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June 27, 2008

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

PROJECT NAME : True North Commerce Center  
 PROJECT MUNICIPALITIES : Salisbury  
 PROJECT WATERSHED : Merrimack River  
 EOEA NUMBER : 14002  
 PROJECT PROPONENT : True North, LLC  
 DATE NOTICED IN MONITOR : May 21, 2008

As the Secretary of Environmental Affairs, I hereby determine that the Final Environmental Impact Report (EIR) submitted on this project **does not adequately and properly comply** with the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62H) and its implementing regulations (301 CMR 11.00). While the Final EIR has largely resolved the traffic issues, as detailed in the Massachusetts Highway Department's (MassHighway) comment letter, a number of issues related to wetlands and stormwater issues have not been adequately resolved. Therefore, I cannot find that the Final EIR meets the standards in Section 11.07 (4) of the MEPA regulations to "present a complete and definitive description and analysis of the project and its alternatives, and assessment of its potential environmental impacts and mitigation measures." I am requiring the preparation of a Supplemental Final EIR to provide additional information on project impacts and mitigation, mostly related to wetland issues and stormwater issues, prior to allowing the project to proceed to the state permitting process.

Project Description

The proposed project, as originally described in the Expanded Environmental Notification Form (EENF), consisted of the construction of 600,000 square feet of industrial space (including light manufacturing, product distribution and office space), and 266 associated parking spaces. Phase I will include the construction of an 18,000 square foot distribution facility; Phase II development will include the remaining 582,000 square feet of industrial space.



As described in the EENF, the project was proposed to be located on a 51-acre undeveloped parcel, in the northeast quadrant of the I-95/Route 110 interchange and southeast of the I-495/I-95 interchange. Access to the site would be provided via a full-access driveway on Rabbit Road. The proponent requested and was granted a Waiver to allow Phase 1 of the project to proceed to state permitting prior to completion of the EIR.

The proponent submitted a Notice of Project Change (NPC) in March 2008 that described a reduction in the proposed build-out from 600,000 sf to 500,000 sf of industrial space and the addition of a 2.68 acre parcel to the project site. This parcel had been previously developed and is currently used as an overflow paved parking area. On April 11, 2008 a Certificate was issued on the NPC.

Traffic generation associated with project will now result in approximately 3,480 average daily trips (adt), and approximately 344 new parking spaces. Water and sewer infrastructure will extend approximately 0.5 miles. The FEIR estimates that the project's water use will average approximately 23,650 gallons per day and wastewater generation will average approximately 21,500 gallons per day. Approximately 21,300 sf of impacts to Isolated Vegetated Wetlands (IVWs) will occur as a result of the project.

### Regulatory Environment

The project is undergoing MEPA review and was subject to a mandatory EIR pursuant to Section 11.03 (1)(a)(2) and Section 11.03(6)(a)(6) of the MEPA regulations because it involves creation of 10 or more acres of impervious area and will result in generation of 3,000 or more new average daily trips (adt). In addition, the project exceeds ENF review thresholds for wastewater and wetland alterations. The project requires a Vehicular Access Permit from the MassHighway Department (MHD). Other permits required include a 401 Water Quality Certificate and a Sewer Connection/Extension Permit from the Department of Environmental Protection (MassDEP). The project may also require a Water Supply Distribution System Modification Permit from MassDEP. The project requires an Order of Conditions from the Town of Salisbury (and, on appeal only, a Superseding Order from MassDEP). The project may require pre-construction permits pursuant to MassDEP Air Quality Control Regulations. The project will require a National Pollutant Discharge Elimination System (NPDES) Permit from the US Environmental Protection Agency (EPA). 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 as defined in the MEPA regulations. In this case, MEPA jurisdiction extends to transportation, air quality, wastewater, wetlands, water supply, land alteration, and stormwater management.

### Review of the Final EIR

The Final EIR included a detailed description of the project with a summary/history of the project, and it contained existing and proposed site plans. The Final EIR described each state agency action required for the project and how the project is compatible with the performance standards.

