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May 11, 2007

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
DRAFT ENVIRONMENTAL IMPACT REPORT

PROJECT NAME: Berkshire Gateway at Lee
PROJECT MUNICIPALITY: Lee
PROJECT WATERSHED: Housatonic
EOEA NUMBER: 13905
PROJECT PROPONENT: F.L. Roberts & Co.
DATE NOTICED IN THE MONITOR: March 21, 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 the Draft Environmental Impact Report (DEIR) submitted for this project **adequately and properly complies** with MEPA and its implementing regulations. The proponent may prepare and submit the Final Environmental Impact Report (FEIR) for MEPA review.

Project Description

As outlined in the DEIR, the project consists of the redevelopment of the former "Diesel Dan's" truck stop off Route 102 in Lee, MA immediately south of the Route 20 intersection near Interchange #2 of the Massachusetts Turnpike. The subject property consists of three separate contiguous parcels; two are currently residential and one is commercial, with a combined area of 8.0 acres. The proponent intends to raze the existing structures and redevelop the site with a 93-room hotel, a 210-seat restaurant, a convenience store, a 2-bay car wash, and a refurbished gasoline service station and truck fueling facility. The Housatonic River is the western border of the site and almost the entire site is located within the floodplain. The site has been impacted by numerous releases of oil and/or hazardous materials and is classified as a Tier 2 site under

Chapter 21E and is regulated under the Massachusetts Contingency Plan (310 CMR 40.00). The site has an Activity and Use Limitation (AUL) attached to its deed.

Jurisdiction

The project is undergoing environmental review and is subject to the preparation of a Mandatory EIR pursuant to Sections 11.03(6)(a)(6) of the MEPA regulations because it will result in the generation of 3,000 or more new average daily trips (adt) on roadways providing access to a single location. The project also meets an ENF review threshold at 301 CMR 11.03(3)(b)(1)(f) for the alteration of greater than ½ an acre of “any other wetlands”. The project is located within the habitat of a species state-listed as “Special Concern” pursuant to the Massachusetts Endangered Species Act (MGL c. 131A).

The project will require a NPDES Construction General Permit; an Access Permit from the Massachusetts Highway Department (MHD); a possible 401 Water Quality Certificate and Chapter 91 License 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 (OOC) from the Lee Conservation Commission (and hence a Superceding OOC from MassDEP if the local Order is appealed); Site Plan Review from the Lee Planning Board; and a Special Permit and Floodplain Special Permit from the Lee Zoning Board of Appeals.

Because the proponent is not seeking financial assistance from the Commonwealth, MEPA jurisdiction is limited to the subject matter of required or potentially required state permits and/or review. In this case, MEPA jurisdiction extends to stormwater, wetlands, waterways, rare species, traffic and hazardous waste.

MEPA History

In October of 2006 the proponent submitted an Expanded ENF (EENF) with a request that the Secretary of Environmental Affairs grant a waiver from the requirement to prepare an EIR for the project. The proponent’s waiver request was based on the argument that the Mandatory EIR threshold at 301 CMR 11.03(6)(a)(6) - generation of 3,000 or more new average daily trips (adt) - would be exceeded on Saturdays only and that trip generation estimates for the project did not account for internal or pass-by trips. The Secretary’s Certificate on the EENF stated that while the information submitted by the proponent about the project’s traffic impacts and mitigation was sufficient, the EENF did not meet the standards for a full waiver of an EIR.

The proponent also requested that it be allowed it to fulfill its EIR obligations under MEPA with a Single EIR rather than the usual process of a Draft and Final EIR in the event that the request for an EIR Waiver was not granted,. While the EENF contained considerable information on the project’s anticipated traffic impacts, the submittal did not meet the standards for a Single EIR at 301 CMR 11.05(7) and 11.06(8). The EENF did not contain sufficient information on the projects impacts to wetland resources, rare species, wastewater and stormwater. The proponent’s request for a Single EIR was denied in the Certificate on the EENF,

which laid out a Scope for a Draft EIR.

