



# The Commonwealth of Massachusetts

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January 6, 2006

## CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS ON THE ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : BRT Wickets LLC-Wicket's Island Single Family Home Project

PROJECT MUNICIPALITY : Wareham

PROJECT WATERSHED : Buzzards Bay

EOEA NUMBER : 13693

PROJECT PROPONENT : BRT Wickets LLC

DATE NOTICED IN MONITOR : December 7, 2005

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 does not require the preparation of an Environmental Impact Report.

As described in the Environmental Notification Form (ENF), the proposed project is for an 8500 square foot single family home on a 4.6 acre building lot on Wicket's Island. The proposed project also includes plans for a pool, a gondola, coastal bank stabilization and restoration, restoration of an existing solid pier and riprap with a fixed pile pier extension construct and a proposed landing and lateral access stairs, piles, ramp and floats. The project will include the necessary utilities infrastructure for the home which will be extended from the end of Eagle Way Point Independence across Onset Bay to the Northerly side of Wicket's Island. The utility lines will be encased in an underground duct system installed via directional drilling methodology.

The project is undergoing review pursuant to Section 11.03 (3)(b)(5) of the MEPA regulations, because the project will require a Chapter 91 License from the Department of

Environmental protection (DEP) for the non-water dependent use of tidelands. Although not indicated in the ENF, the project will require an individual 401 Water Quality Certification application from DEP for impacts from the proposed project associated with the utility installation within Land Under the Ocean. On November 10, 2005 the Wareham Conservation Commission issued an Order of Conditions approving the project with special conditions.

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that are within the subject matter of required or potentially required state permits and that may cause significant Damage to the Environment. In this case, MEPA jurisdiction extends to the broad issues concerning waterways, and issues concerning wetlands.

The impacts of the project do not warrant the preparation of an EIR. Nonetheless, several issues remain for the proponent to resolve during permitting. I advise the proponent that the project must meet all the requirements for the permitting process. DEP has indicated that it will require additional analysis and information related to required permits. The project proposes utilities connection to the island via directional drilling from Point Independence, including connection to Town sewer. The project does not trigger a DEP sewer connection permit, because the project is described as a single-family house. DEP has requested, and I concur, that the proponent should submit in writing that the project will be a single-family house, now and in the future. If the project changes from a single-family dwelling to a commercial lodging, then a DEP sewer connection permit is a requirement. In addition, the Town of Wareham filed a Comprehensive Wastewater Management Plan (CWMP) with MEPA (EOEA # 12562) and DEP in March, 2002 identifying priority sewage needs areas for connection to sewer. Wicket's Island was not identified as a priority sewage needs area. Therefore, a Notice of Project Change may be required to the Town's CWMP before a new construction project on Wicket's Island is allowed to connect to sewer.

DEP has also requested specific information related to the Chapter 91 Waterways License and the 401 Water Quality Certificate. For the 401 Water Quality Certification associated with the utility installation further information will be required on:

- the amount of displacement and occupation within Land Under the Ocean from the utility cables, the temporary slurry return line, directional drilling equipment and construction activities;
- the second option of "lying the utility lines on the sea floor encased in the necessary protective material" as proposed within the Notice of Intent application.

For the Chapter 91 Waterways License a final license history for the existing sea walls, landing platform, access stairs, and solid fill pier must be submitted. Additional information is also required for the proposed timber pier, piles, ramp, floats, gondola and utilities crossing within Onset Bay. In order to facilitate the permitting process I advise the proponent to work closely with DEP to submit the necessary information.

The Division of Marine Fisheries (DMF) has made a number of construction period and project design recommendations. The project site lies within Onset Bay which is mapped habitat for quahogs (*Mercenaria mercenaria*), soft shelled clams (*Mya arenaria*), American oysters (*Crassostrea virginica*) and bay scallops (*Agopecten irradians*). These species are afforded protection under the Wetlands Protection Act (310 CMR 10.34). This portion of Onset Bay is classified as "Conditionally Approved" for shellfishing with an "Open to Harvest" status between November 1st and May 1st each year. Onset Bay has also been identified as a spawning habitat for winter flounder (*Pseudopleuronectes americanus*) and horseshoe crabs (*Limulus polyphemus*). The proponents must undertake the construction of the project to avoid time periods when spawning of winter flounder and horseshoe crabs are likely to occur. Specifically, work in the intertidal area should be avoided in May and June to protect horseshoe crabs. Similarly, in-water and silt producing activities should be avoided from January 15 through May 30 to protect winter flounder spawning. The proponent should consult with DMF and address both the construction period and project design recommendations raised in their comment letter. In addition, Wicket's Island has been identified by the Natural Heritage and Endangered Species Program (NHESP) as a nesting area for the endangered Roseate Tern (*Sterna dougalli*) and the Common Tern (*Sterna hirundo*), a Species of Special Concern. The Conservation Commission review can serve to develop any conditions necessary to avoid impacts to these species. The proponent should also work with the Massachusetts Historical Commission and the Board of Underwater Archaeological Resources to address the possible on-island Native American burial sites and submerged cultural resources of Onset Bay.

I conclude that no further MEPA review is required. While additional mitigation for project impacts appears feasible, the proponent can resolve the outstanding issues during the permitting process. If the project design undergoes a material change as a result of requirements imposed by the state permitting agency (or for any other reason), the proponent should file a timely Notice of Project Change that addresses impacts and mitigation.

January 6, 2006

Date

  
Stephen R. Pritchard

Comments received:

12/23/05	MA Board of Underwater Archaeological Resources
12/28/05	Massachusetts Historical Commission
12/29/05	Department of Environmental Protection SERO
12/30/05	MA Division of Marine Fisheries

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