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April 4, 2009

CERTIFICATE OF THE SECRETARY OF ENERGY & ENVIRONMENTAL AFFAIRS
ON THE
FINAL ENVIRONMENTAL IMPACT REPORT

PROJECT NAME: Route 24 Access Improvements
PROJECT MUNICIPALITY: Fall River and Freetown
PROJECT WATERSHED: Taunton River
EEA NUMBER: 12902B
PROJECT PROPONENT: Massachusetts Highway Department
DATE NOTICED IN MONITOR: February 11, 2009

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62I) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that the Final Environmental Impact Report (EIR) submitted for this project **adequately and properly complies** with MEPA and its implementing regulations. No further MEPA review is required.

Project Description

The Route 24 Access Improvements project is one component of a larger undertaking that involves several interrelated elements, including the conveyance of 300 acres of land owned by the Department of Conservation and Recreation (DCR) within the Freetown-Fall River State Forest to the City of Fall River for the development of up to 3,000,000 square feet (sf) of office/industrial space to be known as the Fall River Executive Park (FREP). In return, the City of Fall River has conveyed a Conservation Restriction (CR) on approximately 4,300 acres of City-owned water supply lands to DCR and the Division of Fisheries and Wildlife (DFW). The CR provides permanent protection to a large parcel, which when taken together with already protected adjacent parcels creates a contiguous 14,000-acre area of protected open space known as the Southeastern Massachusetts Bioserve. The City has also provided \$2.45 million to the

Trustees of the Reservations (TTOR) to aid in additional open space acquisition. The project design is governed by the requirements of Chapter 266 of the Acts of 2002; a Memorandum of Agreement (MOU) among the Executive Office of Energy and Environmental Affairs (EOEEA), DFW, DCR, the City of Fall River, the Fall River Redevelopment Authority (FRRA) and the TTOR (August 7, 2000); and the December 2002 Special Review Procedure (SRP) previously issued for this project.

The 293-acre site of the proposed Fall River Executive Park is located on the easterly side of Route 24 between Exits 8 and 9 in Fall River and Freetown. The site is located north of the former Fall River Airport, now known as Commerce Park. Of the 293 acres on the site, just over 49 acres are located in the Town of Freetown and the remaining 244 acres are located in the City of Fall River. To provide transportation access for the proposed improvements and other development in the area, MassHighway proposes a new interchange on Route 24 between the existing interchanges 8 and 9. The project will also include construction of a connection between the new interchange and the new public access roadway, Executive Park Drive, to be constructed through the FREP and construction of a new access roadway from the proposed interchange west to South Main Street in Freetown.

Permitting and Jurisdiction

The project is undergoing environmental review and requires the preparation of an EIR pursuant to Section 11.03 (6)(a)(2) of the MEPA regulations because it proposes a new interchange on a limited access highway. The Proponent refined the design of the Route 24 interchange and has significantly minimized wetland impacts. The project no longer exceeds EIR or ENF review thresholds for wetlands. The project meets or exceeds ENF thresholds related to Article 97 lands, roadway construction and possibly archaeological impacts.

Efforts to minimize wetland impacts have altered the permits required for the project. The project now requires a Category 1, rather than a Category 2, Programmatic General Permit (PGP) from the U.S. Army Corps of Engineers (ACOE). Because the wetlands impacts are under 5,000 sf, the project does not require a 401 Water Quality Certificate from MassDEP. The Order of Conditions required by the Freetown Conservation Commission will serve also as the Water Quality Certificate. The project may require an Order of Conditions from the Fall River Conservation Commission.¹

The project requires a land transfer from DCR which was completed on March 4, 2009. The project also requires a National Pollutant Discharge Elimination System (NPDES) Construction General Permit from the United States Environmental Protection Agency (EPA). The project is subject to National Environmental Policy Act (NEPA) review because it will receive \$4.8 million in federal funds. In addition, it requires an Individual Section 4(f) Evaluation pursuant to the Department of Transportation (DOT) Act of 1966. The Supplemental

¹ The Final EIR indicates that construction of Executive Park Drive may occur within the boundaries of the 100-foot buffer zone to wetlands. It indicates that development of the 75% design will enable MassHighway to determine if it is subject to review by the Conservation Commission.

