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May 28, 2010

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

PROJECT NAME : Big Y Supermarket
 PROJECT MUNICIPALITY : Lee
 PROJECT WATERSHED : Housatonic
 EEA NUMBER : 14577
 PROJECT PROPONENT : Big Y Foods, Inc.
 DATE NOTICED IN MONITOR : April 21, 2010

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 **requires** the preparation of an Environmental Impact Report (EIR). The Proponent submitted an Expanded Environmental Notification Form (EENF) with a request that I allow a Single EIR to be prepared in lieu of the usual two-stage Draft and Final EIR. Pursuant to 301 CMR 11.06(8), the Proponent may submit a Single EIR (SEIR) in accordance with the Scope below.

Project Description

As described in the EENF, the proposed project consists of the redevelopment of the former "Diesel Dan's" truck stop off Route 102 in Lee, MA immediately south of the Route 20 intersection near Interchange #2 of the Massachusetts Turnpike. The subject property consists of three separate contiguous parcels; two are currently residential and one is commercial, with a combined area of 8.0 acres. The Proponent proposes to demolish the existing structures and redevelop the site with the construction of a 48,100 square feet (sf) supermarket and an attached 5,000 sf commercial building and a total of 295 surface parking spaces. The Project is expected

to generate approximately 5,132 vehicle trips per day (vtd) on an average weekday and 8,792 vehicle trips on an average Saturday. The existing site contains approximately 6.2 acres of impervious surface area.

The proposed project will also include approximately 6.2 acres of impervious surface area. The Housatonic River is the western border of the site and most of the project site is located within the floodplain. The project will result in impacts to 6.9 acres of BLSF and approximately 4.15 acres of RA. The project site has been impacted by numerous historic releases of oil and/or hazardous materials and is classified as a Tier 2 site under Chapter 21E and is being regulated under the Massachusetts Contingency Plan (310 CMR 40.00).

MEPA Jurisdiction and Permitting

The project is subject to a mandatory EIR and is undergoing environmental review pursuant to Section 11.03(6)(a)(6) of the MEPA regulations because it will result in generation of 3,000 or more new average daily trips (adt) on roadways providing access to a single location. The project also meets an ENF review threshold at 301 CMR 11.03(3)(b)(1)(f) for the alteration of greater than ½ an acre of “any other wetlands”. The project is located within the habitat of a species state-listed as “Special Concern” pursuant to the Massachusetts Endangered Species Act (MGL c. 131A). The project will require a NPDES Construction General Permit; an Access Permit from the Massachusetts Highway Department (MHD); possibly a 401 Water Quality Certificate and Chapter 91 License from the Department of Environmental Protection (MassDEP); review from the Division of Fisheries and Wildlife (DFW) Natural Heritage and Endangered Species Program (NHESP); an Order of Conditions (OOC) from the Lee Conservation Commission (and hence a Superseding OOC from MassDEP if the local Order is appealed); Site Plan Review from the Lee Planning Board; and a Special Permit and Floodplain Special Permit from the Lee Zoning Board of Appeals. The project requires the preparation of an EIR and is therefore subject to the MEPA Greenhouse Gas (GHG) Emissions Policy and Protocol.

The project is not receiving 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 stormwater, wetlands, waterways, rare species and Greenhouse Gas Emmissions.

Request for a Single EIR

In accordance with Section 11.05(7) of the MEPA regulations, the Proponent has submitted an Expanded ENF (EENF) with a request that I allow the Proponent to fulfill its EIR obligations under MEPA with a Single EIR, rather than the usual process of a Draft and Final EIR. The EENF was subject to a 37-day review period pursuant to 301 CMR 11.05(7). The Proponent's request for a Single EIR was discussed at the MEPA site visit held for the project on May 5, 2010.

Based on a review of the EENF, I hereby find that the document meets the regulatory requirements and I am permitting the Proponent to file a Single EIR in response to the Scope outlined below.

