission, and a final delineation for the area in question will be determined during the Notice of Intent (NOI) process. Once the total area of proposed alteration is determined, the Proponent should review 314 CMR 9.00 and contact the Army Corps of Engineers as appropriate to determine potential permitting requirements under the Clean Water Act.

Stormwater

The project will result in the creation of approximately 6.0 acres of new impervious surface. Stormwater from the site will be controlled by a new stormwater management system designed in accordance with MassDEP's Stormwater Management Policy (SMP). The Proponent will install Best Management Practices (BMPs), including deep sump catch basins with hooded outlets, detention basins with bioretention components, grass filter strips, and proprietary treatment chambers. The Proponent will implement an Operation & Maintenance Plan (O & M Plan) for the stormwater system. A Stormwater Pollution Prevention Plan (SWPPP) will be implemented prior to the start of construction. The stormwater management system and O & M Plan will be further reviewed by the Sunderland Conservation Commission during the NOI process.

The preliminary Zone II or Interim Wellhead Protection Area (IWPA) for the proposed drinking water wells must be shown on plans submitted with the NOI. The stormwater management system must take the drinking water protection area into consideration as a critical area per Standard #6 of the SMP. Due to the proposed use of on-site drinking water wells, it is critical that the stormwater management system maintain predevelopment hydrology and provide effective treatment for contaminants.

Several commenters have noted the shallow depth to groundwater at the site, which may reduce the effectiveness of conventional BMPs. I encourage the Proponent to consider Low Impact Development (LID) techniques such as rain barrels, bioretention swales or rain gardens to mitigate the project's stormwater impacts. For more information on LID, visit <http://www.mass.gov/envir/lid/>. Other LID resources include the national LID manual (Low Impact Development Design Strategies: An Integrated Design Approach), which can be found on the EPA website at: <http://www.epa.gov/owow/nps/lid/>.

The Proponent should note detailed comments provided by the Division of Fisheries and Wildlife (DFW) regarding fishery resources in the vicinity of the project. The Proponent must ensure that the project does not diminish the ability of Mohawk Brook, Russellville Brook and an unnamed tributary to the Mill River to support cold water or stocked trout species or impact trout production at the DFW Sunderland Fish Hatchery.

Rare Species

The project site was mapped as habitat for the Climbing Fern (*Lygodium palmatum*, Special Concern) and the Spadefoot Toad (*Scaphiopus holbrookii*, Threatened) in the 11th edition of the Massachusetts Natural Heritage Atlas (2003). The Proponent undertook field surveys in the spring of 2006 for these two species, which are protected pursuant to the Massachusetts Endangered Species Act (MESA, MHC c. 131A) and its implementing regulations at 321 CMR 10.00. Climbing fern specimens were located during the surveys, but well outside the proposed work area. Spadefoot Toads were not documented to be present or breeding at the site during the NHESP-approved surveys. In December 2006,

NHESP determined that the proposed project would not result in a “take” of state-listed species. In its comment on the ENF, NHESP states that while the Priority and Estimated Habitats of mapping in the vicinity of the site changed between the 2003 and 2005 versions of the Massachusetts Natural Heritage Atlas, the project proposed in the ENF is consistent with the 2006 determination of no take.

The project as proposed will result in development on approximately 7 acres of the 63.3 acre site. Approximately 56.36 acres will remain as open space, including 31.29 acres of wetland and 25.07 acres of upland. Following comments from NHESP, I encourage the Proponent to consider placing all or a portion of this open space in an EEA-approved Conservation Restriction, to avoid cumulative habitat loss and to ensure long-term protection of a portion of the Climbing Fern habitat onsite.

Water Supply

Water demand for the project is estimated to be 34,000 gallons per day (gpd). The project will include water efficient appliances to minimize water consumption and wastewater generation. Plantings and landscaping will be designed to require minimal irrigation. The Proponent proposes to construct three gravel packed wells on site for potable water needs. According to MassDEP, the project will meet the definition of a community public water system (PWS) under 310 CMR 22.00. The wells will need to be constructed and tested in compliance with MassDEP’s New Source Approval Process and Guidelines and Policies for Public Water Systems. During permitting, MassDEP will work with the Proponent to determine whether the delineation of a Zone II Area of Contribution is required. During MassDEP’s review of the pump test reports, the Proponent should provide additional information regarding the potential impacts of the groundwater withdrawal on wetland resources areas and on the aquifer that supplies the Sunderland Water District wells.

The Proponent proposes to extend 0.8 miles of water main throughout the site for fire protection purposes to supply fire hydrants and a sprinkler system in each building from the municipal water supply system. If the Sunderland Water District is unable to provide a connection, a cistern or other storage facility will be required at the site. The Proponent should note that the fire system must be connected through a separate service or backflow protection requirements must be met per 310 CMR 22.22.

Wastewater

The project is anticipated to generate approximately 34,000 gpd of wastewater. The project will involve the construction of a small wastewater treatment facility and sewer connection system to serve the proposed development. The treatment facility will consist of preliminary settling and flow equalization, aerobic rotating biological contractor treatment, secondary settling via mechanical clarifier, and tertiary filter polishing including nitrogen removal via deep bed filter, UV disinfection, and final effluent disposal with subsurface leaching facilities. Following comments from MassDEP, a certified operator will be required

to oversee the treatment facility and the Proponent will be required to establish a legal structure to assume the ownership responsibility and financial obligations of the wastewater treatment facility and associated infrastructure.