Review of the DEIR

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 December 15, 2006, the DEIR filed in response; and the comments entered into the record. I find that the DEIR is sufficiently responsive to the requirements of the MEPA regulations and the Scope to meet the regulatory standard for adequacy.

While I am finding the DEIR to be adequate and while the proponent has made improvements to the project since the submittal of the EENF, there is considerably more that could be done to further reduce the environmental impacts of the project. The project is proposed at a complicated and sensitive site with an important riparian zone, floodway, rare species habitat and a history of contamination. In the FEIR, the proponent must provide a more comprehensive analysis of alternatives, demonstrate that environmental impacts have been minimized, and provide necessary mitigation. The FEIR should respond to the issues outlined in this Certificate and respond in detail to comments submitted on the DEIR.

SCOPE

General

The FEIR should discuss any changes to the project since the filing of the DEIR and provide an update on the local, state and federal permits and/or review required for the project. The FEIR should contain a copy of this Certificate and a copy of each comment received. The FEIR should respond to the comments received, to the extent that the comments are within MEPA subject matter jurisdiction. The FEIR should present additional narrative and/or technical analysis as necessary to respond to the concerns raised. On May 1, 2007, the proponent submitted a letter to the MEPA office in response to some of the comments submitted on the DEIR. This supplemental information should be incorporated into the FEIR.

The FEIR 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 Town of Lee officials. A copy of the FEIR should be made available for public review at the Lee Public Library.

Alternatives

The Certificate on the EENF required that the proponent conduct a comprehensive alternatives analysis to determine which site layout minimized overall impacts to Riverfront

Area, rare species and sensitive receptors. At the heart of the MEPA process is the requirement to evaluate feasible alternatives to a proposed project, to ensure that all state agencies can find, pursuant to Section 61 of the statute, that all feasible means to avoid, reduce, or mitigate environmental damage have been considered and incorporated into the project design.

The DEIR presented the No-Build alternative, the Preferred Alternative, a reduced-build Alternative, and two other Alternatives featuring different site layouts. Each of the alternatives presented in the DEIR had certain common elements including locating fueling facilities in the northeast corner of the property; the development of a four-story, 93 unit hotel with a minimum of 105 parking spaces; the construction of a 6,500 sf restaurant with a minimum of 82 parking spaces; and the segregation of truck traffic from pedestrian and vehicular traffic.

The DEIR did not provide substantive justification for alternatives that are deemed infeasible by the proponent; instead, alternatives were cursorily dismissed as not meeting the proponent's development objectives. While the uses proposed on the site are not inconsistent with the previous use of the site, the size and density of the project in close proximity to the river requires that the proponent more rigorously evaluate site layout alternatives that may more effectively avoid and minimize adverse impacts to wetland and endangered species resources. The DEIR does not include a reduced build alternative that reduces the density or scale of the site development. The proponent should propose an alternative in which proposed uses are reduced in size, eliminated or combined, thereby reducing the density of the proposed project. In addition, as requested in the Certificate on the EENF, the FEIR should include an alternative site layout in which fueling stations, stormwater facilities and snow storage areas are moved out of the Riverfront Area.

Land Alteration/Drainage

The project will result in the creation of 0.9 acres of new impervious surface and the future use is one that has a high potential pollutant load. According to the DEIR, runoff from the site has been divided into two watersheds: northerly and southerly. The proponent asserts that the southerly portion of the site may be considered redevelopment under MassDEP's Stormwater Management Policy (SMP) because no new impervious surface is being added. However, the project's stormwater management system has been designed to meet all of the standards of the SMP as if the entire site were new development. The proponent should address MassDEP's comment that the stormwater management system does not comply with Standard #2 of the SMP.

