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January 9, 2008

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : T Wharf Reconstruction, Plymouth
PROJECT MUNICIPALITY : Plymouth
PROJECT WATERSHED : Plymouth Harbor
EOEA NUMBER : 14139
PROJECT PROPONENT : Town of Plymouth
DATE NOTICED IN MONITOR : November 26, 2007

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **does not require** the preparation of an Environmental Impact Report (EIR).

The project involves reconfiguration, reconstruction and expansion of the Town Pier/T-Wharf. The project is being designed to address the deteriorating condition of the pier, provide additional berthing and expanded float access, alleviate vessel congestion, and provide better access to fuel and pump-out facilities. The proposed project will increase the area of the pier from 7,780 square feet (sf) to 18,360 sf, and will require approximately one acre of dredging to provide adequate draft for commercial vessels. The project will impact approximately 66,000 square feet (sf) of Land Under the Ocean. Dredge material (approximately 14,500 cubic yards) will be disposed on at the Massachusetts Bay Disposal Site.

The project is undergoing review pursuant to Section 11.03(3)(b)(6) because it involves construction, reconstruction or expansion of a pile-supported structure of 2,000 or more sf base area, Section 11.03(3)(b)(3) because it will involve dredging of 10,000 or more cubic feet of material, and Section 11.03(3)(b)(1)(f) because it will involve alteration of more than one half acre of wetlands. The proposed project will require a Chapter 91 License and a 401 Water Quality Certification from the Massachusetts Department of Environmental Protection (MassDEP) and an Order of Conditions from the Plymouth Conservation Commission (and, on appeal only, a Superseding Order from MassDEP). The project will also require a Section 404 Permit from the Army Corps of Engineers and may be subject to a Coastal Zone Management (CZM) federal consistency review. The project may also require a National Pollutant Discharge

Elimination system (NPDES) Permit for construction activities from the U.S. Environmental Protection Agency (EPA).

The proponent will receive financial assistance from an agency of the Commonwealth, the Department of Conservation and Recreation (DCR). Therefore, MEPA jurisdiction is broad and extends to all aspects of the project with the potential to cause damage to the environment as defined in the MEPA regulations.

The proposed project involves approximately 1 acre of improvement dredging, which will be permitted as part of the Town of Plymouth's proposed Town Inner Harbor Dredging Project. Based on information provided in the Environmental Notification Form (ENF), it appears that the town's proposed dredging program would impact approximately 19 acres and would require a mandatory EIR. The ENF indicates that the Town will file separately with the MEPA Office for the Town Inner Harbor Dredging Project. During review of the T Wharf ENF, and in response to requests from state agencies, the proponent has submitted supplemental information with detailed information regarding proposed dredging activities for the T Wharf project. I am satisfied that sufficient information has been provided to assist agencies with their permitting decisions relating to the T-Wharf and I expect a future filing from the town for the entire Town Inner Harbor Dredging Project. MassDEP has indicated in its comment letter that the project as presented in the ENF appears to meet the performance standards for improvement dredging pursuant to the Wetland Regulations at 310 CMR 10.25(3).

Dredging proposed for the T Wharf project will be conducted by mechanical means and will impact 56,507 sf of Land Under Ocean. The project includes construction of a 6-foot deep and a 10-foot deep anchorage area. Dredging will be performed to elevations -6.0 and -10.0 Mean Low Water (MLW) (with a one-foot allowable overdredge to -7.0 and -11.0 MSW). According to the ENF, dredge sediments are expected to be suitable for unconfined offshore disposal at MBDS. Biological analysis is on-going for the entire Town Inner Harbor Dredging Project and a final suitability determination from the U.S. Environmental Protection Agency (EPA) for disposal at MBDS is anticipated by late Spring 2008.

According to the ENF, all dredging will take place below MSW thereby avoiding impacts to intertidal area. The ENF indicates that no eel grass or shellfish were observed to be present in proposed areas to be dredged for the T Wharf project, based on a 2004 survey and data presently available on the Massachusetts Geographic Information system (MA GIS).

As noted in the comment letter from the Office of Coastal Zone Management (CZM), the project directly supports CZM's goals of preserving and enhancing water-dependent activities and improving public coastal access opportunities. However, there are a number of outstanding project and design considerations, as further detailed in the CZM comment letter, which should be addressed during permitting. I encourage the proponent to consult with CZM regarding the issues detailed in its comment letter. CZM has offered technical assistance to support successful implementation of the project, and to provide pre-application technical assistance as the feasibility and design process proceeds for the Town's Inner Harbor Dredging Project.

The proponent should provide plans and additional information during permitting as further detailed in the MassDEP and CZM comment letters. The Chapter 91 License application should include a delineation of existing and historic mean high water and mean low water marks pursuant to 310 CMR 9.02, as well as previously issued Chapter 91 Licenses and Permits for the site. The Vine Associates natural resource survey (September 2004) referenced in the ENF should be included with the submission of the Notice of Intent (NOI).

