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June 9, 2006

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS ON THE NOTICE OF PROJECT CHANGE

PROJECT NAME:	Route 2 Long Term/Interim Improvements
PROJECT MUNICIPALITY:	Phillipston, Athol and Orange
PROJECT WATERSHED:	Millers and Chicopee
EOEA NUMBER:	11870
PROJECT PROPONENT:	Massachusetts Highway Department
DATE NOTICED IN MONITOR:	April 26, 2006

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.10 of the MEPA regulations (301 CMR 11.00), I have reviewed the Notice of Project Change (NPC) submitted on this project and hereby determine that the project requires the preparation of an Environmental Impact Report (EIR). Given the length of time since the original Scope for the EIR on this project was issued, and the proposed changes to the project, I am hereby issuing a new Scope for the EIR. The Scope outlined in the Certificate on the Environmental Notification Form issued on May 25, 1999 is hereby superseded.

As originally presented in the Environmental Notification Form (ENF) filed in 1999, the project consisted of Phase I "interim improvements" and Phase II "long-term improvements" to an approximately 13 mile section of Route 2 in Orange, Athol and Phillipston, MA. The Phase I interim improvements were designed to address critical safety issues on this section of Route 2, and included the installation of "Qwik Kurb" delineators along 7.5 miles of the corridor to prevent passing at inappropriate locations; the construction of a new east bound truck climbing lane in Athol; and the lengthening of substandard acceleration and deceleration lanes at Route 2 interchanges to meet current design standards. The Phase II long-term improvements component of the project had as its key feature the double barreling of a 13-mile section of Route 2 through Orange, Athol and Phillipston that would expand the roadway from two lanes to four lanes.

The current NPC has been submitted because the proponent, the Massachusetts Highway Department (MHD), has decided to not double-barrel Route 2 through Orange, Athol and Phillipston at any time in the foreseeable future. As a result of this decision, MHD does not intend to prepare the EIR for the long-term improvements and has requested a waiver from the requirement to prepare a mandatory EIR for the Phase I safety aspects of the project. In the current NPC, what was previously described as the Phase I Interim Improvements portion of the project has now become the proposed project. In the NPC, the project is referred to as the Route 2 Improvement Project.

MEPA History

The ENF for this project was submitted at a very early stage of design, and anticipated environmental impacts were based on preliminary information about affected resources and probable project design. In the ENF, MHD requested permission to proceed with Phase I of the project in advance of preparing an EIR for the entire project. On May 7, 1999, the Secretary of Environmental Affairs issued a Final Record of Decision (FROD) granting a Phase I Waiver for the interim improvements project. In the FROD, MEPA instructed MHD to make a supplemental information filing in an NPC once more information was known regarding the total area of land alteration, new impervious surfaces and amount of wetlands impact. On May 25, 1999 the Secretary issued a Certificate on the ENF that outlined a Scope for an EIR for both phases of the project.

The proponent filed an NPC on May 30, 2002 with the supplemental information about Phase I of the project and a request for an extension of the Phase I Waiver. In the NPC, the proponent outlined several major changes to Phase I of the project involving the roadway cross-section, knowledge of wetland locations and level of design. As a result of changes outlined in the 2002 NPC, the total amount of impervious area for Phase I increased from 9.8 acres to 19.8 acres and the amount of land alteration increased from 47.7 acres to 77.7 acres, which exceed mandatory EIR thresholds pursuant to Sections 11.03(1)(a)(1) and 11.03(1)(a)(2) of the MEPA regulations; and wetland alteration increased from less than 5,000 square feet (sf) of impacts to Bordering Vegetated Wetlands (BVW) to approximately 18,600 sf of impacts.

The Certificate issued on the 2002 NPC determined that the Phase I Waiver for the interim improvements would continue in effect, subject to several amended conditions. Specifically, the Secretary required MHD to continue its consultation with the Route 2 Task Force; to work with the Metropolitan District Commission (now the Department of Conservation and Recreation (DCR)) on the design of the roadway and drainage system in areas of the project subject to the Watershed Protection Act; and to submit the EIR for the entire project by June of 2003. The Certificate on the NPC directed MHD to submit a second NPC if the EIR was not submitted by this deadline. The current NPC under review is the first MEPA filing since the July 8, 2002 Certificate on the NPC.

