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March 8, 2007

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

PROJECT NAME : Upper Shawme Lake Dam Rehabilitation Project
PROJECT MUNICIPALITY : Water Street - Sandwich
PROJECT WATERSHED : Mill Creek/Cape Cod
EOEA NUMBER : 13945
PROJECT PROPONENT : Town of Sandwich
DATE NOTICED IN MONITOR : January 9, 2007

Pursuant to the Massachusetts Environmental Policy Act (MEPA)(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 (EIR). On February 1, 2007, the proponent requested a Full Waiver from its mandatory EIR review threshold. The Certificate on the ENF is contingent upon the granting of a Full Waiver in the Final Record of Decision (FROD). If a Full Waiver is not granted in the FROD, then the Secretary will reissue the Certificate on the ENF with an EIR scope.

According to the Environmental Notification Form (ENF), the proposed project consists of the rehabilitation of the existing earthen dam structure with a footprint of approximately 7,700 square feet (sf). The project includes a new earth embankment dam with a footprint of about 12,500 sf with internal drains, a 3:1 slope on either face of the dam, a 12-foot crest width, a concrete drop spillway, and a new pre-fabricated fish ladder. Under the proposed project, 20.7 acres of additional aquatic habitat will be restored for migratory fish species. The project increases the footprint of the dam by about 4,800 (sf) to meet current design standards. The existing dam represents a risk to the public welfare and has the potential to cause loss of life in the event of a dam failure. The Department of Conservation and Recreation (DCR) Office of Dam Safety has listed the existing dam as "unsafe".

The project requires a mandatory EIR pursuant to Section 11.03(3)(a)(4) of the MEPA regulations for the structural alteration of an existing dam that causes an expansion of 20 percent.


It will require a 253 Permit/Dam License from the Department of Conservation and Recreation (DCR). The project meets the definition of a "dam" in Chapter 253 Section 44 for impoundment capacity of 50 acre-feet or more. It will require a 401 Water Quality Certificate and a Chapter 91 Waterways License from the Department of Environmental Protection (MassDEP). The project may need to comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site. A Massachusetts Endangered Species Act (MESA) Permit may be required for impacts to box turtle habitat from the Natural Heritage and Endangered Species Program (NHESP) for construction of an access road to the work area. The project may need to obtain Federal Consistency Review from the Coastal Zone Management (CZM) Office. An Individual Permit will be required from the U.S. Army Corps of Engineers. On October 26, 2006, the proponent received an Order of Conditions from the Sandwich Conservation Commission (SCC) for impacts to wetland resource areas and buffer zones as a "limited" project. Because the proponent is seeking financial assistance from the Commonwealth for the project (DCR's Office of Dam Safety), MEPA jurisdiction extends to all aspects of the project that may have significant environmental impacts.

The proponent has estimated that the project would impact approximately 340 linear feet of Bank, 2,800 sf of Bordering Vegetated Wetlands (BVW), 5,700 sf of Land Under Water (LUW)(permanent), and 82,300 sf of LUW (temporary). The proponent is proposing to replicate approximately 2,900 sf of BVW or a ratio of 1:1.

The quality of stormwater runoff generated by the project during construction will be improved by the use of staked hay bales and silt fencing as stipulated in the Order of Conditions.

Based on a review of the information provided by the proponent, a review of the comment letters, and after consultation with the relevant public agencies, I find that the potential impacts of this project do not warrant the preparation of an EIR and can be handled by the permitting agencies.

March 8, 2007
Date



Ian A. Bowles

cc: Sharon Stone, MassDEP/SERO

Comments received:

McMahon Assoc., 1/11/07
DCR, 1/16/07
MassWildlife, 1/19/07
MHC, 1/23/07

MHC, 1/23/07
DCR, 1/24/07
MassDEP/SERO, 1/26/07
MassDEP/SERO, 1/29/07
CCC, 1/29/07
MA Div. of Marine Fisheries, 1/29/07
McMahon Assoc., 2/1/07
McMahon Assoc., 2/1/07
McMahon Assoc., 2/6/07
MassDEP/SERO, 2/9/07
McMahon Assoc., 2/20/07

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