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August 15, 2008

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IAN A. BOWLES
SECRETARY

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

PROJECT NAME : Boston East
PROJECT LOCATION : 103-148 Border Street - East Boston
PROJECT WATERSHED : Boston Harbor
EOEA NUMBER : 14123
PROJECT PROPONENT : Trinity Border Street, LLC
DATE NOTICED IN MONITOR : June 11, 2008

As Secretary of Energy and Environmental Affairs, I hereby determine that the Draft Environmental Impact Report (DEIR) submitted on the above project **adequately and properly** complies with the Massachusetts Environmental Policy Act (G.L.c.30, ss. 61-62H) and with its implementing regulations (301 CMR 11.00).

Project Description

As described in the DEIR, the proposed project consists of the construction of a 215,005-square foot (sf) 196-unit residential development of one and two bedroom units. The project will include a 2,100-sf community gallery and five live/work units (included in the 196-units) within the residential building. It also includes a 20,000-sf marine industrial building, two 560 sf finger piers supporting a marine travel lift, 44,210 sf of open space, and 730 linear feet of Harborwalk (12 feet wide) along the entire waterfront side of the site. The project is comprised of two development areas: one within the Non-Designated Port Area with a residential building, and a second area located within a Designated Port Area (DPA) on the south side of the site that includes a two-story marine industrial facility with finger piers and a marine travel lift. Thirteen percent (25) of the residential units will be affordable. The site contains about 3.4 acres of vacant land, and consists of filled and flowed Commonwealth tidelands. The project site also contains approximately 10.8 acres of watershed.



The project requires a mandatory EIR. It may require a 401 Water Quality Certificate, a Construction Dewatering Permit, a Notification of Construction and Demolition, Compliance with the Massachusetts Contingency Plan, and a Chapter 91 Waterways License from the Department of Environmental Protection (MassDEP). The project will require approval of an amendment to the Municipal Harbor Plan (MHP) by the Executive Office of Energy and Environmental Affairs (EEA). The Massachusetts Historical Commission (MHC) will evaluate the project's potential impacts to historical resources. The Massachusetts Board of Underwater Archaeological Resources will require a Special Use Permit (312 CMR 2.06). The project must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site. The project may require a Notice of Construction and a Section 10/Section 404 Programmatic General Permit from the U.S. Army Corps of Engineers. It may require Federal Consistency Review by the Massachusetts Coastal Zone Management (MCZM) Office. The project will require an Order of Conditions from the Boston Conservation Commission. Because the project site requires a Chapter 91 Waterways License, MEPA jurisdiction extends to any aspects of the project that may have significant environmental impacts.

Access to the proposed parking garage will be from Border Street. Another driveway for residential off-street loading will be located on the north side of the site, and a third driveway to the surface parking lot will also be provided on Border Street. Using the Institute of Traffic Engineers Trip Generation land use codes 232 for High Rise Residential Condominium/Townhouse and 110 for General Light Industrial use, the proponent has estimated that the project will generate approximately 1,303 unadjusted new average daily vehicle trips. The proponent will provide 167 parking spaces (about 0.7 parking spaces per unit). There will be 26 surface parking spaces reserved for the marine industrial use and 141 spaces within the parking garage reserved for the residences.

The proposed project will be connected to existing municipal water and sewer service. It will consume approximately 26,740 gallons per day (gpd) of water and will generate 24,310 gpd of wastewater flow.

The project is subject to review by the Boston Redevelopment Authority (BRA) under the Article 80 Large Project Review process of the Boston Zoning Code. Accordingly, the proponent has prepared a Draft Project Impact Report (DPIR). The proponent should coordinate this joint review process with both agencies to establish the necessary review periods for the Final EIR/PIR.

The proposed project requires an amendment to the MHP and the proponent is working with the City to amend the MHP. In accordance with the MHP regulations at 301 CMR 23.04, such an amendment requires a public review process, prior to a decision on the amendment by the Secretary of Energy and Environmental Affairs. The public process is being coordinated by the City of Boston under the guidance of the MCZM Office. The proponent is coordinating the MEPA and MHP amendment processes to review project design, programming, and decision-

making. The FEIR should not be submitted until the MHP process has been completed to ensure that all relevant terms and conditions of this approval are resolved prior to issuance of the FEIR Certificate.