Draft EIR was submitted for joint review by NEPA and MEPA as an Environmental Assessment/Final EIR/Draft Individual Section 4(f) Evaluation.

Because the project involves the use of state funds and a state land transfer, MEPA jurisdiction extends to all aspects of the project that may cause Damage to the Environment as defined in the MEPA regulations.

Procedural History

The Route 24 Access Improvements project was previously reviewed by MEPA in conjunction with the FREP project under one EEA file number, #12902. The ENF, Draft EIR and Supplemental Draft EIR were jointly submitted by the Fall River Redevelopment Authority (FRRA) and the Massachusetts Highway Department (MassHighway). In the Supplemental Draft EIR, the FRRA and MassHighway requested that I allow the two elements of the project – the FREP and the proposed new interchange on Route 24 – to be considered as two separate projects for the remainder of MEPA review. In a Certificate issued on August 1, 2007, the December 16, 2002 Special Review Procedure was amended to designate the FRRA as the Proponent for the FREP (EEA #12902A) and MassHighway as the Proponent for the Route 24 interchange project (EEA#12902B). As a result of the designation of separate Proponents for each project, two Certificates were issued on the Supplemental Draft EIR for preparation of separate Final EIRs for the FREP and the Route 24 Interchange project.

Review of the Final EIR

The purpose of MEPA review is to ensure that a project proponent studies feasible alternatives to a proposed project; fully discloses environmental impacts of a proposed project; and incorporates all feasible means to avoid, minimize, or mitigate Damage to the Environment as defined by the MEPA statute. I have fully examined the record before me, including but not limited to the Scope issued on August 1, 2007, the Final EIR filed in response and the comments entered into the record. I find that the Final EIR is sufficiently responsive to the requirements of the MEPA regulations and the Scope to meet the regulatory standard for adequacy. The Final EIR expands upon the comprehensive analysis of alternative interchange designs that was presented previously and identifies a preferred alternative that minimizes environmental impacts, including wetland impacts to a significant extent. Comments submitted on the Final EIR reflect support for the project and the Preferred Alternative.

Alternatives

The proposed FREP site is located adjacent to and east of Route 24, just north of the Fall River Commerce Park. The property currently has no access to public roads. A review of access alternatives concluded that providing a new interchange at Route 24 is the most reasonable alternative that exists to accommodate the level of development and traffic expected from the FREP.

Six interchange alternatives (2, 3A, 3B, 5, 6A and 6B) were examined in the Supplemental Draft EIR including full diamond interchanges and single point urban interchanges (SPUI) with variations on how to connect with Route 24. Each alternative was evaluated based on estimated construction cost, traffic operations, total land area required, land acquisitions, impacts to State Forest Land, wetland and floodplain impacts, and impacts to sensitive cultural resources. The Supplemental Draft EIR identified Alternative 6A, SPUI interchange over Route 24 with a loop ramp connection to South Main Street, as the Preferred Alternative. It was selected because it required less land area and less State Forest land than diamond interchange alternatives and because it provides simpler signal phasing, easy coordination with the adjacent signal at South Main Street, fewer pedestrian crossings for parallel pedestrian movements, and higher capacity for left-turn movements resulting in better queue management through the interchange.

Subsequent to the filing of the Supplemental Draft EIR, MassHighway initiated coordination with the Tribal Historic Preservation Officers of the Mashpee Wampanoag Tribe and the Wampanoag Tribe of Gay Head (Aquinnah) in accordance with Section 106 of the National Historic Preservation Act. A potential for impacts to cultural resources in the vicinity of South Main Street was identified. Three new alternatives were developed and analyzed in response to these concerns and are included in the Final EIR. These include:

- Alternative 8 – Partial Cloverleaf with Loop Ramp to South Main Street;
- Alternative 10 – Partial Cloverleaf with Relocated South Main Street; and
- Alternative 10 Modified – Partial Cloverleaf with Modified Relocated South Main Street.

