

MEPA Analyst:

Phone: 617-626-

# NPC

## Notice of Project Change and Request for an Advisory Opinion that Project Requires an ENF

The information requested on this form must be completed to begin MEPA Review of a NPC in accordance with the provisions of the Massachusetts Environmental Policy Act and its implementing regulations (see 301 CMR 11.10(1)).

Project Name: L.G. Hanscom Field-Crosspoint Terminal		EOEA #: Note 1 below	
Street: off Virginia Road			
Municipality: Concord, MA		Watershed:	
Universal Transverse Mercator Coordinates:		Latitude: Latitude: 42°29' (approximately) Longitude: Longitude: 71°17' (approximately)	
Status of project construction: Planned			
Proponent: Massachusetts Port Authority (Massport)			
Street: One Harborside Drive, Suite 200S			
Municipality: East Boston		State: MA	Zip Code: 02128-2909
Name of Contact Person From Whom Copies of this NPC May Be Obtained: Atty. Doug Wilkins			
Firm/Agency: Anderson and Kreiger		Street: 43 Thorndike Street	
Municipality: Cambridge		State: MA	Zip Code: 02141
Phone: 617-252-6575	Fax: 617-252-6899	E-mail: dwilkins@andersonkreiger.com	

In 25 words or less, what is the project change? The project change involves . . .

Construction of a new terminal (18,000 s.f. of flight support, 13,000 s.f. of passenger services), and 60,000 s.f. of hangar space), on land leased by Massport.

**See full Project change description beginning on page 3.**

NOTE 1: To our knowledge no number assigned to this specific project; 2000 ESPR and 1995 GEIR Reference Numbers are: EOEA #5484/8696 (1997); Master Plan: EOEA #1218 (1978); Maintenance: EOEA #4464 (1982)

Date of ENF filing or publication in the Environmental Monitor:

We do not believe an ENF was filed; we believe it should have been filed

Was an EIR required?  Yes  No; if yes, Should have been decided by the Secretary  
 was a Draft EIR filed?  Yes (Date: )  No  
 was a Final EIR filed?  Yes (Date: )  No  
 was a Single EIR filed?  Yes (Date: )  No

Have other NPCs been filed?  Yes (Date(s): )  No

If this is a NPC solely for lapse of time (see 301 CMR 11.10(2)) proceed directly to "ATTACHMENTS & SIGNATURES" on page 4.

**PERMITS / FINANCIAL ASSISTANCE / LAND TRANSFER**

List or describe all new or modified state permits, financial assistance, or land transfers not previously reviewed: proposed lease to Crosspoint Aviation Services, LLC and permission to build on MassPort land at L.G. Hanscom Field

Are you requesting a finding that this project change is insignificant? (see 301 CMR 11.10(6))  Yes  No; if yes, attach justification.

We are requesting a Finding that the Project Change is significant and an Advisory Opinion

Are you requesting that a Scope in a previously issued Certificate be rescinded?

Yes  No; if yes, attach the Certificate

Are you requesting a change to a Scope in a previously issued Certificate?  Yes  No; if yes, attach Certificate and describe the change you are requesting:

Summary of Project Size & Environmental Impacts	Previously reviewed	Net Change	Currently Proposed
<b>LAND</b>			
Total site acreage	0	0	0
Acres of land altered	0	0	0
Acres of impervious area	0	0	0
Square feet of bordering vegetated wetlands alteration	0	0	0
Square feet of other wetland alteration	0	0	0
Acres of non-water dependent use of tidelands or waterways	0	0	0
<b>STRUCTURES</b>			
Gross square footage (terminal only)	13,475 existing Civil Air Terminal (+ 5,000 reviewed)	31,000 Crosspoint Terminal	44,475 in two terminals
Number of housing units	0	0	0
Maximum height (in feet)	N/A	N/A	N/A
<b>TRANSPORTATION</b>			
Vehicle trips per day	TBD	TBD	TBD
Parking spaces	630	100	730
<b>WATER/WASTEWATER</b>			
Gallons/day (GPD) of water use	N/A	N/A	N/A
GPD water withdrawal	N/A	N/A	N/A
GPD wastewater generation/ treatment	N/A	N/A	N/A
Length of water/sewer mains (in miles)	N/A	N/A	N/A

\* This number was previously contested, but the Secretary did not agree and did not require an ENF for expansion of the parking lot; accordingly, Shhair uses the number used by the Secretary.

