



The Commonwealth of Massachusetts

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January 20, 2006

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

PROJECT NAME: Genova Dock
PROJECT MUNICIPALITY: Plymouth
PROJECT WATERSHED: Buzzards Bay
EOEA NUMBER: 13700
PROJECT PROPONENT: Arthur Genova
DATE NOTICED IN MONITOR: December 21, 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 project proposes the installation of a 4' x 64' seasonal aluminum dock Island Pond, a sandy bottom pond in Plymouth. The project is undergoing review pursuant to Section 11.03 (11)(b) of the MEPA regulations, because the project requires state permits and is located within a designated Area of Critical Environmental Concern (ACEC). The project will require a Chapter 91 License and a Superceding Order of Conditions from the Department of Environmental Protection (DEP). Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction is limited to the subject matter of required state permits. In this case, MEPA jurisdiction extends to wetlands, waterways and issues related to the ACEC.

Chapter 91 jurisdiction and the need for a Chapter 91 license for the proposed dock depend on the status of Island Pond as a Great Pond, as defined in the Waterways Regulations at 310 CMR 9.02. Island Pond is not identified on DEP's most recent list of Great Ponds in Massachusetts dated April 14, 1997. However DEP has stated in its comments on the ENF that it

appears that Island Pond meets the criteria of a great pond, given its surface area of approximately 47 acres. DEP will presume that Island Pond is a great pond unless the proponent can present evidence that the original size of the pond was less than ten acres, prior to any alteration by damming or other human activity.

The project site is entirely within the boundary of the Herring River Watershed ACEC, as adopted on November 5, 1991. The Waterways Regulations at 310 CMR 9.32 prohibit the construction of privately-owned structures for water-dependent use below the high water mark in ACEC's, unless they are consistent with a Resource Management Plan (RMP) adopted by the municipality and approved by the Secretary of Environmental Affairs. Since the Herring River Watershed ACEC does not have a RMP, DEP has stated that it would procedurally deny the Genova Dock proposal until such a time that a RMP is adopted and the proposal is shown to be consistent with the plan.

The permissibility of the project hinges on whether the proponent can provide sufficient evidence to DEP that the Island Pond is not a Great Pond or on the development of a RMP for the Herring River Watershed ACEC by the Town of Plymouth. The review of the ENF has served adequately to disclose the potential impacts of the project, and to demonstrate that the potential impacts of the project do not warrant further MEPA review. The proponent can resolve the permissibility issue directly with DEP during the permitting process. Further review under MEPA is not necessary to allow for such a determination.

January 20, 2006

Date



Stephen R. Pritchard, Secretary

Comments received:

1/6/2006	Massachusetts Board of Underwater Archaeological Resources
1/9/2006	Department of Conservation and Recreation, Areas of Critical Environmental Concern Program
1/11/2006	Department of Environmental Protection, Southeast Regional Office

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