REVIEW OF THE EENF

Alternatives

In addition to the project development program presented in the EENF, the Proponent evaluated alternative site plan configurations including the No-Build alternative and the development alternative that would be allowed as-of-right under local zoning at the site. The preferred alternative was selected based on local zoning, minimization of environmental impacts, market demand and general consensus with local neighborhood residents. According to the Proponent, the preferred alternative works best to meet the needs of the project while keeping resource area impacts minimal, providing significant improvements to on-site stormwater, and providing mitigation for project-related traffic. The preferred alternative may be carried forward to the Single EIR, subject to further modification as outlined in this Certificate below.

Transportation

The EENF indicates that traffic generation associated with past uses of the project site was approximately 180 vehicle trips per day. The proposed supermarket and attached retail use is expected to generate a total of 5,132 trips per day on an average weekday and approximately 8,800 trips on an average Saturday. The EENF proposes three project site access drives via a new full access driveway on Route 102 opposite the Tyringham Road intersection (Main Site Drive), the use of an existing site drive located on Route 102 at the northeast corner of the project site for a proposed entrance-only site drive and the use of an existing site drive located on Old Pleasant Street at the southeast corner of the project site for a new two-lane access and egress site drive.

To mitigate traffic impacts the Proponent proposes to signalize the Main Site Drive/Route 102/Tyringham Road intersection and to widen Route 102 to include opposing left-turn lanes at this location. The Proponent also proposes signal timing and phasing adjustments to existing signals located along Route 20 that extends from the north through the Lee town center and the project area. The Proponent has also committed to provide transit accommodations within the project site. As described in the EENF, the Proponent has contacted the Berkshire Regional Transit Authority (BRTA) to identify opportunities to locate an internal bus stop within the project site. The exact location of an on-site bus stop to accommodate BRTA's fixed bus route service in the vicinity of the project will be coordinated between the Proponent and BRTA during final project design.

The EENF includes a transportation study that generally conforms to EEA/DOT Guidelines for traffic impact assessments. Additional information and analysis should be provided in the SEIR as further detailed in the MassDOT comment letter and in the Scope below.

Greenhouse Gas Emissions

The EENF includes a Greenhouse Gas (GHG) emissions analysis and proposed mitigation measures. The analysis uses the eQUEST software version 3.63, 2009 for stationary sources. Carbon dioxide (CO₂) emissions from mobile sources were analyzed using EPA MOBILE 6.2. The EENF includes eQUEST model outputs and transportation CO₂ calculations and compares the Base Case (which complies with the 7TH Edition of the Massachusetts Building Code) with the Preferred Alternative (includes energy saving measures) and a Mitigation Alternative (includes evaluation of an additional mitigation measure, a cool roof). The Proponent has committed to construct the Mitigation Alternative design.

According to the EENF, the Mitigation Alternative will reduce the project's total direct and indirect stationary source energy-related emissions of CO₂ by approximately 11.5 percent compared to the Base Case. The EENF analyzes transportation-related emissions for the 2015 No-Build, the 2015 Build, and the 2015 Build with Mitigation scenarios. The Build with Mitigation scenario includes reductions in CO₂ based on proposed Transportation Demand Management (TDM) measures and roadway improvements, which are estimated to be 2 percent less than the 2015 Build (without mitigation) case.

In summary, total transportation-related CO₂ emissions and stationary source emissions for the proposed Mitigation Alternative are estimated in the EENF at 449 tons per year and 1,398.61 tons per year, respectively. Stationary and mobile source mitigation measures proposed under the Mitigation Alternative result in a combined CO₂ reduction estimate of 9.3 percent compared to Base Case.

The project as proposed in the EENF will include the following building design mitigation measures:

- Energy Management System;
- High-efficiency refrigeration system;
- Waste heat recovery;
- Sealing, testing and insulation of HVAC supply ducts;
- High-efficiency HVAC systems;
- Energy-efficient windows and building envelope;
- Energy Star appliances;
- Energy-efficient interior and exterior lighting;
- Maximized interior day-lighting;
- Water conservation fixtures above code;
- Storage and collection of recyclable materials;
- Building commissioning by the supermarket energy audit team; and
- Where practicable, use of materials with recycled content, materials manufactured within the region, rapidly renewable materials and low-VOC building materials.