The drainage system within the northerly watershed includes deep-sump hooded catch basins, piping, a forebay, a water quality swale, and a detention basin. The drainage system within the southerly watershed includes deep-sump hooded catch basins, piping, water quality swales, and a constructed wetland. The drainage design features several direct and indirect groundwater recharge devices including water quality swales, bio-retention areas, constructed wetlands and pre-fabricated polypropylene Stormtech chambers installed in series just below the ground. These measures will help to approximate the annual recharge from existing site conditions.

The detention basin in the northerly watershed has been sized to reduce peak runoff rates for the entire site. The detention basin will share its outfall with an existing 36" concrete drain pipe, which conveys runoff into the river from public roadways. This outfall is set back approximately 25 feet from the edge of the river. The Wetlands Protection Act regulations at 310 CMR 10.58(4)(d)(1)(a) allow the placement of structural stormwater management facilities within the Riverfront Area only when there is no practicable alternative. The proponent has not sufficiently demonstrated that it is impracticable to move the proposed detention basin further away from the river. The proponent should consider alternative stormwater treatment measures such as subsurface stormwater storage units underneath the buildings or parking lots. The proponent should also respond to comments submitted by the Massachusetts Riverways Program regarding the possibility of treating stormwater on land abutting the project site.

The northerly portion of the site contains uses that have higher potential pollutant loads specifically associated with the fueling facilities and is thus subject to Standard #5 of the SMP. Stormwater management within such areas is required to include source reduction and pretreatment. According to the DEIR, source reduction will be accomplished through the implementation of a comprehensive Spill Prevention Control & Countermeasures Plan and by designated snow storage areas that force melt water into one or more of the pre-treatment best management practices (BMPs). Pre-treatment will be provided by the proposed deep-sump catch basins, forebay and water quality swale in the northerly portion of the site. In addition, the detention basin in this portion of the site will be lined or sealed as required by MassDEP. The FEIR should respond to comments from the Berkshire Regional Planning Commission regarding Standards #5 and #7 of the SMP.

The drainage patterns will direct any spills at the diesel station and in the parking lot to the detention basin. As designed, overflow from the detention basin will discharge directly into the river. If a large fuel spill occurs during or following a large storm event, petrochemicals may be discharged into the river with stormwater overflow. The proponent should consider measures that would capture and treat stormwater overflows before directing such flows to the river.

An Operations and Maintenance Plan is included as an attachment in the DEIR. The Plan outlines routine maintenance and inspection procedures for the project site. The proponent expects that the Lee Conservation Commission will reference the Operations and Maintenance Plan in the Order of Conditions for the project. In response to comments from MassDEP, the proponent should include regular street sweeping frequency in the O & M Plan and should specify the use of a high efficiency sweeper.

The proponent has incorporated several Low Impact Development (LID) measures into the project design including a constructed wetland at the outfall to the proposed southerly drainage system to improve water quality and promote infiltration; over 1,000 feet of new grassed swales; the installation of parking and roadway edges without curbs to permit runoff to flow across new vegetative strips to facilitate infiltration; groundwater infiltration chambers; and the restoration of 55,000 sf of Riverfront Area. The proponent should consider other LID measures that have been suggested in comments on the DEIR.

Wetlands/Waterways

The project site contains the following resource areas protected under the Wetlands Protection Act: Bank, Bordering Vegetated Wetlands (BVW), Land Subject to Flooding, and Riverfront Area. Comments submitted to the Lee Conservation Commission and to the MEPA record indicate that the wetland delineation for this site was performed in July 2002. The delineation may require updating for the local wetlands permitting process since more than three years have passed since the original delineation. If a new delineation is required, I encourage the proponent to have it completed while the project is still under MEPA review as changes to the delineation may affect project design and permitting.

Bank

The proposed project will alter 10 linear feet of Bank in connection with the new southerly drainage outfall. The bank will be restored to its original condition. The outfall will be rip-rapped to protect the integrity of the bank.

