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May 22, 2009

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

PROJECT NAME : Brox Industries Proposed Quarry Expansion
PROJECT MUNICIPALITY : Dracut and Methuen
PROJECT WATERSHED : Merrimack River
EEA NUMBER : 14404
PROJECT PROPONENT : Brox Industries Inc.
DATE NOTICED IN MONITOR : April 22, 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 this project **does not require** the preparation of an Environmental Impact Report (EIR).

Project Description

The proposed project as described in the Environmental Notification Form (ENF) consists of expansion of an existing quarry operation on a 500-acre site in Dracut and Methuen. The ENF proposes an expansion of the quarry to encompass an additional 19.9 acres adjacent to the western edge of active quarry operations. The expansion area is located in the Town of Dracut (north of Methuen Street, south of Wheeler Road and east of Parker Road). It is anticipated that 18.3 acres of this expansion will be used for active mining operations and 1.6 acres will be designated as a no-work zone to preserve a 100-foot buffer around wetlands resource areas. A portion of the project site, including the proposed expansion area, is located within Priority Habitat of the Blue-Spotted Salamander (*Ambystoma laterale*) and the Wood Turtle (*Glyptemys insculpta*), which are state-listed as species of "Special Concern". The proposed expansion work is expected to take thirty to forty years to complete.

Permits and Jurisdiction

The proposed project is undergoing environmental review pursuant to Section 11.03(2)(b) of the MEPA regulations because it will result in disturbance of more than two acres of designated priority habitat of state-listed species, and requires a state agency action. The project requires a Conservation and Management Permit from the Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program (NHESP).

The project is not receiving financial assistance from the Commonwealth. Therefore, MEPA jurisdiction is limited to those aspects of the project that are within the subject matter of any required or potentially required state permits and that may cause Damage to the Environment as defined in the MEPA regulations. In this case, MEPA jurisdiction extends to rare species and land alteration.

Review of the ENF

The ENF proposes a Conservation Restriction on approximately 92 acres of land located immediately to the north and west of the quarry expansion, as partial mitigation for rare species impacts. Approximately half of the Conservation Restriction area is part of the 500-acre project site and the other half extends onto an adjacent property. The ENF indicates that other mitigation measures will be determined in consultation with NHESP. As noted in the comment letter from NHESP, the proponent has engaged in productive consultations with NHESP to discuss state-listed species concerns related to the proposed project as well as performance standards for issuance of a Conservation and Management Permit. The proponent has submitted a MESA Project Review Checklist to NHESP pursuant to the Massachusetts Endangered Species Act (MESA) and its implementing regulations (321 CMR 10.00). The NHESP has issued a determination that the project, as proposed, will result in a prohibited "take" of the Blue-Spotted Salamander. The NHESP anticipates being able to issue a Conservation and Management Permit for the project (this opinion is preliminary, based on NHESP discussions to date with the proponent).

The ENF indicates that the proposed project may affect a portion of an archaeological site and that it is located in the vicinity of two properties included in the Inventory of Historic and Archaeological Assets of the Commonwealth. However, based on consultations with the Massachusetts Historic Commission, it appears that the project as proposed in the ENF is not expected to adversely affect any significant historic or archaeological resources. I acknowledge the comments received from the Northern Middlesex Council of Governments (NMCOG) requesting additional study of rare species habitat and additional information on potential cultural resource impacts. I ask that the proponent consult with NMCOG and the Town of Dracut to discuss these issues, and to provide an update on consultations with NHESP and mitigation commitments.

According to the ENF, the project will not impact wetland resource areas. The Dracut Conservation Commission issued a negative determination on September 30, 2008 indicating that no further review under the Wetlands Protection is required. Stormwater from the expanded quarry operations will be managed under the existing Water Management Act and National

Pollutant Discharge Elimination System (NPDES) Permits. The proponent will construct an earthen berm at the western edge of the quarry expansion area, outside of the Conservation Restriction area, that will provide a visual buffer between the quarry and the surrounding area, and reduce noise impacts associated with the quarry operations. The ENF indicates that the proposed quarry expansion will not result in additional potable water consumption, wastewater generation or traffic generation.

Conclusion

The ENF has sufficiently defined the nature and general elements of the project, and has proposed measures to avoid and minimize, or mitigate environmental impacts. I am satisfied that any outstanding issues can be addressed through the state and local permitting process. Based on review of the ENF and comments received, and in consultation with state agencies, I have determined that no further MEPA review is required. The project may proceed to state permitting.

May 22, 2009

DATE



Ian A. Bowles, Secretary

Comments Received:

5/12/09 Division of Fisheries and Wildlife, Natural Heritage and Endangered Species
 Program
5/12/09 Northern Middlesex Council of Governments

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