Review of the DEIR

The DEIR provided a detailed project description. It stated that the residential building would be built first, and the marine industrial building would be built when a potential tenant is identified. The DEIR discussed the consistency of the project with local and regional growth management and open space plans, Executive Order (EO) 385 (Planning for Growth), the East Boston Municipal Harbor Plan (MHP), and the Master Plan for East Boston.

The DEIR compared the No-Build Alternative, the Preferred Alternative, the ENF Alternative, and a Chapter 91 Compliant Alternative. It evaluated the proposed site layout and described alternative layouts for the site that were considered in the Chapter 91 review process. This analysis provided a comparison of the differences between the environmental impacts associated with each of the alternative building designs and site layouts.

The DEIR described how the proposed project will comply with the Waterways Regulations at 310 CMR 9.00. The waterways licensing concerns are building massing, wind and shadow impacts, public views, facilities of public accommodation (FPA), water-based public facilities, open space, and parking. The project is subject to the East Boston Municipal Harbor Plan (MHP). The proponent is seeking an amendment to the MHP to provide flexibility on building height, waterfront setback, and ground floor use. The DEIR identified the portion of the project site within the Designated Port Area (DPA). It contained site and floor plans for the project showing cross-sectional views and elevations of the floor levels. The DEIR identified the existing and proposed site lines. The design alternatives used pedestrian level perspectives to assess impacts to water views. The specific ground floor FPAs were identified in the DEIR.

The DEIR provided sufficient information to document the project's compliance with the applicable provisions of M.G.L. c. 91 and its implementing regulations (310 CMR 9.00) and the East Boston Municipal Harbor Plan. It presented a technical analysis of how the project complies with the various dimensional requirements set forth in the regulations as they pertain to new buildings for non-water dependent use. The DEIR demonstrated that the project will comply with the limitations on facilities of private tenancy and the requirements for FPAs found in the referenced regulations at 9.51(3)(b) and 9.53(2)(c). It identified the measures undertaken by the proponent to address the safety and security issues associated with the adjacent Boston Towing operations and the potential marine industrial operations that are proposed for this site. The DEIR addressed how the project will meet the open space standards of the Waterways Regulations.

The DEIR was prepared in conformance with the EOEA/EOTC Guidelines for EIR/EIS Traffic Impact Assessment. It analyzed traffic impacts by determining the Level-of-Service

(LOS) at the intersections required in the ENF Certificate and the Boston Transportation Department (BTD) comment letter. The DEIR's LOS analysis included both morning and evening weekday peak hour traffic, volume to capacity ratios, vehicle queues (50th and 95th percentiles), a traffic distribution map, and background growth from other proposed projects in the area. Future conditions cover a five-year time horizon (2013). The DEIR examined present (2008) and future (2013) build and no-build traffic volumes for all impacted roadways and intersections. It utilized trip generation estimates based on Land Use Code (LUC) 232 (High Rise Residential Condominium/Townhouse) and 110 (General Light Industrial). Trip generation rates were quantified and explained in the DEIR. The DEIR included a breakdown by transportation mode. Because the maritime industrial user has not been identified by the proponent at this time, the DEIR has not identified the trucking and servicing needs of this user. The DEIR identified the access needs for the maritime industrial user and considered Massachusetts Highway Department's (MassHighway) and Boston's plans for the reconstruction of roadways in the vicinity of the project. Traffic accident history for the three most recent years for which data are available were reviewed and presented for the study area.

Parking at the site will include approximately 141 parking spaces in an underground parking garage and 26 surface parking spaces. The DEIR identified the parking supply in the area, both off- and on-street parking, proposed parking fees, and parking demand from the project. It identified the number of parking spaces required by zoning, and recommended by the Boston Transportation Department (BTD) in its citywide standards.