Marine Resource Protection

The proponent should ensure that appropriate containment devices such as bottom-weighted silt curtains are employed around the work site from February 1 through May 30 to protect winter flounder spawning and juvenile development. The proponent should develop a marine management plan that is consistent with the CZM/EEA Massachusetts Clean Marina Guide. This plan should address issues including, but not limited to, boat cleaning, engine maintenance, bilge water handling, spill response, boat sewage and wastewater management, solid and hazardous waste management. All existing and construction debris should be removed from within the work area and either recycled or properly disposed of in accordance with applicable regulations. The proponent should explore drainage alternatives that would improve the quality of the water running off the pier. The NOI should address consistency with the MassDEP's Stormwater Policy.

Ocean Sanctuaries Act

The Department of Conservation and Recreation (DCR) has determined that the project is situated within the boundaries of the Cape Cod Bay Ocean Sanctuary. DCR is responsible for care and control of the state-designated ocean sanctuary under the Massachusetts Ocean Sanctuaries Act, M.G.L. c. 132A, section 12A et seq ("the Act) and implementing regulations (302 CMR 5.00 et seq.). The proposed project falls within the meaning of a serious alteration under 302 CMR 5.04 and is subject to regulation under the Act. The project will be required to meet the Public Necessity and Convenience standard identified in 302 CMR 5.04, which requires that all state permitting agencies consider certain criteria, including:

- Whether the facility or use, if any, existing at the time the agency approval is requested is inadequate;
- Whether the public demonstrates a need for the facility or use;
- If appropriate state or local public officials deem the facility or use necessary for the public's safety or welfare;
- Whether the proposed facility or use will serve the public interest; and
- The extent to which existing uses or facilities will be affected by the proposed facility or use.

The proponent should address the above issues during the permit process and demonstrate how the proposed project is consistent with the provisions of the Act and its regulations.

Public Access and Existing Water Dependent Uses

Pursuant to the Waterways Regulations at 310 CMR 9.36, the project shall not significantly disrupt any water-dependent use in operation. The proponent should provide information, as part of the Chapter 91 License application, regarding the relocation of existing water-dependent uses and a description of the mitigation and/or compensation measures provided by the project.

The project includes a pile-supported public boardwalk that originates on the Town Pier, which supports a variety of recreational fishing and whale watch activities. The proponent indicated that the Town is planning to improve public access and amenities in this area. I strongly encourage the proponent to use this opportunity to advance the access/amenities plan at this location as recommended by CZM, in order to address commercial, recreational and pedestrian uses as well as potential safety and competing use issues at this congested location.

The proposed project is located adjacent to the Department of Fish and Game, Office of Fishing and Boating Access (OFBA) Plymouth Harbor public boat ramp facility. The OFBA, in expressed concerns that the proposed pier, dinghy floats and associated uses are very close to existing public boat ramp and may have a negative impact to boaters and restrict any future planned expansion of the boat ramp. The revised layout for the proposed pier provided by the proponent during ENF review addresses OFSB concerns regarding the dinghy float location. However, as noted in its second letter dated January 2, 2008, OFSB will not allow use of boat ramp parking spaces for activities relating to the "transient floats" or other non-approved activities. OFSB remains concerned regarding the location of the "L" shaped pier and potential impacts on navigation near the boat ramp. The proponent should continue consultations with OFBA regarding project design, and to ensure that appropriate setbacks are maintained.

Archaeological Resources

As further detailed in its comment letter, the Massachusetts Board of Underwater Archaeological Resources (the Board) has determined that heretofore unknown submerged Native American sites may be located within the project area. The proponent should conduct additional research and analysis as further detailed in the comment letter from the Board, including at a minimum, a desktop sensitivity study and visual survey by a qualified marine archaeologist. The analysis should provide information regarding (1) the potential for (now inundated and buried) site occurrence and preservation in the project area, and (2) whether the extent of dredging activity would have an impact on buried sites. The proponent should consult with the Board regarding the scope and results of the archaeological study. Should heretofore unknown submerged cultural resources be encountered during the course of the project, the proponent should take steps to limit adverse effects and notify the Board, as well as other appropriate agencies, immediately in accordance with the Board's Policy guidance for the Discovery of Unanticipated Archaeological Resources (updated 9/28/06).

Contaminated Media and Debris

I refer the proponent to the comment letter from MassDEP regarding appropriate response actions that may be applicable to the project pursuant to the Massachusetts Contingency Plan (310 CMR 40.0000) if the project results in upland disposal of any contaminated media or debris.

A number of issues remain to be addressed regarding the proposed project. However, I have determined that the ENF has sufficiently defined the nature and general elements of the project and that the project may proceed to the permitting agencies. No further MEPA review is required for the project.

January 9, 2008

DATE



Ian A. Bowles, Secretary

Comments Received:

11/27/07	Department of Fish and Game, Office of Fishing and Boating Access
12/27/07	Massachusetts Board of Underwater Archaeological Resources
12/28/07	Department of Environmental Protection, Southeast Regional Office
12/31/07	Office of Coastal Zone Management
12/31/07	Department of Conservation and Recreation
01/03/08	Department of Fish and Game, Office of Fishing and Boating Access (2nd letter)
01/04/08	Division of Marine Fisheries

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