Bordering Vegetated Wetlands

A total of 30 square feet (sf) of BVW will be altered in connection with the drainage outfall in the southern portion of the site. Since the filing of the EENF, the southerly drainage outfall has been redesigned and the project's impact on BVW has been reduced. An outfall pipe is no longer proposed at this location and has been replaced by a stabilized outfall. A replication area in the form of an 800 sf constructed wetland is proposed directly adjacent to the proposed work. The proponent will conduct annual inspections of the replacement area to confirm plant survival and progress toward surface coverage of 75% of the surface area.

The proponent submitted an alternatives analysis related to wetland resource impacts of the drainage outfall in the southerly portion of the site. The proponent considered eliminating the southerly drainage, which would maintain existing sheet-flow conditions on this portion of the site. The proponent also investigated the possibility of re-routing drainage from the southerly watershed to stormwater treatment facilities in the northern portion of the site. This plan was deemed to be technically infeasible. Both alternatives were eliminated from further consideration. In its comments on the EENF and DEIR, MassDEP has stated that because work involved in constructing the outfall will occur below Mean High Water and in BVW, a 401 Water Quality Certificate (WQC) is required for the project per 314 CMR 9.06. In the DEIR, the proponent argues that this work is not listed as an "Activity Requiring an Application" under 314 CMR 9.04. The proponent should resolve this issue with MassDEP before filing the FEIR. If the outfall is redesigned, the proponent should provide updated plans. If a WQC is required, the FEIR should demonstrate how the project will comply with 314 CMR 9.00.

Bordering Land Subject to Flooding

A significant portion of the site is located in BLSF. The project will result in

approximately 93,205 cubic feet (cf) of lost flood storage. This will be mitigated by providing 110,116 cf of on-site compensation. Incremental compensatory storage will be provided in the form of building demolition and parking lot re-grading. The FEIR should provide more information and clarification regarding the site's flood plain boundaries. The proponent should respond to the detailed comments from the Berkshire Environmental Action Team on the grading and drainage plan for the project. The proponent should conduct a topographical evaluation of the site based on field survey and should provide building slab elevations and an analysis of the post-construction impervious area. It is difficult to make a determination on the adequacy of proposed compensatory storage without more detail on existing and proposed floodplain conditions at the site.

The proponent should respond to concerns regarding the placement of fueling facilities and stormwater management structures in the floodplain. The plans included within the DEIR document that the existing fueling stations will be demolished. New diesel and gasoline fueling stations will be constructed. According to the proposed plan the gasoline fueling station is located within the existing 100 year floodplain. This should be clearly stated in the FEIR as well as reflected on the plans. Strict attention should be given to impacts to BLSF and the proposed compensatory storage measures. The proponent should respond to questions about underground storage tanks at the site.

Riverfront Area

The property contains a total of 161,000 sf of Riverfront Area. According to the DEIR, approximately 132,800 sf or 82% is already degraded. Upon completion of the project, the Riverfront Disturbance will be reduced to a total of 108,000 sf. The Riverfront Area will be improved by creation of a new planting corridor immediately adjacent to the top of slope. The corridor will be a total of 55,000 sf, which includes a 3,000 sf Riverfront restoration area and will run the entire length of the site. An area along the river that is currently gravel and asphalt paving will be restored as a natural corridor. The area varies from 35' to 60' wide, beginning at the top of the river bank. A portion of the corridor will contain grass swales, forebay and a detention basin. The remainder of the Riverfront corridor will be planted with a selection of grasses, wildflowers, legumes, shrubs, and trees. The proponent should note the list of recommended native species suitable for planting in riparian areas that was submitted by the Massachusetts Riverways Program.

