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April 25, 2008

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

PROJECT NAME : Dredged Material Management Plan
PROJECT MUNICIPALITY : New Bedford and Fairhaven
PROJECT WATERSHED : Buzzards Bay
EOEA NUMBER : 11669
PROJECT PROPONENT : **New Bedford** Harbor Development Commission
DATE NOTICED IN MONITOR : March 26, 2008

Pursuant to the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62H) and Section 11.10 of the MEPA regulations (301 C.M.R. 11.00), I have reviewed the Notice of Project Change (NPC) submitted on this project and determine that it **does not require** a Supplemental Environmental Impact Report (EIR).

Previous MEPA Review

The project completed the EIR process on December 1, 2003 when a Final EIR Certificate was issued, which found that the proposed project adequately and properly complied with MEPA. As background, this project is part of a state-wide Dredged Material Management Plan (DMMP) to address the issue of finding environmentally sound disposal sites for the dredged material from the Commonwealth's eight Designated Port Areas (DPA) that are unsuitable for unconfined ocean disposal. The project involves the development of disposal options for dredged materials and not dredging specifically. Dredging needs for each DPA will be determined by the local harbor plans that are currently being developed by the participating municipalities. This Final EIR was filed specifically for the DPA of New Bedford/Fairhaven Harbor. The Final EIR evaluated preferred alternatives for confined aquatic disposal (CAD) sites in the New Bedford/Fairhaven Harbor for containment of dredged material. The Final EIR

discussed two alternative CAD cell sites, Channel Inner and Popes Island North. The preferred alternative site at Pope's Island North is designed to hold approximately 2,250,000 cubic yards of dredged material.

The Final EIR recommended a Monitoring and Management Plan that uses a tiered monitoring strategy. Under this strategy, if lower level monitoring uncovers adverse effects, a higher level of monitoring would be implemented and, if necessary, management actions such as restricting or curtailing disposal operations might be implemented. The Final EIR identified a number of Best Management Practices for the Confined Aquatic Disposal (CAD) cells that have been used in other disposal operations with considerable success. The Final EIR also recommended that a Technical Advisory Committee be established that will include representatives of local, state and federal agencies. This group will be responsible for oversight of CAD management, and would establish what specific actions will be taken in response to monitored problems and determine who is responsible for taking any necessary actions.

Since the completion of the Final EIR the proponent has submitted an NPC in December 2004 requesting approval for a minor change to the conceptual footprint identified in the Final EIR for the Dredged Material Management Plan (DMMP), which was necessary in order to create two transitional CAD cells to perform maintenance dredging and begin the construction of the CAD cells as shown in the Final EIR. Portions of the new cells fell within the outer boundary of the DMMP. On January 21, 2005 a Certificate was issued determining that the project did not require a Supplemental EIR.

NPC Project Change Description

This NPC was submitted for MEPA review on March 13, 2008. Due to onsite limitations, specifically organic silt thickness, construction and logistical constraints, the proponent is requesting an enlargement of the Dredged Material Management Plan (DMMP) potential CAD placement area.

The NPC is being requested to accommodate the same amount of harbor dredge volume originally proposed, however, due to a re-evaluation by the New Bedford Harbor Development Commission (NBHDC) the area for the CAD cells needs to be increased due to identified logistical, technical, and financial constraints. This NPC expands on the first NPC filed as described above.

The project will expand the original dredge footprint of the Popes Island North (PIN) area by 87 acres (from 95 acres). The NPC specifically states that although the alteration will be up to 182 acres of land under water, the disposal volume will remain unchanged. In addition, the mitigation measures area, which will remain unchanged, is in place through a Memorandum of Understanding (MOU) and Applicable, Relevant and Appropriate Regulations (ARAR's).

The dredging component of this project is covered under the State Enhanced Remedy (SER). However, I note that the expansion of the dredge footprint will be partially within the New Bedford- Fairhaven Designated Port Area and will encroach on Essential Fish Habitat

(EFH) within the Acushnet River. The Division of Marine Fisheries (MarineFisheries) has provided a detailed comment letter discussing concerns and restrictions that the proponent must consider prior to beginning work in this area. The proponent should continue to work with MarineFisheries on these issues. The Massachusetts Historical Commission (MHC) and the Board of Underwater Archaeological Resources have also provided comments related to historic and archaeological issues in this project area. The Board of Underwater Archaeological Resources and MHC recommend that the proposed project change area be evaluated relative to archaeological integrity and potential to contain ancient period sites to determine the impact of project related activities. The proponent should consult with Board of Underwater Archaeological Resources and MHC on these issues.

The Office of Coastal Zone Management (CZM) has stated in its comment letter support for the proponent's request for the expansion of the proposed area. The project may be subject to CZM federal consistency review, in which case the project must be found to be consistent with CZM's enforceable program policies. MassDEP has stated support of the proponent's reasoning for this NPC, as it did during the previous NPC requested in 2005. However, MassDEP has stated that there is still uncertainty on the amounts of Unsuitable Dredge Material (UDM) which may be discovered and later confirmed by sediment testing, thereby increasing the volume of dredge material and subsequently increasing the amount of dredge disposal material. If additional dredge volumes will require disposal at the Army Corps of Engineers Cape Cod Disposal Site (CCDS), the NBHDC should notify the MEPA to determine if further review is required and request an amendment to the MassDEP's Dredge Permit, issued June 29, 2005, in order to accommodate those increased volumes.

The proponent must provide significant planning and forethought to ensure that the available DMMP area is utilized as efficiently and effectively as possible. In addition, ample consideration should be given to what may be suitable future uses of this area. Finally, long term monitoring and maintenance is required in these areas and must be considered through the permitting process as the area is utilized.

Based on a review of the information provided by the proponent and after consultation with the state permitting agencies, I find that the potential impacts of this project change do not warrant the preparation of an EIR and can be addressed through the local and state permitting processes. No further MEPA review is required.

April 25, 2008

Date



Ian A. Bowles

Comments Received:

04/11/08	Massachusetts Historical Commission
04/14/08	The Division of Marine Fisheries
04/15/08	Department of Environmental Protection, SERO

Comments Received (continued):

04/15/08 The Board of Underwater Archaeological Resources
04/15/08 The Office of Coastal Zone Management

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