The DEIR stated that sidewalks are provided along both sides of the study area streets. A new sidewalk would be constructed along the site's frontage on Border Street. The proponent will also construct a portion of the Harbor Walk along the shoreline. The DEIR identified the proposed pedestrian and bicycle facility improvements included with this project.

The DEIR identified the potential Transportation Demand Management (TDM) measures that the proponent will commit to implementing. The DEIR identified MBTA bus routes in the neighborhood. There are no known private shuttle buses operating in the neighborhood.

The DEIR contained an alternatives analysis to ensure that all wetland impacts are avoided, and where unavoidable impacts occur that impacts are minimized and mitigated. The DEIR has indicated that the project would impact the following wetland resource areas: 100 sf of Land under the Ocean; 100 sf of Fish Runs; 100 sf of a Designated Port Area; 21,954 sf of Coastal Beach; and 50,900 sf of Land Subject to Coastal Storm Flowage. The resource area boundaries and 100-year flood elevations were delineated on a plan. Filled and flowed tidelands were surveyed, mapped, and located on the plans.

The DEIR included a detailed description of the site's drainage system design. It presented drainage calculations for stormwater runoff for the 2, 10, 25, and 100-year storm events. The proponent has designed the stormwater management system to discharge to the Harbor. Proposed erosion and sedimentation control and drainage discharges were evaluated. The

DEIR addressed the performance standards of MassDEP's stormwater management regulations. A maintenance program for the drainage system was described in the DEIR. This maintenance program outlined the actual maintenance operations, sweeping schedule, responsible parties, and back-up systems.

The DEIR described the dewatering of the construction site. It identified monitoring measures to avoid significant impacts to the groundwater levels. The DEIR summarized pre-construction groundwater conditions and outlined how the proponent will monitor groundwater levels. The proponent will install one groundwater well that will be given to the Boston Groundwater Trust (BGT). The DEIR identified how contamination encountered during construction would be addressed. The project will be in compliance with the Massachusetts Contingency Plan (MCP).

The DEIR did not identify any impacts from the project on the drinking water supply and distribution system and the municipal wastewater system. The wastewater system in the project area is a combined system for stormwater and sewer. The proponent will provide separation of stormwater/wastewater at the site. The DEIR outlined the proponent's efforts to reduce water consumption and thereby reduce wastewater generation. It did not identify any capacity deficiencies within the municipal wastewater system to handle the project's additional wastewater flows.

The DEIR presented a discussion on potential construction period impacts and analyzed feasible measures that can avoid or eliminate these impacts. The proponent is proposing minor filling at the site. Truck routes to the proposed construction site were identified in the DEIR. The DEIR identified construction hours. It included a conceptual-level landscaping plan and building elevations from all sides.

The project site is identified within the *City-Wide Comprehensive Industrial Survey, Boston, Massachusetts, 1996-1997* that was conducted on behalf of the Boston Landmarks Commission and MHC. The project site may be eligible for listing in the National Register of Historic Places. The DEIR reported on the results of the reconnaissance (historic and archaeological) survey that was conducted at the project site by the proponent. The scope of the investigation included a documentary research to trace the land use and development history of the property. It located and identified historic sites, and it recommended an Area of Potential Effect to avoid, minimize, or mitigate adverse effects on historic artifacts. Available recent high-resolution aerial photographs taken at low tide, and accurate maps of the property were reviewed and included in the DEIR to assist in documenting the location and condition of the pier pilings, marine railway, and other potentially important site features, including any submerged cultural resources. The DEIR included recommendations for additional investigations to preserve important site characteristics that can be incorporated into the project design. The results will be considered when developing the public interpretation initiative as part of the public benefit and access plan. The impacts of wind and shadow on adjacent and proximate historic properties were also considered in the DEIR.

In the DEIR, the proponent incorporated sustainable design elements into the project design. The proponent is proposing to conform to the sustainable design requirements of Article 37, Green Buildings of the BRA Zoning Code.

