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May 20, 2005

DRAFT RECORD OF DECISION

PROJECT NAME : Fly Ash Landfill Redevelopment
PROJECT MUNICIPALITY : Freetown
PROJECT WATERSHED : Taunton
EOEA NUMBER : 1982
PROJECT PROPONENT : K.R. Rezendes, Inc.
DATE NOTICED IN MONITOR : March 23, 2005

Pursuant to the Massachusetts Environmental Policy Act (MEPA) (G.L.c.30, ss. 61-62H) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I have reviewed the Notice of Project Change (NPC) and request for a Phase 1 waiver submitted on this project. I **propose to grant a Phase 1 Waiver**, allowing the first phase of the project to proceed to the state permitting agencies prior to completion of the Draft and Final Environmental Impact Reports (EIRs) for the entire project.

Project Change Description and Phase 1 Waiver Request

As described in the NPC, the project change entails the addition of 19.9 acres to the project site and a reduced scale development (105,000 sf) that will include five commercial lots to be developed with a sales and service center for recreational vehicles, a campground, a bank and offices, a retail center, and a restaurant.

The proponent has requested a Phase 1 waiver in order to construct the recreational vehicle sales and service center prior to the completion of the Supplemental EIR for the project.

Criteria for a Phase 1 Waiver

Section 11.11 of the MEPA Regulations provides that the Secretary may waive any provision or requirement of 301 CMR 11.00 not specifically required by MEPA, and may impose appropriate and relevant conditions or restrictions, provided that the Secretary finds that strict compliance with the provision or requirement would: a) result in undue hardship to the proponent, unless based on delay in compliance by the proponent; and b) not serve to minimize or avoid damage to the environment.

In the case of a partial waiver of a mandatory EIR review threshold that would allow the proponent to proceed to Phase 1 of the project prior to preparing an EIR, this finding shall be based on one or more of the following circumstances: 1) the potential environmental impacts of Phase 1 are insignificant; 2) ample and unconstrained infrastructure and services exist to support Phase 1; 3) the project is severable, such that Phase 1 does not require the implementation of any other future phases; and 4) the agency action on Phase 1 will contain conditions that ensure due compliance with MEPA.

Findings

Based upon the information submitted by the proponent and after consultation with the relevant state agencies, I find that if Phase 1 is not allowed to proceed in advance of the preparation of the Supplemental EIR for the project, the recreational vehicle sales and service center would likely be developed on an alternative undeveloped site. Therefore, I find that, in accordance with the MEPA regulations at 310 CMR 11.11(1), strict compliance with the mandatory EIR requirement would a) result in undue hardship to the proponent; and b) not serve to minimize or avoid damage to the environment.

In addition, I find that in accordance with the MEPA regulations at 310 CMR 11.11(4):

1) The potential environmental impacts of Phase 1 are insignificant. Phase 1 is expected to result in the alteration

of less than 20 acres of land and the creation of approximately seven acres of impervious area. The recreational vehicle sales and service center will be served by an on-site sewage disposal system and generate approximately 1,900 average daily trips, based on the Institute of Transportation Engineers' *Trip Generation* (ITE Land Use Code 841 - New Car Sales).

2) Ample and unconstrained infrastructure exists to support Phase 1 of the project. Water, gas and electric utilities are available on South Main Street (Route 79) and will be extended onto the project site.

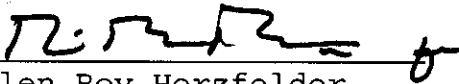
3) The project is severable such that Phase 1 does not require the implementation of any future phases of the project.

4) The state agency actions on Phase 1, in this case a State Highway Access Permit from the Massachusetts Highway Department, will contain conditions that ensure due compliance with MEPA.

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 Phase 1 waiver. This Draft Record of Decision shall be published in the next issue of the *Environmental Monitor* for a fourteen-day comment period, after which I shall reconsider, modify, or confirm the waiver.

May 20, 2005

Date


Ellen Roy Herzfelder

ERH/RAB/rab