The Mitigation Alternative evaluated use of a light-colored or “cool roof” to reduce energy demand for supermarket cooling. As discussed in the EENF, while use of a cool roof will reduce cooling demand and electricity use for interior air conditioning on hot days, it also eliminates solar heat absorption that helps heating interior space on cold days, thereby requiring more energy use for space heating in winter. Overall, the modeling indicates a reduction of approximately 0.3 tons of CO₂ per year with a cool roof. The Proponent has incorporated a cool roof in the proposed project design. Other GHG reduction measures that were considered and rejected in the EENF include:

- Use of peak shaving or load shifting strategies –this was not considered feasible because the proposed retail store needs to use power during peak periods;
- Combined Heat and Power (CHP) technologies – this was rejected because it requires a host for the waste heat generated and the EENF indicates that the project’s thermal loads are insufficient to make CHP economically viable;
- Construction of a green roof – this was rejected because it was considered by the Proponent to be economically non-viable;
- On-site renewable energy – the Proponent does not consider solar photovoltaics (PV) to be economically viable at this time. However, the project will include roof space to be set aside for a possible 3rd party PV installation in the future. I refer the Proponent to the GHG section in the Scope below for additional analysis to be included in the SEIR.

The EENF identifies TDM measures to reduce GHG emissions by reducing project—generated vehicle trips and encouraging alternative modes of travel including:

- Consult with the Berkshire Regional Transit Authority (BRTA) to identify opportunities to locate an internal fixed route bus stop within the project site;
- Construct user-friendly pedestrian sidewalks and crosswalks and multi-use paths to and through the project site;
- Provide on-site food service amenities;
- Provide bicycle storage near supermarket and retail buildings;
- Implement guaranteed ride home and ride-sharing program;
- Provide preferential parking for car and van pools;
- Offer alternative work schedules;
- Offer direct deposit for employees;
- Appoint an Employee Transportation Coordinator; and,
- Distribute ridesharing and transit information.

Wetlands

The EENF includes plans that clearly delineate all applicable resource area boundaries on the project site including Riverfront Area, buffer zones, 100-year flood elevations, priority and/or estimated habitat, and the delineation of the Mean Annual High Water Line on the Housatonic River. The project site contains wetland resource areas including: Bank, Bordering Vegetated Wetland (BVW), Land Under Water Bodies and Waterways, Bordering Land Subject to

Flooding (BLSF) and Riverfront Area (RA). According to the EENF, the project site contains a total of approximately 4.3 acres of RA of which 3.78 acres (74%) has been degraded by the prior use of the site. The Proponent has proposed to construct a riverfront restoration corridor along the Housatonic River with an average width of approximately 35 feet. The Proponent has committed to construct restorative improvements to approximately 21,000 sf of previously degraded RA located along the project site's western border with the Housatonic River including the construction of proposed stormwater management best management practices (BMPs) and site landscape plantings. The project will result in impacts to 6.9 acres of BLSF and approximately 4.15 acres of RA.

Stormwater

As described in the EENF, stormwater from the project site currently drains via overland flow to the west and south/southwest areas of the project site where it discharges directly to the Housatonic River. The Proponent's stormwater management plan has been designed for the 2-year, 10-year and 100-year storm in accordance with the Massachusetts Stormwater Standards including Standard #5 (Redevelopment Projects and Land Uses with Higher Pollutant Potential Pollutant Loads (LUPPLs)) and incorporates the use of BMPs designed to achieve 85% removal of total suspended solids (TSS). According to the Proponent, the proposed stormwater management system for the northern portion of the project site containing the main parking area includes a closed pipe system and a series of deep sump hooded catch basins, a dry detention basin with forebay that will discharge treated stormwater flow to the Housatonic River via an existing 36" concrete drain pipe that is used to convey stormwater runoff from nearby public roadways to the river. Roof runoff from the supermarket building and the attached retail building will be piped directly to two separately located Stormceptor infiltration units located along the northwest and southwest border of the project site. The proposed stormwater management system for the southern portion of the project site containing the main parking area will include a closed pipe system and a series of deep sump hooded catch basins and a large sediment forebay and approximately 500 linear feet (lf) of water quality swale that will connect to an existing roadside swale located at the southern end of the project site. The proposed stormwater management plan also includes a Stormwater Pollution Prevention Plan (SWPPP) to manage stormwater runoff during project construction and an Operation and Maintenance Plan for the long-term maintenance of stormwater BMPs.