The alternatives were evaluated based on the same criteria used to evaluate alternatives in the Supplemental Draft EIR. The Final EIR identifies Alternative 10 Modified as the Preferred Alternative. Alternative 10 Modified shifts the intersection of South Main Street and Executive Park Drive 550 feet further south. This configuration allows the existing South Main Street bridge over the railroad to be retained which avoids impacts to cultural resources, wetlands and reduces project costs. Total land affected by the Preferred Alternative will increase to 33.2 acres from 27.1 acres associated with Alternative 6A.

The Preferred Alternative consists of a partial cloverleaf configuration. The Route 24 northbound entrance and exit ramps are in a diamond configuration with a cloverleaf ramp for the Executive Park Drive eastbound to Route 24 northbound movement. The Route 24 southbound exit and entrance ramps are in a half diamond configuration. The interchange will include a new bridge over Route 24. The bridge cross-section will include a four-foot shoulder, two 12-foot travel lanes and a 12-foot left-turn lane for westbound traffic; a four-foot shoulder and two 12-foot travel lanes for eastbound traffic, a 20-foot median island and a five-foot sidewalk on the south side of the roadway. The total width of the bridge is approximately 100 feet and the length of the bridge is approximately 190 feet.

The Preferred Alternative includes signalization of three intersections with Executive Park Drive (at South Main Street, at the Route 24 southbound ramps and at the Route 24 northbound ramps). Entrance and exit ramps will be constructed as single-lane ramps but are

designed to accommodate two-lanes to support future expansion of mainline capacity upon Route 24. The total length of improvements along the Route 24 mainline is approximately 5,600 feet.

Executive Park Drive will be approximately 5,800 feet long. It will include four 12-foot lanes (two lanes in each direction), two four-foot paved shoulders and a five-foot sidewalk on the west side of the roadway. Approximately two-thirds of the way through the executive park, heading south, the Executive Park Drive cross section transitions to two 12-foot lanes of traffic (one lane in each direction) with four-foot shoulders and a five-foot sidewalk. At its southern end, it will connect to Riggerbach Road. Riggerbach Road will be constructed by the City of Fall River as a 30-foot wide Urban Collector. It will include two 11-foot lanes and 4-foot shoulders.

The Final EIR includes a traffic analysis that demonstrates that full build-out of the FREP, the Riverfront Park and other area developments anticipated to occur by the year 2030, would result in increasing congestion. It demonstrates that the addition of mainline capacity to Route 24 could alleviate this congestion. The Final EIR indicates that MassHighway will monitor traffic at this location as part of its statewide highway traffic monitoring program. This data will be used to determine when additional capacity would be warranted on the Route 24 mainline and when additional lanes should be added to the on/off ramps.

Comments on the Final EIR indicate strong support for the Preferred Alternative and I applaud MassHighway for its diligent efforts to develop a cost-effective alternative that minimizes associated environmental impacts. Comments from DCR indicate that MassHighway has consulted closely with DCR regarding the Section 4(f) evaluation and that DCR agrees that the Preferred Alternative has the least impact on the state forest. Of the 16.6 acres affected by the project, 9.6 acres are wholly within the proposed FREP site and therefore no longer part of the state forest. MassHighway has agreed to return to DCR the portion of the remaining seven acres adjacent to Route 24 that will not be required for the interchange or other highway purposes. The Final EIR indicates that up to 3.5 acres may be returned to DCR and, therefore, total impacts to state forest may be reduced to 13.1 acres of land.

Comments from the Freetown Board of Selectmen, which support the Preferred Alternative, identify concern that the project be designed to maintain sufficient radius around its potential water supply site. MassHighway should continue consultations with the Town to address this issue.

Wetlands/Drainage

The preferred interchange alternative reduces wetland impacts from the permanent loss of approximately 2,370 sf of Bordering Vegetated Wetlands (BVW) to 10 sf of BVW. It reduces temporary impacts associated with construction from 4,270 sf of BVW to 725 sf of BVW and 9 linear feet of Bank.

