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December 26, 2007

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

PROJECT NAME : Sengekontacket Pond Dredging, Beach Nourishment and Dune Restoration
 PROJECT MUNICIPALITY : Edgartown
 PROJECT WATERSHED : Islands
 EOE A NUMBER : 14138
 PROJECT PROPONENT : Town of Edgartown
 DATE NOTICED IN MONITOR : November 26, 2007

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 **requires** the preparation of a mandatory Environmental Impact Report (EIR).

According to the Environmental Notification Form (ENF), the proposed project consists of the dredging of approximately 85,000 to 100,000 cubic yards from 13.9 acres of Land under a Salt Pond (LUSP) within existing navigational channels within the Sengekontacket Pond. The project includes both maintenance (2.2 acres) and improvement dredging (11.7 acres). The proponent is proposing to utilize the dredged material as beach nourishment on 13.6 acres of adjacent coastal and barrier beaches. The dredged material will be utilized on Bend in the Road and Cow Bay Beaches. The channel to be dredged is 6,060 feet long, 100 feet wide, and approximately 6-feet deep. The dredging area would be excavated to -6 feet at Mean low Water (MLW). It will be hydraulically dredged and the sand will be pumped to disposal sites through submerged and floating lines. The sediment analysis indicates that the dredge material is appropriate for this disposal. The project will provide navigation improvements for boating, storm damage protection, flood control, and improved water quality within the ponds, which may improve shellfish habitat. The proposed project area is approximately 27.5 acres.

This project is subject to a mandatory EIR pursuant to Section 11.03(3)(a)(1)(b) of the

MEPA regulations because it alters ten or more acres of any wetland (13.9 acres of LUSP). It will require a Chapter 91 License and a Section 401 Water Quality Certificate from the Department of Environmental Protection (MassDEP). The proponent should submit a filing in compliance with the Massachusetts Endangered Species Act (MESA) and continue to consult with the Natural Heritage & Endangered Species Program (NHESP). The project may need to obtain a Federal Consistency review from the Massachusetts Coastal Zone Management (MCZM) Office. It may need a Section 404 Individual Permit from the U.S. Army Corps of Engineers. An Order of Conditions will be required from the Edgartown Conservation Commission for work within a resource area. Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction is limited to those aspects of the project within the subject matter of required state permits (wetlands, waterways, habitat, and stormwater) that may have significant environmental impacts.

If the proponent decides to extend the dredged channel to the town boat ramp on Sengekontacket Pond, it should submit a Notice of Project Change (NPC) to the MEPA Office. It should also contact the MEPA Office to discuss how this change would be incorporated into EEA# 14138 and in subsequent submissions.

SCOPE

As modified by this scope, the EIR should conform to Section 11.07 of the MEPA regulations for outline and content. The EIR should resolve the remaining issues outlined below. It should address the comments listed at the end of this Certificate to the extent that they are within this scope, and it should include a copy of this Certificate and all comment letters.

Project Description

The EIR should provide a detailed project description with a summary/history of the project. It should include existing and proposed site plans. The EIR should identify and describe any project phasing. It should identify the timeframe for the project. The EIR should describe each state agency action required for the project. It should demonstrate how the project is consistent with the applicable performance standards. The EIR should contain sufficient information to allow the permitting agencies to understand the environmental consequences of their official actions related to the project.

Alternatives Analysis

In addition to the Preferred Alternative, the Do Nothing Alternative (Alternative 1), the EIR should discuss the alternatives from the ENF. The proponent has evaluated alternatives with the ability to avoid or minimize wetland related impacts, all centered on the excavation of the navigational channel within Edgartown's portion of Sengekontacket Pond. Four alternatives were identified in the ENF:

- Alternative 1 – Do Nothing Alternative.
- Alternative 2 – Perform dredging with offshore disposal.
- Alternative 3 – Perform dredging with upland disposal.
- Alternative 4 – Preferred Alternative.

The EIR should summarize the alternatives. The analysis should clearly present the alternative configurations at the site and identify the advantages and disadvantages of the Preferred Alternative. The EIR should provide a comparative analysis that clearly shows the differences between the environmental impacts associated with each of the alternatives. It should consider the potential frequency for maintenance dredging and beach and dune nourishment for each alternative. The EIR should discuss the bathymetry of Sengekontacket Pond. It should identify the grain size information for sediments to be dredged from the Sengekontacket Pond and its compatibility with sand in the beach and dune nourishment area. The selection of the proposed dredging footprint in relation to eelgrass restoration potential should be evaluated in the EIR as recommended by Mass Audubon.

Waterways Licensing/Permitting

The EIR should describe the Chapter 91 License that will be required for the dredging portion and the beach nourishment and dune restoration parts of the project. It should describe how the project is compatible with the Edgartown (municipal) Harbor Plan (MHP).

The EIR should provide the information necessary for a complete filing under the Chapter 91 Licensing Program. This should include an alternative analysis; public purpose determination; provisions for open space, setbacks, and view facilities; description of flooding conditions, if any, and facilities to encourage waterfront use; and a maintenance plan. The EIR should address historical licensing information. It should identify the area and cubic yards for the maintenance dredging portion of the project and the improvement dredging portion of the project. The EIR should include Historic Mean High Water (HMHW), Mean High Water (MHW), and MLW on all maps of the project site for Chapter 91 permitting. It should quantify the amount of dredged material being placed on state owned, town owned, and privately owned properties. The EIR should describe the public rights that will be secured and protected through the required access easements.