SCOPE

The FEIR should resolve the remaining issues outlined below, as required by this Certificate. It should include a copy of this Certificate. The FEIR should follow the MEPA Regulations at 301 CMR 11.07 for outline and content, as modified by this Certificate and the Article 80 requirements. It should address the comments listed at the end of this Certificate, to the extent that they are within the required scope.

Project Description & Regulatory Environment

The FEIR should include a detailed description of the project with a summary/history of the project. It should provide an existing and a proposed site plan. The FEIR should repeat the description of each state agency action required for the project that is contained in the DEIR. It should show that the project is consistent with the applicable performance standards. The FEIR should contain sufficient information to allow the permitting agencies to understand the environmental consequences related to the project.

Waterways/Wetland Resource Areas

The FEIR should provide additional information regarding the project's compliance with the requirements for activating the shoreline, pursuant to 310 CMR 9.52(1)(a) and 9.53(2)(a). MassDEP recommends that the proponent consider additional alternatives to the addition of a fishing area to the Harbor Walk, including provision or funding of public water transportation opportunities at or near the project site. Because the project proposes to place fill, bulkheads, and riprap within LSCSF, the FEIR should address the impacts to storm damage prevention and flood control. The FEIR should demonstrate that the construction of the proposed bulkheads and riprap will not have an adverse effect on the coastal beach by increasing erosion, decreasing the volume, or changing the form of the coastal beach, as requested by MassDEP. The FEIR should provide an assessment of the significance of coastal banks to storm damage prevention, flood control, and as a continuous source of sediment for coastal beaches. It should include an evaluation of potential impacts on marine fisheries due to alteration of water circulation, redistribution of sediment grain sizes, and changes in water quality. Where LUO is a fish run, the significance to the protection of marine fisheries should be evaluated as requested by MassDEP.

Drainage

The FEIR should identify the design and construction methods for the underslab drainage system. The existing groundwater levels are critical to keeping wood pilings wet. The FEIR

should ensure that the project not lower area groundwater levels. It should discuss the consistency of the project with the provisions of the National Pollutant Discharge Elimination System (NPDES) General Permit from the U.S. Environmental Protection Agency for stormwater discharges from a construction site. It should include a discussion of best management practices employed to meet the NPDES requirements, and should include a draft Pollution Prevention Plan. According to MassDEP, the stormwater management system must be designed to capture and treat one-inch of runoff, and it must conform to the Stormwater Management Standard 6, which requires shutoffs of the stormwater system in the event of a release of contaminants. MassDEP classifies the project as a “new” project and not as a redevelopment project because of the increase in impervious area. The FEIR should consider Low Impact Development (LID) controls to control stormwater runoff. MassDEP requests that the proponent consider adding green roofs to the buildings, rain gardens, tree filter boxes, and other LID methods.

Water/Wastewater

The wastewater flow estimate of 24,310 gpd in the DEIR does not appear to be consistent with the sewage generation rates in the Massachusetts Environmental Code, Title 5, 314 CMR 15.00, and the sewer extension and connection regulations in 314 CMR 7.0 for residential bedrooms. Residential bedrooms are rated at 110 gpd per bedroom. In the ENF, wastewater flow was estimated at 33,840 gpd. Water consumption should reflect about 110 percent of wastewater generation to allow for outside watering and other uses. The FEIR should revise both the wastewater generation and water consumption rates to reflect these conditions. The proponent is proposing to construct a storm drain and outlet from Border Street to Boston Harbor as mitigation for infiltration and inflow (I/I). MassDEP is requesting the proponent to consider I/I reduction at a minimum of a 4:1 ratio for the sewershed to which the flow is added. This I/I reduction amounts to the removal of 135,360 gpd of wastewater. The FEIR should address this I/I issue and work closely with the Boston Water and Sewer Commission (BWSC), the Massachusetts Water Resources Authority (MWRA), and MassDEP.

Construction Issues

The FEIR should include a construction management plan that describes the project’s phasing, erosion and sedimentation controls, monitoring, and contingencies.

