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October 25, 2006

DRAFT RECORD OF DECISION

PROJECT NAME: Replacement Parking at UMASS Boston
PROJECT MUNICIPALITY: Boston (Dorchester)
PROJECT WATERSHED: Boston Harbor
EOEA NUMBER: 13880
PROJECT PROPONENT: UMASS Boston
DATE NOTICED IN MONITOR: September 26, 2006

Pursuant to the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62H) and Section 11.11 of the MEPA Regulations (301 CMR 11.00), I have reviewed this project and hereby **propose to grant a waiver** from the categorical requirement to prepare an Environmental Impact Report (EIR). In a separate Certificate to be issued on October 26, 2006, I have set forth the outstanding issues related to the project that can be addressed by permitting agencies.

Project Description

As described in the Environmental Notification Form (ENF), the project consists of the creation of approximately 850 replacement parking spaces on 7.48 acres in four locations within the UMASS Boston (the University) campus. Each parking area, referred to as Areas B, C, D, and E will be paved with binder coarse, and lighting, stormwater management structures and pedestrian access routes will be constructed. This project is being proposed under the Emergency Action provisions of the MEPA Regulations (301 CMR 11.13) subsequent to the closure of the existing structured parking facility due to public safety concerns. The proposed project seeks to provide intermediate-term, semi-permanent paved surface parking facilities to alleviate shortages due to the garage closure while the University embarks on its recently initiated Institutional Master Planning (IMP) process. As indicated at the site consultation meeting, the proponent intends to construct Area D in Fall 2006, and complete paving and upgrades to Areas B,C, and E during UMASS Boston's winter break.

The project site is located within the northern portion of the UMASS Boston campus, near the terminus of Mount Vernon Street and the privately maintained one-way road within the UMASS Boston campus. In accordance with the Emergency Action provisions of the MEPA Regulations, parking Areas B,C, and a portion of Area E are presently in use by students and staff. Areas B and C were constructed of gravel and temporary lighting was in place at the commencement of the Fall 2006 semester. A portion of Area E is presently used for parking within an existing paved lot; temporary lighting was installed to facilitate use of the area for parking. The remainder of Area E is used by the Boston Water and Sewer Commission (BWSC) for a storage facility located adjacent to the Calf Pasture Pumping Station. It is anticipated that in the future the BWSC will no longer use this facility; and UMASS Boston has secured the rights to use this property for parking or other campus-related purposes once the BWSC vacates. Area D is presently a large open field maintained by the University, located adjacent to Dorchester Bay and the Harborwalk. The Harborwalk will not be altered and existing vegetation proximate to the coastline will be maintained in association with this project.

The project site is located within areas identified as filled tidelands, and contains substantial areas identified under the Wetlands Protection Act (WPA) as “Area Subject to Coastal Storm Flow” and other wetland resource areas protected under the WPA. The project site has also been identified within the most recent Atlas published by the Natural Heritage and Endangered Species Program (NHESP) as containing Priority Habitat for the Vesper Sparrow (*Pooecetes gramineus*) and is therefore subject to review under the Massachusetts Endangered Species Act (MESA).

Jurisdiction

This project is subject to the preparation of a mandatory EIR pursuant to Section 11.03(3)(a)(1)(5) because the project will require a Chapter 91 License, and consists of a new non-water dependent use that will occupy one or more acres of waterways or tidelands. The project will also result in the creation of five or more acres of impervious area (Section 11.03(1)(b)(2)), and the creation of construction of 300 or more New parking spaces at a single location (Section 11.03(6)(b)(15)), both of which are ENF thresholds under the MEPA regulations. The project requires a Chapter 91 Waterways License from the Massachusetts Department of Environmental Protection (MassDEP). It is my understanding that the project proponent intends to file for a Chapter 91 Waterways License under the Emergency Action provisions of the Waterways Regulations (310 CMR 9.20). Based upon information shared at the site consultation meeting, the project proponent has concluded the public hearing process with the Boston Conservation Commission for an Order of Conditions under the Wetlands Protection Act, and has received approval under the Category 2 Programmatic General Permit from the U.S. Army Corps of Engineers. By way of the comment letter received on the ENF from the Division of Fisheries and Wildlife – NHESP, the project has been authorized to proceed pursuant to the MESA emergency provisions (321 CMR 10.15). This comment letter also outlined specific actions and mitigation that must be undertaken by the proponent, in consultation with NHESP, in association with the project.

The project is to be financed by the Massachusetts Board of Higher Education and the Division of Capital Asset Management. Therefore, MEPA jurisdiction for this project is broad and shall extend to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment.

Waiver Request

The ENF submitted on the project was noticed in the September 26, 2006 Environmental Monitor. The waiver request was discussed at the consultation/scoping session for the project which was held on October 10, 2006. Portions of this project have commenced under the Emergency Action provisions of the MEPA Regulations and other emergency provisions for other State Agency actions.

Criteria for Waiver

Section 11.11 of the MEPA Regulations provides that a waiver may be granted upon a finding that strict compliance with the regulations will result in undue hardship and will not serve to minimize or avoid damage to the environment. In the case of categorically included projects, this finding shall be based on one or more of the following circumstances: 1) the project is likely to cause no damage to the environment; and 2) ample and unconstrained infrastructure exists to support the project. The terms agreed to as a condition of the waiver will bring about benefits in excess of those that could be achieved in the absence of a waiver.

