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April 6, 2007

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

PROJECT NAME : Phase I Stormwater Improvements
PROJECT MUNICIPALITY : Nantucket
PROJECT WATERSHED : Island of Nantucket
EOEA NUMBER : 13988
PROJECT PROPONENT : Town of Nantucket, Department of Public Works (DPW)
DATE NOTICED IN MONITOR : March 7, 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 the proposed project **does not require** the preparation of an Environmental Impact Report (EIR). The proposed project, as described in the Environmental Notification Form (ENF) submitted by the Town of Nantucket, consists of Phase I stormwater improvements. A Notice of Project Change (NPC) will be required for any additional phases of the stormwater system improvements.

The project consists of improvements to the stormwater collection, treatment and disposal system in downtown Nantucket to provide appropriately sized stormwater pipes, improve the quality of stormwater discharge and reduce localized street flooding. Stormwater from the downtown area is discharged primarily into Nantucket harbor and several of the drainage outfalls (DO) are undersized and in poor condition. The proposed improvements include: construction of eight drainage outfalls and rehabilitation of three existing outfalls and/or associated pipes; removal of 2,700 linear feet of pipeline; installation of 5,600 linear feet of pipeline; and installation of nine Best Management Practices (BMPs), 39 manholes, and 32 catch basins. According to the ENF, the scope, schedule and budget for Phase II and III of the stormwater system improvements has not yet been determined. Monitoring and evaluation of the Phase I improvements will be undertaken to inform the planning and design of future phases and address issues in midland and upland portions of each outfall's tributary watershed.

The project will result in alteration of approximately 480 square feet (sf) of Land Under Ocean, 13,810 sf of Coastal Beach, 200 sf of Dune, 55 sf of Coastal Bank and 90,324 sf of Land Subject to Coastal Storm Flowage. Most of the impacts will be temporary and are associated with removal or plugging of existing drainage outfalls, and installation of new outfalls with associated pipelines and appurtenances.

The project is undergoing environmental review pursuant to Section 11.03(3)(b)(1)(a) of the MEPA regulations because it involves alteration of coastal dune and bank; Section 11.03(3)(b)(1)(e) because it involves new fill or structure or expansion of existing fill or structure in a velocity zone or regulatory floodway, and Section 11.03(b)(1)(f) because it involves alteration of one-half or more acres of other wetlands.

The project requires a Chapter 91 License from the Massachusetts Department of Environmental Protection (MassDEP). The project requires an Order of Conditions from the Nantucket Conservation Commission (and, on appeal only, a Superseding Order of Conditions from MassDEP). The project is subject to review by the Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program (NHESP) pursuant to the Massachusetts Endangered Species Act (MESA). The project is also subject to review by the Massachusetts Historical Commission (MHC). The project requires a Programmatic Permit from the U.S. Army Corps of Engineers and may be subject to a Federal Consistency Review by the Massachusetts Office of Coastal Zone Management (CZM). The project also requires a National Pollutant Discharge Elimination System (NPDES) Construction Activities Permit from the U.S. Environmental Protection Agency (EPA).

The proposed project will receive funding from the Massachusetts State Revolving Fund in the amount of \$8,000,000. Therefore, MEPA jurisdiction is broad and extends to all aspects of the project that may cause significant Damage to the Environment as defined in the MEPA regulations.

Portions of the project site are located within Priority and Estimated Habitat of state-listed species. Proposed project activities will occur within or adjacent to the habitats of Piping Plover (*Charadrius melodus*), which is listed as threatened, the Common Tern (*Sterna hirundo*) and Least Tern (*Sterna antillarum*), which are listed as species of Special Concern, and the Roseate Tern (*Sterna dougallii*), which is listed as endangered. The Piping Plover and Roseate are also federally protected species. The project will improve the water quality where these and other shorebirds forage. However, NHESP has expressed concern regarding the timing of proposed work because the "off-season" coincides with increased potential for large storm events, which adversely impact state-listed species habitat due to erosion and backflows.

The proponent has submitted a Notice of Intent (NOI) for review by NHESP pursuant to the Wetlands Protection Act (310 CMR 10.00), and a MESA Checklist and filing materials pursuant to the MESA (321 CMR 10.00). The NHESP has determined that the project as proposed will not result in a "take" of state-listed species provided a contingency plan is developed and followed to mitigate the effects of storm events during construction. The proponent should provide NHESP with such a contingency plan showing how erosion and backflows will be prevented if construction will occur during the storm season.

The MassDEP has written in support of the project. As noted in its comment letter, Nantucket Harbor is currently on the 303(d) list for nutrients, pathogens, noxious aquatic plants and is closed to shellfishing. The goal of the project is to improve water quality and the project has been approved for funding on the 2006 Final State Revolving Fund (SRF) Clean Water Intended Use Plan as Project #2963. The Town should submit Chapter 91 License applications for the proposed structures and initiate a historical review of MassDEP license records to identify existing licensed outfalls as well as outfalls that may not have been authorized. MassDEP indicates that it will work the Town on the records review. Proposed structures which will terminate in the waterways should allow for continued public access along the waters.

