



The Commonwealth of Massachusetts

Executive Office of Environmental Affairs

100 Cambridge Street, Suite 900

Boston, MA 02114-2524

MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

ROBERT W. GOLLEDGE, JR.
SECRETARY

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

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS
FOLLOWING REMAND
ON THE
FINAL ENVIRONMENTAL IMPACT REPORT

PROJECT NAME : BioSquare Phase II
PROJECT MUNICIPALITY : Boston (South End)
PROJECT WATERSHED : Boston Harbor
EOEA NUMBER : 12021
PROJECT PROPONENT : University Associates Limited Partnership
DATE NOTICED IN MONITOR : August 8, 2004

As the Secretary of Environmental Affairs, I hereby issue the following Scope for a Supplemental Final Environmental Impact Report (SFEIR).

Background

On August 11, 2004, a Certificate on the Final Environmental Impact Report (FEIR) was issued that determined the FEIR to have adequately and properly complied with the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and with its implementing regulations (301 CMR 11.00). Following the issuance of that Certificate, litigation was commenced in Superior Court involving the proponent and other parties¹. Among other things, the plaintiffs challenged the adequacy of the FEIR. In a Memorandum and Order dated July 31, 2006, the Court vacated the certification of the FEIR and remanded the matter to me for further administrative action in light of the Court's decision. The Scope that follows for the SFEIR is intended to address the specific information and analyses identified regarding the FEIR in the Court's Memorandum and Order.

¹ Ten Residents of Boston v. University Assoc. Limited Partnership, et al., Suffolk Sup Ct. C.A. No. 05-0109-BLS2. This office was not a party to that litigation.

Project Description

As described in the Draft EIR, the proposed project involves development of 457,700 square feet of medical research space, 1,400 parking spaces, and associated infrastructure on a 14.5-acre site along Albany Street. The project includes a 223,000 square foot building that will contain a "Level 4 Biocontainment" national research facility. The BioSquare Phase II project functions as an expansion of the BioSquare Phase I project (a.k.a. the University Associates Project, EOE #7034), which completed the EIR review process in 1991. The Draft EIR also includes a cumulative traffic impact analysis that incorporates analysis of the Moakley Services Center Project (EOEA #11883), in accordance with the 1999 Certificates on the Moakley Services Center Project and BioSquare Phase II Project.

Thresholds and Jurisdiction

The project is undergoing review and requires the preparation of a mandatory EIR pursuant to section 11.03 (6)(a) (6) and (7) of the MEPA regulations, because the project requires an access permit from the Massachusetts Highway Department (MHD) and involves the generation of greater than 3,000 new vehicle trips per day and provision of greater than 1,000 new parking spaces at a single location. The project will also require a Sewer Connection Permit from the Department of Environment Protection (DEP). The project will also require a minor modification to an existing Urban Renewal Plan from the Boston Redevelopment Authority (BRA), and review by the Massachusetts Historical Commission. The proponent is seeking financial assistance from the Commonwealth for the Moakley Services Center portion of the project. MEPA jurisdiction therefore extends to all aspects of the project that may have significant environmental impacts.

SCOPE

General

The form and content of the Supplemental Final EIR should conform to the requirements of the MEPA regulations at 11.07(6) except as otherwise directed by this Scope.

At a minimum, the proponent should circulate the SFEIR to those parties submitting individual written comments on the ENF, Draft EIR, and/or the Final EIR, and to any state agency from which the proponent will seek permits. The proponent should also make a reasonable number of hard copies of the Final EIR available on a first come, first served basis.

Biocontainment Building

In response to the Certificate on the Draft EIR, which requested an evaluation of a "worst case" safety event involving the loss of the physical integrity of the containment systems, the FEIR provided an analysis of a release of airborne anthrax spores. The

SFEIR should evaluate an additional “worst case” scenario that involves the risk of contagion arising from the accidental or malevolent release of a contagious pathogen. I note that the Court’s Memorandum and Order references smallpox, SARS, and the Ebola virus as potentially representative “worst case” contagious pathogens. The SFEIR should incorporate the analysis of anthrax from the FEIR to facilitate comparison and review. The analyses of a “worst case” scenario should quantify, to the extent possible, the magnitude of the impacts in terms of actual or probable damage to the environment, including the probability of the risk of the “worst case” scenario over the life of the project.

Alternatives

The SFEIR should identify feasible alternative locations for the biocontainment building, including at least one feasible alternative location located in an area less densely populated than the proposed location in Boston’s South End. The SFEIR should evaluate whether the potential public impacts due to the release of a contagious pathogen, including a “worst case” scenario, would be materially different if the biocontainment building were located in a feasible alternative location in a less densely populated area.

Mitigation

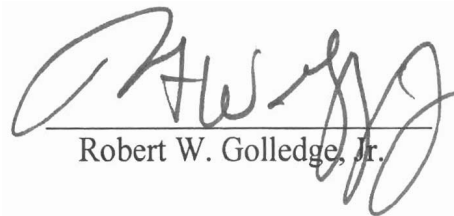
The SFEIR should demonstrate that such impacts have been avoided to the maximum extent feasible, identify measures to minimize those potential impacts that cannot be avoided, and identify appropriate mitigation for any potential impacts upon the public, such as due to the release of a contagious pathogen, that may be identified through the analyses required above. The SFEIR should contain a summary of the mitigation measures committed to by the proponent. Revised Draft Section 61 findings should be included in the SFEIR for any state agency issuing a permit or approval for the project.

Response to Comments

The SFEIR should respond to the comments received on the FEIR to the extent that they are within the Scope of the SFEIR. The SFEIR should include a copy of each comment letter received. The SFEIR need not reproduce every form letter received but should include one template and any form letters that included additional individual comments. The SFEIR should present any additional narrative or quantitative analysis necessary to respond to the comments received.

September 5, 2006

Date



Robert W. Golledge, Jr.

RWG/dbb