The leach field for the proposed wastewater treatment plant is located upgradient from the proposed well field. The Proponent must coordinate with MassDEP during permitting for the drinking water wells and the wastewater treatment plant to ensure that the leach field does not adversely impact groundwater at the site. The proposed discharge field is also located upgradient of an existing Water Management Act (WMA)-permitted well or wellfield identified as a water supply (non-potable) source (withdrawal point) held by the Great Swamp Farm, Inc. for agricultural use (fish hatchery). The Proponent must coordinate with MassDEP and the current WMA permit holder regarding the ownership and decommissioning of this withdrawal point in order to avoid implications for the groundwater discharge permit. If the WMA withdrawal point remains active, the previously conducted hydrogeological investigation will need to be revised per MassDEP guidance.

Transportation

Access to the site will be provided via an existing access point on Route 116 and via a secondary access road to be constructed off Plumtree Road. The project is expected to generate 1,052 new daily vehicle trips (adt) and requires a MassHighway Access Permit. The Proponent should work closely with MassHighway during permitting to identify appropriate and adequate mitigation measures for the project's impacts related to traffic. According to the ENF and information presented by the Proponent, the following mitigation measures are currently under consideration:

- Installation of left-hand turning lanes on Route 116 northbound at the site access drive and at Plumtree Road.
- Addition of a crosswalk across Route 116 to allow safe pedestrian access to and from the site. I note recommendations that the crosswalk be located to the south of the project driveway prior to the beginning of a left turn lane to provide a safe crossing point for these uses.
- A reduction in the permitted speed in the general area of the site. The Proponent should work with MassHighway to undertake the necessary studies to determine if a reduction in the speed limit on this stretch of 116 would help to alleviate potential safety issues resulting from the project.
Installation of appropriate signage to designate a crosswalk and major intersections.
- The Proponent will coordinate with the Pioneer Valley Transit Authority (PVTA) to provide accessible public transportation for the site. This may involve relocating PVTA stops closer to the site entrance at Route 116.
- Installation of a sidewalk along Route 116 to provide safe access to the relocated bus stops and the convenience store located just south of the site. The Proponent should undertake a further evaluation of the sidewalk infrastructure in the vicinity of the project to determine if additional sidewalks along Route 116 and on Plumtree Road are necessary.

- Installation of a traffic signal at the intersection of Plumtree Road and Route 116. Although this improvement measure was not included in the ENF, the Proponent indicated a willingness to contribute to the signalization of this intersection at the MEPA site visit for the project. According to the Executive Office of Transportation, this intersection will meet signal warrants under the future no-build condition. The Proponent should work with MassHighway to undertake the signalization of this intersection.

I acknowledge the potentially significant adverse impacts of the project on pedestrian and vehicular safety on Route 116. The Proponent must coordinate closely with the Town of Sunderland, MassHighway and FRCOG regarding measures that will be implemented to ensure a safe crossing of Route 116 and to ensure that the site access plan does not contribute to unsafe conditions for Route 116 through-traffic and traffic accessing other sites in the vicinity of the project. The Proponent should also commit to installing additional street lighting in the vicinity of the site drives. The crosswalk on Route 116 should be well-illuminated so that approaching drivers can see pedestrians in or waiting to enter the crosswalk.

Final mitigation measures should be outlined in a Section 61 Finding that will be attached to the MassHighway Access Permit. I remind the Proponent and MassHighway to forward a final copy of the Section 61 Findings to the MEPA office for completion of the file.

Hazardous Waste

The project site is located within a 0.5-mile radius of a disposal site governed by the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, MGL c. 21E. The Proponent should have a Licensed Site Professional (LSP) on retainer to review MassDEP's oil and/or hazardous material disposal sites list and associated files prior to construction to determine if any contaminated areas could pose a problem with onsite excavation activities. If soil and/or groundwater contamination is encountered during excavation, a LSP may be needed to manage the contaminated media in compliance with the provisions of the Massachusetts Contingency Plan (MCP). In addition a "spills contingency plan" addressing potential releases of oil and/or hazardous materials from construction activities, including but not limited to, refueling of machinery and the storage of fuels should be enforced and presented to workers at the site.

Conclusion

Based on a review of the information provided by the Proponent and after consultation with the relevant public agencies, I find that the potential impacts of this project do not warrant further MEPA review. I am confident that the review of the ENF has garnered sufficient input from the public so as to make the state agencies with permitting authority for this project fully aware of the important environmental issues involved.

March 7, 2008

Date



Ian A. Bowles

Comments Received:

2/22/2008	Bruce Bennett
2/25/2008	Franklin Regional Council of Governments
2/25/2008	Bridget Mitchell, The Berkshire Design Group, for the Proponent
2/25/2008	Division of Fisheries and Wildlife
2/25/2008	Town of Sunderland, Board of Selectmen
2/26/2008	Department of Environmental Protection, Western Regional Office
2/26/2008	Connecticut River Watershed Council
2/28/2008	Executive Office of Transportation

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