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July 24, 2009

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS
ON THE
NOTICE OF PROJECT CHANGE

PROJECT NAME : Plum Island and Salisbury Beach Nourishment (previously reviewed as Near-Shore Dredged Material Disposal off Plum Island Beach)

PROJECT MUNICIPALITY : Newbury, Newburyport and Salisbury

PROJECT WATERSHED : North Coastal

EOEA NUMBER : 13503

PROJECT PROPONENT : Department of Conservation and Recreation

DATE NOTICED IN MONITOR : June 24, 2009

Pursuant to the Massachusetts Environmental Policy Act (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 change does not require the preparation of an Environmental Impact Report. In a separate Draft Record of Decision (DROD) also issued today, I propose granting a Waiver from the requirement to prepare a mandatory Environmental Impact Report (EIR) for the project. This Certificate sets forth the issues that must be addressed by the Proponent during permitting and discusses recommendations that were submitted on the project during the MEPA comment period.

Project Description

The project was the subject of previous review under MEPA as an Environmental Notification Form (ENF) in 2005 and did not require the submission of an Environmental Impact Report (EIR). The previously reviewed project involved the revision of the disposal site for approximately 150,000 cubic yards (cy) of sand to be dredged for maintenance purposes from the Federal Navigation Project in Newburyport Harbor, which was reviewed under MEPA as EEA

#6429. The dredged material had been previously approved for disposal at a sub-tidal site east of Plum Island, which is one of two near-shore locations that has been historically used for disposal of dredged material from Newburyport Harbor. The ENF proposed the extension of the previously approved disposal site by approximately 1,500 feet to the south, but still within the sub-tidal (near shore) area, in water depths ranging from about 10 to 18 feet below mean lower low water (MLLW) in order to indirectly nourish Plum Island Beach via in-shore migration of the deposited sand and to provide a measure of protection against further erosion of shoreline public utilities and private properties. This location was proposed with the support of both Newbury and Newburyport in order to address existing erosion issues along the Plum Island public beach in Newbury. Placement of the material in the near shore was to allow typical fair-weather summer wave patterns to transport the sand onto the beach.

The Department of Conservation and Recreation (DCR) is now proposing to change the disposal area for the dredged material to two eroded beach areas, totaling about 22 acres, on Plum Island (about 2,500 feet of beach between the State Groin #1 and the Newburyport Turnpike) and Salisbury Beach (about 1,400 feet of beach between Fowler and Murray Street). Dredged material will be pumped via temporary pipelines extending for 3,600 feet along Plum Island and 3,800 feet in Salisbury. During the construction, the temporary pipeline, which is expected to be approximately 22 to 24 inches in diameter, will be placed along the beach between mean high water (MHW) and the toe of the existing dunes, and will be removed when construction is complete. The newly nourished dune areas at both sites are expected to be planted with dune grass and protected from wind and foot traffic with sand/snow fencing along the dune toe and laterally at frequent intervals.

Since the ENF filing in 2005, the coastline in Salisbury, Newbury, and Newburyport has experienced significant erosion. According to a US Army Corps of Engineers (USACE) Section 204 Study referenced in the ENF, the area of beach to receive the dredged materials has been eroding at an average rate of 13 feet per year in recent years. To offset this loss for a period of approximately five years, DCR is now proposing to hydraulically dredge approximately 160,000 cys of accumulated marine sediment from the Newburyport Harbor Navigation Channel. Changing from a hopper dredge to a hydraulic dredge presents safety issues, as indicated in the ENF. A small hydraulic dredge which remains stationary will have difficulty operating safely in the high wave-energy environment of the entrance channel to Newburyport Harbor. In order to avoid delays which potentially may cause conflicts with time-of-year restrictions imposed by the Division of Marine Fisheries for the project and costs associated with those delays, a large hydraulic pipeline dredge with a stronger anchoring system will be required.

As described in the NPC, the project will impact 654,953 square feet (sf) of coastal beach (including 276,767 square feet of intertidal impacts within the coastal beach); 79,412 sf of coastal dune; 165,024 sf of land under the ocean; and 2,700 linear feet of fish run.

MEPA Jurisdiction and Permitting Requirements

The project is undergoing review pursuant to Section 11.03(3)(a)(1)(b) and (3)(b)(4) of the MEPA regulations because it involves alteration of ten or more acres of wetlands (in this case, coastal beach, coastal dune, and land under the ocean) and the disposal of 10,000 or more cy of dredged material. The project will require a Chapter 91 Permit and a 401 Water Quality Certification from the Department of Environmental Protection (DEP). The proposed project is subject to federal consistency review by the Office of Coastal Zone Management (CZM) and, therefore, must be found to be consistent with CZM's enforceable program policies. The project will also require Orders of Conditions from the Conservation Commissions in Newbury, Newburyport and Salisbury.

Because the proponent is DCR, a state agency, MEPA jurisdiction for this project 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.