Rare Species

The NHESP has determined that the project site is located within the habitat of the Longnose Sucker (*Catostomus catostomus*). This species is state-listed as Special Concern under the MESA and its implementing regulations (321 CMR 10.00). The Proponent is required to file pursuant to the MESA to determine whether the project will result in a prohibited "take". Projects resulting in the "take" of a state-listed species may only be permitted if they meet the performance standards for a Conservation and Management Permit at 321 CMR 10.23. In its comments on the EENF, NHESP has indicated that it does not have significant concerns with the

project's potential impacts to rare species in view of the fact that the project site has been previously altered and degraded.

Water and Wastewater

The project is anticipated to generate 3,500 gallons per day (gpd) of wastewater. The project will receive water supply (approximately 3,900 gpd) and wastewater treatment from new connections to existing municipal water and sewer lines located in Old Pleasant Street. Wastewater generated from the proposed project will be discharged to the Town of Lee's municipal wastewater facility. According to the EENF, the proposed project does not require a Sewer Connection Permit from MassDEP.

M.G.L. c. 21E/Hazardous Wastes

As described in the EENF, the project site contains areas where releases of oil and/or hazardous material have occurred and have been reported (RTN 1-11751, 1-15932, 1-12226, 1-12554, 1-13868). Remedial actions involving the excavation of contaminated spoils were completed for these areas pursuant to the Massachusetts Contingency Plan, 310 CMR 40.0000. In addition, an Activity and Use Limitation (AUL) has been recorded for a large portion of the property that provides conditions for any construction and site work activities proposed within the AUL area. The AUL also limits uses and activities in this portion of the project site to commercial, industrial and retail uses including the proposed supermarket and retail use.

Construction and Demolition

As described in the EENF, the construction period will extend approximately 18–24 months. The EENF proposes several measures to minimize construction-related impacts including erosion and sedimentation controls, dust control, and site stabilization through seeding and plantings.

SCOPE FOR THE SINGLE EIR

General

The Proponent should prepare a SEIR in accordance with the general guidance for form and content found in 301 CMR 11.07 as modified by this Scope. The SEIR should include a copy of this Certificate. The SEIR should include a detailed description of the final project design with maps, plans and other graphics at a reasonable scale to facilitate review and comment. The SEIR should include descriptions of the methodologies and assumptions used for the analyses presented. The SEIR should include a list of required permits and approvals and provide an update on the status of each permit and/or approval and consultations with permitting agencies.

The SEIR should provide a brief description of applicable statutory and regulatory standards and requirements, and explain how the project will meet those standards.

According to the comments received from the Department of Conservation and Recreation (DCR), the proposed supermarket building and attached retail buildings are located within the 100-year floodplain (A7 zone) of the Housatonic River and will therefore need to meet applicable state building codes (Section 3107.0, Appendix 120.G), Wetlands Protection Act (310 CMR 10.57) and comply with applicable federal flood plain management policies (Executive Order 11988, Flood Plain Management) for the construction of buildings within the 100-year floodplain. The SEIR should include information to demonstrate the project's design complies with applicable state and federal regulations for the construction of buildings in the 100-year floodplain.

Alternatives

Based upon the information provided in the EENF, it appears that the preferred project alternative will provide opportunities to improve degraded resource areas and water quality within and adjacent to the project site. The SEIR should evaluate alternative GHG reduction measures and site configurations to accommodate transportation-related improvements, further reduce impervious surface area and reduce impacts to wetland resource areas as outlined in the relevant Scope sections below.

Transportation

In its comments on the EENF submittal, MassDOT has expressed concern with the proximity of the proposed northern site driveway to the Route 102/Route20/I-90 on-ramp intersection and the potential traffic queuing and congestion problems this site drive may create at intersections located on Route 20 and Route 102. MassDOT has recommended that the Proponent consider consolidating the number of proposed driveways for the project. The SEIR should include feasibility analysis for eliminating the proposed northern site driveway on Route 102 and for restricting the proposed north site driveway to truck traffic only. The feasibility analysis should include capacity analysis, 50th and 95th queues and appropriate merge analysis for each intersection, and should demonstrate the long term feasibility of the Proponent's proposed site access drive plan with mobility along the Route 102 corridor. The Proponent should consult with MassDOT regarding the design of this alternative analysis.

