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May 22, 2009

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

PROJECT NAME : 127 East Beach Road
PROJECT MUNICIPALITY : Westport
PROJECT WATERSHED : Buzzards Bay
EEA NUMBER : 14409
PROJECT PROPONENT : Peter Haley
DATE NOTICED IN MONITOR : April 22, 2009

Pursuant to the Massachusetts Environmental Policy Act (MEPA) (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

According to the Environmental Notification Form (ENF), the project consists of a land disposition of 1,174 square feet (sf) located in Westport, Massachusetts from the Department of Capital Asset Management (DCAM) to the Proponent to correct a pre-existing encroachment. A survey in 2002 revealed that there was an encroachment onto the land which consists of a portion of the house at 127 East Beach Road. The disposition is authorized by Chapter 274 of the Acts of 2008. The transfer provides the minimum amount of land necessary to bring the property in compliance with local zoning. The Proponent is not proposing any work as part of the project and is not offering a land exchange. However, the Act does require the Proponent to provide full and fair market value in exchange for the transfer. The Proponent is awaiting appraisal and title transfer.

Jurisdiction

The project is undergoing review pursuant to Section 11.03(1)(b)(3) of the MEPA regulations because it requires a land transfer from an agency of the Commonwealth and involves

the conversion of land held for natural resources purposes in accordance with Article 97 of the Amendments to the Constitution of the Commonwealth to any purpose not in accordance with Article 97. The project requires a real estate transfer from DCAM. The Proponent is not seeking any permits.

Because the project involves a land transfer from an agency of the Commonwealth, MEPA jurisdiction is broad and extends to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment as defined in the MEPA regulations.

Review of the ENF

The property was purchased by the state in 1971 as an addition to the Department of Conservation and Recreation's (DCR) Horseneck Beach State Reservation. The Department of Natural Resources (a predecessor agency to DCR) purchased the property subject to an encroachment of a house which has been in place since at least the 1940s. The Proponent seeks to secure approximately 1,174 sf of land immediately adjacent to property at 127 East Beach Road. No alteration to any land is proposed at this time. However, the Massachusetts Department of Environmental Protection (MassDEP) states in their comments that any future work proposed on the property will require the filing of a Notice of Intent (NOI) describing compliance with the Wetlands Protection Act with the Westport Conservation Commission prior to the commencement of any work.

In a letter dated March 12, 2009 from DCAM to the Proponent, conveyance of the land is subject to the conditions specified in Chapter 274 or the Acts of 2008 and in the letter. The DCAM letter itemizes the conditions to be met with regard to acquiring the title and executing the deed. As described in DCR's comment letter, the authorizing legislation sets forth conditions of the transfer, including that consideration for the conveyance shall be the full and fair market value of the parcel as determined by DCAM in consultation with DCR, pursuant to one or more independent appraisals. Section 4 of the legislation requires installation and maintenance of permanent survey markers by the Proponent to identify the boundaries of the conveyance. DCR is in support of this land transfer and has no objection to the Proponent obtaining any necessary approvals and recording the plan.

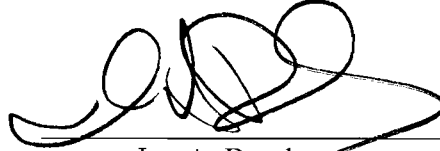
It is the policy of the Executive Office of Energy and Environmental Affairs (EEA) and its agencies to protect, preserve and enhance all open space areas covered by Article 97 of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts. As a general rule, EEA and its agencies shall not support an Article 97 land disposition unless EEA and its agencies determine that exceptional circumstances exist and is subject to stringent conditions being met. I have determined that all options to avoid the Article 97 disposition have been explored and no feasible and substantially equivalent alternative exists. The proposed disposition does not alter the current use of the subject parcel. In addition, the disposition of the subject parcel and its current use do not destroy or threaten a unique or significant resource. As noted in their comment letter, DCR believes the Project meets the conditions of the EOEEA Article 97 Land Disposition Policy.

Conclusion

I am satisfied that the ENF has sufficiently defined the nature and general elements of the project, and demonstrated that the proposed land transfer is consistent with the EEA Article 97 Land Disposition Policy. Based on review of the ENF and comments received, and after consultation with relevant state agencies, I have determined that no further MEPA review is required at this time.

May 22, 2009

Date



Ian A. Bowles

Comments Received:

05/12/2009 Massachusetts Department of Environmental Protection – SERO

05/12/2009 Massachusetts Department of Conservation and Recreation

IAB/PPP/ppp