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March 27, 2009

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

PROJECT NAME : Orië Lane Association Right of Way
PROJECT MUNICIPALITY : Orleans
PROJECT WATERSHED : Cape Cod
EEA NUMBER : 14375
PROJECT PROPONENT : Andrew Ginnis
DATE NOTICED IN MONITOR : February 25, 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 installation of four-foot wide "dug-in" timber steps on a Coastal Bank to provide access to Pochet Inlet (Pleasant Bay) for Orië Lane residents with deeded rights. The proposed steps will be centered within the 16-foot wide layout of Orië Lane. The project will alter approximately 76 square feet of Coastal Bank and 40 square feet of Land Subject to Coastal Storm Flowage. The project is located in the Pleasant Bay Area of Critical Environmental Concern (ACEC).

Jurisdiction

The project is undergoing MEPA review pursuant to Sections 11.03(3)(b)(1)(a) and Section 11.03(11)(b) because the project requires a State agency action and will result in alteration of a Coastal Bank and is located within an ACEC. The project received an Order of Conditions from the Orleans Conservation Commission, which was appealed. The project will therefore require a Superseding Order of Conditions from the Massachusetts Department of Environmental Protection (MassDEP).

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that are within the subject matter of required or potentially required state permits and that may cause Damage to the Environment as defined in the MEPA regulations. In this case, MEPA jurisdiction exists over wetlands.

Wetlands

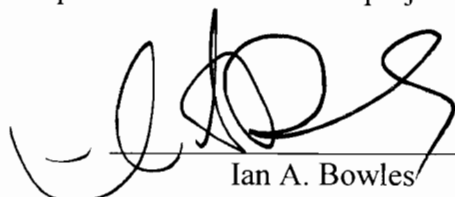
The project includes direct impact to a Coastal Bank. The Coastal Bank is presently stable and vegetated, but does not appear to act as a sediment source to the beach associated with Pochet Inlet. MassDEP has noted that Coastal Bank is likely significant to storm damage prevention and flood control and per 310 CMR 10.30(6), the project shall have no adverse effects on the stability of the Coastal Bank. MassDEP has opined that the project could be conditioned to meet the performance standards at 310 CMR 10.30. These conditions will be set forth as part of the Superseding Order of Conditions. As directed by MassDEP, the Proponent should formalize a planting and stabilization plan as required in the Order of Conditions issued by the Orleans Conservation Commission and submit the plan to interested parties. Furthermore, I encourage the Proponent and MassDEP to consider the revegetation, erosion and sedimentation controls, and construction period conditions suggested by the comment letter submitted by Nixon Peabody LLP on behalf of Gerard and Linda Odenbach as part of the Superseding Order of Conditions process.

Habitat

The project was reviewed by the Natural Heritage and Endangered Species Program (NHESP) as part of the original Notice of Intent filing in accordance with the Massachusetts Wetlands Protection Act and the Massachusetts Endangered Species Act (MESA; 321 CMR 10.18). At this time NHESP concluded that the project, as proposed, will not result in a "take" of State-listed species.

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 27, 2009
Date



Ian A. Bowles

Comments received:

03/10/2009 Division of Marine Fisheries
03/16/2009 Massachusetts Division of Fisheries and Wildlife – Natural Heritage and
Endangered Species Program
03/17/2009 Cape Cod Commission
03/18/2009 Massachusetts Department of Environmental Protection – SERO
03/18/2009 Nixon Peabody LLC, on behalf of Gerard and Linda Odenbach

IAB/HSJ/hsj