Project Change Description

In January 2005, MHD completed a report entitled *Route 2 – Assessment of the Need for Double-Barreling*. A key finding of the report was that with the Phase I interim improvements project component in place, there does not appear to be a need for additional mainline Route 2 capacity through the year 2026 and likely, to at least 2035. In addition, it was noted that the

proposed double-barreling would result in significant wetland impacts that would present a major permitting challenge, and that the long-term improvements could cost up to \$150 million to construct. As a result, MHD no longer intends to construct the long-term improvements as outlined in the ENF and also “does not intend to proceed further with the preparation of an EIR for the Phase II Long Term Improvements component of the Route 2 project and wishes to withdraw that project component from the MEPA process”.

The main environmental significance of the withdrawal of the double-barrel project is the avoidance of upwards of 19 acres of impacts to BVW, and the avoidance of the creation of a substantial amount of new impervious surface and the alteration of hundreds of acres of land. According to the NPC, MHD has developed a project that addresses safety concerns along the corridor, improves travel efficiency by improving substandard ramps at interchanges, and improves stormwater quality to a degree that significantly exceeds existing conditions.

When the 2002 NPC was submitted, design of the interim improvements element of the project was at the 25 percent design level. Since that time, the design of the Phase I elements has advanced considerably. Design reached 100 percent in Athol and Phillipston and the project has advanced into construction. All required state and local permits were obtained in Athol and Phillipston. In Orange, design is now at approximately the 75 percent level, with further advancements to both the design and proposed mitigation currently ongoing.

Jurisdiction

The complete project as described in the ENF was subject to the provisions for a Mandatory EIR pursuant to several MEPA review thresholds, including: Section 11.03(1)(a)(1) and Section 11.03(1)(a)(2), because the project would have resulted in the direct alteration of more than 50 acres of land and the creation of more than 10 acres of impervious surface; Section 11.03(3)(a)(1)(a) and Section 11.03(3)(a)(2) because the project would have resulted in the alteration of more than one acre of BVW and because the project would have required a variance from the MA Wetlands Protection Act; and Section 11.03(6)(a)(1)(b) and Section 11.03(6)(a)(2) because the project involved the construction of a new roadway two or more miles in length and construction of a new interchange on a complete limited access highway.

Following the supplemental information provided about the interim improvements in the 2002 NPC, the Phase I portion of the project itself became subject to the preparation of a Mandatory EIR because it proposed to alter more than 50 acres of land and to create more than 10 acres of new impervious surface.

The project as proposed in the current NPC is subject to the preparation of a Mandatory EIR pursuant to Sections 11.03(1)(a)(1) and 11.03(1)(a)(2) of the MEPA regulations because it will result in the alteration of 91.6 acres of land and the creation of 14.6 acres of impervious surface. The project also meets the following ENF review thresholds: Section 11.03(3)(b)(1)(d) because the project will alter more than 5,000 sf of BVW, and Section 11.03(3)(b)(1)(f) because the project will result in the alteration of more than ½ an acre of “any other wetlands”. The NPC states that there will be 478,787 sf of alteration in the Riverfront Area. Wetlands alteration in excess of 10 acres is a mandatory EIR threshold pursuant to Section 11.03(3)(a)(1)(b) of the MEPA regulations. However, in supplemental information provided after the submission of the

NPC, the proponent notes that 4.8 acres of the affected Riverfront Area is existing pavement that will be repaved. Therefore, the net new impact to Riverfront Area is 6.2 acres.

The project requires the following permits and/or review: a National Pollutant Discharge Elimination System (NPDES) General Permit from the U.S. Environmental Protection Agency (EPA); a 401 Water Quality Certificate from the Department of Environmental Protection (DEP); and Orders of Conditions from the Phillipston, Athol and Orange Conservation Commissions. The project also likely requires permits from the U.S. Army Corps of Engineers (ACOE) pursuant to Section 404 of the Clean Water Act, and also requires review from the Massachusetts Historical Commission (MHC) and the Division of Fisheries and Wildlife (DFW) Natural Heritage and Endangered Species Program (NHESP). Because the proponent is a state agency, MEPA jurisdiction extends to all aspects of the project with the potential to adversely impact the environment.