The SEIR should demonstrate that the project's internal site circulation plan provides accommodations for both pedestrians and bicyclists. The SEIR should clearly illustrate the location of existing and proposed sidewalks, internal bicycle connections and bicycle racks, connections to surrounding pedestrian and bicycle networks. The Proponent should identify opportunities for extending new sidewalk from the north site driveway along the project site's Route 102 frontage to and along the north side of the proposed Main Site Drive.

The Proponent's traffic impact analysis included vehicle trip distribution information based on 2006 daily and peak hour traffic counts and adjusted to reflect 2010 peak season conditions. According to MassDOT's comment letter, EEA/MassDOT Guidelines require that traffic counts used in traffic analysis be no more than two years old. MassDOT has conditioned its acceptance of the Proponent's traffic analysis provided that the Proponent commit to implement a traffic monitoring program for the completed supermarket and retail project and, if necessary, provide additional traffic mitigation if required by MassDOT. During preparation of the SEIR, the Proponent should consult with MassDOT regarding the design of the Proponent's post-construction traffic monitoring program. The SEIR should include a detailed description of the Proponent's traffic monitoring program.

Transportation Demand Management (TDM)

While I recognize the challenges inherent in developing a successful Transportation Demand Management (TDM) program for a supermarket, I remind the Proponent of its obligation to develop the maximum mitigation feasible for traffic impacts. I ask that the Proponent continue to evaluate all feasible TDM measures for store employees and patrons to reduce peak employee traffic demand and to encourage alternative transportation modes for retail customers including providing reduced rate transit passes for employees and installing bicycle storage racks near the front doors of the supermarket and retail buildings to facilitate bicycle transportation.

The Proponent should consult with the BRTA, the Town of Lee and MassDOT before filing the SEIR to discuss coordination of this project with existing their existing bus and trolley services to promote transit use by employees and patrons. Specifically, the Proponent should work closely with BRTA, the Town of Lee and the Town of Lee's Council on Aging to finalize the location and design of an on-site bus and trolley shelter and a network of pedestrian sidewalks and crosswalks for pedestrian access to and through the project site. The Proponent should also consult with MassRides during the final design of the Proponent's TDM plan. The TDM plan should describe any monitoring necessary to ensure the success of the program. The SEIR should demonstrate the Proponent's commitment to implement, monitor, and continuously fund the proposed TDM plan. All project tenants and businesses should be required to participate in the proposed TDM plan. The Proponent's TDM plan should be incorporated as part of the Proponent's transportation mitigation program. The SEIR should report on the outcome of consultations and describe measures proposed, which should include transit amenities for services and financial assistance commensurate with the anticipated demand of the project.

Based on the traffic analysis included in the EENF, the Proponent concludes that the proposed project in conjunction with the transportation improvements proposed will not result in a significant change in traffic operations for the 2015 Build condition. However, as noted above, MassDOT has expressed concern with potential Route 102 southbound traffic congestion that may result from the Proponent's proposed north site drive.

Greenhouse Gas Emissions

The Proponent has committed to GHG reduction measures in the EENF, which is commendable. These measures include energy efficient lighting, Energy Star rated appliances

with the lowest energy rating, and a proposed cool roof design for the supermarket building. The SEIR should include additional information and analysis of other energy efficient measures as recommended in the comment letters received from MassDEP and the Department of Energy Resources (DOER). The SEIR should present an updated analysis of GHG emissions and GHG reductions to reflect any changes proposed to the project design or to selected mitigation measures as part of the SEIR. As noted in the MassDEP and DOER comment letters, the CO₂ emitted per unit of grid-supplied electricity is approximately three times the amount of CO₂ emitted from direct gas combustion which highlights the importance and benefits to be gained from reducing annual electrical use. The SEIR should therefore consider additional energy efficient measures to further reduce the project's refrigeration and non-refrigeration electrical energy needs. The SEIR should consider increasing day-lighting by including sky-lights, employing occupancy on/off controls to all of the cold storage, warehouse, shipping and receiving and specialty rooms, and ensuring that all AC units, including RTUs, are Energy Star Rated.

