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March 13, 2009

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

PROJECT NAME : Bass River Park  
PROJECT MUNICIPALITY : Dennis  
PROJECT WATERSHED : Cape Cod  
EEA NUMBER : 14369  
PROJECT PROPONENT : Town of Dennis  
DATE NOTICED IN MONITOR : February 11, 2009

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 consists of the redevelopment of a former commercial site adjacent to Bass River into a public waterfront park by the Town of Dennis. The project site is located on previously filled tidelands. Existing structures, pavement, septic facilities, and other debris will be removed from the project site. The piers and floats currently located in Bass River and accessible from the site will remain in their present configuration. Use of the existing boat ramp will be limited to use by kayakers and will not be used by vehicles. The existing stone revetment on the western portion of the site will be repaired in place, consistent with existing permit approvals. New development includes construction of an approximately 5,425 square foot (sf) elevated boardwalk and viewing area, pathways and park landscape, construction of a stormwater management system, a parking area, a small structure for kayak rentals, and a small public restroom facility. The public restroom

facility will be serviced by a 500-gallon on-site septic system and permitted by the local Board of Health. The project will incorporate green design features such as a low-impact development stormwater management system, use of sustainable materials, and native vegetation.

The project will provide a combination of public benefits and amenities, along with restoration of degraded portions of the site. Wetland resource area impacts are estimated to include 100 linear feet of Coastal Bank, 2.5 acres of Land Subject to Coastal Storm Flowage, and 58,000 sf of Riverfront Area. The Town intends to use \$500,000 in Division of Conservation Services (DCS) Self-Help Grant funding for a portion of the project's cost. The project is consistent with the approved conservation restriction on-site.

### Jurisdiction

The project is undergoing MEPA review pursuant to Sections 11.03(3)(b)(1)(a) and Section 11.03(3)(b)(1)(f) because the project requires a State agency action and will result in alteration of Coastal Bank as well as more than ½ acre of other wetlands (Land Subject to Coastal Storm Flowage and Riverfront Area). The project will require a Chapter 91 (c.91) License and a Superseding Order of Conditions from the Massachusetts Department of Environmental Protection (MassDEP). The project will require a Category 1 access permit from the Massachusetts Highway Department (MassHighway) for removal of curb cuts along Route 28. The project will require approval from the United States Army Corps of Engineers (USACE) and a National Pollutant Discharge Elimination System (NPDES) general permit from the United States Environmental Protection Agency (U.S. EPA). The project may be subject to Coastal Zone Management (CZM) federal consistency review. The project received an Order of Conditions from the Dennis Conservation Commission, which was appealed.

The Town of Dennis will be receiving State funding for the project. Therefore, MEPA jurisdiction for this project is broad and extends to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment as defined by the MEPA regulations.

### Wetlands, Waterways and Tidelands

The project site includes previously filled tidelands with the historic high water line running along the northerly edge of Main Street (Route 28). Therefore, the entire site is subject to M.G.L. c.91 and its Regulations at 310 CMR 9.00. The Coastal Bank areas that will be directly altered as part of the project are limited to the existing stone revetment, which will be repaired in place in accordance with an existing c. 91 License (#11433) issued to the Town of Dennis. License #11433 also authorized the maintenance of the pier, ramp, floats, bulkhead and boat ramp that are presently located on site. Concurrent with the issuance of License #11433, MassDEP Waterways Regulation Program identified the need for the Town to request authorization for the proposed park improvements on filled tidelands. The waterfront park would be classified as a "water dependent" use project pursuant to the Waterways Regulations at 310 CMR 9.12(2)(a)(4). The Town of Dennis must submit a c.91 License application for the

work proposed as part of this ENF for review and approval by MassDEP. This application should demonstrate that the park will remain open and accessible to the general public.

Wetland resource areas that will be altered by the project include Riverfront Area, Coastal Bank and Land Subject to Coastal Storm Flowage. No dredging is proposed as part of this project. MassDEP has confirmed that the proposed activity is exempt from the Riverfront Area performance standards pursuant to 310 CMR 10.58(6)(i) because a c.91 License will be obtained for the project. MassDEP has also concluded that sufficient information has been developed to allow MassDEP to evaluate the project's ability to meet the Wetlands Protection Act Regulations performance standards. MassDEP will issue a Superseding Order of Conditions in accordance with M.G.L. c.131, §40.