Waiver Request

In the NPC, the proponent has requested that I waive the mandatory requirement to prepare an EIR for this project. Section 11.11 of the MEPA regulations provides that the Secretary may waive any provision or requirement of 301 CMR 11.11 and may impose appropriate and relevant conditions or restrictions, provided that the Secretary finds 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.

I acknowledge that MEPA previously granted a Phase I Waiver for the work that now essentially constitutes the entire scope of the project. However, that Waiver was granted on the assumption that an EIR would be prepared for the entire project that analyzed the cumulative impacts of the work proposed for both the interim and long-term improvements to Route 2. In addition, the anticipated environmental impacts of the Phase I project, now the entire project, have continued to expand since the filing of the ENF in 1999 and the first NPC in 2002. The project now exceeds two MEPA thresholds for the filing of a Mandatory EIR. When the Phase I Waiver was initially granted, the interim improvements portion of the project did not meet EIR thresholds on its own. I have carefully reviewed the NPC, all previous MEPA filings and Certificates, and written comments from state agencies and the public submitted on the project, and find that the project requires the preparation of an EIR.

I recognize the importance of this project that will provide important safety upgrades to the Route 2 corridor and will result in environmental improvements. I also acknowledge the large amount of work that has been undertaken on this project to date, both in design and construction. Therefore, this Certificate lays out a narrow Scope for the EIR that requests the proponent to compile information on the portion of the project that has completed design and permitting, and to provide further analysis and consideration of alternatives on the section of the project in Orange that has yet to reach 100% design and permitting. I find that the prior submissions and detailed information presented in this NPC, particularly regarding stormwater, demonstrate consistency with 301 CMR 11.06(8). I will therefore allow the proponent to prepare a Single EIR (SEIR) in accordance with Section 11.07(5) of the MEPA regulations.

SCOPE

General

As modified by this Certificate, the proponent should prepare the SEIR in accordance with the general guidelines for outline and content found in Section 11.07 of the MEPA regulations. The SEIR should include a copy of this Certificate and of each comment received, which should be addressed in the SEIR as they are relevant to this Scope. The SEIR should contain copies of all prior MEPA filings and Certificates. The proponent should circulate the SEIR to those who received the current NPC; to those who commented on the current NPC; to municipal officials in the Towns of Orange, Athol and Phillipston; and to any state and federal agencies from which the proponent will potentially seek permits or approvals. In addition, copies of the SEIR should be made available at the Orange, Athol and Phillipston public libraries.

Project Description

The SEIR should include a thorough description of the project, including a detailed description of work that has been completed to date. The current NPC has provided a thorough description of the justification for not undertaking the double-barreling and the avoidance of environmental impacts associated with that portion of the project. The SEIR should focus on the work associated with the project as it is now more narrowly defined.

Pursuant to Section 11.07(6)(1) of the MEPA regulations, which requires an identification of all federal, state and local permits to be sought for the project, the proponent should provide a brief description and analysis of the applicable statutory and regulatory standards and requirements, and a description of how the project will meet those standards. The SEIR should provide an update on which of these required permits the proponent has received, and which have been applied for to date.

The Certificate on the 2002 NPC directed the proponent to continue consultation with the Route 2 Task Force. The Certificate stated that "Any future EIR or NPC must be scheduled to allow a Task Force meeting prior to or within the review period". In the SEIR, the proponent should provide an update on the status of the Route 2 Task Force and should discuss how MHD has consulted with the Task Force since the last MEPA filing.

Alternatives

The alternatives analysis is an integral part of the MEPA review process in which the proponent documents the means by which it plans to avoid, minimize or mitigate Damage to the Environment to the maximum extent feasible. Given the project's current level of design, the alternatives analysis in the SEIR should focus on any additional alternatives required by the state and federal permitting processes in Orange. An alternatives analysis is required as part of the 401 Water Quality Certificate (WQC) to be issued by DEP and will be required by the ACOE as part of the Section 404 review.