The proponent should provide more thorough documentation and quantification of the degraded area at the site. The FEIR should clarify whether the portions of the Riverfront Area to be restored are included in the area to be impacted. The proponent should thoroughly document and quantify the restoration including the areas of restoration, the location of restoration, and the types of restoration included in the calculations. The proponent should thoroughly document that the proposed restoration of degraded riverfront area will be achieved at a ratio in square feet of at least 1:1 of restored area to area of alteration, as required under 310 CMR 10.58(5)(f). If the 1:1 ratio of restored area to area of alteration cannot be met the proponent must consider mitigation alternatives as documented in 310 CMR 10.58(5)(f) where mitigation is achieved on-site or in the Riverfront Area within the same general area of the river basin. Such mitigation

measures may include the purchase of development rights within the Riverfront Area, the restoration of bordering vegetated wetland or projects to remedy an existing adverse impact on the interests of the Wetlands Protection Act.

Waterways

The proponent has submitted a Request for Determination (RDA) to MassDEP's Waterways Program to determine whether a Chapter 91 License is required for the proposed drainage outfalls. According to the proponent, the outfalls will not extend into the river, nor will they impede navigation. The proponent has received verbal notification from MassDEP that a Ch. 91 permit is not required. The FEIR should provide an update on the status of this RDA application.

Erosion Control

The proponent submitted a Detailed Erosion and Sedimentation Control Plan with the DEIR. The project will also require the preparation of a Stormwater Pollution Prevention Plan (SWPPP) under the NPDES program prior to construction. The Erosion Control Plan calls for the installation of grassed swales, a temporary sediment basin and silt fences along the river prior to construction. The proponent should commit to using dust suppression measures that will not negatively impact the river. The proponent must maintain its commitment to enhanced efforts at erosion control and the establishment of firm limits of construction activities at the project site.

Rare Species

A portion of the project site is located within the habitat of the Longnose sucker (*Catostomus catomus*), which is protected pursuant to the Massachusetts Endangered Species Act (MESA). In their comments on the EENF, the NHESP indicated that its primary concern with the proposed project is related to the potential degradation to the water quality, quantity or temperature of the Housatonic River. According to the DEIR, the proponent has coordinated with NHESP on the project's stormwater management system to design a system that minimizes impacts to Longnose sucker habitat. The DEIR provided a discussion of how the project would avoid a measurable increase of water temperature at the outfall.

The proponent has applied to the NHESP for review under the Massachusetts Endangered Species Act (MESA). NHESP will render a final decision as to whether a Conservation and Management Permit will be required after the project has completed the MEPA process. NHESP and other commenters request that the proponent present an expanded alternatives analysis in the FEIR to minimize Riverfront Area impacts. The proponent should also respond to comments from NHESP regarding the erosion control plan submitted with the DEIR.

Due to the site's prior contamination issues and AUL and 2IE permit, there may be some potential for proposed construction activities to enable existing contamination to migrate toward or into the adjacent river causing negative habitat impacts. The potential for this project to create a negative impact on those habitat resources at and downstream of the project site should be

carefully reviewed by MassDEP and NHESP.

Wastewater

The project is anticipated to generate 12,092 gallons per day (gpd) of wastewater for a total flow of 19,495 gpd when added to the site's existing 7,403 gpd. The project will receive water and wastewater treatment from municipal connections. The Town of Lee's Municipal Wastewater Treatment Plant is presently undergoing a major reconstruction effort to improve its treatment ability and improve capacity. The proponent submitted a letter from the Town of Lee Department of Public Works in the DEIR stating that the Municipal Treatment Plant and receiving sewers adjacent to the project site have sufficient capacity to accommodate the new flows.

In accordance with recently revised MassDEP Sewer Extension/Connection Regulations (314 CMR 7.00), no sewer connection permit is required for the project. Because the anticipated flows will exceed 15,000 gpd, the proposed sewer connection requires a MassDEP Certification (BRP WP 73) to be submitted within 60 days after commencement of use of the connection.

The Certificate on the EENF required that the proponent outline how wastewater and runoff from the proposed car wash facility would be managed. An oil/water separator will be installed at the carwash. The carwash will be equipped with floor drains that will tie directly into the oil/water separator before discharging into the receiving sewer pipe. The proponent should consider comments submitted by the Massachusetts Riverways Program regarding the use of water conservation measures that could help reduce water consumption and wastewater generation. The proponent should consider recycling carwash waters.