The project will include development within the 100-year floodplain. Structures include the kayak rental facility, boardwalk, picnic shelters and restrooms. Compliance with the requirements of several federal, State and local measures related to floodplain development will be required. As noted in the Department of Conservation and Recreation (DCR) comment letter, the Proponent should ensure compliance with applicable standards by having a registered professional engineer or architect certify on construction plans that the structural requirements of State Building Code, Appendix 120.g.501 are met.

To achieve the proposed elevations presented in the ENF it appears that an importation of fill will be required. As part of the c.91 License application and prior to the issuance of the Superseding Order of Conditions, the Town of Dennis should provide an estimate of soil that will be imported on-site to achieve the park's proposed landscape. Consideration should be given to the relationship of final grades to high groundwater, the placement and elevations of stormwater management structures, and wastewater treatment facilities.

Pursuant to 301 CMR 13.02, I am declining to require an additional Public Benefit Review for the project. Furthermore, as a water-dependent project, it is presumed that this project will provide adequate public benefit in accordance with 301 CMR 13.04. I am satisfied that the project's impacts to tideland resources can be adequately addressed during the permitting process.

#### *Stormwater*

The ENF included a discussion of how the project will meet the MassDEP Stormwater Management Regulations and a draft stormwater system Operations and Maintenance Plan. The project includes the incorporation of low impact development (LID) stormwater management techniques. These techniques include protecting natural resources, reducing impervious areas, increasing infiltration on-site, and use of natural drainage features for stormwater treatment and conveyance. Additionally, runoff from approximately 10,000 sf of Route 28 that is presently untreated and discharged directly to Bass River will be directed to on-site sedimentation basins for treatment prior to discharge.

### *Habitat*

On January 14, 2009, the Natural Heritage and Endangered Species Program (NHESP) reviewed this project pursuant to the Massachusetts Endangered Species Act (MESA; 321 CMR 10.18) and determined that the project, as currently proposed, will not result in a “take” of State-listed species. The Division of Marine Fisheries (*Marine Fisheries*) has indicated that intertidal flats near the site are considered to be productive shellfish areas. *Marine Fisheries* has recommended that any repairs to the revetment should be conducted from the upland portion of the site to minimize travel in the intertidal area.

### Wastewater

While there is no state permitting action associated with the approval of a septic system to treat wastewater flows associated with the public restroom facilities, I encourage the Dennis Board of Health to consider treatment systems that reduce overall nitrogen loading from the facility during their review process.

### Roadways

The project will consolidate entry points to the site from Route 28 from three to one to improve management of traffic flow in and out of the site. Because this will involve work within the State Highway layout, the Town of Dennis must obtain a Category 1 Access Permit from MassHighway. The Town of Dennis should coordinate with the MassHighway district office regarding the proposed removal of two of the three existing curb cuts on Route 28 and the placement of a crosswalk and/or sidewalks along or within the Route 28 right of way.


### Construction Period

The Town of Dennis will be required to obtain a NPDES general permit for the proposed construction activities. The NPDES general permit will require the preparation of a Stormwater Pollution and Prevention Plan (SWPPP), which should include erosion and sedimentation control measures to be implemented on-site during construction. I anticipate the Best Management Practices (BMPs) will be utilized to reduce impacts to sensitive resource areas adjacent to the project area.

While the project site is not presently listed on the Bureau of Waste Site Cleanup (BWSC) database, the Town of Dennis is advised that, if oil and/or hazardous material is identified during the implementation of this project, notification pursuant to the Massachusetts Contingency Plan (310 CMR 40.0000) must be made to MassDEP, if necessary.

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.

March 13, 2009  
Date



Ian A. Bowles

Comments received:

02/20/2009	Office of Coastal Zone Management
02/25/2009	Harry Ives
03/02/2009	Cape Cod Commission
03/03/2009	Department of Conservation and Recreation
03/03/2009	Massachusetts Department of Environmental Protection – SERO
03/03/2009	Division of Fisheries and Wildlife – Natural Heritage and Endangered Species Program
03/06/2009	Division of Marine Fisheries

IAB/HSJ/hsj