Land Alteration

The project will result in the following amounts of disturbed land:

- Phillipston: 2.6 acres of new impervious surface, 11.9 acres of landscaped areas
- Athol: 8.2 acres of new impervious surface, 27.9 acres of landscaped areas
- Orange: 3.73 acres of new impervious surface, and 37.2 acres of landscaped areas

In total, the project will result in the creation of 14.52 acres of new impervious surface and the alteration of 77 acres of land. All of the altered land is within the Route 2 right-of-way and is for the most part currently in use as roadside and side slope for Route 2. According to the proponent, all disturbed lands will be planted with a seed mix to stabilize the surface and prevent erosion following construction. In the SEIR, the proponent should provide further detail on land alteration, including information about grading, removal of vegetation and any required blasting or removal of rock. The locations and impacts of any land takings or easements should be discussed. The proponent should respond to comments from Mass Audubon regarding land disturbance, stabilization and maintenance.

Stormwater

There is currently no existing stormwater treatment along the length of the project corridor. While the majority of the proposed improvements qualify for limited project status under the Wetlands Protection Act (WPA), much of the Route 2 Improvement Project's activity takes place within jurisdictional resource areas and therefore is subject to DEP's Stormwater Management Policy (SMP). With the exception of the truck-climbing lane and truck weigh-station in Athol, all of the activities associated with the project meet DEP's definition for a redevelopment project, as outlined in Standard 7 of the SMP.

While redevelopment projects are required to meet the SMP standards to the maximum degree practicable, the proponent outlines in the NPC how the stormwater design for the proposed project meets or exceeds all design-based standards. I applaud the proponent for its efforts in exceeding the guidelines of the Stormwater Management Policy and improving existing conditions in the project area; however, there are some unresolved issues related to stormwater and water quality that must be addressed in the SEIR. The proponent should respond to comments from the Orange Conservation Commission about Standards #2 and #4 of the SMP. In response to comments from Mass Audubon, the SEIR should provide further information on untreated outfalls that will remain after project construction. The proponent should also provide more detail on the maintenance of stormwater management structures.

The Department of Conservation and Recreation's (DCR) Division of Water Supply Protection has raised concern about the lack of existing and proposed stormwater treatments and measures to protect Lake Mattawa. Lake Mattawa is a designated Public Surface Water Supply (as defined at 310 CMR 10.04) and it contributes flows to the Quabbin Reservoir. As such, it and associated streams and wetland contributing to it are regulated as Outstanding Resource Waters (ORWs), as defined in the Massachusetts Water Quality Standards (314 CMR 4.06). In addition, the Orange Water Department operates a well field adjacent to West River Street and Route 2.

A network of storm drain pipes collects water from Route 2 and discharges it directly into Lake Mattawa via a series of catch basins and manhole structures. Because of this configuration, any accidental release of hazardous material that occurs now has the potential of being piped directly into the lake. In their comments on the NPC, DCR has offered suggestions on measures that could be implemented in the area of the project just north of Route 2 that could provide a higher level of stormwater treatment and enhance response capabilities in the event of a hazardous release.

In the SEIR, the proponent should respond to DCR's suggestions for enhanced stormwater improvements. The proponent should also discuss the regulatory requirements under the Massachusetts Watershed Protection Act (350 CMR 11.00), under which Lake Mattawa is protected. The Secretary's Certificate on the 2002 NPC directed the proponent to submit the roadway and drainage design in the area subject to the jurisdiction of the Watershed Protection Act to DCR for approval. The proponent should discuss in the SEIR whether it has consulted with DCR on project design.

Wetlands

The project will result in impacts to the following wetland resource areas: 30,707 sf of BVW; 478,787 sf of Riverfront Area; 9,590 sf of Bordering Land Subject to Flooding (BLSF); and 75 linear feet of Bank. The proponent has received Orders of Conditions for the proposed work in Athol and Phillipston. In Athol, the project will directly alter 6,574 sf of BVW and in Phillipston, 2,239 sf of impacts to BVW will occur. The proponent has also stated that it has received all required state permits for those sections of work in Athol and Phillipston. The proponent should explain whether it filed separate WQC applications for Athol and Phillipston; whether it filed just one application for impacts to greater than 5,000 sf BVW in Athol; or whether the combined 8,813 sf of impacts were permitted under one WQC. The proponent should explain why state permits were sought for each municipality rather than for impacts to the project area's entire wetland system. The SEIR should also discuss permitting of the project by the ACOE pursuant to Section 404 of the Clean Water Act.

