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August 24, 2007

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

PROJECT NAME : Ministers Point Revetment
PROJECT MUNICIPALITY : Chatham
PROJECT WATERSHED : Cape Cod
EEA NUMBER : 14061
PROJECT PROPONENT : Gerald Milden and Mary Holmes
DATE NOTICED IN MONITOR : July 25, 2007

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), this project involves the removal of existing timber bulkheads and the construction of stone revetments at 2, 24 and 26 Salt Pond Road in North Chatham. The project area contains approximately 750 feet of shoreline; 245 feet of which are occupied by existing licensed stone revetments and approximately 505 feet of which are occupied by two existing licensed timber bulkheads. The project site is located on Chatham Harbor, proximate to the new breakthrough of North Beach, in an area known as Minister's Point.

The project area contains three single family homes, all of which are in close proximity to the existing bulkheads and revetments. There is limited upland area between the homes and the top of the existing structures which appear to limit construction methodologies and revetment alternatives. Wetland resource areas near to and within the project site include:

Coastal Bank, Land Subject to Coastal Storm Flowage, Salt Marsh, Coastal Beach, Land Containing Shellfish, Barrier Beach, and Land Under Ocean. A small portion of upland area (landward of the 10-foot contour) on the project site is located within the Pleasant Bay Area of Critical Environmental Concern (ACEC). As noted previously, the project site is proximate to the new breakthrough of North Beach. Anecdotal evidence suggests that the project site will be subject to waves of increased velocity and height, particularly during storm events, and possible changes in tide elevations. The ENF stated that as a result of recent events on North Beach and the current poor condition of the existing bulkheads, the two bulkhead segments must be replaced. The preferred alternative presented in the ENF includes the use of hard measures (i.e. sloped stone revetment) in lieu of replacement in kind of the timber bulkhead, beach nourishment, or other soft engineering measures. Additional improvements include a modified revetment return and beach/dune nourishment as necessary along the south end of the project.

The project is undergoing MEPA review pursuant to Section 11.03(3)(b)(1)(a) because the project requires a State Agency Action and will involve the alteration of Coastal Bank; Section 11.03(3)(b)(1)(e) because the project will involve a new structure in a velocity zone; Section 11.03(3)(b)(6) because the project will involve the construction and expansion of an existing solid fill structure of 1,000 or more square feet base area that occupies flowed tidelands; and Section 11.03(11)(b) because the project is located within a designated ACEC. The project requires a new Chapter 91 Waterways License and a Section 401 Water Quality Certificate (WQC) from the Massachusetts Department of Environmental Protection (MassDEP) and a permit from the United States Army Corps of Engineers (U.S. ACOE) (a Programmatic General Permit – Category II). The project requires an Order of Conditions from the Town of Chatham Conservation Commission, or in the case of appeal, a Superseding Order of Conditions from MassDEP. A consistency statement from the Office of Coastal Zone Management may also be required.

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 Wetlands, Waterways and Tidelands and ACECs.

Wetlands, Waterways and Tidelands

The ENF indicates that the project will permanently impact 6,250 square feet (sf) of Coastal Beach, 410 linear feet of Coastal Bank, 6,250 sf of Land Containing Shellfish, and 6,800 sf of Land Subject to Coastal Storm Flowage. Supplemental information provided by the proponent subsequent to the MEPA site visit indicates that the project will temporarily impact an additional 720 sf of Coastal Dune/Barrier Beach, approximately 4,500 sf of Coastal Beach and Land Containing Shellfish, and 2,650 sf of Coastal Bank. The proposed project will directly impact wetland resource areas and should be designed in accordance with applicable

performance standards. The proponent should investigate alternatives to limit direct impact to wetland resources areas as part of the Chapter 91, WQC, and U.S. ACOE permitting processes.

MassDEP has noted that the replacement of the timber bulkhead with a stone revetment in flowed tidelands will require the submittal of a Chapter 91 License Application pursuant to the Waterways Regulations at 310 CMR 9.05. As the project will extend the toe of the revetment approximately 10 to 15 feet seaward of the existing bulkhead, it will require the issuance of new licenses rather than an "amendment" to the prior authorizations. The proponent should address the concerns raised in the MassDEP comment letter during the Chapter 91 License and WQC application processes. Plans submitted with the Chapter 91 License Application should include a delineation of the existing and historic mean high water and mean low water marks pursuant to 310 CMR 9.02. The Chapter 91 Application should also include copies of previously issued Chapter 91 Licenses and Permit for the site. As part of anticipated supplemental alternatives investigations associated with the Chapter 91 and U.S. ACOE permitting processes, the proponent should make every effort to limit the footprint of the proposed structure to avoid unnecessary impact to intertidal areas or public trust tidelands.

The project site is located within mapped shellfish habitat for soft-shelled clams (*Mya arenaria*). In accordance with comments submitted by the Division of Marine Fisheries (DMF), the proponent should strive to avoid to the extent possible seaward encroachment of the new revetment section to minimize the loss of public trust lands, resources and habitats. I acknowledge the potential difficulties of project construction from upland areas due to the existing single family homes and nature of the preferred alternative. However, I encourage the proponent to investigate ways in which to limit the amount or duration of work in intertidal areas during the construction period by alternative construction methods that may utilize the existing upland areas.

As the project proceeds to State permitting, I encourage the proponent to assess the ability of the proposed project to function effectively given the new dynamic as a result of the new North Beach inlet. Additionally, the proponent should work with local and State permitting authorities to establish a monitoring and supplemental re-nourishment protocol with regards to the proposed beach nourishment component of the project; to be located along the south end of the revetment.

Rare Species

The project site, or a portion thereof, is located within *Priority Habitat* and *Estimated Habitat* as indicated in the *Massachusetts Natural Heritage Atlas* (12th Edition). The Natural Heritage and Endangered Species Program (NHESP) indicated in its comment letter on the ENF that they project had been reviewed as part of the streamlined Notice of Intent process. The NHESP has determined that this project, as currently proposed, would not adversely affect the actual Resource Area Habitat of state-protected rare wildlife species and would not result in a prohibited "take" of state-listed rare species. I remind the proponent that any changes to the proposed project or any additional work beyond that shown on the site plans may require an additional filing with the NHESP pursuant to the Massachusetts Endangered Species Act regulations (321 CMR 10.00).

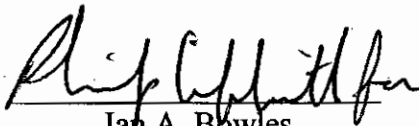
Construction Impacts

The proposed project should be constructed in accordance with anticipated conditions within applicable state permit. The proponent has established construction guidelines and work protocols for the project, including designation of work limits, construction equipment access routes, establishment of construction periods (based on tides, etc.), clean up protocols, and designation of materials stockpiles and staging areas.

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. The project may proceed with obtaining required State permits.

August 24, 2007

Date


Ian A. Bowles

Comments received:

08/10/2007 Division of Marine Fisheries
08/13/2007 Division of Fisheries and Wildlife – Natural Heritage and Endangered Species Program
08/14/2007 Massachusetts Department of Environmental Protection – SERO
08/14/2007 Department of Conservation and Recreation – Areas of Critical Environmental Concern (ACEC) Program

IAB/HSJ/hsj