Transportation

The project is expected to generate 2,972 new average daily trips (adt) on weekdays and 3,698 adt on an average Saturday. The proponent submitted a Traffic Impact and Access Study (TIAS) for the project with the EENF. The TIAS was prepared in coordination with MHD District 1 and the Berkshire Regional Planning Commission (BRPC). Comments from the Executive Office of Transportation (EOT) on the EENF indicated that the study was prepared in conformance with Executive Office of Environmental Affairs (EOEA)/EOT Guidelines for Traffic Impact Assessments. The DEIR presented a revised TIAS in response to comments on the EENF and further consultation with the BRPC. In general, I find the DEIR responsive to the scope items for traffic in the Certificate on the EENF; however there are numerous outstanding issues that the proponent should resolve in the FEIR. The BRPC has submitted detailed comments on the project's potential traffic impacts. While many of these points were addressed by the proponent in its May 1, 2007 letter to MEPA and in the proponent's ongoing consultation with BRPC, all comments should be fully addressed in the FEIR.

According to the updated TIAS in the DEIR, the only study-area intersection that will suffer a decrease in level of service (LOS) as a result of the project is the intersection of Route 102/Tyringham Road. The proponent proposes to modify this intersection from the current 3-

way intersection to a 4-way intersection with the new leg serving as the main driveway to the site. The proponent proposes to upgrade the traffic control at the intersection from a stop sign to a signal.

In their comments on the EENF, MHD questioned the validity of the traffic signal warrant analysis that was conducted for the Route 102/Tyringham Road/Site Entrance drive. The DEIR included a reformatted signal warrant analysis using the 2003 Manual on Uniform Traffic Control Devices (MUTCD). According to the DEIR, the updated analysis shows that the proposed intersection of Route 102/Tyringham Road/Main Site Drive satisfies each of the three volume based signal warrants of the 2003 MUTCD. MHD's comments on the DEIR state however that the information in the DEIR did not meet any of the warrants. MHD recommends that the driveway continue to operate under the STOP control condition and that the proponent commit to monitor this location. MHD also recommends that the proponent consider installing conduit at all four approaches to this intersection to facilitate the installation of a traffic signal should it be warranted in the future. The FEIR should include an updated discussion on the proponent's plans for this intersection.

In the FEIR the proponent should analyze the impact of seasonal peak factors in Berkshire County on the project's potential trip generation rates and summary traffic diagrams. The proponent's initial consideration of this point in its May 1, 2007 supplemental information letter indicates that the Route 102/Tyringham Road and Route 102/Old Pleasant Street North intersections operate at an unacceptable LOS during peak tourist season. The proponent should proposed additional mitigation measures to address these negative impacts. The proponent should consider seasonal peak traffic in the signal warrant analysis for the main site drive intersection. I strongly encourage the proponent to consult with BRPC and MHD District 1 officials on this issue and provide an update on the consultation in the FEIR.

Other specific points that should be addressed in the FEIR include:

- Concerns have been raised regarding the presentation of traffic data in the DEIR. The FEIR should include updated summary traffic diagrams that are balanced.
- Concerns regarding safety issues where the fast food restaurant drive-through exiting traffic is navigating through the proposed main entrance and exit.
- Safety concerns regarding the pass-by lane on the west side of the convenience store and the driveway from the restaurant.

BRPC has a significant concern regarding the safety of motorists at the entrance-only access point off Route 102 into the site due to the proximity of this site drive to the merge point of Route 20/102. BRPC has requested that the proponent consider an alternative in which this existing access point is closed and all traffic is directed through the main site drive. The MEPA office has consulted with MHD on this issue, who does not share BRPC's concern about the use of this site drive. I direct the proponent to respond to BRPC's suggestions for traffic mitigation that should be implemented if the site drive is kept open. If this access point is required to be eliminated as a result of further permitting decisions, the traffic analysis and site design would need to be modified accordingly. It is likely that this change would require the filing of a Notice

of Project Change (NPC) with MEPA.