Does the project change involve any new or modified:

1. conversion of public parkland or other Article 97 public natural resources to any purpose not in accordance with Article 97?  Yes  No
  2. release of any conservation restriction, preservation restriction, agricultural preservation restriction, or watershed preservation restriction?  Yes  No
  3. impacts on Estimated Habitat of Rare Species, Vernal Pools, Priority Sites of Rare Species, or Exemplary Natural Communities?  Yes  No / Maybe
  4. impact on any structure, site or district listed in the State Register of Historic Place or the inventory of Historic and Archaeological Assets of the Commonwealth?  
 Yes  No; if yes, does the project involve any demolition or destruction of any listed or inventoried historic or archaeological resources?  Yes  No
  5. impact upon an Area of Critical Environmental Concern?  Yes  No
- If you answered 'Yes' to any of these 5 questions, explain below:

**PROJECT CHANGE DESCRIPTION** (attach additional pages if necessary). The project change description should include:

- (a) a brief description of the project as most recently reviewed
- (b) a description of material changes to the project as previously reviewed,
- (c) the significance of the proposed changes, with specific reference to the factors listed 301 CMR 11.10(6), and
- (d) measures that the project is taking to avoid damage to the environment or to minimize and mitigate unavoidable environmental impacts. If the change will involve modification of any previously issued Section 61 Finding, include a proposed modification of the Section 61 Finding (or it will be required in a Supplemental EIR).

The Project Change consists of the following:

"The Massachusetts Port Authority (Massport) today announced the selection of Crosspoint Aviation Services, LLC an affiliate company of Eastern Development, LLC, to develop a Fixed Base Operator (FBO) facility at L.G. Hanscom Field.

Crosspoint's new facility is expected to open in the spring of 2007 and will consist of a 60,000 square foot hangar, 18,000 square feet of flight support, and 13,000 square feet for passenger services."

Massport Press Release May 31, 2005. Additional information used in this Notice of Project Change comes from documents received on July 21, 2005, from Massport's response to SHHAIR's public records request.

This proposal introduces a new terminal building in a new area of the airport, to support passenger services and other services typically provided in a terminal, as argued below. This will have the following environmental effects:

- Creating a second passenger building serving as a second terminal in a second location, generating traffic, noise and other activities in a new area;
- Building this second terminal structure with capacity that roughly doubles the Airport's existing terminal square footage, providing an area capable of supporting present and future significant expansion of passenger service traffic at the airport;
- Introduction into the Pine Hill area of impacts not contemplated in prior environmental filings, which reflected relatively innocuous uses in that area, with no terminal and no active jet passenger support services or passenger services;

- Use of the Virginia Road access for the first time for passenger traffic and other terminal-related activities.

We ask that the Project be required to file an ENF and a mandatory EIR, prior to leasing and approval. Once the Project undergoes a full EIR review, limits on the Project should be defined, and, even if the Project is partially authorized, it should be conditioned on clearly defined mitigation measures subject to periodic monitoring.

We also respectfully request an Advisory Opinion from the Secretary or the MEPA Office as soon as possible so the Project can be stopped before further damage is done by the Proponent proceeding without subjecting the Project to an environmental review.

The need for a thorough examination of environmental impacts is particularly justified by the proximity of the location to a major National Park and many sensitive historical and natural sites of national prominence in the area, which are impacted by traffic increases and aviation noise.

### ***Terminal***

#### (a) The project as most recently reviewed

The current air terminal at the L.G. Hanscom Field Airport (“Hanscom”) is listed as having a footprint of 13,475 square feet (2000 Draft ESRP, vol. 1, page 2-4). and approximately 5,000 square feet of terminal space dedicated to airline and passenger activity (2000 Draft ESRP, vol. 1, pages 4-12 & 4-13). A potential increase in the existing terminal to a total of 10,000 square feet of space dedicated to airline and passenger activity was reviewed (2000 Draft ESRP, vol. 1, pages 4-13). However, no increase of the magnitude now proposed was reviewed; nor was a terminal in the area of Hangar 24 reviewed. On the contrary, the prior Airport Plan showed no terminal space in the Pine Hill area, including the location of Hangar 24.

The 2000 Draft ESRP, pp. 4-11 to 4-12, unequivocally states that the existing Civil Aviation Terminal “could accommodate” the 2005 moderate growth scenario and that “it would be possible to accommodate the” high growth and 2015 moderate growth scenarios “by expanding the passenger functions . . . to the second level of the Civil Air Terminal.” The 2000 Final ESRP, p. 4-1, is similar, if somewhat more equivocal. Even in the 2015 High Growth Scenario, Massport planned to expand the Civil Air Terminal “to offer additional area on the first and/or second levels.” 2000 Draft ESRP, pp. 4-11 to 4-12. The provision of terminal space located at Hangar 24 in the Pine Hill area was not an option reviewed during the ESRP process.

