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May 9, 2008

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FINAL RECORD OF DECISION

PROJECT NAME : Ponkapoag Golf Course Irrigation Improvements  
PROJECT MUNICIPALITY : Washington Street – Canton  
PROJECT WATERSHED : Neponset River  
EOEA NUMBER : 10573  
PROJECT PROPONENT : Department of Conservation and Recreation  
DATE NOTICED IN MONITOR : April 23, 2008

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.11 of the MEPA regulations (301 CMR 11.00), I have reviewed this project and grant a Phase I Waiver (as defined below), allowing the Phase I Rehabilitation of the Ponkapoag Pond Dam to proceed to the state permitting agencies prior to completion of the Supplemental FEIR for the entire project.

Project Description

As described in the Notice of Project Change (NPC), the proponent is requesting that it be allowed to undertake its rehabilitation of the existing Ponkapoag Pond Dam as part of Phase I. The Ponkapoag Dam is an earthen embankment structure with a length of approximately 1,300 feet and a maximum height of about six feet. The top of the embankment is about 7 to 8 feet wide. There is a stopgap drop inlet serving a 4-foot diameter reinforced concrete conduit that passes through the embankment. The discharge from the concrete conduit forms Ponkapoag Brook. Outflow through the conduit is manually controlled via wooden stop logs. The dam has been found to be in "Poor" condition by dam safety inspections. It is a "Significant Hazard" dam. Because a delay in dam maintenance and rehabilitation is a direct threat to the existing ecological conditions (the water feature and endangered species habitat) and the safety of downstream life and property, the proponent is seeking to advance the dam maintenance phase of work in advance of the other components of the above project. The proponent is not proposing to withdraw irrigation water from Ponkapoag Pond for the golf course in its dam design. It has added an emergency spillway as part of the outlet design.

### Project History

The proposed project consisted of the construction of drainage improvements to the two existing 18-hole courses at the Ponkapoag Golf Course; the installation of an automatic, centrally controlled irrigation system with a weather station; the installation of two groundwater wells and a reservoir; and the reconstruction of the Ponkapoag Pond Dam. The 239.5 acre project site is located within the Fowl Meadow and Ponkapoag Bog Area of Critical Environmental Concern (ACEC). On November 1, 2004, the Secretary determined that the FEIR required the submission of a Supplemental FEIR to address issues that arose due to the lapse of time between the review of the DEIR and the FEIR.

### Categorical Inclusion

The project was submitted in December 1995 under the prior MEPA regulations. The project required a mandatory EIR pursuant to Section 11.25(2) because it may have altered one or more acres of Bordering Vegetated Wetlands (BVW). The Certificate with the Scope for the EIR was issued on February 9, 1996.

### Jurisdiction

The dam rehabilitation will require a Dam Safety Permit from DCR. It will need a Water Quality Certificate and a Chapter 91 License from MassDEP. The project should be reviewed by the Natural Heritage and Endangered Species Program (NHESP) to determine if the Massachusetts Endangered Species Act will require a take. It must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site from the U.S. Environmental Protection Agency. The project may require a Programmatic General Permit from the U.S. Army Corps of Engineers. The project will require an Order of Conditions for this phase of the project as a "limited" project from the Canton Conservation Commission or a Superseding Order of Conditions from MassDEP.

### Waiver Request

On February 15, 2008, the proponent requested a Phase I Waiver to allow for the rehabilitation of the Ponkapoag Pond Dam to proceed in advance of completion of the Supplemental FEIR. The waiver request was submitted with the NPC.

### Criteria for a Phase I Waiver

Section 11.11 of the MEPA Regulations provides that the Secretary may waive any provision or requirement of 301 CMR 11.00 not specifically required by MEPA, and may impose appropriate and relevant conditions or restrictions, provided that the Secretary finds that strict compliance with the

provision or requirement would: a) result in undue hardship to the proponent, unless based on delay in compliance by the proponent; and b) not serve to minimize or avoid damage to the environment.