I note that grocery stores typically have large energy loads attributable to refrigeration and represent a special category for energy efficiency analysis. In September 2008, the National Renewable Energy Laboratory (NREL) published a "Technical Support Document: Development of the Advanced Energy Design Guide for Grocery Stores—50% Energy Savings," <http://www.nrel.gov/docs/fy08osti/42829.pdf>. The document provides detailed design guidance for energy savings of at least 50% over ASHRAE 90.1-2004 in grocery stores and concluded that 50 percent net energy savings can be achieved cost-effectively. According to the design guidance document, supermarket buildings located everywhere except in climate zone 1A (parts of the South), can meet this goal even without the benefit of solar PV generation. However, this conclusion holds only for stores that put doors on refrigerated cases. As one would expect, maximizing the efficiency of refrigeration is key for grocery stores.

For refrigeration equipment, in addition to doors on cases, the report recommends much higher-efficiency refrigerated cases than have been used in the past, evaporative cooled refrigeration condensers, and much higher-efficiency motors on evaporator fans to cool the cases. For HVAC equipment, the report recommends economizers (allowing for the use of outdoor air for AC), demand control ventilation (adjusting the amount of outdoor air used for ventilation according to real-time measured need), energy recovery ventilators (capturing waste heat from exhaust fans and other equipment), and indirect evaporative cooling (using water instead of air for rooftop cooling units). The NREL document presents ideas that current proponents of grocery store and supermarket projects should at least consider in developing their store designs. I ask that the Proponent review the NREL technical support document and consider its recommendations in preparing the SEIR.

According to MassDEP, several supermarket stores located in the Northeast region that have adopted power fuel cells, including two Whole Foods, a Star Market in Chestnut Hill and Stop and Shop in Connecticut. The Stop and Shop store utilized a 200 kw cell and achieved a 30% energy reduction use. A case study of the Stop and Shop store in Foxboro documents extensive savings through skylighting and intensive energy efficiency management of refrigeration equipment, among other techniques. See, <http://www.cleanair-coolplanet.org/information/pdf/StopShop.pdf>. MassDEP recommends that the Proponent review

those supermarket stores that have earned the EPA Energy Star Partner of Year awards to identify energy reduction measures that can be implemented for the proposed Big Y project.

The SEIR should include a revised GHG analysis for Combined Heat and Power (CHP), and solar photovoltaic (PV) taking into account the guidance provided in the comments from MassDEP and DOER. For those measures that the Proponent is not intending to adopt, the SEIR should include technical and cost analyses to document the rationale for not committing to a mitigation recommendation. The SEIR should explain why the project's thermal loads are insufficient to make CHP economically feasible, and consider the use of heat driven absorption chillers in combination with dessicant systems for the refrigeration load as suggested by DOER. As described in the DOER comment letter, significant federal, utility and state incentive programs are available for the development, procurement, installation and operation of eligible CHP systems. The Proponent should provide a more detailed evaluation of the application of a CHP system to the proposed supermarket building in the SEIR. The Proponent should contact DOER for assistance with locating sources of information on these programs. The SEIR should also include a revised analysis of on-site PV using more current data that accounts for significant declines in installation costs and significantly more efficient equipment used to maximize energy production from PV systems. The Proponent should consult with DOER on the solar photovoltaic renewable energy incentives and analysis in preparation of the SEIR. I encourage the Proponent to contact the MEPA office prior to filing the SEIR to coordinate a meeting to discuss the GHG analyses with MEPA, MassDEP and DOER staff.

MassDEP has recycling and composting program information specifically designed for supermarkets and available at the following website:

<http://www.mass.gov/dep/recycle/supermkt.htm#mou>. The Proponent should review the information provided on the website and either commit to participating in those programs or establish why participation is infeasible. GHG reductions associated with the Proponent's participation in these sustainable practices may be incorporated in the Proponent's GHG analysis for the project. MassDEP has identified a number of resources available to help quantify GHG impacts associated with efficient materials management, including the USEPA Warm Model, available at the following website:

http://www.epa.gov/climatechange/wycd/waste/calculators/Warm_home.html and the Building Reuse Calculator at: <http://www.wastematch.org/calculator/calculator.htm>.