The proponent should provide a discussion of how pedestrian accommodations would be provided if no traffic signal is installed at the site drive/Route 102 intersection. The proponent should commit to the installation of a crosswalk across Route 102. This discussion should include consideration of the existing parking area on the south side of Route 102 which is used by anglers, bicyclists, joggers and walkers. The FEIR should also discuss the provision of bus, bicycle and pedestrian facilities along Route 102 if traffic mitigation results in an increase in lanes. How will additional turning lanes on Route 102 be added without compromising existing shoulder conditions? The FEIR should clearly indicate the provisions for transit accommodations that are being made with the Berkshire Regional Transit Authority (BRTA).

The FEIR should present a comprehensive discussion of all mitigation measures that the proponent will implement related to the project's transportation impacts including physical improvements to roadways and traffic systems in the vicinity of the project and measures to improve non-vehicular traffic to the site. The proponent should provide a clear commitment to implement mitigation measures and should describe the timing of their implementation based on the construction of the project. As noted above, many elements the project's traffic mitigation are unresolved. I strongly encourage the proponent to consult with MHD and the BRPC on all state highway issues and mitigation in advance of filing the FEIR.

The proponent should discuss what efforts will be undertaken to ensure that users of the truck parking lot comply with the Massachusetts Anti-Idling Law (M.G.L. c. 90, ss. 16A) and with DEP Air Pollution Control Regulations (310 CMR 7.11(1)(b)) which limit vehicle idling to no more than five minutes in most cases.

Hazardous Waste Issues

Due to the contamination on the site long term review and remediation efforts should remain in place. If there are any buried pipes, proper techniques should be employed to insure that there is no leaching of materials into the groundwater or that construction activities do not create a means for existing contamination to migrate into the adjacent river. The proponent should clarify whether relocated fueling stations are located within the area subject to the AUL. The proponent should identify which construction activities are within the AUL and which construction requirements must be met through this project.

Construction Period Impacts

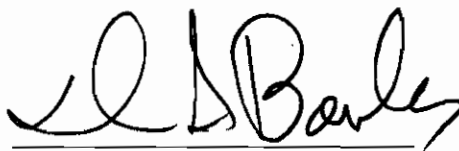
The DEIR provided a discussion of potential noise, dust and air pollution impacts from project construction. The proponent should note further comments from MassDEP's Bureau of Waste Prevention submitted on the DEIR. In the FEIR, the proponent should commit to complying with MassDEP regulations regarding air pollution control and solid waste management.

Mitigation

The Certificate on the EENF required that the DEIR contain a separate chapter on mitigation measures and Draft Section 61 Findings for all state permits. The DEIR presented a discussion of mitigation measures and a Draft Section 61 Finding for use by MHD and NHESP. The FEIR should expand this section and include 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. If it is determined that a 401 WQC Certificate is required for the project, a draft Section 61 Finding for MassDEP should be submitted. The FEIR should provide a schedule for the implementation of the mitigation, based on the construction phases of the project. The Section 61 Findings will be included with all state permits issued for this project, and will be considered binding upon the proponent as mitigation commitments.

May 11, 2007

Date



Ian A. Bowles

Comments received:

4/12/2007	SK Design Group, Inc., for the Proponent
4/20/2007	Department of Environmental Protection, Western Regional Office
4/30/2007	Concerned Citizens of Lee
5/1/2007	Massachusetts Riverways Program
5/1/2007	Housatonic Valley Association
5/1/2007	Elisabeth Goodman, Ware & Goodman LLP
5/1/2007	Berkshire Environmental Action Team
5/1/2007	Berkshire Environmental Action Team
5/1/2007	SK Design Group, Inc., for the Proponent
5/3/2007	Executive Office of Transportation
5/3/2007	Berkshire Regional Planning Commission
5/4/2007	Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program

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