At pages 4-14 to 4-15 of the 2000 Draft ESRP, Massport reported its 2005 General Aviation Scenarios. It said that, in the “Pine Hill Area”, Building #24 “would be redeveloped into GA facilities (approximately 35,000 to 40,000 sq. ft. hangar)” and that it was “possible” that flight school facilities might relocate there.<sup>1</sup> The Final 2000 ESRP, pp. 1-8, 4-3, described anticipated third party development in the relevant area as follows “the reconstruction of Hangar One, Hangar 24 (Massachusetts Institute of Technology), and the construction of small hangars near Pine Hill.” It stated that the third party developer would have to follow appropriate state review as applicable. *Id.*

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<sup>1</sup> The 2015 moderate and high growth scenarios included the GA facilities described for the 2005 scenarios, plus possible demand supporting “two additional GA hangars in the general range of 10-15,000 sq. ft. each”. 2000 Draft ESRP, pp. 4-15 to 4-16.

(b) A description of material changes to the project as previously reviewed

The proposal would construct and operate a new building with 18,000 square feet of flight support, and 13,000 square feet for passenger services in the vicinity of so-called Hangar 24. This would more than double the existing terminal capacity at the entire airport for new passenger services and flight support facility in the current terminal. For the reasons stated on the Attachment A hereto, it is a new air terminal under FAA criteria set forth in FAA Draft Airport Advisory Circulars Series 150; FAA AC No: 150/5070-6B (Airport Planning), November 10, 2004. Mr. Tom Ennis, Senior Manager, Project Planning, stated at the July 19, 2005 HFAC meeting that there was no room for the new Crosspoint terminal within the current Hanscom Field Airport Terminal Area. The proposed Crosspoint terminal is located outside the terminal area delineated in the 2000 draft ESPR (Figure ES-4), a copy of which is attached. All of this goes beyond the express terms of the 2000 ESPR. The Project entails the construction of a new terminal at an existing airport.<sup>2</sup>

Massport will issue a new lease, with an initial term of 15 years, to Crosspoint for this new terminal. Under MEPA definitions this takes place on state land and, in any event, must be considered "transfer of land". In addition, the proposed terms of a 15-year lease show the lease rate escalating every year, which means the lease rate is much lower at the beginning of the lease. Such a structure of lease payments has the flavor of a subsidy by Massport to the tenant to keep the lease rate lower initially till business at the FBO develops. When an agency approves action on state land and subsidizes a land transfer a MEPA review is in order.

Moreover, as MEPA officials have stated repeatedly, an ESPR does not relieve a proponent from the regulatory obligation to file an ENF, if the Project exceeds mandatory thresholds, or if a Project is so close to a threshold that consultations with MEPA Office suggests an ENF and subsequently possibly also an EIR, if so required by the Secretary. See, e.g. 2000 Final ESPR, EOE Number 5484/8696, p. 1-3, quoting Certificate of the Secretary of Environmental Affairs for the Draft 2000 L.G. Hanscom Field ESPR, pp. 2-3 (December 16, 2002).

(c) The significance of the proposed changes, with specific references to the factors listed in 301 CMR 11.10(6)

801 CMR 11.10(6)(a). The Project will expand the terminal facilities by creating a new terminal, separate from and in addition to the existing Civil Terminal Building. The proposal contemplates a "terminal" under the definition and reasoning set forth in attachment A to this NPC. It is "new" because it is not "existing", "being carried out currently", or "being carried out within three years since" a permit or prior use. 301 CMR 11.02(b)(definition of "new"). It therefore triggers a mandatory ENF and EIR under 801 CMR 11.03(6)(a)(4)("New . . . terminal"). Even if it were merely an expansion of an existing terminal, its total 31,000 square feet would trigger an ENF under 801 CMR 11.03(6)(b)(7)("expansion of an existing terminal at any other airport [than Logan] by 25,000 or more sf.) Either way, the Project meets the criterion for meeting or exceeding "any review thresholds" under 801 CMR 11.10(6)(a). In any event, the expansion more than doubles existing terminal space and therefore greatly exceeds the threshold of 10% over estimates previously reviewed [see MEPA Regulations Sec. 11.10(6)(a)].

