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January 23, 2008

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
NOTICE OF PROJECT CHANGE

PROJECT NAME: Reconstruction of Benedict Pond Dam
PROJECT MUNICIPALITY: Great Barrington/Monterey
PROJECT WATERSHED: Housatonic
EEA NUMBER: 12663
PROJECT PROPONENT: Department of Conservation and Recreation, Office of Dam Safety
DATE NOTICED IN MONITOR: December 24, 2007

Pursuant to the Massachusetts Environmental Policy Act (M. G. L. c. 30, ss. 61-62H) and Section 11.10 of the MEPA regulations (301 CMR 11.00), I have reviewed the Notice of Project Change (NPC) submitted on this project and hereby determine that the project **no longer requires** the preparation of an Environmental Impact Report (EIR).

Project Description

As originally outlined in the Expanded Environmental Notification Form (EENF) submitted in December 2001, the project involves the reconstruction of a masonry dam at Benedict Pond within Beartown State Forest in Great Barrington and Monterey, MA. The facility is owned by the Commonwealth of Massachusetts and is managed and operated by the Department of Conservation and Recreation (DCR). Benedict Pond is a 37 +/- acre waterbody open to the public for recreational use. The pond is formed by a small gravity dam across Stony Brook, which is a tributary to Konkapot Brook which in turn outlets to the Housatonic River. The dam was originally constructed by the Civilian Conservation Corps (CCC) in 1933-1934.

The dam is in a state of disrepair such that action must be taken to ensure that the dam continues to function as designed and as required under 302 CMR 10.00 (Dam Safety Regulations).

Originally, the Proponent proposed to drawdown the entire pond to conduct the work. This methodology would have resulted in temporary impacts to approximately 37 acres of Land Under Water (LUW) and the project therefore exceeded a Mandatory Environmental Impact Report (EIR) review threshold for impacts to greater than ten acres of wetlands at 301 CMR 11.03(3)(a)(1)(b). The Proponent submitted an Expanded ENF with a request for a waiver from the requirement to prepare an EIR. In a February 8, 2002 Certificate, the Secretary of Environmental Affairs denied the Proponent's waiver request and issued a Scope for an EIR. Comments submitted on the EENF raised concern regarding impacts of the full drawdown of the pond on fisheries, the proliferation of non-native species and on a stand of Northern White Cedar near the eastern shore of the pond.

Project Change Description

The principal changes to the project as outlined in the NPC are as follows:

- Change from full pond drawdown (37 +/- acre exposed pond bottom) to a partial drawdown (6 +/- acre exposed pond bottom) using a temporary coffer dam to minimize temporary adverse impacts to resource areas;
- Change from September to June (10 months) construction to April to October (7 months) construction to provide a more favorable work season and to eliminate the threat of freezing of the remaining partial pool during the pond drawdown; and,
- The withdrawal of monetary commitments to the Division of Fisheries and Wildlife (DFW) for mitigation of anticipated fisheries loss, since the minimal drawdown will leave approximately 84% of the waterbody aquatic habitat intact through the period of dam repair and no significant loss of fisheries is anticipated.

The project will entail removing deteriorated concrete and replacing in-kind with cast-in-place cement concrete masonry. The Proponent will also install a slightly raised top in order to provide overtopping protection. Other work involves removal of vegetation around the dam structure, installation of a new drawdown valve, and reconfiguration on flashboards.

Jurisdiction

The project was previously subject to environmental review and the preparation of a Mandatory EIR pursuant to Section 11.03(3)(a)(1)(b) of the MEPA regulations because it would have resulted in impacts to more than 10 acres of wetlands. The project as proposed in the NPC will result in significantly reduced wetland impacts, and now exceeds the ENF review threshold at 301 CMR 11.03(3)(b)(1)(f) for the alteration of ½ acre or more of "any other wetlands". The project requires a 401 Water Quality Certificate from the Department of Environmental Protection (MassDEP), an Order of Conditions from the Great Barrington Conservation Commission and possibly an Order of Conditions from the Monterey Conservation Commission.

Because the Proponent is an agency of the Commonwealth, MEPA jurisdiction extends to all aspects of the project that may have significant environmental impact.

Review of the NPC

During the review of the EENF, the Proponent conducted an alternative analysis to evaluate the potential environmental impacts of several pond drawdown scenarios. The analysis has been updated and includes new information on water depth and the change in the proposed construction timeframe. The deepest portion of the pond is 8 +/- feet deep and a full drawdown of the pond as previously proposed in 2001 would expose the entire pond bottom of 37 +/- acres during the construction period. The NPC proposes a partial drawdown of 4 feet that will provide sufficient workspace to accomplish the required construction over a significant majority of the dam's length. A minimal cofferdam near the spillway and pond outlet will allow for access to the section of the dam where a greater height of access is required. The Proponent will install a turbidity curtain to isolate the cofferdam from the remaining waters in the pond. The Proponent states in the NPC that the 4 foot drawdown alternative would maintain an adequate depth for the warm water fishery, minimize the amount of exposed pond bottom, and maintain a viable project from a cost perspective. The new preferred alternative will expose approximately 6 acres of pond bottom.

The NPC also proposes a change in construction schedule from a winter construction period to a summer construction period. The Proponent acknowledges that this may present some inconvenience to summertime park visitors, however the change in schedule will eliminate prior concerns that a reduced pond volume may freeze solid during winter conditions and adversely impact fishery resources. In addition, the total amount of time needed for construction will be reduced as compared to winter construction due to more favorable weather conditions. In its comments on the NPC, MassDEP notes that the proposed construction schedule is not in compliance with the Lakes and Ponds Final Generic Environmental Impact Report (*Final GEIR on Eutrophication and Aquatic Plant Management in Massachusetts*, MA-EOEA 2004). The Proponent should coordinate with MassDEP and the Division of Fisheries and Wildlife regarding the requirements in the GEIR.

In response to concerns raised in comments on the EENF regarding the potential for invasive species growth during the drawdown period, the Proponent undertook a shoreline vegetation survey in November 2007. According to the study, the greatest potential for the establishment of non-native invasive species is from common cattail and *Phragmites*. The potential for the spread of these species during the pond drawdown will be minimized by removing the plants' seed heads to eliminate the source for new seed and by spot treating by direct wick application to prevent rhizome spread. This work will be documented in Notices of Intent to be filed with the Great Barrington and Monterey Conservation Commissions. Following the restoration of the dam, but prior to the refilling of the pond, any existing invasive plants that have sprouted in the area of the exposed pond bottom will be treated with an herbicide.

The project no longer involves the construction of the boat ramp which was originally included in the 2001 EENF. The revised project includes two proposed parking spaces at the end

of an existing driveway at the northern end of the pond. The parking spaces will be located outside of wetlands or other sensitive habitats.

Conclusion

Based on a review of the information provided in the NPC, and after consultation with the relevant public agencies, I find that the project as outlined in the NPC no longer warrants the preparation of an EIR. No further MEPA review is required at this time.

January 23, 2008

Date



Ian A. Bowles

Comments Received:

- 1/9/2008 Berkshire Regional Planning Commission
- 1/14/2008 Department of Environmental Protection, Western Regional Office
- 1/14/2008 Appalachian Trail Conservancy

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