As further detailed in the MassDEP comment letter, the Town should assess the potential for encountering contamination associated with waste sites. A Utility Release Abatement Plan is required for any excavation that may occur in contaminated areas, and if oil and/or hazardous material is identified, the Town should provide notification to MassDEP pursuant to the Massachusetts Contingency Plan (310 CMR 40.0000). The Town may contact the MassDEP Bureau of Waste Site Cleanup for guidance if questions arise regarding contamination and cleanup.

CZM has written in support of the project, which it notes will result in considerable improvement over existing conditions. As further detailed in its comment letter, CZM has worked closely with the Town on stormwater management issues and funded multiple projects under its Coastal Pollution Remediation grant program. The project has been designed to comply with MassDEP Stormwater Management Policy and incorporates appropriate BMP technologies to the maximum extent feasible given the constraints of the downtown area. The Town of Nantucket DPW should work closely with the Conservation Commission to minimize construction-related impacts. As recommended by CZM, the Town should develop a detailed and enforceable Operations and Maintenance Plan, to be approved by the Conservation Commission prior to construction, to ensure long-term effectiveness of the BMPs. The Town should consult with CZM to determine if the project is subject to the CZM federal consistency review process, and if so, it must be found to be consistent with CZM's enforceable program policies.

In its comment letter, the Massachusetts Division of Marine Fisheries (DMF) highlights several protected aquatic species and habitat areas to be considered by the Town in project design and implementation. The project site abuts mapped shellfish habitat for American Oysters (*Crassostrea virginica*), Quahogs (*Mercenaria mercenaria*) and Bay Scallops (*Argopecten irradians*) which are protected under the Wetlands Protection Act (310 CMR 10.34). Areas near proposed outfalls are mapped as Eelgrass (*Zostera marina*) habitat. Eelgrass beds are designated as "special aquatic sites" under the Federal Clean Water Act 404(b)(1) guidelines. In addition, Nantucket Harbor has been identified by the DMF as spawning habitat for Winter Flounder (*Pseudopleuronectes americanus*).

The Town should ensure the project is designed to protect Winter Flounder spawning habitat. Turbidity and silt control measures should be implemented around outfall pipes to minimize habitat impacts. The Town should limit the use of construction equipment in intertidal habitat and avoid storage of construction materials in resource areas to the extent feasible.

The Massachusetts Board of Underwater Archaeological Resources (BUAR) indicates in its comment letter, that there is a high probability that heretofore-unknown historic and/or prehistoric cultural resources are located in the project vicinity. Although no specific record for underwater archaeological resources at the project locations was found, as further detailed in the BUAR comment letter, the historical use of the region and the level and diversity of maritime, commercial, military and recreational activities throughout the Nantucket waterfront, indicate the potential that significant cultural resources may be encountered during project construction. The Town should consult with BUAR and conduct an archaeological sensitivity study prior to commencement of the project, as recommended by BUAR in its comment letter.

The project will occur within the Nantucket Historic District, which is within the National Historic Landmark of Nantucket Island, listed in State and National Registers of Historic Places. Portions of the project area are also adjacent to Brant Point Lighthouse also listed in State and National Registers of Historic Places. The MHC has determined that the project will have "no adverse effect" on the Nantucket Historic District, Brant Point Lighthouse, and Nantucket Island. The Town should submit information regarding Phase II and III to MHC when planning for those phases is underway, as requested by MHC in its comment letter.

Mitigation

Measures proposed in the ENF to avoid and minimize or mitigate impacts include:


- Proposed work will occur off-season;
- Activities below mean high tide will occur during low tide;
- Erosion and sedimentation controls between the limits of work and adjacent wetland resources;
- Protective measures such as hay bales and silt socks around catch basins;
- Turbidity barrier around discharge outfalls during construction;
- Post-construction removal of any accumulated silt and cleaning of catch basin sumps;
- Shellfish removal and replanting (for work in Commercial Wharf area) and notification of Town Biologist 10 days prior to existing pipe removal;
- Seawall will be returned to existing conditions (Commercial Wharf area);
- Removal, storage and replacement of dune grass (Francis Street Beach area);
- Hand-positioning of stones and other measures to minimize impacts associated with rip-rap placement in Francis Street Beach area; and
- Any asbestos-concrete pipe (ACP) will be handled and disposed of in accordance with MassDEP protocol.

The ENF has served to adequately disclose the potential impacts and mitigation associated with the project. Based on review of the ENF, comment letters received, and consultation with relevant agencies, I find that impacts associated with the project do not warrant further MEPA review. I am satisfied that any remaining issues can be adequately addressed during the state and local permit and review processes. The project may proceed to state permitting. I remind the proponent that a NPC will be required for additional phases of the

stormwater system improvements. To ensure that any potential issues of segmentation are addressed, the proponent should consult with the MEPA Office prior to filing a NPC.

April 6, 2007

DATE



Ian A. Bowles, Secretary

Comments Received:

3/20/07	Massachusetts Historical Commission
3/22/07	Office of Coastal Zone Management
3/26/07	Division of Marine Fisheries
3/27/07	Board of Underwater Archaeological Resources
3/27/07	Department of Environmental Protection, Southeast Regional Office
3/29/07	Division of Fisheries and Wildlife

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