



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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Martin Suuberg
Commissioner

In the Matter of
Brice Estates, Inc.

June 16, 2017

Docket No. WET-2016-024
File No. 277-0434
Rutland

FINAL DECISION

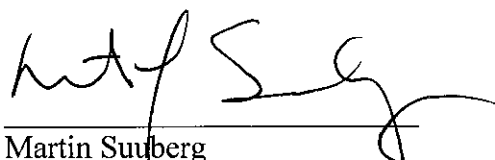
I adopt the Recommended Final Decision of the Presiding Officer, but add the following additional findings and rulings based upon my review of the Administrative Record.

Section IV, at p. 21 of the Recommended Final Decision discusses the January 21, 2016 letter that the Massachusetts Historical Commission (MHC) forwarded to the Secretary of Energy and Environmental Affairs (EEA) commenting on the Applicant's Supplemental EIR (SEIR) for the proposed Project at issue in this appeal. I find that as a matter of law the following portion of the MHC's letter is dispositive of the Petitioner's claim:

“[t]he project requires permitting by the US Army Corps of Engineers (Corps), and the Corps' finding and determinations in compliance with Section 106 and 110(f) of the National Historic Preservation Act of 1966, as amended (36 CFR 800). The MHC, as the Office of the SHPO, has a consultative role in the Corp's Section 106 review process (see 36 CFR 800(2)(c)(1)). *The Corps' review under the federal regulations will fulfill the requirements of compliance with M.G.L. c.9,*

ss. 26-27C and with the MHC's commenting in compliance with MEPA (see 950 CMR 71.042(2) & (3))" (emphasis added).

The parties to this proceeding are notified of their right to file a motion for reconsideration of this decision, pursuant to 310 CMR 1.01(14)(d). The motion must be filed with the Case Administrator and served on all parties within seven business days of the postmark date of this decision. A person who has the right to seek judicial review may appeal this decision to the Superior Court pursuant to M.G.L. c. 30A, §14(1). The complaint must be filed in the Court within thirty days of receipt of this decision.



Martin Suuberg
Commissioner

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