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July 11, 2008

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

PROJECT NAME: Redevelopment of Fort Devens
PROJECT MUNICIPALITY: Ayer, Harvard, Lancaster, Shirley
PROJECT WATERSHED: Nashua River
EOEA NUMBER: 9116
PROJECT PROPONENT: Massachusetts Development Finance Agency
(MassDevelopment)
DATE NOTICED IN MONITOR: May 21, 2008

Pursuant to the Massachusetts Environmental Policy Act (M.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 for this project and hereby determine that it **does not require** the preparation of a Supplemental Environmental Impact Report.

MEPA History

A Final Environmental Impact Report (FEIR) for redevelopment of the former Fort Devens (Devens) was submitted in July 1995 and the Secretary issued a Certificate on the FEIR on September 14, 1995. The Certificate on the FEIR indicated that individual project elements which fit under the umbrella of development evaluated in the FEIR may be approved by state agencies without further MEPA review unless such projects required permits that could not be foreseen during the review process. The FEIR consists of the Federal Environmental Impact Statement (EIS) and the MassDevelopment (formerly the Land Bank) FEIR. The FEIR addressed reuse of 2,920 acres of land for a range of uses, including development of up to 5,787 million square feet (sf) of office, industrial and institutional space, and 282 housing units. Approximately 30 percent of the 4,140-acre project site was set aside as open space.

Proposed Change to Section 61 Findings

MassDevelopment (the proponent) issued its own Section 61 Findings for Devens Redevelopment in 1996. This NPC under review proposes revisions to the findings as further detailed below. In the FEIR and 1996 Section 61 Findings, water use for Devens was estimated at 3.0 million gallons per day (mgd) and traffic impacts at 50,585 trips per day. In the NPC and most recent Section 61 Findings, water use and traffic projections remain the same, wastewater generation and industrial air emissions impacts have been revised. The most recent Section 61 Findings modify wastewater generation estimates from 3.0 mgd to 4.65 mgd to reflect the increased capacity as reviewed in an NPC filed for the Wastewater Treatment Facility (WWTF) upgrade, and incorporate revised mitigation commitments. The most recent Section 61 Findings include a requirement for an NPC if any project meets or exceeds a MEPA air threshold (the requirement for an Air Quality Permit alone is no longer proposed as a trigger for a MEPA filing). MassDevelopment also proposes a methodology, as part of its most recent Section 61 Findings, to ensure that proposed development at Devens is consistent with the EEA/MEPA Greenhouse Gas Emissions Policy and Protocol.

NPC Review

The NPC includes revised estimates for industrial air emissions at Devens, as required in the Certificate on the NPC for the Bristol-Myers Squibb (BMS) facility, dated October 26, 2006. As further detailed in the NPC, revised emission estimates for Hazardous Air Pollutants (HAPs) and Volatile Organic Compounds (VOC) are significantly less than the FEIR projections while combustion-related emissions (Nitrous Oxides (NO_x), Sulfur Dioxide (SO₂) and Carbon Monoxide (CO) have increased. This change in emission projections is primarily due to the type of industries actually built at Devens, which differ from industries anticipated at the time of the FEIR.

MassDevelopment proposes that the building floor area should be discontinued as a category of impact forming the basis of build-out limits in its Section 61 Findings. According to the NPC, build-out at Devens is approaching the 5.787 million sf anticipated in the FEIR, impacts are generally well within the envelope predicted in the FEIR, and development to date has been consistent with the Devens Reuse Plan proposed at the time of the FEIR. However, two important development sites, Salerno and the airfield, have yet to be developed. The NPC indicates that full build-out in accordance with the Devens Reuse Plan, to include these sites, can be achieved without exceedance of the environmental impacts predicted in the FEIR. MassDevelopment proposes that exceedance of the floor area proposed in the FEIR should not be used as a basis to require an NPC. MassDevelopment proposes instead that that performance-based indicators based on environmental impacts associated with the development (including traffic, air emissions, water and wastewater) should be used as the basis to determine whether additional MEPA filings are required. I concur that this proposed change to the Section 61 Findings is a reasonable approach provided that additional development is consistent with the Devens Reuse Plan and MassDEP's new stormwater regulations, and that permanent protection of land under Article 97 is implemented in accordance with the recently updated Open Space and Recreation Plan. MassDevelopment should consult with the Executive Office of Energy and Environmental Affairs (EEA) Division of Conservation Services for assistance with expediting permanent protection of lands at Devens.