Wetlands

The Wetland Section of the EIR should contain an alternatives analysis to ensure that all wetland impacts are avoided, and where unavoidable impacts occur, impacts are minimized and mitigated. The EIR should illustrate that the impacts have been minimized and that the project will be accomplished in a manner that is consistent with the Performance Standards of the Wetlands Regulations (310 CMR 10.00).

The EIR should address the significance of the wetland resources on site, including

public and private water supply; riverfront areas; flood control; storm damage prevention; fisheries; shellfish; and wildlife habitat. It should identify the location of nearby public water supplies and wells.

All resource area boundaries, riverfront areas, applicable buffer zones, and 100-year flood elevations should be clearly delineated on a plan. Each wetland resource area and riverfront area should be characterized according to 310 CMR 10.00. The text should explain whether the local conservation commission has accepted the resource area boundaries, and any disputed boundary should be identified.

In the ENF, the proponent has identified that this project may impact the following wetland resource areas: 5,280 linear feet/448,700 sf of Coastal Beaches; 5,280 linear feet/592,400 sf of Barrier Beaches; 143,700 sf of Coastal Dunes; 13.9 acres/605,500 sf of Land Under a Salt Pond (LUSP); 2.1 acres/93,100 sf of Land under the Ocean (LUO); 13.9 acres/605,500 sf of Land Containing Shellfish (LCS); and 6,060 linear feet of Land Adjacent to a Fish Run (LAFR).

Proposed activities, including construction mitigation, erosion and sedimentation control, phased construction, and drainage discharges or overland flow into wetland areas, should be evaluated. This analysis should address current and expected post-construction water quality of the predicted final receiving water bodies. The grain size for the beach fill material should be of equal grain size, and the EIR should demonstrate this. Marine Fisheries also recommended that the applicant conduct water quality monitoring to determine if dredging has any effect on water quality within the embayment.

For any amount of required wetlands replication, such as beach nourishment and dune restoration, a detailed wetlands replication plan should be provided in the EIR that, at a minimum, includes: replication location(s) delineated on plans, elevations, typical cross sections, test pits or soil boring logs, groundwater elevations, the hydrology of areas to be altered and replicated, list of wetlands plant species of areas to be altered and the proposed wetland replication species, planned construction sequence, and a discussion of the required performance standards and monitoring.

Hazardous Wastes

The EIR should present a summary of the results of any hazardous waste studies and remediation for the dredged material to be removed from the site by the proponent.

Rare Species

The EIR should provide a summary of the project site's habitat assessment. It should identify if the project will impact the state-listed Piping Plover, Common Tern, Roseate Tern, and Least Tern, which have been identified in the beach and dune area of the project. The EIR

should describe any habitat enhancements and the conditions imposed by the Order of Conditions and it should be reviewed with the NHESP. In its comment letter of December 11th, the NHESP has recommended conditions for the proposed project to avoid a prohibited “take”, and the EIR should identify and respond to these conditions. The NHESP suggested no beach nourishment between April 1st and August 31st. Marine Fisheries has recommended that all dredging work be prohibited from January 15th through June 30th to protect winter flounder and horseshoe crab spawning,

Historical/Archaeological Issues

The proponent should consult with the Massachusetts Historical Commission (MHC), the Massachusetts Board of Underwater Archaeological Resources, the local Historic Preservation Commission, and the Tribal Historical Preservation Officer for the Wampanoag Tribe of Gay Head as it proceeds with the project planning. The EIR should identify the recommendations from these above agencies, and how the proponent proposes to include these recommendations into the project.

Construction Issues

The EIR should include a construction management plan that describes the project, phasing, erosion and sedimentation controls, monitoring, and contingencies. It should identify whether a booster pump will be necessary to reach some of the areas for beach nourishment. The EIR should evaluate the size of the culvert and its ability to handle the nourishment hoses at the Traps Pond connection.

Mitigation

The EIR should include a separate chapter on mitigation measures. It should outline the proponent’s beach nourishment and dune restoration as part of its mitigation package.

This chapter on mitigation should include a proposed Section 61 Finding for all state permits. The proposed Section 61 Finding should contain a clear commitment to mitigation, an estimate of the individual costs of the proposed mitigation and the identification of the parties responsible for implementing the mitigation. A schedule for the implementation of mitigation should also be included.


Response to Comments

The EIR should respond to the comments received to the extent that the comments are within the subject matter of this scope. Each comment letter should be reprinted in the EIR. I defer to the proponent as it develops the format for this section, but the Response to Comments section should provide clear answers to the questions raised.

Circulation

The EIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should also be sent to the list of "comments received" below and to Edgartown officials. A copy of the EIR should be made available for public review at the Edgartown Public Library.

December 26, 2007
DATE



Ian A. Bowles

Comments received:

- Woods Hole Group, 11/28/07
- Woods Hole Group, 11/29/07
- Woods Hole Group, 12/3/07
- Woods Hole Group, 12/5/07
- Martha's Vineyard Commission, 12/6/07
- MCZM, 12/6/07
- MassWildlife, 12/11/07
- MCZM, 12/11/07
- MA Division of Marine Fisheries, 12/14/07
- MassDEP, 12/17/07
- Mass Audubon, 12/17/07
- Woods Hole Group, 12/18/07
- Woods Hole Group, 12/19/07

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