The Final EIR included an update on proposed mitigation measures, to the extent that they have changed or been refined from those presented in the Draft EIR, including an updated

draft Section 61 Finding. The draft Section 61 Finding contained a clear commitment to implement mitigation measures, an estimate of the individual costs of each measure, and identified the party responsible for implementing the mitigation. A schedule for the implementation of mitigation was also included. In the Final EIR, the proponent has committed to the following mitigation measures:

#### *Stormwater*

- Mitigation will include construction, planting, and monitoring of constructed wetlands, vegetated swales, and rain gardens / bioretention filters.
- Low-Impact Design (LID) stormwater management BMPs will be operated and maintained to adequately treat and maintain runoff associated with the impervious surfaces created.
- The LID features will mitigate runoff impacts at a “local” scale; reduce impacts to wildlife habitat and wetland resource areas; preserve existing site drainage patterns; and reduce runoff volumes and velocities.
- Mitigation will include installation, replacement, maintenance, and monitoring of temporary erosion control, temporary settling basins, temporary check dams, and stone entrance / exit pad.
- Qualified personnel will also conduct routine monitoring and subsequent reporting to ensure that the temporary BMPs are functioning as intended to prevent construction activities from potentially causing damage to the environment.

#### *Wetland*

- Mitigation will include construction, planting, and monitoring of wetland mitigation areas.
- The unavoidable impacts will be compensated by providing on-site wetland mitigation at a ratio of 1.5:1.
- Wetland mitigation areas will consist of vegetative communities similar to those found within the impacted wetlands.
- To ensure success of the wetland mitigation areas, a wetland scientist (or other qualified individual) will evaluate the development of the wetland resource areas for two consecutive growing seasons and /or upon the issuance of a Certificate of Compliance (COC).

#### *Traffic*

- Mitigation will include construction of off-site roadway lane widening / improvements to Rabbit Road and Preparation of Transportation Demand Management Program.
- Limited roadway widening and the construction of 12-foot wide left and right turning lanes will be provided on Rabbit Road and minor traffic light modifications.
- The proponent will employ a Transportation Coordinator to implement a Transportation Demand Management (TDM) Program.

#### *Water/Wastewater*

- To reduce demand on the water and wastewater infrastructure, the proponent will encourage building lot owners to install cisterns, or other similar devices, to recycle rooftop runoff for use in landscape irrigation.

- Building lot owners will also be encouraged to install low-flow appliances, toilets, and faucets.
- The proponent will limit landscape irrigation during periods of water bans that are administered by local officials.

#### *Additional Mitigation*

- The proponent will provide a payment of \$100,000 to upgrade a deficiency in the water main system.
- The proponent will get an easement approximately one acre of the Salisbury Rail Trail path (allowing connection to Amesbury).
- The proponent will provide an easement for five parking spaces adjacent to the Salisbury Rail Trail entrance.

### SCOPE

#### Wetlands and Stormwater

The major shortcoming of the Final EIR concerns issues primarily related to wetland and stormwater issues. I note that at the close of the comment period on June, 13, 2008, the MEPA office received notification from the proponent of its proposal to reduce the IVW impacts from 21,300 sf to the 4,350 sf. However, there was no additional narrative and/or analysis provided with this statement.

The comments from MassDEP have spelled out a number of areas where that agency requires additional information to fully understand project impacts and the appropriateness of potential mitigation measures. Although I will allow the proponent to structure the Supplemental Final EIR as a response to the comments received from MassDEP, the Supplemental Final EIR must also present additional narrative and/or analysis, as appropriate, to respond to the comments raised. The Supplemental Final EIR must also include necessary supporting materials in an appendix to validate any conclusions reached in the document.


The Supplemental Final EIR must discuss the consistency of the drainage plan with the DEP Stormwater Management standards. The Supplemental Final EIR should clearly identify any stormwater discharge points, and describe any drainage impacts associated with required off-site roadway improvements.

#### Mitigation

The Supplemental Final EIR should include an updated draft Section 61 Finding for MassDEP.

June 27, 2008

Date



Ian A. Bowles

Comments Received:

06/20/08 Department of Environmental Protection, Northeast Regional Office  
06/23/08 Executive Office of Transportation, MassHighway

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