



The Commonwealth of Massachusetts

Executive Office of Environmental Affairs

251 Causeway Street, Suite 900

Boston, MA 02114-2119

JANE SWIFT
GOVERNOR

BOB DURAND
SECRETARY

August 30, 2002

Tel. (617) 626-1000
Fax (617) 626-1181
<http://www.magnet.state.ma.us/envir>

DRAFT RECORD OF DECISION

PROJECT NAME : Chapoquoit Beach Replenishment
PROJECT MUNICIPALITY : Falmouth
PROJECT WATERSHED : Cape Cod
EOEA NUMBER : 12831
PROJECT PROPONENT : Chapoquoit Associates
DATE NOTICED IN MONITOR : July 24, 2002

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 Expanded Environmental Notification Form (ENF), the project consists of the replenishment of about 3,630 linear feet of coastal beach from Chapoquoit Point to the northern end of Black Beach with approximately 100,000 cubic yards of sand to be obtained from the U.S. Army Corps of Engineers (USACOE) dredging of the Cape Cod Canal in the Fall of 2002. The project was modified to minimize the total acres of impact to rocky intertidal and eel grass resources at the northern end of the site. No beach replenishment is proposed in the rocky intertidal or eelgrass resources. If the material is not available from the USACOE, the proponent will identify an upland source with compatible sand. The footprint of the project area is about 12.0 acres.

The project site has been divided into two areas that are separated by an existing groin located near the northern end of the project site. The northern area extends from the groin towards Chapoquoit Point for a distance of approximately 500 feet. Sand, about 1,000 cubic yards, is proposed for this area for the purposes of coastal bank erosion mitigation only, and no beach replenishment is proposed within the northern area. It will be spread mechanically in this area. The southern area extends 3,130 feet from the groin to the northern end of Black Beach.



This area of the project will have the beach replenished with about 97,000 cubic yards of sand. The replenishment design template calls for a +9 feet NGVD berm, starting at that elevation along the landward side of the beach (coastal bank, seawall, or dune), and extending seaward for 50 feet. It will then continue seaward at a 10H:1V slope to meet the natural grade. The sand will be placed hydraulically along the beach.

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 wetland.

Jurisdiction

The project will require a Chapter 91 Permit from the Department of Environmental Protection (DEP). The owner of the stone groin at the northerly end of the project will be required to document authorization of the groin under the Chapter 91 Program or to remove the said structure. The project will require an Individual Permit from USACOE. The project will require Federal Consistency Review from the Massachusetts Coastal Zone Management (MCZM) Office. An Order of Conditions will be required from the Falmouth Conservation Commission 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 July 12, 2002, the proponent requested a waiver from the requirement for the preparation of an EIR. Supplemental Information dated August 2002 was prepared and submitted after the Expanded ENF. The waiver request was discussed at the consultation/scoping session, which was held on August 6, 2002. Comments from the state agencies are uniformly supportive of the waiver.

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 mitigate the high rates of beach erosion (0.6 to 1.2 feet per year), adverse impacts to the seawall and revetment, and protect public and private infrastructure. It is estimated to last between seven to ten years, the normal period for maintenance. There are no significant adverse impacts associated with the project.
2. The project will beneficially reuse sand from a maintenance-dredging project by the USACOE that would have gone to a disposal site within Buzzards Bay. Delay in implementing this project would lose a valuable nourishment source of beach sand.
3. The project enhances coastal beach, coastal bank, and dune ecosystems. It improves public and private access to the shoreline by stabilizing eroding beach.
4. The proponent has designed construction windows to protect finfish and shellfish. It has tapered the ends of the nourishment footprint to minimize spreading.
5. The proponent has determined that the net direction of sediment transport under average conditions is to the south, away from West Falmouth Harbor. However, during storms the net transport is to the north. The proponent has estimated that about three inches of accretion will occur in the vicinity of the harbor annually given a ten-year storm event. This is equivalent to the deposition of approximately 3,100 cubic yards of sand.
6. The proponent will monitor the replenishment program during and following construction. Beach elevations will be surveyed annually to evaluate the performance of the project. Annual surveys will also be conducted of the rocky intertidal shore and eelgrass areas. The resources will be mapped and compared with pre-project conditions and submitted to the FCC for review.

7. The proponent will plant beach grass in appropriate dune and coastal bank areas to assist in stabilizing the replenishment sand.
8. The proponent will coordinate with the Natural Heritage and Endangered Species Program (NHESP) and the Division of Marine Fisheries (DMF) to insure that the timing and design of the beach nourishment do not negatively impact rare species, finfish, and shellfish. The resolution of these details can be incorporated into the permit conditions.
9. Ample and unconstrained infrastructure exist to support the project.

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 Chapoquoit Beach Replenishment 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.

August 30, 2002
Date

Bob Durand

cc: Steve Lipman, DEP/Boston
Sharon Stone, DEP/SERO

Comments received:

Woods Hole Group (WHG), 7/31/02
Falmouth Shellfish Dept., 8/2/02
WHG, 8/16/02
WHG, 8/19/02
DEP/SERO, 8/23/02
NHESP, 8/23/02
MCZM, 8/23/02
Falmouth Shellfish Dept., 8/23/02

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