



*The Commonwealth of Massachusetts*  
*Executive Office of Energy and Environmental Affairs*  
*100 Cambridge Street, Suite 900*  
*Boston, MA 02114*

Deval L. Patrick  
GOVERNOR

Timothy P. Murray  
LIEUTENANT GOVERNOR

Ian A. Bowles  
SECRETARY

Tel: (617) 626-1000  
Fax: (617) 626-1181  
<http://www.mass.gov/envir>

May 23, 2008

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

PROJECT NAME : Essex Woods Estates  
PROJECT MUNICIPALITY : Middleton  
PROJECT WATERSHED : Ipswich  
EEA NUMBER : 14229  
PROJECT PROPONENT : Monastiero Consulting Services, LLC  
DATE NOTICED IN MONITOR : April 23, 2008

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.03 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).

As described in the Environmental Notification Form (ENF), the project consists of a nine lot residential subdivision located off Essex Street in Middleton. The 24.16 project area contains a single-family home, a Massachusetts Electric Company easement and is bisected by Boston Brook. The project will include the construction of a 1,160 foot long cul-de-sac roadway and river crossing, the demolition of the existing dwelling, and the construction of 9 new single-family homes. A stormwater management system, wetlands replication areas, and utilities will also be incorporated on-site. The project site is mapped as *Priority Habitat* for the Blue-spotted Salamander and the completed project will include the creation of a conservation restriction on approximately 16.4-acres of the project site.

Estimated project impacts include 5.6 acres of new altered land, 1.89 acres of new impervious area, and 4,180 gallons per day of wastewater generation. Wastewater will be treated on-site by individual septic systems. Potential wetland impacts include alteration of approximately 4,695 square feet (sf) of Bordering Vegetated Wetlands (BVWs), 1,400 sf of Land Under Water, 4,246 sf of Bordering Land Subject to Flooding (BLSF), and 39,500 sf of Riverfront Area.

### Jurisdiction

The project is undergoing review pursuant to Section 11.03 (2)(b)(2) because the project will result in the taking of an endangered or threatened species or species of special concern on a Project Site two or more acres in area in an area mapped as a Priority Site of Rare Species Habitats. The project will require a Conservation and Management Permit from the Division of Fisheries and Wildlife Natural Heritage and Endangered Species Program (NHESP) under the Massachusetts Endangered Species Act (MESA). The project will require a Section 401 Water Quality Certificate (WQC) from the Massachusetts Department of Environmental Protection (MassDEP). The project has received an Order of Conditions from the Middleton Conservation Commission. The project may require a Section 404 permit from the United States Army Corps of Engineers (U.S. ACOE). Approval under the National Pollutant Discharge Elimination System (NPDES) Construction General Permit will be needed from the United States Environmental Protection Agency (U.S. EPA).

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that may have significant environmental impacts and that are within the subject matter of required or potentially required state permits. In this case, MEPA jurisdiction exists over rare species, wetlands, and stormwater.

### Rare Species

The project site is mapped as *Priority Habitat* for the Blue-spotted Salamander (*Ambystoma laterale*), a species listed as "Special Concern" pursuant to the Massachusetts Endangered Species Act (M.G.L. c.131A) and its implementing regulations (MESA, 321 CMR 10.00). The NHESP has determined that the proposed project will result in a "take" of the Blue-spotted Salamander. The project will be required to obtain a MESA Conservation and Management Permit prior to commencement of construction. The proponent, as mitigation for the proposed impact and in accordance with the MESA regulations, has proposed to: 1) protect approximately 16.4 acres of on-site Blue-spotted Salamander habitat through an Executive Office of Energy and Environmental Affairs endorsed Conservation Restriction and 2) provide funding for land protection, conservation research, habitat management, and/or conservation planning to benefit the Blue-spotted Salamander impacted by this project.