Impacts to wetlands will be minimized through construction of retaining walls at the Route 24 entrance and exit ramps. A mechanically stabilized embankment (MSE) retaining wall on the west side of the Route 24 southbound entrance ramp will minimize the width of the road cross-section. A gravity retaining wall is proposed to retain the fill slope along the Route 24 northbound entrance ramp. An 850 sf wetland replication area is proposed adjacent to Rattlesnake Brook to mitigate for permanent impacts to wetlands. It is designed to provide a hydrologic connection to the existing wetland and will be planted with similar, native wetland plant species. Construction of the replication area will be monitored by MassHighway and a wetlands scientist. Additional long-term monitoring requirements may be established by the Freetown Conservation Commission. The Final EIR indicates that MassHighway will work with the Freetown Conservation Commission to assess whether long-term monitoring is warranted. Construction period impacts will be mitigated by restoring affected areas to pre-construction grades and re-stabilizing areas with wetland vegetation.

In addition, the project will include design and construction of a stormwater management system consistent with MassDEP stormwater regulations. The Final EIR includes a conceptual stormwater management plan for the interchange, the relocated portion of South Main Street and Executive Park Drive. It indicates that a more detailed plan will be developed as the project advances towards final design.

The existing stormwater management system for Route 24 consists of collection of stormwater within the Route 24 median which is directed toward abutting low lying areas along Route 24 and sheet flow from the outer lanes of Route 24 overland to low lying areas. The Final EIR identifies how the system will be designed to meet the stormwater management standards although it does not include an analysis to demonstrate consistency. Runoff will be routed through a series of structural management measures including catch basins and extended detention/infiltration basins with sediment forebays. The project will be designed to maintain drainage flow patterns to the extent feasible, to achieve 80% removal of total suspended solids (TSS) and to provide groundwater recharge of treated stormwater. The Freetown Conservation Commission, and potentially the Fall River Conservation Commission (if an Order of Conditions is required for work within Fall River), will review the project and its stormwater design for consistency with the Wetlands Protection Act and the stormwater regulations.

During project construction, erosion and sedimentation control Best Management Practices (BMPs) will be installed prior to site clearing and grading. These will include: hay bale perimeter controls; site fence barriers; storm drain inlet protection; stone construction exit; hay bale check dams; temporary sediment basins; and vegetative slope stabilization. The measures will be routinely inspected and maintained throughout construction until structures have been completed and exposed soils are stabilized with vegetation.

The Final EIR indicates that MassHighway will retain jurisdiction of roadways within the interchange area and will be responsible for the operation and maintenance of the associated stormwater management system. MassHighway will inspect and maintain structural and non-structural BMPs such as catch basins, water quality swales and detention basins. Executive Park Drive, from the state highway layout (SHLO) east of the interchange south to Riegenbach Road, will be under the jurisdiction of the Town of Freetown or Fall River. The municipalities will be

responsible for maintenance of the stormwater management system. The Final EIR indicates that MassHighway will consult with the City of Fall River regarding the stormwater management system design for Executive Park Drive to ensure consistency and ease of maintenance for the section that extends through the FREP.

Comments from MassDEP note that wetland delineations have not been accepted formally by the conservation commissions and that several areas identified as Isolated Land Subject to Flooding (ILSF) could be classified as BVW. Comments from Mass Audubon and DCR identify concerns with the stormwater management system and maintenance. DCR requests that the system be designed to achieve 90% TSS removal consistent with what the FRRRA has agreed to do within the FREP. In addition, because Executive Park Drive will be transferred to the City of Fall River and the Town of Freetown, DCR requests that MassHighway design a system that the municipalities can easily and properly maintain. I strongly encourage MassHighway to consult further with the DCR to address concerns related to construction period and long-term stormwater impacts to the State Forest.

The issues identified by commentors, including confirmation of wetland delineations and development of a detailed stormwater management plan, can be addressed during conservation commission review of the project.