Historical Resources/Cultural Issues

The historical/archaeological survey scope should include a review of the data from the geotechnical coring for information about subsurface conditions. Additional subsurface investigations may be recommended to locate and identify important archaeological features and deposits. The surveys will be limited to the footprint of the proposed residential building and the utility corridor for the proposed sewer overflow pipe. The proponent should consult with the Massachusetts Board of Underwater Archaeological Resources and MHC for the development of

a research design and methodology for such surveys.

Sustainable Design

The FEIR should summarize the proponents' efforts to obtain a Leadership in Energy and Environmental Design (LEED) Certification for each proposed building. The FEIR should consider additional measures to advance sustainability by the proponent.

Mitigation

The FEIR should include a separate chapter on mitigation measures. This chapter on mitigation should include a draft Section 61 Finding for MassDEP. The draft Section 61 Finding should contain 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. A schedule for the implementation of mitigation should also be included.

In the DEIR, the proponent has committed to provide the following mitigation measures:

- Extend the Harbor Walk along 730 linear feet of the seaward edge of the site.
- Create approximately 44,210 sf of open space
- Remove all the deteriorated timber pilings within the watershed of the project site.
- Provide public access ways from Border Street to the water's edge on a site that has no public access.
- Provide FPAs (community gallery with restrooms and programs for community residents and five live/work units) to a site that has none.
- Provide 25 affordable residential units.
- Install a groundwater monitoring well, which will be donated to the BGT.
- Provide two finger piers supporting a marine travel lift and a marine industrial building.
- Construct a new stormwater overflow for the BWSC stormwater system on the project site.
- Implement the following TDM measures: designate an on-site transportation coordinator; provide a parking space to a car-sharing service, such as Zipcar; transit and ridesharing information to all residents and employees; market rate parking lease fees; and bicycle racks and bicycle storage for residents as well as shower and locker facilities to employees.
- Participate in MassDEP's Clean Air Construction Initiative to mitigate diesel emissions and retrofit construction equipment for the use of on-road low-sulfur diesel (LSD) fuel.

I strongly urge the proponent to participate in BWSC's 4:1 Infiltration/Inflow removal program. The FEIR should describe the proponent's efforts to establish the Harbor Walk and public open space as well as FPAs on the ground floor of the building as part of its Chapter 91 Licensing process. It should describe the proponent's efforts to work with the community regarding the types of public facilities to be provided at this location. The proponent should

continue to work with MassDEP, the BRA, The Boston Harbor Association, and other East Boston advocacy groups to improve access along the shoreline of Boston Harbor.

Response to Comments

In order to ensure that the issues raised by commenters are addressed, the FEIR should include a response to comments. This directive is not intended to, and shall not be construed to enlarge the scope of the FEIR beyond what has been expressly identified in the initial scoping certificates or this Certificate.

Circulation

The FEIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should also be sent to the list of "comments received" below and to Boston officials. A copy of the FEIR should be made available for public review at the Boston Public Library (East Boston Branch).

August 15, 2008

DATE



Ian A. Bowles

Comments received :

Fort Point Associates, 6/2/08
 Fort Point Associates, 6/20/08
 MA Board of Underwater Archaeological Resources, 6/20/08
 Boston Groundwater Trust, 6/25/08
 Fort Point Associates, 7/17/08
 MHC, 7/18/08
 MCZM, 7/21/08
 Robert Fleming, 7/29/08
 Senator Anthony Petrucci, Representative Carlo Basile, and City Councilor Salvatore LaMattina, 7/30/08
 Thomas J. Weikle & Joseph H. Rogers, Jr., 7/31/08
 Dan, Sarah and Abby Cronin, 8/1/08
 Kate Sullivan, 8/1/08
 Mary Ellen Yankosky, 8/3/08
 MassDEP/Waterways – Boston, 8/4/08
 MWRA, 8/4/08
 MassDEP/NERO, 8/4/08
 Lorraine Curry, 8/4/08
 BWSC, 8/4/08

EEA #14123

DEIR Certificate

August 15, 2008

Greg Yankosky, 8/5/08
James W. Bowen, 8/5/08
The Boston Harbor Assoc., 8/6/08
MCZM, 8/6/08
Fort Point Assoc., 8/7/08

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