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EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
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ROBERT W. GOLLEDGE Jr.
Commissioner

November 17, 2004

Daniel A. Grabauskas, Secretary
Executive Office of Transportation Ten Park Plaza
Boston, MA 02116-3969

**Re: Transit Commitments Administrative Consent Order –
2004 Project Update and Project Schedule**

Dear Secretary Grabauskas:

This letter is in response to the 2004 Project Update and Project Schedule (the "update report") for the transit commitments in the September 1, 2000 Administrative Consent Order (ACO) between the Department of Environmental Protection (DEP) and the Executive Office of Transportation and Construction (EOTC). A notice of the public comment period was posted in the Environmental Monitor on September 25, 2004 and comments from interested parties on the update report were accepted until October 25, 2004.

Based on the status of the projects as reported in your update report and on comments received, DEP has determined that EOT is in noncompliance with the MHD Construction Retrofit Program requirements, and will soon be in noncompliance with the ACO for the Urban Ring, Silver Line Phase II, Orange Line Additional Cars, and Blue Line Platform Lengthening. (See Attachment I for a detailed list of anticipated noncompliance areas.) DEP intends to take enforcement action on these matters and will shortly send you a Notice of Enforcement Conference to begin the enforcement proceedings.

The update report indicates that some older, recently retired diesel buses are being used as temporary shuttle buses from North Station to Lechmere Station and along the Ashmont branch of the Red Line. While the ACO did not expressly prohibit the use of the older diesel buses as temporary shuttles, it required new CNG buses, ultra low sulfur diesel fuel, and diesel retrofits to reduce emissions from the MBTA fleet. I would like to hear more about your longer-term strategy for the shuttle bus routes, since the intent of the ACO is to retire the older fleet to ensure continued air quality improvements.

This information is available in alternate format. Call Aprel McCabe, ADA Coordinator at 1-617-556-1171. TDD Service - 1-800-298-2207.

In addition, although the Blue Line/Red Line Connector and the Medford Hills Green Line Extension are not required to be completed until 2011 under 310 CMR 7.36, the ACO required that projects in the ACO be prioritized for funding in the Transportation Plan and the MBTA's Capital Investment Program. Neither project is in compliance with respect to this requirement. Regarding the Arborway Greenline extension, a final project schedule has not been established and therefore the project is in noncompliance with the ACO.

Please let me know if you have any questions on these matters. I look forward to working with you and your agencies in a cooperative manner to resolve these issues.

Sincerely,

Robert W. Golledge, Jr.
Commissioner

Cc: Douglas Foy, Chief of Commonwealth Development
Ellen Roy Herzfelder, Secretary of Environmental Affairs
Commenters

Attachment

Attachment I

1. The Urban Ring

On June 17, 2004, DEP granted a delay for the submittal of the DEIR/S for the Urban Ring to November 30, 2004 to allow additional time to revise the forecasting methodology to estimate ridership and user benefits consistent with Federal Transit Administration guidelines. If the DEIR/S is not submitted by the November 30, 2004 deadline, EOT/MBTA will be in noncompliance with the ACO.

2. Silver Line Phase II

On June 17, 2004, DEP granted a delay for completion of the project to December 31, 2004. The update report indicates that service to Logan Airport will be delayed until Spring 2005 when the 60 foot dual mode buses are in service. As of December 31, 2004, EOT/MBTA will be in noncompliance with the ACO and the transit systems improvement regulation, 310 CMR, 7.36, and will need to provide interim air quality offsets for the period after December 31, 2004 until such time that the project is complete.

3. Orange Line Additional Cars

The ACO required 18 additional cars on the Orange Line by December 31, 2004. The update report indicates that the MBTA has not developed a plan to meet this requirement. As of December 31, 2004, EOT/MBTA will be out of compliance with the ACO.

4. Blue Line Platform Lengthening

The ACO approved a delay of the requirement to provide platforms to accommodate six-car trains on all Blue Line Stations until December 31, 2004. The update report indicates that Orient Heights, Maverick, State, and Government Center Stations will not be able to accommodate six-car trains until December 2005. EOT/MBTA will be out of compliance with this requirement beginning on December 31, 2004 and until such time that all Blue Line stations can accommodate six-car trains.

5. MHD Construction Retrofit Program

The ACO requires MHD to implement an off-road construction equipment retrofit program. MHD has issued a specification that requires all off-road construction to be retrofitted for projects advertised by MHD after July 1, 2003. However, the update report fails to provide information on which advertised projects now include retrofit requirements. The failure to provide this information is in noncompliance with the ACO.