### Wetlands and Stormwater

Potential wetland impacts include alteration of approximately 4,695 square feet (sf) of Bordering Vegetated Wetlands (BVWs), 1,400 sf of Land Under Water, 4,246 sf of Bordering Land Subject to Flooding (BLSF), and 39,500 sf of Riverfront Area. The project will require a Section 401 WQC from MassDEP and may require approval from the U.S. ACOE under Section 404 of the Clean Water Act. The proponent should confirm the requirement for Section 404 approval from the U.S. ACOE prior to commencement of construction. The proponent has already obtained approval under the Massachusetts Wetlands Protection Act from the Middleton Conservation Commission in the form of an Order of Conditions.

The 401 WQC application will need to comply with the revised MassDEP stormwater regulations and standards, in effect as of January 2, 2008. The proponent will be required to prepare an alternatives analysis as part of the 401 WQC review process. MassDEP has recommended the consideration of an alternative stormwater management system on the front building lot to eliminate the large detention basin within 100 feet of Boston Brook and consideration of an alternative stormwater drainage plan for the rear parcel. MassDEP has also requested additional information on the proposed bridge and river crossing to demonstrate that the design meets applicable design standards. The proponent should use the MassDEP comment letter on the ENF as guidance for the content, additional studies, and anticipated alternatives analyses to be included in the 401 WQC application.

### Historical Resources

The Massachusetts Historical Commission (MHC) has indicated that the project area is archaeologically sensitive, likely to contain significant archaeological resources, and several archaeological sites are recorded in the vicinity. MHC has noted that the archaeological sensitivity of the project area is principally defined by its environmental setting, which includes well-drained soils located in close proximity to wetlands and water resources related to Boston Brook, favorable for ancient Native American land use and occupation.

MHC has recommended the conduction of an intensive (locational) archaeological survey (950 CMR 70) for the project. The purpose of the survey is to locate and identify any significant historical or archaeological resources that may be affected by the project. The results of the survey will provide information to assist in the consultation to avoid, minimize or mitigate any adverse effects to significant archaeological resources. The proponent should also provide current, original photographs of the building to be demolished. Project information should be provided to the Middleton Historical Commission for review and comment, with copies provided to the MHC.

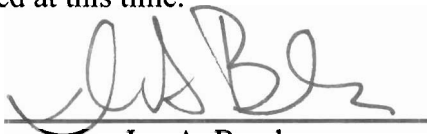
Construction Period Impacts

The proponent should take measures to reduce potential demolition and construction period impacts (including but not limited to noise, vibration, dust, and traffic flow disruptions). The proponent must comply with MassDEP's Solid Waste and Air Quality Control regulations during construction. I encourage the proponent to incorporate demolition and construction waste recycling activities as a sustainable measure for the project. The proponent should consult with MassDEP for appropriate standards and guidelines for managing demolition and construction waste.

I encourage the proponent to mitigate the construction period impacts of diesel emissions to the maximum extent feasible. This mitigation may be achieved through participation in the MassDEP Diesel Retrofit Program. The proponent should work with MassDEP staff to implement construction-period diesel emission mitigation, which could include the installation of after-engine emission controls such as oxidation catalysts or diesel particulate filters. I remind the proponent that off-road equipment engines must use low sulfur diesel (LSD) fuel, as required by a 2004 regulation issued by the U.S. EPA. I encourage the proponent to further mitigate construction period air quality impacts through the use of ultra low sulfur diesel (ULSD) fuel in off-road engines, which contains even lower sulfur content than LSD.

Based on the information in the ENF and after consultation with relevant public agencies, I find that no further MEPA review is required at this time.

May 23, 2008  
Date

  
Ian A. Bowles

## Comments received:

05/06/2008 Division of Fisheries and Wildlife – Natural Heritage and Endangered Species Program  
05/12/2008 Massachusetts Historical Commission  
05/13/2008 **Massachusetts Department of Environmental Protection – NERO**

IAB/HSJ/hsj