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May 9, 2008

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

PROJECT NAME : Mill-Keveney Bridge Rehabilitation Project
PROJECT MUNICIPALITY : Barnstable and Yarmouth
PROJECT WATERSHED : Cape Cod
EOEA NUMBER : 14215
PROJECT PROPONENT : Town of Barnstable, Department of Public Works
DATE NOTICED IN MONITOR : April 9, 2008

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).

According to the Environmental Notification Form (ENF), the Town of Barnstable, through its Department of Public Works, is proposing improvements to the east and west approaches and the rehabilitation of the Mill/Keveney Lane bridge over Mill Creek. The total project length is 343 feet and will include structural improvements to the bridge, roadway approach and drainage improvements. A portion of the proposed project is located within the Sandy Neck Barrier Beach System Area of Critical Environmental Concern (ACEC).

The project is undergoing MEPA review pursuant to Section 11.03(11)(b) because it is located in an Area of Critical Environmental Concern (ACEC). The project requires a 401 Water Quality Certification from the Massachusetts Department of Environmental Protection (MassDEP). The project requires an Order of Conditions from the Town of Barnstable and the Town of Yarmouth (and, on appeal only, a Superseding Order from MassDEP). MassDEP has stated in its comment letter that the proposed roadway and bridge improvements will not require the filing of a Chapter 91 License Application pursuant to the Waterways Regulations at 310 CMR 9.05(3).

The project will receive financial assistance from the Town of Barnstable and the Town of Yarmouth. Therefore, MEPA jurisdiction is broad and extends to all aspects of the project that may cause Damage to the Environment as defined in the MEPA regulations.

As noted in the comment letter from the Department of Conservation and Recreation (DCR) ACEC Program, the water of the Sandy Neck Barrier Beach ACEC contains extraordinary natural resources and is designated as an Outstanding Resource Waters (ORWs). These areas provide flood control, storm damage prevention, improved water quality, wildlife habitat, and recreational opportunities. The proponent has committed to erosion control measures during construction to protect resource areas, and to post-construction site stabilization and restoration. The proponent should work with state agencies and other stakeholders to ensure the long-term success of the project.

The project site is located within priority and estimated habitat as indicated in the 12th Edition of the MA Natural Heritage Atlas. The Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program (NHESP) has determined that the proposed project requires review through a direct filing with NHESP for compliance with the Massachusetts Endangered Species Act (MESA). The NHESP has also determined that the project will not adversely affect the actual Resource Area Habitat of state-protected rare wildlife species and that it appears that the proposed activity within these habitats would not result in a prohibited "take".

The project lies within or abuts mapped shellfish habitat for quahogs (*Mercenaria mercenaria*) and blue mussels (*Mytilus edulis*) which is afforded protection under the Wetlands Protection Act (310 CMR 10.34). In addition, the water of Mill Pond has been identified as winter flounder (*Pseudopleuronectes americanus*) spawning habitat. In order to protect winter flounder spawning and egg development, a time-of year (TOY) restriction on all water construction activities is required from February 1st through May 31st. I recommend that the proponent work with the Division of Marine Fisheries to ensure that these resources are not adversely impacted by the proposed project.

According to the Environmental Notification Form (ENF), the project will allow enhanced tidal flow without causing habitat conversion or upstream property flooding. The proponent should provide additional information to MassDEP during permitting to substantiate this conclusion and to describe the effects of increasing tidal flow. The proponent should submit additional information as required for the alternatives analysis component of the 401 Water Quality Certificate application.

The Massachusetts Historic Commission (MHC) has determined that the bridge is an inventoried historical property within the Old King's Highway Regional Historic District (BRN.o), a local historical district listed in the State Register of Historic Places. MHC requests that the Town provide MHC with copies of comments received from the Barnstable and Yarmouth Historical Commissions and the Old King's Highway Historic District Committee and/or a Certificate of Appropriateness from the Old King's Highway Regional Historic District Commissions.

I am satisfied that the ENF has adequately described the general nature of the proposed project and proposed measures to avoid and minimize, or mitigate environmental impacts, and that any remaining issues can be adequately addressed during the permit process. The proposed project, as described in the ENF, requires no further review under MEPA.

May 9, 2008

Date



Ian A. Bowles

Comments Received:

- 04/24/08 Cape Cod Commission
- 04/28/08 Massachusetts Historical Commission
- 04/28/08 Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program
- 04/29/08 The Division of Marine Fisheries
- 04/29/08 Department of Environmental Protection, SERO
- 05/06/08 Department of Conservation and Recreation (DCR) ACEC Program

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