In the case of a partial waiver of a mandatory EIR review threshold that would allow the proponent to proceed to Phase I of the project prior to preparing an EIR, this finding shall be based on one or more of the following circumstances: 1) the potential environmental impacts of Phase I are insignificant; 2) ample and unconstrained infrastructure and services exist to support Phase I; 3) the project is severable, such that Phase I does not require the implementation of any other future phases; and 4) the agency action on Phase I will contain conditions that ensure due compliance with MEPA.

### Findings

Based upon the information submitted by the proponent and after consultation with the relevant state agencies, I find that:

1. The dam rehabilitation has been carefully designed by the proponent to minimize impacts to the upgradient pond and the downgradient Bordering Vegetated Wetland (BVW). There will be a widening of the cross section of the dam by three feet on average on the upgradient and downgradient side, and therefore a loss of a long linear portion of wetland along the margins of the dam. Due to the long linear length of the dam, this loss totals 8,700 sf of permanent impacts to BVW. The actual alteration is limited to a thin sliver of wetlands including portions that have actually developed on the downgradient side of the existing leaky dam. Permanent BVW impacts have been reduced since the FEIR. The proponent will restore in place 17,200 sf of BVW, and it will replicate approximately 9,240 sf of BVW for its permanent impacts. By allowing for controlled seepage in the dam design, the proponent supports the downgradient wetland hydrology. The proponent will monitor the replication areas for the establishment of invasive species for two growing seasons following construction.
2. There are no real infrastructure needs to support the rehabilitation of the dam. Access to the site is available on existing roads.
3. The project is severable from the golf course drainage improvements. It does not require the implementation of any of the other golf course improvements described in the FEIR. Phase I activities do not have any effect on the ability of the proponent to avoid, minimize or mitigate any other component of the larger project.
4. The dam rehabilitation under Phase I will require permitting under the Massachusetts Wetland Protection Act and the coordination and concurrence with MassDEP, the Canton Conservation Commission, NHESP, and the Massachusetts Historical Commission (MHC). The anticipated Order of Conditions will govern the dam rehabilitation activities and their environmental mitigation and compliance with the MEPA regulations.
5. The proponent is preparing a wildlife habitat evaluation that will be included in its Notice of Intent to be filed with the Canton Conservation Commission. It will develop a shallow area for the seasonal pooling of water at the wetland mitigation site (turtle nesting habitat) for use by

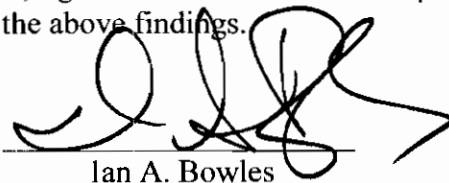
breeding amphibians to enhance the areas overall usefulness to the Blanding's Turtle. The proponent will develop the use of turtle barriers to exclude them from the construction area. It will monitor and relocate turtles prior to the start of work and during the construction phase.

6. The dam rehabilitation is anticipated to prevent the overtopping of the dam during the 100-year storm event, and it represents an improvement to the existing potential flooding downgradient of the dam. The proponent has added an emergency spillway to support the safe conveyance of flows during a design flood as part of its outlet design. The proponent's contractor will prepare a Storm Water Pollution Prevention Plan (SWPPP) as part of its NPDES requirements. It will provide a silt fence barrier, turbidity curtains, sedimentation tanks, and erosion control blankets to control sediment.
7. The proponent will maintain the Ponkapoag Pond water levels via reconstruction of the dam.
8. The proponent will maintain the existing Ponkapoag Pond Water Management Plan and Ponkapoag Brook streamflow at 0.5 cfs (or pond inflow rate when the pond level is low) through the spillway discharge or by a bypass.
9. The proponent has committed to submit its Supplemental FEIR in December of 2008.

Based on these findings, it is my judgment that the waiver request has merit and meets the test established in Section 11.11. Therefore, I grant the Phase I Waiver requested for the Rehabilitation of the Ponkapoag Pond Dam, subject to the above findings.

April 11, 2008

Date



Ian A. Bowles

No comments received:

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