Findings

Based upon the information submitted by the proponent and after consultation with the relevant state agencies, I find that:

1. The project will improve public safety through the provision of safe, accessible student and staff parking at the UMASS Boston campus (a commuter school) due to the closure of the on-site parking structure due to safety concerns. This project is an appropriate use of the Emergency Action provision within the MEPA Regulations, as it serves to eliminate an imminent threat to public health and safety.
2. There is ample and unconstrained infrastructure to support the project. The project will not increase the number of anticipated vehicle trips, therefore an expansion or enhancement of existing roadways will not be required. The project itself will not generate wastewater flows, nor demand additional water supplies. As part of the anticipated Notice of Project Change (NPC) for the IMP process, the proponent will evaluate the affects of permanent parking areas or structures on future infrastructure needs.
3. Based on information provided in the ENF, the project will create 850 temporary parking spaces to offset the loss of 1,500 parking spaces within the closed parking structure. The project will not facilitate an increase in traffic trips. The University presently implements

an extensive traffic mitigation program. The proponent will continue these efforts including: promotion of the use of public transportation, carpooling services, preferred parking rates for motorcycles, shuttle services throughout campus and to the JFK/UMASS subway/commuter rail station, and the compilation of commuter data through the use of surveys.

4. The project will result in the creation of 5.48 new acres of impervious area and 6.60 acres of new land alteration. Some portions of the project area (Areas B,C, and E) have already been altered under the Emergency Action provisions of the MEPA Regulations. Area D consists of an area presently occupied by an open field. Temporary parking in Area D has been oriented to avoid direct impact to the Harborwalk. The proponent will provide a landscape buffer between the Harborwalk and Area D to reduce visual impact. The design of the parking areas will not impede public access to the shore.
5. The project will alter approximately 14,650 square feet of Land Subject to Coastal Storm Flowage. Additionally, the project will consist of 6.60 acres of new non-water dependent use of tidelands or waterways. The project has completed the public hearing process with the Boston Conservation Commission under the WPA. The proponent will seek to limit impact to wetlands and tidelands through compliance with applicable performance standards associated with State Agency actions (i.e., Ch. 91, WPA).
6. The project will incorporate new Best Management Practices (BMPs) to effectively treat and mitigate stormwater flows associated with the new parking areas. The project will utilize catch basins, grease traps, VortechTM units, and infiltration trenches to enhance the removal of Total Suspended Solids (TSS) and reduce stormwater flows beyond existing conditions. These BMPs will treat stormwater prior to entry into the existing outfall pipe that ultimately discharges to Dorchester Bay. The project will be designed to be consistent with DEP's Stormwater Management Policy in order to limit impact to wetland resource areas and shellfish beds within Dorchester Bay.
7. According to NHESP, a portion of the project site is mapped as Priority Habitat of Rare Species (PH 974) within the *Massachusetts Natural Heritage Atlas, 12th Edition* (effective October 1, 2006). The site is mapped habitat for the Vesper Sparrow (*Pooecetes gramineus*), a species that is listed as "Threatened" pursuant to MESA. The project has been granted permission to proceed under the emergency provisions of the MESA Regulations (321 CMR 10.15). The proponent will work with NHESP to review actions requested within the NHESP ENF comment letter prior to commencement of any additional construction efforts to ensure compliance with MESA regulations.
8. The MassDEP has identified that a portion of the project site is regulated under the Massachusetts Contingency Plan, Release Tracking Number 3-0004071. The UMASS Boston campus has a history of use as a landfill and was created through the filling of tidelands. The proponent will conduct activities on site in accordance with applicable regulations under the Massachusetts General Laws c.21E/21C and the Occupational Safety and Health Administration (OSHA).

9. The proponent has initiated an Integrated Master Planning (IMP) process. Should, on a collective basis, components of the master plan exceed MEPA thresholds, then the proponent must file a Notice of Project Change that examines the cumulative environmental impacts and proposes appropriate mitigation measures. As part of this process, the proponent should consider the environmental benefits of reverting parking areas constructed under this filing back to open space.
10. Further, additional review in the form of an EIR is not likely to serve to minimize or avoid further damage to the environment. Given the unique public safety issue related to this project and the anticipated completion of an IMP, I feel that the preparation of an EIR solely focused on the creation of temporary parking Areas B,C, D, and E is not warranted. Additionally, the applicant has investigated alternative locations for temporary parking on site (the newly constructed softball field, open space inside the track, etc.) with limited success, due to the constrained amounts of open space under University control.

I propose to grant this waiver on the express condition that the proposed replacement parking is temporary. As a condition of this waiver, I will require UMASS Boston to file an NPC, no later than November 8, 2008, that specifically addresses the long-term use of these temporary parking areas.

Based on these findings, it is my judgment that the waiver request has merit and meets the tests established in Section 11.11. Therefore, I propose to grant the waiver requested for the UMASS Boston Replacement Parking project, subject to the above findings. This Draft Record of Decision (DROD) shall be published in the next issue of the Environmental Monitor (October 25, 2006) for a fourteen-day comment period, after which I shall reconsider, modify, or confirm the waiver.

October 25, 2006

Date

Robert W. Gollidge, Jr.

Comments received:

10/04/2006	Paul Nutting (2 letters)
10/16/2006	Massachusetts Department of Environmental Protection – NERO
10/16/2006	Massachusetts Department of Environmental Protection – Waterways Regulation Program
10/16/2006	Division of Fisheries and Wildlife – Natural Heritage and Endangered Species Program
10/16/2006	Division of Marine Fisheries

RWG/HSJ/hsj