



*The Commonwealth of Massachusetts*  
*Executive Office of Energy and Environmental Affairs*  
*100 Cambridge Street, Suite 900*  
*Boston, MA 02114*

Deval L. Patrick  
GOVERNOR

Timothy P. Murray  
LIEUTENANT GOVERNOR

Ian A. Bowles  
SECRETARY

Tel: (617) 626-1000  
Fax: (617) 626-1181  
<http://www.mass.gov/envir>

September 5, 2008

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

PROJECT NAME : Bear Hill Subdivision  
PROJECT MUNICIPALITY : Rutland  
PROJECT WATERSHED : Chicopee  
EOEA NUMBER : 13509  
PROJECT PROPONENT : C.B. Blair Enterprises, Inc.  
DATE NOTICED IN MONITOR : August 6, 2008

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62I) and Section 11.03 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **does not require** the preparation of an Environmental Impact Report (DEIR).

The proposed project involves the construction of a 53-lot residential subdivision on a 71-acre site abutting Route 56 (Pommogussett Road) and Vista Circle to the west, Moulton Pond to the south, and Bear Farm Drive to the east in Rutland. The project includes the construction of approximately 5,675 linear feet (lf) of roadway, interconnecting internal walkways, associated utilities and stormwater management infrastructure including two stormwater detention basins. Currently, the Proponent has completed construction of the project's drainage, sewer, water supply systems and approximately 12 houses. The project site will be accessed from Bear Farm Drive to the northeast and from Vista Circle to the southwest. Bear Farm Drive also serves as the main site drive for the Proponent's Britnall Estates residential subdivision project. Vista Circle also serves as the main site drive for the Proponent's Highlands at Brunelle East residential subdivision project.

The project has undergone review pursuant to Sections 11.03 (1)(b)(1) and (5)(b)(3)(c) of the MEPA regulations, because it proposed to directly alter more than 25 acres of land (28.3 acres total), and to construct a new sewer main ½ or more miles (1.3 miles total) in length. The project requires a 401 Water Quality Certificate from the Department of Environmental Protection (MassDEP). A portion of the project site is located in the watershed of the Ware River, an Outstanding Resource Water (ORW). Subsequent to the issuance of the Secretary's Certificate on the ENF, the project received a Variance under the Watershed Protection Act (WSPA) (350 CMR 11.00) from the Department of Conservation and Recreation (DCR) and an Order of Conditions from the Rutland Conservation Commission for the crossing and filling of bordering vegetated wetlands (BVW). MEPA jurisdiction extended to those aspects of the project within the subject matter of required or potentially required state permits and that have the potential to produce significant damage to the environment including issues of land alteration, wetlands/water quality (including impacts to rare wetland species, and wastewater.

### Notice of Project Change

The Proponent originally proposed one wetland crossing from Bear Farm Drive to access the upland areas of the project site resulting in the permanent alteration of approximately 4,937 square feet (sf) of Bordering Vegetated Wetlands (BVW). This wetland crossing involved five 20 foot x 10 foot rise arch spans with a wetland fill of 4,937 sf. This wetland crossing received a 401 Water Quality Certification from MassDEP and an Order of Conditions from the Rutland Conservation Commission. DCR issued a Variance to the WSPA to allow the wetland crossing.

As described in the NPC, the proponent has modified the design of the wetland crossing to now include the construction of pre-cast deck sections on pier walls supporting a block retaining wall on either side of the pre-cast deck. The block retaining walls will be backfilled with clean structural fill. Foundations would be required for six 38 foot x 9 foot high pier walls with pre-cast concrete wing walls, spandrel walls, and footings. According to the Proponent, the project change will result in a reduction of wetland fill from 3,243 sf to 1,694 sf. The Proponent is also proposing to replace a stormwater detention pond with a 700-foot long infiltrator/dissipator trench system to distribute stormwater flow over a large area simulating predevelopment conditions. The dissipator will also provide treatment over a long reach before the wetlands and eliminate a point source discharge to the wetlands. This stormwater dissipation/infiltrator system is dependent in part on a well-vegetated buffer strip. According to the comments received from MassDEP and DCR, the vegetated buffer strip has been extensively altered by the Proponent's construction activities. The Proponent's site clearing, excavation and grading activities have resulted in erosion and sedimentation from the construction site directly into BVW resource areas and Moulton Pond. MassDEP has indicated that the 401 Water Quality Certificate (WQC) originally issued for this project must be amended to reflect these existing site conditions and proposed project changes.

