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May 8, 2009

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

PROJECT NAME : Resource Improvement, Bank Stabilization - Green River
PROJECT MUNICIPALITY : Great Barrington
PROJECT WATERSHED : Green River/Housatonic
EEA NUMBER : 14399
PROJECT PROPONENT : GB Riverbend, Beth and Richard Larkin
DATE NOTICED IN MONITOR : April 8, 2009

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62I) 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).

Project Description

The proposed project as described in the Environmental Notification Form (ENF) consists of stabilizing 600 linear feet of bank along the Green River. The project site includes an automobile repair shop with a parking area at the rear adjacent to the river, which is located at 974 South Main Street (Route 7) in Great Barrington. The site has been subject to substantial erosion along the riverbank. The purpose of the project is to stabilize the bank to avoid damage to the on-site building and parking area, as well as a nearby sewer line.

The bank stabilization will be achieved using blocky rock, a tree revetement, root wads and live staking. The blocky rock will be limited to a 139-foot length of bank. A vegetated buffer will be maintained along the top of the bank. The live stakes will include willow and dogwood species (*Salix discolor*, *Salix purpurea*, and *Cornus amonum*). The project will result in impacts to 600 linear feet of Bank, 924 square feet (sf) of Land Under Water, 9,900 sf of Bordering Land Subject to Flooding (BLSF), and 12,000 sf of Riverfront Area. The total amount of alteration is approximately 13,000 sf (Riverfront and BLSF areas overlap). The area around and including the

proposed bank stabilization is located within habitat of two state-listed species of Special Concern, the Wood Turtle (*Glyptemys insculpta*) and the Longnose Sucker (*Catostomus catostomus*).

Permits and Jurisdiction

The proposed project is undergoing environmental review pursuant to Section 11.03(3)(b)(1)(b) of the MEPA regulations because it will result in alteration of 500 or more feet of inland Bank, and requires a state agency action.

The project requires a 401 Water Quality Certification from the Massachusetts Department of Environmental Protection (MassDEP) and an Order of Conditions from the Great Barrington Conservation Commission (and, on appeal only, a Superseding Order from MassDEP). The project may require a Chapter 91 License from MassDEP and a Conservation and Management Permit from the Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program (NHESP). The project may also require a permit from the U.S. Army Corps of Engineers.

The project is receiving assistance from the United States Department of Agriculture (USDA) Natural Resource Conservation Service. The project is not receiving financial assistance from the Commonwealth. Therefore, MEPA jurisdiction is limited to those aspects of the project that are within the subject matter of any required or potentially required state permits and that may cause Damage to the Environment as defined in the MEPA regulations. In this case, MEPA jurisdiction extends to water quality, wetlands, rare species, and stormwater.

Review of the ENF

The ENF includes site plans showing existing and proposed conditions and a description of proposed project activities and alternative construction methods. During the ENF review, the proponent provided additional detailed information on the project, including proposed bank stabilization methods, anticipated benefits of the stabilization project, potential bioengineering alternatives to minimize hardening of the bank, and a response to other questions and comments from state agencies that arose during the MEPA site visit.

Some of the comments received highlighted the importance of the proposed vegetated buffer for long-term stability of the bank. The proponent has developed an Operations and Maintenance Plan agreement with the Town of Great Barrington, which includes guidelines for establishment of the proposed vegetated buffer along the top of the bank. The proponent will be responsible for completing the tasks listed in the Operations and Maintenance Plan, which include inspections, live stake watering, and replanting if necessary. The proponent should ensure that the plan addresses long-term maintenance of the vegetated buffer.

The project is subject to the Wetlands Protection Act and associated regulations. MassDEP indicates that the project may be eligible for consideration as a Redevelopment Project under 310 CMR 10.58(5) and/or the "Limited Project" provision under 10.53(4). As noted in its comment letter, MassDEP has submitted comments on the Notice of Intent (NOI) for the project

to the Great Barrington Conservation Commission. The proponent should consult with MassDEP regarding the 401 Water Quality Certification (WQC) permit process and to clarify the amount of dredging proposed. MassDEP's comment letter indicates that the NOI proposes 108 cubic yards (cy) of dredging. However, it appears that this number is incorrect as it included the entire area where blocky rock is proposed. The proponent indicated during the site visit, and in a letter to the Commission dated April 20, 2009, that the total amount of dredging proposed is 20 cy.

The proponent should also consult with MassDEP regarding the Chapter 91 permit process. The project may be subject to the Massachusetts Public Waterfront Act, MGL c91 and the associated regulation requiring a license because it involves construction below the High Water Mark of a "Non-tidal, Navigable River or Stream". The proponent should submit a Request for Determination of Applicability to the Boston Office of MassDEP or submit a Waterways License Application, for a General License, to the MassDEP Western Regional Office.

The proponent has been in consultations with NHESP regarding project design and measures to avoid and minimize impacts to state-listed species and their habitat. NHESP indicates in its comment letter that impacts to the Longnose Sucker can be avoided with appropriate conditions to protect water quality, timing of work, and to allow for adequate bypass during construction. However, NHESP anticipates that the project will result in adverse effects to the habitat of the Wood Turtle and will result in a "take". The proponent should continue consultations with NHESP to determine if the project may be redesigned to avoid a "take". If this is not possible, the project will be required to meet the performance standards for a Conservation and Management Permit under the Massachusetts Endangered Species Act (MESA). I refer the proponent to the NHESP comment letter for additional guidance on the permit requirements.

The Green River is a significant coldwater fisheries resource. The proponent should ensure that Best Management Practices (BMPs) for erosion and sedimentation control are implemented to avoid and minimize adverse impacts to fisheries resources. If the project results in alteration of streambed, the existing grade should be maintained, as recommended by NHESP. The proponent has indicated that installation of the stone toe will be conducted during low flow periods to minimize turbidity impacts to aquatic resources.

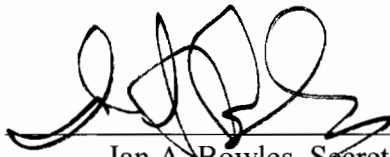
The project involves activities with the 100-year floodplain and floodway of the Green River. I refer the proponent to the comment letter from the Department of Conservation and Recreation (DCR) Flood Hazard Management Program (FHMP) for guidance on applicable federal, state and local regulations and other requirements pertaining to development within the 100-year floodplain. As noted by FHMP, if the project involves any federal action, it must comply with the federal Executive Order 11988, Floodplain Management.

Conclusion

The ENF has sufficiently defined the nature and general elements of the project, and has proposed measures to avoid and minimize, or mitigate environmental impacts. I am satisfied that any outstanding issues can be addressed through the state and local permitting process. Based on review of the ENF and comments received, and in consultation with state agencies, I have

determined that no further MEPA review is required. The project may proceed to state permitting.

May 8, 2009
DATE



Ian A. Bowles, Secretary

Comments Received:

- 4/24/09 New Horizons (response to comments on behalf of the proponent)
- 4/27/09 Department of Conservation and Recreation
- 4/29/09 Department of Environmental Protection, Western Regional Office
- 4/16/09 Berkshire Environmental Action Team
- 4/24/09 Berkshire Regional Planning Commission
- 4/29/09 Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program

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