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October 10, 2007

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
ON THE  
ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : Haverhill-Merrimack River Walkway (Task A and B)  
PROJECT MUNICIPALITY : City of Haverhill  
PROJECT WATERSHED : Merrimack River  
EEA NUMBER : 14097  
PROJECT PROPONENT : City of Haverhill  
DATE NOTICED IN MONITOR : September 10, 2007

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **does not require** the preparation of an Environmental Impact Report (EIR).

The proposed project consists of development of a 2.5 mile walkway, which will form a loop that circles the Merrimack River between the Upper County/Joseph C. Comeau Bridge and the Basiliere Bridge (Route 125). The project is designed to increase visual, pedestrian and recreational access to the river, and is being proposed in two phases. Task A includes renovation of an existing parking lot to provide stormwater treatment, installation of a 300-foot segment of the Riverwalk, and redecking of an existing section of walkway. Task B will expand the River Walkway to the south bank of the river. The proposed walkway on the north bank of the river will be cantilevered over the river with about a foot elevation difference between the walkway deck and the 100-year storm event at elevation 23. The walkway along the south bank is proposed at grade and within an existing railroad right-of-way. The City is currently engaged in negotiations with the property owners (Pan Am Railroad) to purchase this railroad corridor.

The project is undergoing MEPA review because it requires state agency action and exceeds one or more thresholds for filing of an Environmental Notification Form (ENF). The project will receive financial assistance from an agency of the Commonwealth, the Executive Office of Transportation (EOT). The project requires a Chapter 91 License from the Massachusetts Department of Environmental Protection (MassDEP), an Order of Conditions

from the Haverhill Conservation Commission (and, on appeal only, a Superseding Order from MassDEP), and may require a Conservation and Management Permit from the Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program (NHESP).

The project is under review pursuant to Section 11.03(3)(b)(1)(f) because it will result in alteration of 1/2 acre or more of wetlands, Section 11.03(3)(b)(1)(b) because it involves alteration of 500 or more feet of inland bank, and Section 11.03(2)(b)(2) because it may involve a taking of a state-listed endangered species. The project will receive financial assistance from EOT. Therefore, MEPA jurisdiction is broad and extends to all aspects of the project with the potential to cause Damage to the Environment as defined in the MEPA regulations.

### Wetlands and Waterways

According to the ENF, Task A will alter 1.3 acres of the 100-year Floodplain and Riverfront Area. Task B will impact an additional 1.7 acres of Riverfront Area, a portion of which is Bordering Land Subject to Flooding. The proposed cantilevered walkway will alter approximately 3,000 feet of inland bank. The proponent will be required to provide compensatory flood storage if there is filling in the 100-year floodplain consistent with the performance standards in 310 CMR 10.57 (4). The proponent should provide additional information to MassDEP during permitting to address any compensatory storage requirements.

Chapter 91 prohibits extension of structures beyond a state harbor line without prior legislative approval. MassDEP had raised this issue when the Riverwalk project was previously filed for review (EOEA #11065). However, as noted by MassDEP in its comment letter, the state harbor line has been moved 30 feet from the United States Army Corps of Engineers (ACOE) flood wall through an Act of the Legislature and no longer interferes with the proposed cantilevered walkway. The proponent should submit a copy of Chapter 453 of the Acts of 2002, authorizing relocation of the harbor line, to MassDEP as part of the Chapter 91 application.

### Stormwater

The proposed project includes stormwater improvements at the TAP parking lot to treat runoff prior to discharge to the Merrimack River. The cantilevered walkway on the north side of the River will be constructed with planks that will allow drainage. The river walkway proposed on the south side (Bradford side) consists of a 10-foot paved pathway with a 2-foot gravel border on each side to allow stormwater infiltration. I encourage the proponent to consider using porous pavement for the walkway on the south side, as recommended by MassDEP, to avoid adding new impervious area within Riverfront Area, which may increase surface runoff.

### Rare Species

The proposed project occurs within or immediately adjacent to the habitat for Shortnose Sturgeon (*Acipenser brevirostrum*) and the Bald Eagle (*Haliaeetus leucocephalus*), which are state-listed as Endangered species and protected pursuant to the Massachusetts Endangered Species Act (MESA) and its implementing regulations (310 CMR 10.00). Additional information and analysis pertaining to Task B and its potential impacts on the Bald Eagle and its habitat

should be provided by the proponent to NHESP. The proponent should develop, in consultation with NHESP, appropriate measures to avoid and minimize, or mitigate any adverse impacts to endangered species and their habitat.

The project as proposed in the ENF does not involve any water-based work. If it becomes necessary for any machinery to enter the water during Task A, the proponent should consult with NHESP in advance regarding possible interactions with Shortnose Sturgeon and additional information, analysis, or mitigation that may be required. I remind the proponent that changes to the project as proposed in the ENF may require a Notice of Project Change pursuant to Section 11.10 of the MEPA regulations.

The NHESP, in its comment letter, indicates that it is confident that rare species issues can be resolved and is available for consultation in advance of a formal MESA filing. If the NHESP determines that the project will "take" a rare species, the proponent should, to the extent feasible, redesign the project to avoid a "take". If such revisions are not possible, the project may only be permitted if it meets the performance standards for a Conservation and Management Permit under MESA (321 CMR 10.23).

#### Historical and Archaeological Resources

As further detailed in the comment letter from the Massachusetts Historical Commission (MHC), a reconnaissance survey was conducted for the project and MHC, MassHighway, and the Federal Highway Administration have been in consultation regarding measures to avoid, minimize, or mitigate any adverse effects to significant archaeological and historical resources. A portion of the project is located adjacent to several recorded archaeological sites and the Washington Street Shoe Historic District, which is listed in the State and National Registers of Historic Places. MHC concurs with MassHighway's determination that Task A will have "no adverse effect" on the historic characteristics of the Washington Street Shoe Historic District, and that no further archaeological investigation is required within the Task A project area. However, the Task B project area on the south side of the river may contain significant archaeological resources and the proponent should conduct an intensive (location) archaeological survey (950 CMR 70) for the Task B project area once preliminary plans are developed. The proponent should submit a draft archaeological report to MHC and continue consultations with MHC to identify measures to avoid, minimize or mitigate any adverse impact to significant historical and archaeological resources.

#### Contaminated Soil

Although the ENF does not specifically identify contamination along the abandoned railroad right-of-way, it is possible that residual contamination from historical use may exist. The City should adopt appropriate measures for the rail trail component of the project that are protective of the environment and public health. I refer the proponent to MassDEP's comment letter and guidance document, *Best Management Practices for Controlling Exposure to Soil during the Development of Rail Trails*, which is available on the following web site.  
<http://www.mass.gov/dep/cleanup/laws/railtrail.doc>

Mitigation

The proponent has committed to implement measures to avoid, minimize and mitigate environmental impacts, including measures to protect wetlands and water quality, historical and archaeological sites, and endangered species. The proponent will be required to provide additional information and analysis during permitting, and should develop mitigation plans, as appropriate, in consultation with state agencies.

I am satisfied that any remaining issues associated with the proposed River Walkway can be adequately addressed during the state and local permit and review processes. The project as proposed in the ENF requires no further review under MEPA.

October 10, 2007

DATE



Ian A. Bowles, Secretary

Comments Received:

- 09/20/07 Massachusetts Historical Commission
- 09/26/07 Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program
- 09/28/07 Department of Environmental Protection, Northeast Regional Office
- 10/01/07 WalkBoston

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