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January 23, 2009

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

PROJECT NAME : Proposed Maintenance Dredging –Harbor Improvements,
Hingham Harbor
PROJECT MUNICIPALITY : Hingham
PROJECT WATERSHED : Hingham Harbor
EEA NUMBER : 14351
PROJECT PROPONENT : **Town of Hingham**
DATE NOTICED IN MONITOR : December 24, 2008

Pursuant to the Massachusetts Environmental Policy Act (M.G. L. c. 30, ss. 61-62I) 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 (EIR).

As described in the Environmental Notification Form (ENF), the project includes the maintenance dredging of the boat basin of Hingham Harbor. Hingham Harbor Basin is a tidal waterway connected to Hingham Bay by a 12,900 foot long Federal Channel located in Hingham (Plymouth County), Massachusetts, approximately 12 miles southeast of Boston. The Town of Hingham has proposed this project in the interest of safe navigation and improved tidal flow within the harbor. The proposed project involves removing approximately 95,250 cubic yards (CY) of marine sediment consisting of fine silts and sands from Hingham Harbor Basin with an approximate area of 25.53 acres. Consistent with previously approved dredging operations, the harbor will be dredged to a depth of -6.0 Mean Low Water (MLW). The project site was last dredged in 1996 and involved removing approximately 95,250 CY of marine sediment consisting of fine silts and sands.

The ENF estimates wetland resource area impacts to be approximately 1,309,741 square feet (sf) of Land Under Water. The dredging material from the basin will be disposed of at the Massachusetts Bay Disposal Site (MBDS).

Jurisdiction

The project will require a Chapter 91 (c.91) License and a Section 401 Water Quality Certificate (401 WQC) from the Massachusetts Department of Environmental Protection (MassDEP). The project will require a Section 404 Permit from the U.S. Army Corps of Engineers. Federal Consistency Review from the Office of Coastal Zone Management (CZM) may also be required. The project has received an Order of Conditions from the Hingham Conservation Commission.

The project was filed for MEPA review pursuant to Sections 11.03(3)(a)(1)(b) and 11.03(3)(b)(3) of the MEPA regulations because the project requires a State agency action and will result in the alteration of ten or more acres of other wetlands and dredging of 10,000 cubic yards (cy) of material. However, under Section 11.01(b)(3) of the General Provisions of the MEPA regulations the review thresholds in Section 11.03 do not apply to projects that constitute Routine Maintenance. A project is considered Routine Maintenance under Section 11.02(2) of the MEPA regulations if it involves any maintenance work or activity carried out on a regular or periodic basis in a manner that has no potential for Damage to the Environment or for which performance standards have been developed that avoid, minimize, or mitigate potential environmental impacts to the maximum extent practicable.

The proposed project is part of an ongoing maintenance dredging program undertaken by the Town of Hingham in the Hingham Harbor Basin. This maintenance dredging takes place on a periodic basis and can be conducted pursuant to performance standards enforced through MassDEP's c. 91 License and 401 WQC. Consequently, pursuant to Section 11.01 of the MEPA regulations, the MEPA review thresholds do not apply to this project and an EIR will not be required.

Wetlands, Waterways and Tidelands

In order to maintain depths of the harbor, the Proponent has proposed to mechanically dredge approximately 95,250 cubic CY from Hingham Harbor Basin, an approximate area of 25.53 acres. The maximum design depth of the slips is -6 MLW with a 1' allowable over dredge. The basin will be dredged with 3:1 side slopes up to the adjacent existing grade.

The ENF indicates that the proposed work will be a "maintenance dredging" project pursuant to the Waterways Regulations at 310 CMR 9.02. The ENF did not include references of copies or prior dredge permits. However after discussion at the MEPA site visit the Proponent provided supplemental material indicating prior authorizations for maintenance dredging pursuant to the Waterways Regulations at 310 CMR 9.02. I remind the proponent that this information must also be included for the review of the 401 WQC and c.91 Permit Applications.

The Proponent has indicated that it intends to utilize Best Management Practices (BMPs) to reduce sedimentation impacts during the dredging operations. During the permit review process, the Proponent should finalize mitigation measures and submit an operation plan to minimize and contain turbidity. I note that the Wetland Regulations at 310 CMR 10.25(4) state in part that maintenance dredging for navigational purposes affecting land under the ocean shall be designed and carried out using the best available measures so as to minimize adverse effects to the marine environment. Due to the high percentage of fine sediments in the dredge sediment, comments provided by MassDEP express concern that sediment plumes generated by the project may impact adjacent salt marsh and tidal creeks. The Proponent should consult with MassDEP to address these concerns during permitting and will be required to submit an operational plan to minimize and contain turbidity.

Habitat

The ENF indicates that the dredge footprint includes land containing shellfish, but did not provide information on the specific species, density or extent of the shellfish habitat. As indicated in MassDEP's comments, the Proponent will be required to address this issue during the Notice of Intent review and will need to demonstrate that the project meets the performance standards for work in Land Containing Shellfish at 310 CMR 10.34. The Proponent may also be required to develop a plan to relocate shellfish prior to dredging and reseed the area at the completion of the project.

The Division of Marine Fisheries (*Marine Fisheries*) has indicated that the waters of Hingham Harbor have been identified as a commercially and recreationally important finfish area which includes the spawning habitat for winter flounder (*Pseudopleuronectes americanus*), and the migration of rainbow smelt (*Osmerus mordox*), alewife (*Alosa pseudoharengus*), and tomcod (*Microgadus tomcod*). Hingham Harbor also supports productive *Mya arenaria* soft shelled clam beds that are actively managed and harvested. As such, *Marine Fisheries* has recommended a time-of-year (TOY) restriction prohibiting dredging from February 1st through June 15th of any year for the protection of winter flounder spawning, larval development and rainbow smelt migration. *Marine Fisheries* has also indicated for the protection of shellfish habitat for soft shelled clams a TOY restriction from May 30th to October 1st will be established. Due to the high percentage of silt and clay in Hingham Harbor, *Marine Fisheries* recommends the use of an environmental closed dredge bucket and bottom weighted silt curtains to contain silt while dredging is underway.

Based on the information in the ENF and after consultation with relevant public agencies, I find that no further MEPA review is required at this time. The project may proceed to State permitting.

January 23, 2009

Date



Ian A. Bowles

Comments received:

01/13/2009 Division of Marine Fisheries

01/13/2009 Massachusetts Department of Environmental Protection - SERO

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