Archaeological/Cultural Resources

The Final EIR identifies historic and archaeological surveys completed to date and provides an update on consultations with the Massachusetts Historical Commission (MHC), local historic commissions and Native American tribes. The Final EIR indicates that five sensitive resources were identified in the project area including two archaeological sites (the Old House Site and the Other Side of the Tracks Site in Freetown) and three sensitive resource areas of significance to the Wampanoag Tribe of Gay Head (Aquinnah). The Preferred Alternative avoids all impacts to these resources. In addition, measures have been incorporated into the project to protect the sites during construction. These measures include fencing and signage, construction crew briefings and plotting of sites on construction plans as avoidance and protection areas. In a letter dated May 29, 2008, MHC concurred with MassHighway's No Adverse Effect Finding for the project.

Pedestrian and Wildlife Crossings

The Final EIR indicates that the project includes an eight-foot by seven-foot wide culvert crossing under Route 24 northbound to maintain non-vehicular pedestrian access. In response to concerns regarding wildlife passage under Route 24, the project includes a 12 foot high by 10 foot wide open bottom wildlife tunnel under Route 24. In addition, 2,625 feet of fencing will be installed to the north of the new interchange and along 1,300 feet of the highway right-of-way to discourage wildlife from entering Route 24 and to direct wildlife to the tunnel.

The Final EIR identifies how pedestrians and bicyclists will be accommodated within the new interchange and access road. It indicates that Riggerbach Road will not include sidewalks. DCR comments request that a sidewalk be included in the construction of Riggerbach Road to ensure adequate pedestrian connections to the north and south of the project site, particularly during the early stages of the project prior to construction of Executive Park Drive and the interchange when access will be provided from the south. I encourage MassHighway to work with the FRRA to ensure that construction of Riggerbach Road will include a sidewalk.

Mitigation

The Final EIR identifies measures to avoid, minimize and mitigate adverse effects on the environment and includes revised draft Section 61 Findings for use by the state permitting agencies. The Final EIR indicates that the proponent is committed to the following mitigation measures:

- construction of MSE retaining wall on the west side of the Route 24 southbound entrance to minimize wetland impacts;
- construction of a gravity retaining wall to retain the fill slope along the Route 24 northbound entrance ramp to minimize wetlands impacts;
- construction of a wetland replication area, with a hydrologic connection to the existing wetland, is proposed adjacent to Rattlesnake Brook to mitigate for permanent impacts to wetlands;
- restoration of affected wetland to pre-construction grades and re-stabilization of areas with wetland vegetation to mitigate construction-period impacts;
- design and construction of a stormwater management system consistent with MassDEP stormwater regulations;
- construction period mitigation measures to minimize erosion and sedimentation including haybale perimeter controls, silt fence barriers, storm drain inlet protection, stone construction exit, haybale check dams, temporary sediment basins and vegetative slope stabilization;
- construction of an open bottom culvert (12 ft x 10ft) under Route 24 to provide wildlife passage and addition of 2,625 feet of fencing to the north of the new interchange and along 1,300 feet of the highway right-of-way to direct wildlife to the tunnel and discourage wildlife from entering Route 24;
- inclusion of sidewalks, pedestrian activated signals, adequate shoulders and bicycle detection at signals within roadways to support pedestrian and bicycle access;
- construction period measures to protect archaeological and cultural resource areas including fencing and signage, construction crew briefings and plotting of sites on construction plans as avoidance and protection areas;
- construction period measures to minimize air quality impacts including dust suppression methods (pavement sweeping, spraying with water, stabilized construction drives) and encouragement by MassHighway of contractors to participate in the MassDEP Diesel Construction Retrofit Program.

Conclusion

The Final EIR adequately and properly complies with MEPA and its implementing regulations. Outstanding issues can be addressed through local permitting and consultation with DCR. No additional MEPA review is required. The project may proceed to permitting.

April 4, 2009

Date



Ian A. Bowles

Comments received:

3/27/09	Department of Conservation and Recreation
3/27/09	Massachusetts Department of Environmental Protection/Southeast Regional Office (MassDEP/SERO)
3/27/09	MassAudubon
3/23/09	Southeastern Regional Planning and Economic Development District
3/11/09	Town of Freetown/Board of Selectmen

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