



The Commonwealth of Massachusetts

Executive Office of Environmental Affairs

100 Cambridge Street, Suite 900

Boston, MA 02114-2524



MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

STEPHEN R. PRITCHARD
SECRETARY

Tel. (617) 626-1000
Fax. (617) 626-1181
<http://www.mass.gov/envir>

March 3, 2006

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

PROJECT NAME	: Boston Harbor Navigation Improvement Project (BHNIP)
PROJECT MUNICIPALITY	: Boston
PROJECT WATERSHED	: Boston Harbor
EOEA NUMBER	: 8695
PROJECT PROPONENT	: Massachusetts Port Authority (Massport)
DATE NOTICED IN MONITOR	: January 11, 2006

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.17 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 it **does not require** further MEPA review.

Project Description

The original project consisted of the dredging of approximately 2.4 million cubic yards (cy) of material from channels and berths within Boston Harbor. It described the need for future maintenance dredging and disposal practices. It indicated that maintenance material not suitable for ocean disposal at the Massachusetts Bay Disposal Site (MBDS) would be disposed of in one of the Confined Aquatic Disposal (CAD) cells created by the BHNIP. The NPC provides a detailed description of the Inner Harbor Maintenance Dredging Project (IHMDP) and proposes creation of additional CAD cells because capacity in the "Super Cell" created by the BHNIP is not adequate to accommodate all of the material generated by maintenance dredging.

The IHMDP consists of dredging approximately 1.7 million cubic yards (cy) of material from the Main Ship Channel, the upper portion of the Reserved Channel, the approach to the Navy Dry Dock, the Federal Channel to the Charles River and possibly Chelsea Creek. Areas of ledge in the Main Ship Channel and the President Roads Anchorage will be removed. Approximately 1.3

million cy of material is unsuitable for disposal at the MBDS. It will be disposed in CAD cells within the Main Ship Channel (with a "starter cell" proposed in the Mystic River Channel for material excavated to form the main disposal cell). Ledge removed from the President Roads Anchorage will be disposed at the MBDS. Ledge removed from the Main Ship Channel will be disposed in the main CAD cell because it is surrounded by material unsuitable for ocean disposal.

MEPA Review

The Secretary's Certificate on the Final Environmental Impact Report (FEIR) for the project was issued on September 14, 1995. Secretary's Certificates were issued on four NPCs (6/14/96, 2/24/98, 4/24/98 and 5/7/93) filed since the completion of the FEIR, none of which required further review. The IHMDP requires a 401 Water Quality Certificate from the Department of Environmental Protection (DEP) and it will be subject to federal consistency review by Coastal Zone Management (CZM). Also, it requires an Order of Conditions from the Boston Conservation Commission and it may require an Order from the Chelsea Conservation Commission and the Everett Conservation Commission (and hence a Superseding Order of Conditions from DEP in the event that any of the local Orders are appealed).

Review of the NPC

While the proposed change warrants the filing of the NPC, I do not find that additional MEPA review is necessary. Review of the BHNIP was exhaustive and included a broad and thorough alternatives analysis to develop appropriate disposal sites and, ultimately, effective techniques for CAD disposal and capping that attained consistency with water quality standards. It included an analysis of baseline conditions and extensive water quality testing and monitoring throughout the project to evaluate consistency with water quality standards and assess impacts related to the project approach. Refinement of project implementation to minimize impacts continued throughout implementation. The approach and protocols proposed for the IHMDP are consistent with those developed during the BHNIP.

The BHNIP included the creation of a Technical Working Group (TWG) that met throughout the development, permitting and implementation of the project to evaluate disposal sites and techniques, address permitting and technical issues and to develop adequate mitigation and monitoring of project impacts. Massport should continue to convene this group, as it has periodically, to identify and resolve planning and permitting issues throughout the development and implementation of the IHMDP. Also, I note the successful use of an Independent Observer (IO) during implementation of the BHNIP to oversee the project and coordinate between construction contractors and the TWG towards the attainment of permit conditions. I encourage Massport to employ this approach for the IHMDP to facilitate its successful implementation.

Massport, in cooperation with the TWG, should address the issues identified in the comment letters regarding measures to avoid, minimize and mitigate impacts to marine resources on the NPC including further consideration of the following: additional water quality monitoring to confirm compliance with regulatory standards, review of project sequencing and evaluation of appropriate time of year (toy) restrictions. Massport should provide relevant information to assist in this effort including a detailed schedule of in-water activities.

The NPC includes a commitment by Massport to implement the environmental mitigation measures noted below. This list represents the minimum mitigation and monitoring requirements for this project. Additional mitigation will be developed during permitting.

- Dredging and capping conducted consistent with practices developed during the BHNIP including: use of an enclosed "environmental" bucket for dredging of silt; disposal into CAD cells only during slack tide; placement of a three-foot sand cap upon consolidation of material in the cell and a prohibition on overflowing of scows.
- Use of a fisheries observer, sonar detection and a startle system from February 15 to June 15 for CAD disposal activities to avoid impacts to anadromous fish.
- Water quality monitoring, including analysis of total suspended solids (TSS) and turbidity, related to CAD cell disposal.
- Use of a fisheries and mammal observer and fish detecting sonar system to avoid blasting when marine mammals or significant schools of fish are present.
- Prohibition on dredging or blasting seaward of the Third Harbor Tunnel between December 1 and March 31 to reduce impacts to egg-bearing lobsters
- Use of a marine mammal observer for MBDS disposal from February 1 to May 31 to avoid potential ship-strikes.

The review of the NPC has served to adequately disclose the potential impacts and mitigation associated with this project. Based on the information in the NPC and after consultation with relevant public agencies, I find that the potential impacts of the project are not significant enough to warrant the preparation of a Supplemental EIR. The permitting process and federal consistency review for this project will provide additional and meaningful opportunities for public and agency comment. No further MEPA review is required.

March 3, 2006

Date


Stephen R. Pritchard

Comments Received:

2/24/06	Coastal Zone Management (CZM)
2/27/06	Department of Environmental Protection (DEP)
2/27/06	Division of Marine Fisheries (DMF)
1/26/06	Irving Oil Limited
1/10/06	Boston Freight Terminals
1/26/06	SUEZ LNG NA LLC
2/16/06	Boston Shipping Association
2/23/06	Keyspan
2/4/06	Boston Pilots
2/27/06	Boston Environment Department
SRP/CDB/cdb	