In its comments on the NPC, DCR has indicated that the proposed project change will require a new Variance from the Watershed Protection Act in March 2006. The Order of Conditions issued by the Rutland Conservation Commission must also be amended. The Proponent must submit revised plans and supporting documentation to MassDEP, DCR and the Rutland Conservation Commission to amend these permits.

All project plans must be revised to include current information, dates and required engineering review. The Proponent must clarify proposed project revisions and those aspects of the original project proposal to remain in effect. Project plans should include details of the revised crossing, any grade changes, and re-vegetation plans. The Proponent must identify and enumerate any/all existing and proposed alterations to BVW resource areas including, but not limited to, alterations to wetlands from shading and vegetation removal. The Proponent must design and implement an approved wetlands restoration plan. I strongly encourage the Proponent to work closely with DCR during the design of the wetlands restoration plan for this project. The proposed stormwater infiltrator system is dependent in part on a well-vegetated buffer strip. As noted elsewhere in this Certificate, this buffer strip has been extensively altered by construction activity and erosion problems on the site and must be replanted. According to DCR, the proposed infiltration/dissipation drainage system must be re-evaluated and possibly re-designed in response to the extensive alteration and erosion that has occurred on the project site.

As described in this NPC submittal, the Proponent has also proposed to construct a new stormwater detention basin (Detention Pond #1) to be located immediately east of Lots #8, #10 and #12 that will discharge eastward directly to BVW resource areas. According to DCR, the Proponent must redesign this new basin to avoid direct discharge to BVW or apply for to DCR for another Variance for this aspect of the project. The Proponent must also prepare and submit a construction sequencing and impact mitigation plan to DCR for the remaining project construction activities including the proposed wetland crossing and the stormwater infiltrator system. The construction sequencing and impact mitigation plan must include a detailed description of how the Proponent proposes to implement stormwater management and erosion and sedimentation controls associated with the construction of each of the proposed 53 individual house lots. DCR has indicated in its comments that the Proponent will also be required to provide an on-site engineer to supervise all remaining on-site project construction activities as a condition of a new Variance that may be issued for this project.

I continue to encourage the Proponent to consider developing a Conservation Restriction for the project site that would limit the total amount of land area to be disturbed within each of the proposed development lots, ensure the permanent protection of undisturbed open spaces located throughout the project site, and avoid future impacts from homeowner and/or Resident Association lawn and yard maintenance activities.

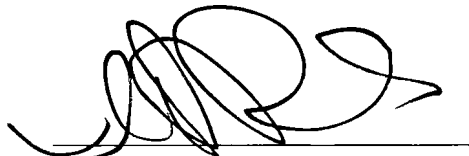
Conclusion

Based on the information provided by the proponent and consultation with relevant public agencies, I conclude that no further MEPA review is required for the Bear Hill Subdivision project, as currently proposed in the NPC. The review of the NPC has served adequately to disclose potential impacts and mitigation, and to demonstrate that project impacts do not warrant the preparation of an Environmental Impact Report. The proponent can resolve any remaining issues in the permitting process.

I remind the proponent that as described in the Secretary's Certificate on the ENF, the environmental impacts associated with the development of the Proponent's two adjacent residential subdivision developments (Highlands at Brunelle East, Britnall Estates) are considered a "common plan or undertaking" related to the development of the proposed Bear Hill residential subdivision project pursuant to Section 11.01 of the MEPA regulations. The Secretary's Certificate on the ENF required the Proponent to file a Notice of Project Change (NPC) with the MEPA Office for any future development proposals that may be proposed for these adjacent residential development parcels. The NPC should discuss both the potential cumulative infrastructure impacts and site planning issues arising out of the proposed Bear Hill Subdivision project, and the full build-out development (allowable as-of-right under current local zoning) of the Proponent's Highlands at Brunelle East project and the Britnall Estates project. When considering the future full build-out of the land development component, it is likely that the full-build scenario will meet mandatory EIR thresholds (at a minimum) related to land alteration, impervious surfaces, wetlands, and possibly traffic.

September 5, 2008

Date

  
Ian A. Bowles, Secretary

## Comments received:

August 13, 2008	Department of Environmental Protection (MassDEP) - CERO
August 27, 2008	Department of Conservation and Recreation (DCR)
August 27, 2008	Rutland Planning Board

IAB/NCZ/ncz  
NPC #13509