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June 1, 2007

DRAFT RECORD OF DECISION

PROJECT NAME : Cumberland Farms Convenience Store and Gas Station
PROJECT MUNICIPALITY : Shrewsbury
PROJECT WATERSHED : Blackstone
EOEA NUMBER : 14003
PROJECT PROPONENT : Cumberland Farms, Inc.
DATE NOTICED IN MONITOR : April 11, 2007

Pursuant to the Massachusetts Environmental Policy Act (MEPA) (G.L.c.30, ss. 61-62H) and Section 11.11 of the MEPA regulations (301 CMR 11.00), I have reviewed the Expanded Environmental Notification Form (ENF) and hereby **propose to grant** a waiver from the requirement to prepare a mandatory Environmental Impact Report (EIR).

Project Description

As described in the Expanded ENF the project consists of eight gasoline pumps (16 fueling positions) and a 3,600 square foot (sf) Cumberland Farms convenience store on a 1.85-acre site. Traffic impacts associated with the project are estimated at 3,044 vehicle trips per day and the project includes construction of 14 parking spaces. The proposed project will result in alteration of approximately 0.32 acres of new impervious area.

MEPA Jurisdiction

The project is undergoing environmental review and requires the preparation of an Environmental Impact Report pursuant to Section 11.03(6)(a)(6) of the MEPA regulations because it requires a state permit and because the project will generate more than 3,000 new average daily trips on roadways providing access to a single location. The project requires a Massachusetts State Highway Access Permit from the MassHighway Department (MHD) for access onto Route 20.

The proponent is not seeking financial assistance from the Commonwealth. Therefore, MEPA jurisdiction applies to those aspects of the project within the subject matter of required state permits with the potential to cause damage to the environment. In this case, MEPA

jurisdiction extends to traffic issues.

Summary of Potential Environmental Impacts

Based on Institute of Traffic Engineers (ITE) Land Use Codes 853 and 934, the proposed project is anticipated to generate 3,044 new daily vehicle trips to the project site. Access to the site will be via a right-in only driveway that will intersect the south side of Route 20 approximately 160 feet west of Centech Boulevard. An entrance only driveway that will intersect the west side of Centech Boulevard will be located approximately 80 feet south of Route 20 and a full access driveway will intersect the west side of Centech Boulevard approximately 150 feet south of Route 20. A MHD Access Permit is required for access to Route 20.

Summary of Proposed Mitigation Measures

The proponent has committed to reconsider the current design of the driveway along Route 20 and redesign the entrance only driveway to prohibit left-turning vehicles. The proponent has also committed to submit to MHD recommendations for an improved sequence and timing plan for the Route 20/Centech Boulevard intersection that will optimize this traffic signal and reduce the delays resulting from this project. In addition, the following mitigation is proposed at the site:

- Restricting the driveway on Route 20 to right-turn entering vehicles only;
- A 10-foot wide rumble strip will be provided on the Route 20 driveway on-site to slow traffic entering the site;
- The northern driveway on Centech Boulevard will be restricted to entering vehicles only to further reduce the project's impacts;

Waiver Request

The proponent has requested a waiver from the requirement to prepare an EIR. An Expanded ENF was submitted in conjunction with this request that identifies the environmental impacts of the project and describes measures to be undertaken by the proponents to avoid, minimize and mitigate project impacts.

Standards for All Waivers

The MEPA regulations at 301 CMR 11.11(1) state that I may waive any provision or requirement in 301 CMR 11.00 not specifically required by MEPA and may impose appropriate and relevant conditions or restrictions, provided that I find that strict compliance with the provision or requirement would:

- (a) result in an undue hardship for the Proponent, unless based on delay in compliance by the Proponent; and
- (b) not serve to avoid or minimize Damage to the Environment.

Determinations for an EIR Waiver

The MEPA regulations at 301 CMR 11.11(3) state that, in the case of a waiver of a mandatory EIR review threshold, I shall at a minimum base the finding required in accordance with 301 CMR 11.11(1)(b) stated above on a determination that:

- (a) the project is likely to cause no Damage to the Environment; and
- (b) ample and unconstrained infrastructure facilities and services exist to support the project, or those aspects of the project within subject matter jurisdiction.

Findings

Based upon the information submitted by the proponent and after consultation with the state permitting agencies, I find that the Waiver Request has merit and that the proponent has demonstrated that the proposed project meets the standards for all waivers at 301 CMR 11.11(1). I find that strict compliance with the requirement to submit a mandatory EIR would result in an undue hardship for the Proponent and would not serve to avoid or minimize Damage to the Environment. In accordance with 301 CMR 11.11(3), the latter finding is based on my determination that:

- (a) the project is likely to cause no Damage to the Environment;
 - The project the project will generate more than 3,000 new average daily trips on roadways providing access to a single location. However, MHD has stated in its comments on the EENF that the land use associated with the project and the location of the project on Route 20 typically results in trip generation mainly of a pass-by nature, and therefore the project is not likely to significantly impact the state highway system.
- (b) ample and unconstrained infrastructure facilities and services exist to support the project, when subject matter jurisdiction is broad in scope, or those aspects of the project within subject matter jurisdiction, when jurisdiction is limited to the subject matter of state agency permits.
 - MHD has stated in their comment letter that they not object to the granting of a waiver from the preparation of an EIR.
 - The proponent should work with MHD on the current design of the northern entrance along Centech Boulevard, which serves as an entrance-only driveway, and the width of the driveway along Route 20. Since the submission of the ENF,
 - The proponent should commit in writing to MEPA and MHD that they plan to redesign of the driveway along Route 20 and redesign the entrance only driveway to prohibit left-turning vehicles.
 - The proponent should also submit to MHD during the review of the ROD recommendations for an improved sequence and timing plan for the Route

20/Centech Boulevard intersection that will optimize this traffic signal and reduce the delays resulting from this project.

Conclusion

I have determined that this waiver request has merit, and am issuing this Draft Record of Decision (DROD), which will be published in the next edition of the Environmental Monitor on June 11, 2007 in accordance with 301 CMR 11.15(2), which begins the public comment period. The public comment period lasts for 14 days and will end on June 25, 2007. Based on written comments received concerning the DROD, I shall issue a Final Record of Decision or a Scope within seven days after the close of the public comment period, in accordance with 301 CMR 11.15(6). I hereby **propose to grant** the waiver requested for this project, from the requirement to prepare a mandatory Environmental Impact Report (EIR), subject to the above findings, and conditions, if applicable.

June 1, 2007

Date

Ian A. Bowles

Comments Received:

04/12/07 Department of Environmental Protection, CERO
05/29/07 Executive Office of Transportation, MassHighway

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