



*The Commonwealth of Massachusetts*  
*Executive Office of Energy and Environmental Affairs*  
*100 Cambridge Street, Suite 900*  
*Boston, MA 02114*

Deval L. Patrick  
GOVERNOR

Timothy P. Murray  
LIEUTENANT  
GOVERNOR

Ian A. Bowles  
SECRETARY

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

January 22, 2010

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
ON THE  
NOTICE OF PROJECT CHANGE

PROJECT NAME : True North Commerce Center  
PROJECT MUNICIPALITIES : Salisbury  
PROJECT WATERSHED : Merrimack River  
EEA NUMBER : 14002  
PROJECT PROPONENT : True North, LLC  
DATE NOTICED IN MONITOR : December 23, 2009

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62I) and Section 11.10 of the MEPA regulations (301 CMR 11.00), I have reviewed the Notice of Project Change (NPC) submitted on this project and determine that it **does not require** further MEPA review.

Project Description

The proposed project, as originally described in the Expanded Environmental Notification Form (EENF), consisted of the construction of 600,000 square feet of industrial space (including light manufacturing, product distribution and office space), and 266 associated parking spaces in two phases. Phase I was proposed to include the construction of an 18,000 square foot distribution facility; Phase II was proposed to include the remaining 582,000 square feet of industrial space. As described in the EENF, the project was proposed to be located on a 51-acre undeveloped parcel, in the northeast quadrant of the I-95/Route 110 interchange and southeast of the I-495/I-95 interchange. Access to the site would be provided via a full-access driveway on Rabbit Road. The proponent requested and was granted a Waiver to allow Phase 1 of the project to proceed to state permitting prior to completion of the Environmental Impact Report (EIR) on June 18, 2007.

The proponent submitted the first Notice of Project Change (NPC) and a Draft EIR (DEIR) in March 2008 that described a reduction in the proposed build-out from 600,000 sf to 500,000 sf of industrial space and the addition of a 2.68 acre parcel to the project site. This additional parcel had been previously developed and is currently used as an overflow paved parking area. On April 11, 2008 a Certificate was issued on the NPC. On April 18, 2008 a Certificate was issued on the DEIR finding the DEIR adequate. In May 2008 the proponent submitted a Final EIR (FEIR) that was found not adequate in a Certificate dated June 27, 2008.

In July 2008, the proponent submitted a Supplemental Final EIR (SFEIR). In the SFEIR the proponent modified the project design by decreasing the impacts to Isolated Vegetated Wetlands (IVWs) from approximately 21,300 square feet to 4,026 square feet and proposed to replicate 7,395 square feet of wetlands. On August 29, 2008 a Certificate was issued on the FEIR finding the project adequate under MEPA.

As described in this current NPC, the proponent is now proposing to use the site for the construction and operation of three net metered solar (PV) generation facilities, each of which would be up to 2 megawatt (MW) in size, instead of the previously proposed industrial park. The revised project consists of a total of approximately 30,000 solar panels over a 30 acre area and would generate an estimated total 6 MW of power. Electricity from the projects would be sold under a power purchase agreement to an adjacent assembly facility, and any excess power generated would be net-metered into the local electric distribution system.

### Permits and Jurisdiction

This project was originally subject to review pursuant to Section 11.03 (1)(a)(2) and Section 11.03(6)(a)(6) of the MEPA regulations because it involved creation of 10 or more acres of impervious area and would result in generation of 3,000 or more new average daily trips (adt). In addition, the project exceeded ENF review thresholds for wastewater and wetland alterations. The project required and continues to require a Vehicular Access Permit from the Massachusetts Department of Transportation (MassDOT). The project also required and continues to require a National Pollutant Discharge Elimination System (NPDES) Permit from the US Environmental Protection Agency (U.S. EPA). The project also requires an Order of Conditions from the Town of Salisbury (and, on appeal only, a Superseding Order from MassDEP).

The proponent is not seeking financial assistance from the Commonwealth. Therefore, MEPA jurisdiction applies to those aspects of the project within the subject matter of required state permits with the potential to cause Damage to the Environment as defined in the MEPA regulations. In this case, MEPA jurisdiction extends to transportation and wetlands (including land alteration and stormwater management).

### Public Policy and Purpose of MEPA Review

The Town of Salisbury has written in opposition and requested that I require a new ENF and EIR review under MEPA for the project, while others have written in support and urge expedited approval based on overall environmental benefits. I acknowledge the Town of Salisbury's concerns with the project, but because the NPC shows reduced impacts no further information is needed for state permitting decisions, therefore no EIR is needed. In addition, MEPA is not a zoning process, nor is it a permitting process. Rather, it is a process designed to ensure public participation in the state environmental permitting process, to ensure that state permitting agencies have adequate information on which to base their permit decisions and their Section 61 Findings<sup>1</sup>, and to ensure that potential environmental impacts are described fully and avoided, minimized, and mitigated to the maximum feasible extent.