MassDevelopment has also proposed a change that would result in an elimination of the NPC requirement for projects requiring an air quality permit (as required by the 1995 Certificate on the FEIR). The NPC proposes that only those projects exceeding MEPA thresholds for air quality would be subject to an NPC filing. Based on consultations with MassDEP and review of the materials provided by MassDevelopment, including the industrial air emission projections for full build-out at Devens, I concur that proposed developments at Devens that require an air quality permit will not be required to file an NPC unless the project meets or exceeds MEPA review thresholds for air. I expect that MassDevelopment or a project proponent will file an NPC in accordance with 301 CMR 11.10, if required, for exceedance of cumulative environmental impacts predicted in the FEIR and subsequent NPCs. I ask that MassDevelopment provide regular updates to the communities and the Devens Enterprise Commission (DEC) regarding cumulative impacts of development as requested by the Town of Ayer.

The Devens Redevelopment project underwent MEPA review prior to the adoption of the EEA/MEPA Greenhouse Gas Policy and Protocol and therefore GHG impacts and mitigation were not considered in previous filings. However, MassDevelopment has committed to a GHG mitigation program for entities considering new projects at Devens and proposes, in the NPC, a mechanism to ensure adequate analysis of Greenhouse Gas (GHG) emissions associated with future developments at Devens. This commitment has been incorporated into the most recent Section 61 Findings and, as a condition of all initial land transfers by MassDevelopment at Devens, developers of new projects must prepare, as part of the Unified Permit Process administered by the DEC. GHG analyses in accordance with the GHG Policy and Protocol and any forthcoming energy efficiency regulations issued by the DEC. The DEC, in its comment letter, has committed to establishing a GHG mitigation program for all entities considering new or redevelopment projects at Devens. The requirement for GHG analyses and development of a mitigation plan applies to proposed projects that:

- 1) involve generation of 2,000 or more average daily trips (adt);
- 2) involve generation of 1,000 or more adt and construction of 150 or more parking spaces;
- 3) involve construction of 300 or more parking spaces; or
- 4) require a MassDEP Air Quality Permit.

MassDevelopment has also committed to lead by example by pledging to meet Massachusetts Leadership in Energy and Environmental Design (LEED)-Plus green building standards for its own projects at Devens. I commend MassDevelopment and the DEC for their commitments to GHG mitigation and other measures to promote sustainable design and reduce environmental impacts at Devens.

MassDevelopment has committed in its Section 61 Findings to set aside approximately one-third of Devens for open space and recreation, to prepare an Open Space and Recreation Plan (OSRP), and to establish conservation easements and permanent conservation restrictions. Comment letters from the Town of Shirley Conservation Commission, the Town of Ayer Board of Selectmen, and MassAudubon have expressed concern regarding the timetable for permanent protection of land as part of the Devens OSRP. Since the OSRP was developed in 1996, a Conservation Restriction has been placed on Mirror Lake and the eskers. However, other parcels

included in the OSRP have not yet been permanently protected. The OSRP has been updated recently and reviewed by the Towns of Harvard, Shirley, Ayer and the DEC. MassDevelopment, in its Section 61 Findings, has committed to submit the plan to the EEA Division of Conservation Services for approval.

This NPC includes an update on impervious area at Devens indicating that impervious area has decreased overall between 1996 and 2008. Although development at Devens has resulted in creation of impervious area, this has been offset by removal of existing pavement and former military buildings, resulting in an approximately one percent decrease in impervious area overall. Future development may result in additional impervious area and MassDevelopment indicates that new projects at Devens will comply with DEC requirements for Low Impact Development (LID). As indicated by MassDEP in its comment letter, the new stormwater regulations that became effective on January 2, 2008 will apply to future construction and development at Devens.

Based on a review of the information provided by MassDevelopment and consultation with relevant public agencies, I find that the potential impacts of the proposed change in Section 61 Findings do not warrant preparation of a Supplemental Environmental Impact Report. The proposed procedural changes appears to be consistent with the Devens Reuse Plan proposed in the FEIR and would result in a level of development that is generally consistent with the envelope of impacts predicted in the FEIR and subsequent NPCs. I remind MassDevelopment that permanent protection of lands under Article 97 of the State Constitution, as identified in the recently updated Open Space and Recreation Plan, with the exception of any land still undergoing remediation, should be completed prior to additional development beyond the 5.787 million sf proposed in the FEIR.

July 11, 2008

DATE



Ian A. Bowles., Secretary

Comments Received

5/29/08	Devens Enterprise Commission
6/06/08	Montachusett Regional Planning Commission
6/10/08	Massachusetts Department of Environmental Protection , Central Regional Office
6/27/08	MassAudubon
7/01/08	Town of Shirley , Conservation Commission
7/03/08	Town of Ayer, Board of Selectmen

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