801 CMR 11.10(6)(b). This criterion is also met, because the meeting of the review thresholds (see

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<sup>2</sup> Even Crosspoint's proposed 60,000 square foot hangar exceeds the "approximately 35,000 to 40,000 sq. ft. hangar" contemplated by the 2000 ESPR for the 2005 scenarios and is at the level contemplated for 2015 (the 2005 hangar plus a total of 20,000 to 30,000 additional square feet of hangar space) – but those scenarios did not go on to include 31,000 square feet of flight support and passenger services space.

above) surpasses the criterion of “25% of the level specified in any review threshold.” In any event, the entire purpose of the project is to increase air traffic, with related air pollution, noise, traffic and other related impacts – precisely why the regulations have review thresholds for new air terminals and for expansion of air terminals at non-Logan airports. Massport does not contest the increase. Its May 31, 2005 press release states: “This selection [of Crosspoint] by Massport was made in anticipation of increased demand both nationally and locally for the use of business aircraft and to fulfill the immediate needs for additional aircraft services at Hanscom Field.

801 CMR 11.10(6)(c). The date and magnitude of the proposed project was not contemplated prior to the next ESPR. See 2000 Draft ESPR, vol. 1, pp. 4-13. Therefore, Massport has changed the date of this proposed construction and activity.

801 CMR 11.10(6)(d). The 2000 draft ESPR (Figure ES-4) defines the Terminal Area geographically as separate from Pine Hill Area. The ESPR does not anticipate any passenger services or terminal service in the Pine Hill area. Hangar 24 is in the Pine Hill area and has separate ground access (to Virginia Road). Therefore, the site of the proposed activity within the confines of Hanscom field has changed, within the meaning of 801 CMR 11.10(6)(d).

801 CMR 11.10(6)(e). The RFP response and proposed FBO civil air terminal constitutes a new request for a lease, which qualifies as a new land transfer.

801 CMR 11.10(6)(f) Not applicable - the project does not have net benefits to environmental quality.

801 CMR 11.10(6)(g) Not applicable - the project does not involve a lapse of time.

The proposed project will generate further impacts and attract more vehicular and aviation traffic to Hanscom faster than was ever contemplated before. If Massport were allowed to proceed with the Project without filing a notice and undergoing the regulatory review, the EOEA and the communities will be deprived from an opportunity to review the impact of changes as they are introduced. Parking facilities will be expanded by 100 spaces and traffic will increase particularly to a new area, namely Virginia Road.

L.G. Hanscom Field is located in the immediate proximity to the Minute Man National Historic Park (MMNHP). Arranging for another FBO facility at Hanscom, intended to handle more jets, must mean that Massport wants to encourage more jet and cargo traffic at Hanscom, and therefore will Increase and not mitigate Damage to the Environment. This is contrary to MEPA Regulations, unless EOEA conducts a special review to verify such an action is needed and Massport can justify why it is planning to hurt the US National Park environment.

If an ENF and an EIR are not ordered it will serve to encourage the Proponent to continue undertaking New Projects with brazen disregard of Regulations, ignoring concerns for the community, for the historic area, and the Environmental rights of the Commonwealth.

(d) measures the project is taking to avoid damage

We are not aware of any protective measures or development limiting measures that Massport is taking.

## **CONCLUSIONS**

This Project Change Description above shows that the project triggers MEPA review. MEPA Regulations 301 CMR 11.03 (6)(a), require a mandatory ENF for the following: "Transportation: *Construction of a New runway or terminal at an existing airport.*"

Waiting for the ESPR is not a solution because, unless stopped, Massport intends to execute this Project in the very near future, with the facility opening planned in the Spring of 2007, well before the 2005 ESPR Update is finalized.

To permit the Project to proceed without a proper notice being filed, would create a dangerous precedent for other Projects by this and other Proponents.

## **REFERENCES**

### **ATTACHMENTS & SIGNATURES**

#### **NPC Specified Attachments:**

1. Secretary's most recent Certificate on this project

We know of no Certificate on this project

2. Plan showing most recent previously-reviewed proposed build condition

See Exhibit 2: Excerpts from 2005 RFP and Exhibit 5: Excerpts from draft July 2002 ESPR.

3. Plan showing currently proposed built condition

Proposed build condition is contained in excerpts from the Development Proposal submitted to Massachusetts Port Authority by Crosspoint Aviation Services, LLC, dated March 8, 2005, as updated by submission dated April 15, 2005. See Exhibit 3: Excerpts from Crosspoint Response to RFP: Proposed Site Plan, First Floor Plan; Partial First Floor Plan; Partial Second Floor Plan; Proposed Elevations; Perspective Looking Northeast; Exhibit 4: Narrative from Crosspoint's April 15, 2005 submission;

4. Original U.S.G.S. map or good quality color copy (8-1/2 x 11 inches or larger) indicating the project location and boundaries

See 1995 GEIR, p. 2-35, Fig. 2.2-1

5. List of all agencies and persons to whom the proponent circulated the NPC, in accordance with 301 CMR 11.10(7)

The Notice of Project Change is being filed by an Agency or Person other than the Proponent. A copy of the NPC has been sent to the Proponent (Massport) when filing.