The Proponent should also consider implementing a waste prevention purchasing policy, which may include management options for reducing shipping and packaging materials and if necessary, managing excess materials through unused product return or donation. The SEIR should demonstrate that any proposed waste storage area would be sufficient to manage waste materials currently prohibited from disposal in Massachusetts. A list of these materials can be found on the MassDEP website: <http://www.mass.gov/dep/recycle/solid/regs0201.htm>. I refer the Proponent to the MassDEP comment letter for guidance on designing and implementing a waste management plan for project construction and operation activities that fully complies with the Massachusetts Waste Bans. The Proponent's waste management plan should establish a target recycling goal of more than 50 percent.

Upon completion of project construction, the Proponent will be required to provide a certification to the MEPA Office signed by an appropriate professional (e.g. engineer, architect, general contractor) indicating that all of the GHG mitigation measures, or equivalent measures that are designed to collectively achieve the proposed stationary source GHG emission reduction committed to in the SEIR, have been incorporated into the project. The certification should be supported by as-built plans. For those measures that are operational in nature (i.e. TDM, recycling, use of Energy Star-rated equipment), the Proponent will be required to provide an updated plan identifying the measures, the schedule for implementation and how progress toward achieving these measures will be achieved. The SEIR should include proposed Section 61 Findings for the MassHighway Access Permit that include self-certification language for GHG mitigation. The self-certification requirement will be incorporated by MassDOT/MassHighway into its final Section 61 Findings for the Project.

Wetlands and Waterways

The Proponent proposes to direct the northern portion of the project's stormwater flows to an existing 36" concrete drain pipe stormwater outfall into the Housatonic River. The Proponent has filed a Request for Determination (BRP WW 04) with the Waterways Program to determine if a Chapter 91 License is required for the outfall structure. The SEIR should report on the outcome of this consultation, and if a Waterways License is required for the project should discuss compliance with 310 CMR 9.00. The SEIR should also discuss the project's compliance with the performance standards for work in Riverfront Areas. MassDEP has recommended that the Lee Conservation Commission keep the project's Notice of Intent hearing open in order to issue an Order of Conditions that is consistent with conditions set in a 401 Water Quality Certificate (WQC), if required. The SEIR should report on the need, if any, for a WQC for the project's proposed stormwater management structures and if necessary demonstrate compliance with 314 CMR 9.00. Given the amount of Riverfront Area and BLSF to be impacted by the project, considerably enhanced efforts at erosion control and the establishment of firm limits of construction activities will be required at the site. The SEIR should include an erosion and sedimentation control plan for review. The Proponent should take care not to introduce invasive species with silt-fencing.

Stormwater

Based on the proposed drainage plan, it appears that some stormwater runoff from the project site may flow into the MassDOT drainage system along Route 102. The SEIR should discuss how the Proponent will maximize retention of stormwater runoff on-site and avoid connections to systems under public domain to the extent feasible. The SEIR should provide more information on the stormwater management system including appropriately scaled plans depicting the proposed use of BMPs, level spreaders, groundwater recharge devices and proposed construction activities at existing and proposed stormwater outlets and point source discharge locations.

The SEIR should discuss long-term ownership of stormwater infrastructure and should identify what entity will be responsible for the ongoing operation and maintenance of structural BMPs. The stormwater management plan should include a schedule for internal roadway sweeping, catch basin cleaning and snow removal. The SEIR should contain a draft Emergency Plan for addressing fuel spills at the site. At a minimum, the plan should include designation of an emergency manager, training for staff members, and identification of emergency supplies to be housed on site at all times.

Rare Species

The Proponent has applied to the NHESP for review under the Massachusetts Endangered Species Act (MESA). NHESP will render a final decision as to whether a Conservation and Management Permit will be required after the project has completed the MEPA process. The SEIR should describe all impacts to state-listed rare species and should outline proposed measures that will be implemented to mitigate for any adverse impacts to habitat. The SEIR should specifically respond to NHESP's suggestions for best management practices (BMPs) for erosion and sedimentation control to minimize potential impacts to fisheries resources. Due to the site's prior contamination issues and AUL and 21E permit, there may be some potential for proposed construction activities to enable existing contamination to migrate toward or into the adjacent river causing negative habitat impacts. The potential for this project to create a negative impact on those habitat resources at and downstream of the project site should be carefully reviewed by MassDEP and NHESP.