Permitting Issues

Beach Management Plans

The NPC states that post-construction management at both Salisbury Beach and Plum Island will be performed in accordance with approved beach management plans for these sites. While the Salisbury Barrier Beach Management Plan is already approved and in place, the Newbury and Newburyport Barrier Beach Management Plans are still in draft form, and must be finalized and approved before the nourishment project moves forward. At the request of the communities, state agencies provided comments on the draft plans in May 2009, and these comments are being incorporated into the documents. The implementation of the post-construction management practices contained in these plans will have an important impact on the effectiveness of the nourishment project over time. State agencies should be given the opportunity to review and comment on the content of the revised draft plans before they are finalized and approved.

To maximize the success and longevity of the project in addressing erosion concerns, each community should commit to implementation and enforcement of effective beach access plans to minimize impacts from pedestrian traffic and structures on the newly nourished primary dunes. Access plans, indicating approved access locations and design for pedestrian and vehicular access, should be included as part of the barrier beach management plans for each community.

Resource Area Impacts

The NPC discusses the impacts to coastal beaches that are directly related to the placement of sediment at these locations. During the permitting process, issues associated with the placement of the pipeline should also be thoroughly addressed to ensure that impacts are

minimized. Due to required time-of-year (TOY) restrictions, the project will be conducted between the months of October and March, which is typically the highest energy period for northeast facing beaches in Massachusetts. Because it is possible that the pipeline will be exposed to wave energy while the project is underway, direct and indirect impacts on the coastal beach related to these conditions should be addressed, including the potential for scour around the pipe as well as direct storm damage to the pipe itself. A contingency plan for storm damage to the pipeline should be detailed during permitting. Finally, the extent to which the beach will be modified to accommodate the pipeline should be detailed, including what vehicles and machinery will be required for installation and restoration after removal.

The project will require the construction of toe dikes and DCR has proposed using existing beach material to construct them. In its comments, MassDEP recommends that sand be imported to construct the dikes due to the proximity of the work zone to the tidal zone and the likelihood that construction of the toe dikes will contribute to the additional loss of sand from the beach system. In Newbury especially, the area to be nourished is within the tidal zone and will be subject to wave action.

Rare Species

The project site is located within *Priority* and *Estimated Habitat* as indicated in the 13th Edition of the Massachusetts Natural Heritage Atlas and therefore requires review through a direct filing with the Division of Fisheries and Wildlife (DFW) Natural Heritage and Endangered Species Program (NHESP) for compliance with the Massachusetts Endangered Species Act (MESA 321 CMR 10.00) and its implementing regulations.

In its comments on the NPC, NHESP states that it anticipates that the proposed project will need to be conditioned in order to avoid a “take” of state-listed bird species, specifically Piping Plovers and Terns that may be attracted to the beach nourishment areas, as well as their eggs and unfledged chicks. NHESP will likely require timing restrictions and development and implementation of a shorebird monitoring and protection plan. DCR should note the specific items requested by NHESP in its comments and submit this plan as soon as possible in order to expedite the MESA review process.

In its comments, NHESP states that it is especially concerned about any nourishment activities in the vicinity of 23rd Street in Newbury because this area currently provides habitat for state-listed species. If nourishment activities are proposed farther north than 21st Street, then DCR should provide the specific information requested by NHESP in its comments in order to complete its review under the Wetlands Protection Act and pursuant to MESA.

NHESP anticipates that all issues related to state-listed species can be addressed during the MESA review process. In particular, DCR should continue to work cooperatively with NHESP to ensure that proposed dune plantings, beach fencing, and pedestrian access do not adversely affect state-listed species. As the MESA review is not complete, no alteration to the

soil, surface, or vegetation and no work associated with the proposed project may occur until NHESP has made a final determination.

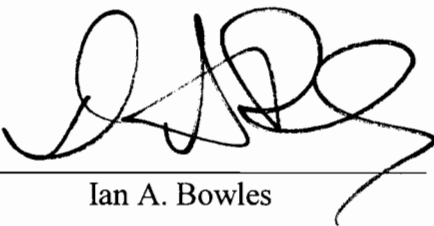
Archeological Resources

If, in the course of implementing the project, heretofore unknown cultural resources are encountered in conducting the project, DCR should notify the Board of Underwater Archeological Resources and work with the Board to develop and implement measures to avoid adverse effects.

Conclusion

I am satisfied that the NPC has adequately described the general nature of the proposed project and proposed measures to avoid and minimize, or mitigate environmental impacts. Based on a review of the information provided in the NPC and after consultation with the relevant public agencies, I find that the potential impacts of this project do not warrant further MEPA review. Outstanding issues may be addressed during the permitting processes.

I have issued a DROD proposing to grant a Waiver from the requirement to prepare an EIR for the project. The DROD will be noticed in the August 12, 2009 issue of the *Environmental Monitor* for a 14-day public comment period ending August 26, 2009 in accordance with 301 CMR 11.15(2). Based on written comments received concerning the DROD, I shall either issue a Final Record of Decision (FROD) or a Scope for an EIR if the Full Waiver is not approved within seven days after the close of the public comment period, in accordance with 301 CMR 11.15(6).



Ian A. Bowles

July 24, 2009
Date

Comments received:

- 7/13/09 Board of Underwater Archaeological Resources
- 7/14/09 Division of Fisheries & Wildlife - Natural Heritage and Endangered Species Program
- 7/15/09 Department of Environmental Protection Northeast Regional Office
- 7/17/09 Office of Coastal Zone Management

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