#### **Other Attachments:**

Exhibit 6: FAA Draft Airport Advisory Circulars Series 150; FAA AC No: 150/5070-6B (Airport Planning), November 10, 2004, section 707 and Attachment 2.

Exhibit 7: FAA: Planning and Design Guidelines for Airport Terminal Facilities; FAA AC No. 150/5360-13, ch. 1.3 and 1.4 (excerpts)

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**Signatures:**

7/30/05 MARGARET COPPE  
Date Signature of Responsible Officer or Proponent Date Signature of person preparing NPC (if different from above)

Margaret E. Coppe, President BY  
By Kay Tiffany  
As authorized KAY TIFFANY  
Name (print or type) Name (print or type)

ShhAir  
Firm/Agency Firm/Agency

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## ATTACHMENT A

### DEFINITION OF "TERMINAL"

The MEPA regulations do not define "terminal" as used in the review threshold for new airport terminals appearing in 801 CMR 11.03(6)(a)(4). The regulations do, however, dictate the method for defining undefined terms:

As used in 301 CMR 11.00, any term not defined in accordance with 301 CMR 11.02(2) shall have the meaning given to the term by any statutes, regulations, executive orders or policy directives governing the subject matter of the term.

301 CMR 11.02(1). In evaluating the Crosspoint proposal, therefore, Massport and Crosspoint cannot simply select a definition that suits their purposes. Rather they must conform to the laws, orders and directives issued by the agency with jurisdiction over civil aviation terminals.

The FAA is the authority charged with "the subject matter" of civil aviation, including terminals. The most recent statement on the definition of "terminal" appears in FAA Draft Airport Advisory Circulars Series 150; FAA AC No: 150/5070-6B (Airport Planning), November 10, 2004, <http://www.faa.gov/arp/publications/acs/draftacs.cfm> The Airport System Planning Process, AC 150/5070-7. That document reads, in relevant part:

#### PART 1: THE PROCESS OF PREPARING MASTER PLAN STUDIES

##### Chapter 7, Section 707, General Aviation Requirements:

a. General Aviation includes a variety of users and activities, including corporate flight departments, recreational users, business flying, flight training, agricultural applications, law enforcement, and fixed base operators (FBO). These users need aircraft storage facilities, transient parking aprons, and terminal facilities.

1) Aircraft Storage Facilities - GA users physical requirements vary from unpaved tie-down aprons to large conventional hangars with major maintenance services and aircraft aprons. Conventional hangars and t-hangars provide protection from the weather and extra security against vandalism or theft. In general, owners and operators of larger, more expensive aircraft prefer hangars. The demand for hangars is also higher in northern climates with severe winter weather conditions.

2) Transient Aircraft Parking Aprons/\* - Temporary parking for visiting aircraft may be provided on a transient apron adjacent to the general aviation terminal building, or on aprons managed or leased by an FBO.

3) Terminal Facilities - General aviation terminal buildings range from very modest structures with little more than a waiting room and a telephone, to multi-story buildings with extensive amenities such as pilot briefing rooms, restaurants, gift shops, pilot's lounges, conference and training rooms, and rental car counters. At general aviation airports, the terminal building may also house administrative offices. At commercial service airports, general aviation terminal facilities are often provided by one or more FBOs. In such cases, the facilities are provided principally for customers of the FBO and general public access is limited.

The language of the latest Advisory, makes it quite clear that within the realm of Airport Planning the ~~FAA definition of an aviation terminal at a General Aviation Airport includes the proposed Crosspoint~~

FBO terminal. See Also, Airport Planning <http://www.faa.gov/arp/planning/index.cfm?ARPnav=plan>.

This conclusion is confirmed by FAA: Planning and Design Guidelines for Airport Terminal Facilities; FAA AC No. 150/5360-13, ch. 1.3 and 1.4, which acknowledges that high volumes of nonscheduled service “may warrant consideration of separate, modest, terminal facilities for supplemental carriers. Chapter I, item 3.e. Selection of a site for a new terminal may involve a number of considerations, including “environmental impacts,” particularly where terminal capacity is increased by 25 percent or more. Id, item 4 and 4.g. The Crosspoint proposal, of course, increases passenger terminal capacity by well over 25%, as it nearly doubles existing terminal space. By designating that area for terminal operations, Massport is fixing the locations of impacts for years to come.

The regulations of the Massachusetts Aeronautics Commission do not define “terminal.” See 702 CMR 2.01 et seq.