Hazardous Waste

The SEIR should include a description of how the project Proponent proposes to continue to comply with the remediation requirements under the MCP and the terms of the AUL on the site. I strongly recommend that the Proponent consult with MassDEP's Bureau of Waste Site Cleanup (BWSC) in the final design of this project to explore what impacts, if any, the proposed project might have on these hazardous waste sites, and to evaluate the Proponent's need for retaining a Licensed Site Professional (LSP) to assist in the project's construction. The Proponent should ensure that the project contractors and sub-contractors maintain an emergency response plan for performing appropriate response actions in the event contamination is encountered during project construction.

Construction and Demolition

The proposed project includes demolition of existing commercial and residential buildings. The SEIR should evaluate construction period impacts, including erosion and sedimentation, air quality and solid waste disposal and commit to measures to minimize construction impacts. MassDEP has noted that demolition and construction activities must comply with both Solid Waste and Air Quality control regulations.

I ask that the Proponent participate in MassDEP's Clean Air Construction Initiative (CACI) and the MassDEP Diesel Retrofit Program to mitigate the construction-period impacts of diesel emissions to the maximum extent feasible. The CACI program helps Proponents identify appropriate mitigation for minimizing air pollution from construction vehicles such as retrofit of construction equipment with particulate filters and oxidation catalysts and/or use of on-road low sulfur diesel (LSD) fuel. The Proponent should consult with MassDEP during the preparation of the Single EIR to develop appropriate construction-period diesel emission mitigation, which could include the installation of after-engine emission controls such as diesel oxidation catalysts (DOCs) or diesel particulate filters (DPFs). For more information on these technologies, see: <http://www.epa.gov/otaq/retrofit/verif-list.htm>. The project includes demolition and reconstruction, which will generate a significant amount of construction and demolition (C&D) waste. MassDEP encourages the project proponent to incorporate C&D recycling activities as a sustainable measure for the project. The project proponent is advised that demolition activities must comply with both Solid Waste and Air Pollution Control regulations, pursuant to M.G.L. Chapter 40, Section 5. I refer the Proponent to the MassDEP comment letter for guidance on recycling of construction and demolition (C&D) materials and regulatory requirements pertaining to air quality and waste management.

Mitigation, Permitting and Section 61 Findings

The SEIR should include a separate chapter on mitigation measures, which should include a summary table of all mitigation commitments as well as detailed proposed Section 61 Findings for all state permits required for the project. The proposed Section 61 Findings should describe proposed mitigation measures, contain clear commitments to mitigation and a schedule for implementation, and identify parties responsible for funding and implementing the mitigation measures. The proposed Section 61 Findings will serve as the primary template for permit conditions. Final Section 61 Findings will be prepared by state agencies issuing permits for this project and will include conditions considered binding upon the Proponent as mitigation commitments. As noted above, proposed Section 61 Findings should include self-certification language for GHG mitigation commitments.

Response to Comments

The SEIR should include a response to comments to the extent they are within MEPA jurisdiction. This directive is not intended to, and shall not be construed to enlarge the scope of the SEIR beyond what has been expressly identified in this Certificate. The SEIR should also include a copy of this Certificate and a copy of each comment letter received on the ENF.

Circulation

The SEIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should be sent to all those that submitted comments on the EENF and the Town of

Tyringham. A copy of the SEIR should be made available for public review at the Lee and Tyringham Public Libraries.

May 28, 2010

DATE

Alicia McDuff, Assistant Secretary
for Ian A. Bowles, Secretary

Comments Received

5/10/2010	Berkshire Regional Planning Commission
5/17/2010	Massachusetts Department of Conservation and Recreation (DCR)
5/20/2010	Natural Heritage and Endangered Species Program (NHESP)
5/21/2010	Massachusetts Department of Transportation (MassDOT)
5/21/2010	Massachusetts Department of Environmental Protection (MassDEP) - (WERO)
5/24/2010	Massachusetts Department of Environmental Protection (MassDEP) - (Boston)
5/24/2010	Department of Energy Resources (DOER)

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EEA #14577