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September 26, 2008

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

PROJECT NAME : Moore Residence Revetement Repair
PROJECT MUNICIPALITY : Wellfleet
PROJECT WATERSHED : Herring River
EOEA NUMBER : 14311
PROJECT PROPONENTS : Albert P. Moore and Nathalie H. Moore
DATE NOTICED IN MONITOR : August 27, 2008

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 **does not require** the preparation of an Environmental Impact Report (EIR).

The project consists of replacement of an existing stone revetement, approximately 140 linear feet in length. The purpose of the project is to contain the eroding coastal bank and protect the dwelling at 975 Chequessett Neck Road, located approximately 20 feet landward of the top of the coastal bank. The proponent has committed to revegetation of the bank once work is completed and to avoid any construction activities in the nearby isolated salt marsh area. The proposed stone revetement will be constructed to join with an existing revetement at an adjacent property (995 Chequessett Neck Road). The project includes beach nourishment, which will be conducted as an on-site mitigation measure for loss of sediment source to coastal beach due to the proposed bank armoring.

The project is undergoing environmental review pursuant to Section 11.03(3)(b)(1)(a) because it involves alteration of a coastal bank and Section 11.03(11)(b) because it is located within the Wellfleet Harbor Area of Critical Environmental Concern (ACEC). The project requires a Chapter 91 License and a 401 Water Quality Certification from the Massachusetts Department of Environmental Protection (MassDEP). The project requires an Order of Conditions from the Wellfleet Conservation Commission (and upon appeal only, a Superseding

Order from the MassDEP). The project will also require an Army Corps of Engineers Programmatic General Permit.

The proponent is not seeking financial assistance from an agency of the Commonwealth. Therefore, MEPA jurisdiction is limited to the subject matter of state agency permits required with the potential to cause Damage to the Environment as defined in the MEPA regulations. In this case, MEPA jurisdiction extends to land and stormwater, rare species, wetlands, waterways and tidelands, and water quality.

The project is located within the actual habitat of state-listed species. The proponent submitted plans to the Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program (NHESP) prior to the filing of the Environmental Notification Form (ENF). Based on the letter from NHESP to the proponent, dated June 30, 2008, the project (as proposed at that time) will not adversely affect the actual Resource Area habitats of state-protected rare wildlife species (310 CMR 10.37) and will not result in a prohibited "take" of state-listed rare species (321 CMR 10.18) provided that access to the site will be from the existing drive as proposed. However, during the MEPA site visit, the proponent indicated a change in the construction access in order to maintain the landscaping around the existing driveway. The new construction access driveway proposed would involve some tree and other vegetation removal on the project site. The proponent will require an Amendment to the Order of Conditions from the Wellfleet Conservation Commission for the proposed change. In addition, the proponent must provide revised site plans to NHESP for its review and approval. The proponent should consult with NHESP to discuss the project change and any additional filings pursuant to the revised MESA regulations (321 CMR 10.00) that may be required.

As noted in the comment letter from the Division of Marine Fisheries (DMF), the project site abuts mapped shellfish habitat for American oysters (*Crassostrea virginica*) which is protected under the Wetlands Protection Act (310 CMR 10.34). Additionally, diadromous fish species use the Herring River for passage, spawning, nursery, and forage habitat. As recommended by DMF, the proponent should limit reconstruction of the revetement to the footprint of the existing structures and ensure that storage of materials or other construction-related activities do not adversely affect the intertidal area. The proponent should ensure that appropriate materials are on hand, and a contingency plan in place, to avoid and minimize impacts in the event of a fuel spill. As directed by NHESP, no driving on the beach should occur.

Based on the comment letter from MassDEP, the project appears to meet the criteria for Chapter 91 licensing of a structure within an ACEC. The project should submit a 401 Water Quality Certification application to MassDEP for removal of material from the intertidal zone. The ENF indicates that on-site beach nourishment is required by the Conservation Commission. The proponent indicated during the site visit that sand will be deposited on the reconstructed wall, not in the intertidal beach area, to comply with Army Corps of Engineers requirements. As requested by MassDEP in its comment letter, the proponent should submit additional information as part of the Chapter 91 Application for the seawall reconstruction that describes the beach nourishment component of the project. I refer the proponent to MassDEP's comment letter for additional information on the U.S. Environmental Protection Agency (EPA) stormwater permit

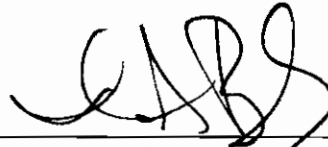
for construction activities as well as any Massachusetts Contingency Plan (310 CMR 40.0000) requirements that may apply to the project.

I am satisfied that the ENF has sufficiently defined the nature and general elements of the project, and has proposed measures to avoid, minimize, and mitigate environmental impacts. Any outstanding issues can be addressed through the state and local permit and review processes. I expect that any additional conditions necessary for protection of state-listed species and marine fisheries resources will be incorporated as appropriate by the Wellfleet Conservation Commission in an amended Order of Conditions, and by MassDEP in its Chapter 91 License and 401 Water Quality Certificate.

Based on review of the ENF and comments received, and consultation with state agencies, I have determined that no further MEPA review is required for the project as proposed in the ENF. However, if NHESP determines that the proposed change in access drive location may result in a "take" and require a Conservation and Management Permit, the proponent must file a Notice of Project Change (NPC) pursuant to 301 CMR 11.10 of the MEPA regulations.

September 26, 2008

DATE



Ian A. Bowles, Secretary

Comments Received:

9/16/08 Department of Environmental Protection, Central Regional Office
9/16/08 Division of Marine Fisheries

IAB/AE/ae