



# *The Commonwealth of Massachusetts*

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June 15, 2003

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## DRAFT RECORD OF DECISION

PROJECT NAME : South River Dredging  
PROJECT MUNICIPALITY : Scituate and Marshfield  
PROJECT WATERSHED : South Coastal  
EOEA NUMBER : 12753R  
PROJECT PROPONENT : Scituate Waterways Commission  
DATE NOTICED IN MONITOR : May 7, 2003

Pursuant to the Massachusetts Environmental Policy Act (MEPA) (G.L.c.30, ss. 61-62H) and Section 11.11 of the MEPA regulations (301 CMR 11.00), I have reviewed this project and propose to grant a waiver from the requirement to prepare a mandatory Environmental Impact Report (EIR).

### Project Description

As described in the Environmental Notification Form (ENF), the project consists of the mechanical dredging of a 75-foot wide channel for about 10,000 linear feet/1.89 miles in two areas of the South River north of the Sea Street Bridge. In this stretch of the South River, approximately 6,200 linear feet/1.17 miles is shallow enough to require dredging. The project includes the maintenance dredging of an area of 228,585 sf (15,163 cubic yards) and the improvement dredging of an area of 73,627 sf (4,768 cubic yards). The proponent is proposing to barge the sediment material to the nearshore area off Humarock on the other side of the barrier beach in about 15 to 20 feet of water. This will keep the sediment in the nearshore area, which is preferable to barging the material out to sea. The footprint of the project area is about 39.64 acres. The Marshfield/Scituate town line goes through the center of the channel.

According to the proponent, the project will temporarily impact the following wetland resource areas: approximately 1,726,852 sf/39.64 acres of Land Under Water (dredging and disposal areas) and 6,200 linear feet of a fish run.

Since the original ENF was submitted and withdrawn, the project has been modified from sediment disposal at sea to

nearshore disposal. Because of agency concerns and to reduce project impacts, the proponent has investigated several alternatives and summarized five alternatives in the ENF. The five alternatives include: No-Build; Maintenance Dredging with Sediment Dewatered on Land and Upland Disposal; Mechanical Dredging of Channel with Sediment Disposal at the Massachusetts Bay Disposal Site (MBDS); Hydraulic Dredging with Sediment Disposal via Slurry Pipeline on Humarock Beach with Remainder being Mechanically Dredged and Barged to the MBDS; and the Preferred Alternative - Mechanical Dredging of all Material and Transport Dredged Material via Barge to the Nearshore Area off Humarock in about 15 to 20 feet of Water.

#### Categorical Inclusion

The project would require the preparation of 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 other wetland".

#### Jurisdiction

The project will require a Chapter 91 Permit and a Section 401 Water Quality Certificate from the Department of Environmental Protection (DEP). The project will require an Individual Permit from the U.S. Army Corps of Engineers. The project will require Federal Consistency Review from the Massachusetts Coastal Zone Management (MCZM) Office. An Order of Conditions will be required from both the Marshfield and Scituate Conservation Commissions for work within wetland resource areas and their buffer zones. Because the proponent is not seeking financial assistance from the Commonwealth, MEPA jurisdiction is limited to the environmental impacts related to wetlands, water quality, and drainage.

#### Waiver Request

On April 26, 2003, the proponent requested a waiver from the requirement for the preparation of an EIR. The waiver request was discussed at the consultation/scoping session, which was held on May 19, 2003. I believe that this project can be accomplished within the state permitting process with the participation and review oversight by DEP.

#### Criteria for Waiver

Section 11.11 of the MEPA Regulations provides that a waiver may be granted upon a finding that strict compliance with the

regulations will result in undue hardship and will not serve to minimize or avoid damage to the environment. In the case of categorically included projects, this finding shall be based on one or more of the following circumstances: 1) the project is likely to cause no damage to the environment; and 2) ample and unconstrained infrastructure exists to support the project. The terms agreed to as a condition of the waiver will bring about benefits in excess of those that could be achieved in the absence of a waiver.

### Findings

Based upon the information submitted by the proponent and after consultation with the relevant state agencies, I find that:

1. The project will provide sufficient channel depths for boating safety in the South River. The improvements are expected to last between seven to ten years, the normal period for maintenance dredging. There are no significant adverse impacts associated with the project.
2. The project will beneficially reuse sand from a dredging project by keeping it within the nearshore area. Delay in implementing this project would lose a valuable nourishment source of beach sand. The sediment is suitable for ocean disposal at high energy, sandy sites.
3. The area of sediment disposal appears to be of low value both as lobster and clam habitat. The project enhances the coastal /barrier beach ecosystem. It may help to stabilize an eroding beach. The disposal area can be delineated in more detail during the DEP permitting process.
4. The proponent has designed construction windows to protect finfish and shellfish.
5. The proponent will coordinate with the Massachusetts Division of Marine Fisheries (MDMF) to insure that the timing and design of the dredging and nearshore disposal do not negatively impact finfish and shellfish. The resolution of these details can be incorporated into the permit conditions.
6. According to the proponent, the beach disposal of the dredged material does not appear to be practicable from legal, logistical, and cost points of view.

Based on these findings, it is my judgment that the waiver request has merit and meets the tests established in Section 11.11. Therefore, I propose to grant the waiver requested for the South River Dredging project, subject to the above findings. This Draft Record of Decision shall be published in the next issue of the *Environmental Monitor* for a fourteen-day comment period, after which I shall reconsider, modify, or confirm the waiver.

June 15, 2003  
Date

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Ellen Roy Herzfelder

cc: Lealdon Langley, DEP/Boston  
Sharon Stone, DEP/SERO

Comments received:

- MCZM, 5/21/03
- DEP/Boston, 5/27/03
- DEP/Boston, 5/27/03
- MDMF, 5/27/03
- Robert L. Fultz & Assoc., 6/4/03

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