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November 14, 2008

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

PROJECT NAME : Tom Berkowitz Trucking Site Assignment Modification
PROJECT MUNICIPALITY : Northbridge
PROJECT WATERSHED : Blackstone River
EOEA NUMBER : 14145
PROJECT PROPONENT : Tom Berkowitz Trucking
DATE NOTICED IN MONITOR : September 10, 2008

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62I) 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 an Environmental Impact Report (EIR).

Project Description

The project involves expansion of activities at an existing solid waste transfer station. The current site assignment allows the facility to receive 35 tons per day (tpd) of municipal solid waste, 5.5 days per week. The project, as proposed in the Environmental Notification Form (ENF) and the NPC, consists of three main components: an expansion of the site assigned area; an increase in the amount of tonnage that may be received (from 35 tpd to 100 tpd, 6 days per week); and addition of construction and demolition (C&D) material as an allowable waste. The project would result in an increase in truck trips from 26 trips per day to 46 trips per day.

The current site assignment applies to the buildings only on a 0.23-acre portion of the project site. The proponent seeks to expand the site assigned area to encompass the entire 2.69-acre site and thereby include areas that are currently used to store equipment and containers for recyclable materials.

The main project elements have not changed since the filing of the ENF. However, as further detailed below, the proponent has filed the NPC because of changes regarding riverfront area impacts and state permits required.

MEPA History

A Certificate on the ENF was issued on January 9, 2008, which determined that the project did not require an EIR. However, as noted in the Certificate, it was not clear at that time if the project was permissible because the status of the site with regard to riverfront area had not yet been determined. The proponent was advised by MassDEP to submit a Request for Determination of Applicability (RDA) to the Northbridge Conservation Commission to determine if the site is located within the riverfront area of the Mumford River. The Certificate on the ENF required that the proponent file a NPC if there was any material change based on the outcome of the RDA process.

Project Change

The project change consists of riverfront area impacts and a new state agency action that was not identified in the ENF. The ENF had indicated that the project would have no riverfront area impacts. However, since the filing of ENF, the Northbridge Conservation Commission has determined that Meadow Pond exhibits riverine characteristics. Based on the Commission's determination, dated March 26, 2008, a portion of the existing waste handling area at the project site is located within riverfront area. Therefore, the project would not meet the siting criteria in the Massachusetts Department of Environmental Protection (MassDEP) site assignment regulations for solid waste facilities at 310 CMR 16.00. The proponent intends to submit a waiver request to MassDEP under 310 CMR 16.40(18).

The NPC indicates that 27,392 square feet of the project site, currently used for transfer station operations, is located within riverfront area. The project change does not include any new construction within riverfront area. The additional tonnage proposed will be handled within the existing facilities that are located within riverfront area. This portion of the site contains a parking area, a trash processing building, a truck maintenance and office building, and a weigh scale that are used for on-going operations at the transfer station.

Permits and Jurisdiction

The original project was under MEPA review because it exceeded thresholds for an ENF and required a state agency action. The project was subject to review pursuant to Section 11.03(9)(b)(1) of the MEPA regulations because it involved an increase in capacity for storage and processing of 50 or more tons per day of solid waste, and required a Site Suitability for a Major Modification of the Existing Site Assignment from MassDEP. The project did not meet thresholds for a mandatory EIR, and the Certificate on the ENF determined that an EIR was not required.

The NPC was filed for a material change to the project involving riverfront area impacts and a new state agency action. The project change does not meet or exceed mandatory EIR

thresholds or new ENF thresholds. The project change requires a waiver from MassDEP pursuant to the Site Assignment Regulations for Solid Waste Facilities (310 CMR 16.00). The project change may also require an Order of Conditions from the Northbridge Conservation Commission (and, on appeal only, a Superseding Order from MassDEP).

The proponent is not seeking financial assistance from the Commonwealth. Therefore, MEPA jurisdiction is limited to those aspects of the project that are within the subject matter of any required or potentially required state permits and that may cause Damage to the Environment as defined in the MEPA regulations. In this case, MEPA jurisdiction extends to solid waste, wetlands, land and stormwater. The project change does not alter MEPA jurisdiction.

NPC Review

The NPC identifies riverfront area impacts associated with the project and indicates that the proponent will request a waiver from the site assignment regulations at 310 CMR 16.40(3)(d)(6), which prohibits a waste handling area within riverfront area. In order for a waiver to be granted, MassDEP must determine that the project is of overriding community, regional or state public interest and that a waiver will not diminish the level of protection of public health, safety and the environment. As part of its waiver request, the proponent should provide additional information to MassDEP, including information on the availability of other suitable sites, the environmental benefits that would result from a waiver compared with those achieved in the absence of the waiver, and whether the solid waste management objectives of the proposed project could be achieved without the waiver. The proponent should consult with MassDEP regarding additional information required for its review.

I acknowledge the comments received regarding stormwater management on the project site and note that the proponent appears to be working with MassDEP to resolve these issues. The MassDEP comment letter indicates that the proponent was cited by MassDEP for a past violation of the Wetlands Protection Act. An Administrative Consent Order with Penalty (ACOP-CE_04-6W004) required that the proponent eliminate the discharge to the wetlands resources area. Since the ENF filing, the proponent has been in consultation with MassDEP to address this issue. MassDEP has approved the proponent's alternative proposal to meet the requirements of the ACOP, which includes the following.


1. Installation of overhang over the loading dock area (trailer ramp);
2. Installation of a trench drain at the top of the loading dock to intercept stormwater runoff, diverting the stormwater away from the loading dock area; and
3. Filling the existing catch basin with sand, removing the grate and sealing the catch basin with concrete.

I note the concerns of commenters with regard to whether or not the project meets the standards for a waiver from the site assignment regulations that prohibit waste handling areas in riverfront area. However, I am confident that impacts to riverfront area and other issues relating to the waiver request can be addressed by MassDEP in permitting. I note there will be opportunity for public review and comment on the site assignment application to MassDEP. In addition, if MassDEP issues a report with a finding that the site meets the site suitability criteria,

the Northbridge Board of Health will hold a public hearing. Based on review of the NPC and comments received, and in consultation with state agencies, I am satisfied that any remaining issues can be addressed by MassDEP in permitting. No further MEPA review is required for the project change.

November 14, 2008

DATE



Ian A. Bowles, Secretary

Comments Received:

10/02/08	Department of Environmental Protection, Central Regional Office
10/26/08	Fred Consigli
10/26/08	Spaulding R. Aldrich
11/03/08	Shelly J. Buma (on behalf of the citizens for the Preservation of Northbridge)
11/03/08	Denise O'Brien

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