The SEIR should include plans that clearly delineate all applicable resource area boundaries on the project site in each municipality. The SEIR should quantify the project's estimated impact on each resource area. The proponent should discuss whether the project is being filed as a limited project pursuant to Section 10.53(3)(f) of the wetlands regulations, and how the project will comply with the general performance standards for limited projects under the Wetlands Protection Act. The proponent should demonstrate in the SEIR that the alteration of resource areas has been avoided and minimized.

Wetlands impacts have increased significantly since the filing of the 2002 NPC. The proponent should discuss whether the anticipated wetlands impacts, including impacts to Riverfront Area, outlined in the current NPC are the same as what was submitted in Notices of Intent (NOI) to the Athol and Phillipston Conservation Commissions.

The project will result in approximately 21,894 sf of BVW impacts in Orange. In response to comments from DEP, the proponent should demonstrate in the SEIR that the portion of the project in Orange complies with the WQC requirements for alternatives and mitigation. According to the NPC, MHD anticipates that at least 22,000 sf of BVW can be created within the

Route 2 right-of-way to mitigate for wetland impacts in Orange. Mitigation for unavoidable impacts to BVW is proposed within the right of way in Athol (7,620 sf of replication) and Phillipston (2,946 sf of replication).

For the proposed replication area in Orange, the proponent should submit a detailed wetlands replication plan in the SEIR which, at a minimum, should include: replication location(s); elevations; typical cross sections; test pits or soil boring logs; groundwater elevations; the hydrology of areas to be altered and replicated; list of wetlands plant species of areas to be altered and the proposed wetland replication species; planned construction sequence; and a discussion of the required performance standards. Wetland replication areas in Athol and Phillipston should be located on plans. The proponent should outline a long-term monitoring plan for all proposed replication areas, and should discuss what steps will be taken if replication areas fail. The proponent should also discuss proposed mitigation for impacts to the Riverfront Area and BLSF.

Rare Species

The Division of Fisheries and Wildlife Natural Heritage and Endangered Species Program (NHESP) has recently confirmed the presence of Mountain or "Northern" Firmoss (*Huperzia selago*) at the project site. Mountain Firmoss is a clubmoss listed as an "Endangered" species pursuant to the provisions of the Massachusetts Endangered Species Act (MESA) (MGL c. 131A) and its implementing regulations (321 CMR 10.00). According to NHESP, this is the only known extant occurrence of the species within Massachusetts, and this species is considered to be "rare" throughout New England.

The proponent has met on site with staff from NHESP to discuss appropriate protections and management for this species within the project area. The proponent has agreed to avoid disturbing the rockface on which this plant grows, the ditch below the rockface, and the line of trees immediately adjacent to the plant's location which provide needed shade for this species. In the SEIR, the proponent should locate the species on plans for the project area and should discuss how it plans to avoid impacts to the species. According to NHESP, the proponent is currently developing a long-term management plan for the species at the site. The proposed management plan should be submitted with the SEIR.

Historical and Archaeological Resources

The Certificate on the ENF submitted for the project directed the proponent to present the results of the review by the MHD Cultural Resources Section, which was to be performed in accordance with the Programmatic Agreement between MHD and the Massachusetts Historical Commission. The SEIR should discuss the presence of historic or archaeological resources in the project area. The proponent should note any impacts to cultural resources, and should propose measures to mitigate for any unavoidable impacts.

Mitigation

The SEIR should contain a separate chapter on mitigation measures. It should include a Draft Section 61 Finding for all state permits that includes 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. The SEIR should provide a schedule for the implementation of the mitigation, based on the construction phases of the project.

June 9, 2006

Date


Stephen R. Pritchard

Comments Received:

5/1/2006	Montachusett Regional Planning Commission
5/3/2006	Massachusetts Association of Conservation Commissions
5/10/2006	Department of Environmental Protection, Central Regional Office
5/12/2006	Department of Conservation and Recreation, Division of Water Supply Protection
5/13/2006	Orange Conservation Commission
5/15/2006	Fred Heyes
5/16/2006	Mass Audubon
5/16/2006	Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program
5/19/2006	Department of Environmental Protection, Western Regional Office
5/22/2006	Jonathan von Ranson
6/6/06	Massachusetts Highway Department
6/7/2006	Route 2 Task Force
6/7/2006	David B. Ames, Town Manager, Town of Athol

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