### Review of the NPC

Under the previously proposed industrial park, impacts to Bordering Vegetated Wetlands (BVW) would have been avoided; however, approximately 4,026 square feet of Isolated Vegetated Wetlands (IVW) would have been filled, which would have required the issuance of a Section 401 Water Quality Certification from the MassDEP. In addition, construction of the industrial park would have altered 31.5 acres of land, created 17.8 acres of impervious surface, resulted in 3,480 average daily trips (vehicles), and required the construction of a 0.5 mile sewer extension.

The project as currently described in the NPC would result in the following changes to those previously proposed impacts: a decrease in acres of land altered from 31.1 acres to 30 acres; a net decrease of 17.77 acres of impervious area from 17.8 acres to 0.03 acres; a decrease of 4,026 square feet of impacts to IVW from 4,026 square feet to 0 square feet; a decrease in structural gross square footage from 500,000 square feet to 1,220 square feet; a decrease of 3,479 vehicle trips per day from 3,480 down to 1; a decrease of 339 in parking spaces from 344 down to 5; and a decrease in both water and wastewater use from over 20,000 gallons/day (GPD) down to 0 GPD and without the need of a 0.5 miles of sewer main extension.

The currently proposed project proposes to selectively clear trees from the Buffer Zones of the BVW areas and from within the IVW areas to reduce shading impacts on the project which otherwise would reduce the electric output of the projects. As described in the NPC, solar panels would not be located in these selectively cleared areas, which would be allowed to re-vegetated with native shrub vegetation. I remind the proponent that the project will still be

---

<sup>1</sup> In accordance with M.G.L. c. 30, section 61, any Agency that takes Agency Action on a Project for which the Secretary required an EIR shall determine whether the Project is likely, directly or indirectly, to cause any Damage to the Environment and make a finding describing the Damage to the Environment and confirming that all feasible measures have been taken to avoid or minimize the Damage to the Environment.

required to obtain an Order of Conditions with respect to its proposal to selectively clear trees from the buffer areas to the BVWs. As part of this permitting process, the proponent will be required to evaluate potential indirect impacts on regulated resource areas, propose a stormwater management system, and evaluate potential alternative configurations to the project. The NPC presented three potential alternative configurations to the project and stated a preferred alternative configuration that, according to the proponent, maximized the efficiency of the project and minimized impacts to jurisdictional wetland resources.

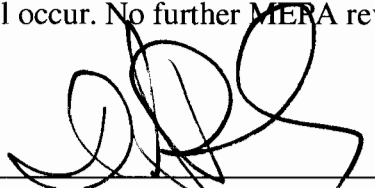
The project plan for the originally proposed industrial park proposed to maintain a 25-foot no disturbance zone adjacent to wetlands resources. The NPC plan change, however, proposes clear-cutting of vegetation to the extensive wetland edge and removal of the tree canopy shading those resources. I advise the proponent that, to every extent feasible, understory growth should be maintained and remain undisturbed during removal of the over-story layer. I also expect the proponent to assess the effects of the solar installation project on the BVW as described in MassDEP's and Mass Audubon's comments on the NPC during the Notice of Intent (NOI) process. MassDEP has also advised that the proponent should clearly describe in the NOI any construction impacts to understand the potential effects of grading, soil removal and compaction, material stockpiling, stormwater runoff, and any onsite disposal of soils or vegetation on wetland resources. In addition, the proponent must consider and describe long term maintenance of vegetation, removal of volunteer trees, mowing requirements, and any planned use of herbicides/pesticides and fertilizers. The proponent must also submit a hydrological analysis for pre-construction and post-construction to demonstrate that the stormwater will be controlled in conformance with the stormwater regulations and the applicable performance standards.

The project as currently described in the NPC states that there will be a decrease of impervious area from 17.8 acres to 0.03 acres. However, the project will likely create some additional impervious surfaces, potentially from equipment pads, supporting solar array inverters and transformers, parking areas, and support facilities or buildings. Therefore, I advise the proponent that it may be necessary to control peak rates of runoff. In addition, although not stated in the NPC, if the area beneath the solar panels is proposed to be grasses, the proponent will need to analyze the viability of the vegetation and repopulation of the area by invasive species. The NOI must address mitigation for exposed and compacted soils, likely erosion due to plant die-back, and a plan for removal of invasive species and replanting with native plants that would remain hardy under and among the solar panels. This additional information should be supplied to the Conservation Commission and MassDEP during permitting.

MassDOT states in its comments that the proponent was issued a curb-cut permit, which expired on September 22, 2009. The proponent should contact MassDOT's Highway Division District 4 office regarding a permit extension or modification.

Based on a review of the information provided by the proponent and after consultation with the relevant public agencies, I am confident that MassDEP, MassDOT and the local permitting agencies have sufficient permitting authority to condition this project so that no significant environmental impacts will occur. No further MERA review is required for this project.

January 22, 2010  
Date



Ian A. Bowles

Comments received:

01/08/2010 Neil Harrington, Town Manager of Town of Salisbury  
01/12/2010 Mass Audubon  
01/12/2010 Massachusetts Department of Environmental Protection, NERO  
01/19/2010 Massachusetts Department of Transportation  
01/19/2010 Lisa Mead of Blatman, Bobrowski and Mead, LLC

IAB/ACC/acc