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December 24, 2008

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

PROJECT NAME : Lease of Certain Properties to the Town of Acton  
PROJECT MUNICIPALITY : Acton  
PROJECT WATERSHED : SuAsCo  
EEA NUMBER : 14340  
PROJECT PROPONENT : Town of Acton  
DATE NOTICED IN MONITOR : November 24, 2008

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

As described in the Environmental Notification Form (ENF), the project consists of the lease of approximately 15 acres of land for recreational activities and related facilities by the Division of Capital Asset Management (DCAM), on behalf of the Department of Corrections (DOC) who owns the property, to the Town of Acton. The property is located on School Street near Route 2 in Acton. According to the ENF, the Town of Acton has licensed from the DOC a five acre parcel of land adjacent to the subject property for approximately 20 years for use as active recreation land. In exchange, the Town of Acton has allowed the DOC to actively farm an approximately 25-acre parcel of Town-owned land (the Weatherbee lands) proximate to the project site on the opposite side of Route 2. The Town of Acton now wishes to lease an additional ten (10) acres adjacent to the five (5) acres already under license with the DOC. The project also includes the establishment of Article 97 protection on approximately 106 acres of



Massachusetts Department of Correction (DOC) lands in Acton, of which the 15 acres is a subset, subject to the collective lease/license portion of the DOC property (15 acres) for recreational activities and facilities.

### Jurisdiction

The project is undergoing MEPA review pursuant to Section 11.03(1)(b)(4) of the MEPA regulations because the project requires a State agency action and will result in the conversion of land that includes soils classified as prime, state-important or unique by the U.S. Department of Agriculture currently in active agricultural use to nonagricultural use. The project includes a proposed lease, authorized by Chapter 286 of the Acts of 2008, "An Act Authorizing the Division of Capital Asset Management and Maintenance to Lease Certain Property to the Town of Acton" (Chapter 286). The project is also related to Chapter 313 of the Acts of 2008, "An Act Designating Certain Land in the Towns of Acton and Concord for Conservation, Agricultural, Open Space and Recreational Purposes" (Chapter 313).

Since the area subject to the land transfer encompasses the entire project site, MEPA jurisdiction is functionally equivalent to full scope jurisdiction and extends to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment as defined by the MEPA regulations.

### Land

The ENF indicates that upon execution of the lease authorized under Chapter 286, the Town of Acton proposes to expand the existing adjacent playing fields to include much of the lease area. No permanent structures are proposed and the existing, unpaved parking will be expanded as necessary. Improvements will be made in accordance with Chapters 286 and 313. The ENF also states that the proposed lease area contains soils that have been identified as "important" by the Natural Resources Conservation Service (NRCS). While the creation of playing fields isn't anticipated to result in significant excavation or grading of these soils, Chapter 286 requires the Town of Acton to comply with Executive Order 193 by mitigating for the term of the lease any loss of state-owned agricultural soils and lands. The Town of Acton has offered mitigation in the form of an agricultural restriction or other suitable instrument on the Wetherbee lands, or on a similar non-state property.

### Historic Resources

The Massachusetts Historical Commission (MHC) has reviewed the Inventory of Historic and Archaeological Assets of the Commonwealth which indicated that the property contains one recorded ancient Native American archaeological site, the Fort Pond Brook site, 19-MD-502. The MHC noted that this site was first identified by avocational archaeologists and has not been subject to professional archaeological investigations. In MHC correspondence included in the ENF, MHC determined that the proposed project was unlikely to affect any significant historic and/or archaeological resources.

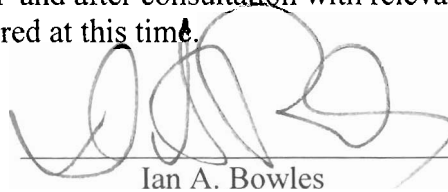
The MHC has indicated that future construction or ground disturbance activities associated with the proposed recreational facilities may have the potential to affect significant archaeological properties. The Town of Acton has committed to submit a Project Notification Form (PNF) and preliminary project plans to the MHC if and when any such activities are proposed.

Water Supply

The Massachusetts Department of Environmental Protection (MassDEP) has indicated that the property is located within the Zone II of the Acton Water Supply District wells. MassDEP has noted that should the playing fields be expanded to include the leased area, application of chemicals for pesticide or herbicide management must comply with the Massachusetts Department of Agricultural Resources groundwater protection regulations. Activities on the property must also continue to comply with the Town of Acton's existing Wellhead Protection Bylaw.

Based on the information in the ENF and after consultation with relevant public agencies, I find that no further MEPA review is required at this time.

December 24, 2008  
Date



Ian A. Bowles

Comments received:

12/02/2008 Massachusetts Historical Commission  
12/15/2008 Massachusetts Department of Protection - CERO

IAB/HSJ/hsj