



November 27, 2007

Ian Bowles, Secretary
Executive Office of Energy and Environmental Affairs
Attn: Anne Canaday, EOEEA #14115
MEPA Office
100 Cambridge Street, Suite 900
Boston, MA 02114

Re: EOEEA #14115, Proposed Article 97 Land Swap, Randolph

Dear Secretary Bowles:

On behalf of Mass Audubon, I submit the following comments on the Environmental Notification Form (ENF) for the above-referenced project.

This project involves a transfer of publicly owned parkland in the Blue Hills Reservation to a private landowner. A Massachusetts Environmental Protection Act (MEPA) review was triggered because the project requires a transfer of public parkland protected under Article 97 of the State Constitution. The proponent proposes to build 408 parking spaces on the parcel. The land transfer has been approved by the legislature, under *Chapter 240 of the Acts of 2002*.

Mitigation is proposed in the form of purchase and transfer of a parcel of land of equal size (3.2 acres) as an addition to the Reservation. Although this land is of equal size, it is not of equal value, either in terms of its monetary value or ecological values. The Executive Office of Energy and Environmental Affairs' (EOEEA) policy on Article 97 land disposition requires such transfers to provide equal or greater monetary or resource value in land offered as mitigation.

“As part of the disposition, real estate of equal or greater *fair market value* or *value in use of proposed use*, whichever is greater, and significantly greater resource value as determined by EOEA and its agencies, are granted to the disposing agency or its designee, so that the mission and legal mandate of EOEA and its agencies and the constitutional rights of the citizens of Massachusetts are protected and enhanced.”

[emphasis in original:

<http://www.mass.gov/envir/dcs/pdf/article97.pdf>]

The mitigation parcel is a land-locked inholding adjacent to a state highway, with no vehicular access. The parcel being taken from the Reservation is accessible from an existing road. It adjoins a vegetated wetland and vernal pool, providing buffering and upland habitat for wildlife that require a mix of upland and wetland habitats. Based on the information provided, it is unclear the degree to which removal of vegetation, paving, and stormwater associated with the proposed parking lot may degrade the adjoining wetlands and vernal pool habitat. Compliance with wetland protection and stormwater management regulations may not prevent all potential impacts to these sensitive resources.

Chapter 240 of the Acts of 2002 specifically required that the state receive fair compensation equivalent to the value of the land being transferred:

Said commissioner shall also receive such additional consideration established to be the difference between the full and fair market value of the parcel of land described in section 1 and the full and fair market value of the parcel described herein.

The ENF does not present appraisals comparing the relative market values of the two parcels, nor does it indicate that the proponent will make a payment to the state for the difference in values.

Mass Audubon recommends that the Department of Conservation and Recreation (DCR) not finalize this transfer until full compliance with both the EOEEA Land Disposition Policy and *Chapter 240 of the Acts of 2002* is achieved. Additional analysis of the relative value of the two properties should be conducted, and the possibility of protecting additional land adjoining the Reservation to make up the difference should be considered. Direct transfers of land to the Reservation are preferable over payments to the state, since the latter provides no guarantee that the money will be utilized to provide the needed mitigation. If it is determined that a supplemental monetary payment is the only viable option, provisions should be made for the money to be held in a dedicated account and utilized solely for the purpose of purchasing parkland. This would require an amendment to *Chapter 240 of the Acts of 2002*, which specifies that the monetary payment be deposited into the General Fund. That outcome would not be consistent with the EOEEA policy.

In conclusion, we urge the DCR to require further analysis and mitigation in order to fully comply with the EOEEA Land Disposition Policy and prevent a net loss of public parkland.

Sincerely,

E. Heidi Ricci
Senior Policy Analyst

cc: Senator Pamela Resor
Commissioner Richard Sullivan, DCR
Friends of Blue Hills Reservation