



*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>

June 20, 2008

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

PROJECT NAME : AGM Marine Fish Island Dredging  
PROJECT MUNICIPALITY : New Bedford  
PROJECT WATERSHED : Buzzards Bay  
EOEA NUMBER : 14249  
PROJECT PROPONENT : AGM Marine Contractors, Inc.  
DATE NOTICED IN MONITOR : May 21, 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).

Project Description

This project consists of dredging at the AGM Marine property on the south side of Fish Island in New Bedford Harbor. The Environmental Notification Form (ENF) indicates that commercial vessel traffic and berthing on the south side of Fish Island is limited due to shallow operating depths, ranging from 3 to 12 feet below Mean Lower Low Water (MLLW).

Maintenance dredging to -9 feet MLLW is proposed to allow vessels with deeper drafts access to Fish Island. The project will produce approximately 6,000 cubic yards (cy) of dredge material. A barge-mounted crane will be used to dredge the area and dredged material will be placed into scow barges for disposal within the New Bedford/Fairhaven Harbor Confined Aquatic Disposal (CAD) Cell # 1. The CAD Cell, which is located to the north of the project site, was developed under the New Bedford Harbor Dredged Material Management Plan (DMMP) and constructed under the State Enhanced Remedy (SER) process to receive dredged sediments which are contaminated with polychlorinated biphenyls (PCBs).

Fish Island is located within New Bedford Harbor adjacent to the western span of the New Bedford/Fairhaven Bridge (Route 6). The dredging sites are located to the east/southeast and west of Fish Island. The area contains mapped shellfish habitat for quahogs (*Mercenaria mercenaria*) and winter flounder (*Pseudopleuronectes americanus*) spawning habitat. The Acushnet River provides passage, spawning and/or juvenile development habitat for American eels, white perch and alewife.

### Permitting and Jurisdiction

The project is undergoing MEPA review pursuant to Section 11.03 (3)(b)(1)(f) because it requires a state permit and will alter ½ acre or more of any other wetlands. The project requires a 401 Water Quality Certificate and a Chapter 91 Permit from the Department of Environmental Protection (MassDEP). It may also require a Chapter 91 License from MassDEP. Use of the CAD cell for disposal will require approval by the State Enhanced Remedy/Navigational Dredge Group, the New Bedford Harbor Development Commission and MassDEP. Also, it requires an Order of Conditions from the New Bedford Conservation Commission (and hence a Superseding Order of Conditions from MassDEP if the local Order is appealed).

The project will alter approximately 32,120 square feet (sf) of Land Under the Ocean (LUO), Designated Port Area (DPA), Land Containing Shellfish, Fish Runs and Land Subject to Coastal Storm Flowage (LSCSF). The ENF indicates that mitigation measures may include use of silt curtains, water quality monitoring during dredge and disposal operations, observance of time-of-year (TOY) restrictions and use of an environmental bucket.

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that are within the subject matter of required or potentially required state agency permits, and that may cause significant Damage to the Environment. In this case, the subject matter of potentially required state permits (i.e. the project may require a Chapter 91 License) is sufficiently broad to confer MEPA jurisdiction over virtually all of the potential environmental impacts of the project.

### Review of the ENF

Comments from MassDEP and the Division of Marine Fisheries (DMF) indicate mitigation measures should include the use of silt curtains, water quality monitoring during dredge and disposal operations, observance of TOY restrictions, and use of an “environmental” bucket for dredging. DMF recommends establishment of two TOY restrictions: from January 15 to May 31 to protect winter flounder spawning and juvenile development and from March 15 through June 15 to protect river herring and white perch migration and spawning.

MassDEP comments indicate that the project is considered a water-dependent industrial use within a DPA and specify information that should be included in permit applications including historic documentation of authorizations and/or licenses. The proponent should consult with MassDEP, prior to filing its permit application, regarding these authorizations and the location of the historic high and low water lines.

Comments from the Board of Underwater Archaeologists (BUAR) indicate that it is unlikely that the project will impact submerged cultural resources. If submerged cultural resources are encountered during dredging, the proponent should contact BUAR and take steps to limit adverse impacts to historic and archaeological resources.

The review of the ENF has served to adequately disclose the potential impacts associated with this project. Based on the information in the ENF and after consultation with relevant public agencies, I find that no further MEPA review is required. Outstanding issues can be addressed during project permitting.

June 20, 2008

Date



Ian A. Bowles

Comments Received:

6/10/08	Department of Environmental Protection /Southeast Regional Office (MassDEP/SERO)
6/9/08	Division of Marine Fisheries
6/9/08	Board of Underwater Archaeological Resources

IAB/CDB/cdb