



The Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Deval L. Patrick
GOVERNOR

Timothy P. Murray
LIEUTENANT
GOVERNOR

Ian A. Bowles
SECRETARY

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

May 23, 2008

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

PROJECT NAME : Bass Creek Drainage Improvement Project
PROJECT MUNICIPALITY : Marshfield
PROJECT WATERSHED : South Coastal
EOEA NUMBER : 13317
PROJECT PROPONENT : **Town of Marshfield**
DATE NOTICED IN MONITOR : April 23, 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 Environmental Impact Report (EIR).

Previous MEPA Review

As described in the Environmental Notification Form (ENF), the proposed project included the mechanical and hydraulic dredging of a 10-foot wide channel approximately 5,150 feet in length of Bass Creek, a tributary of the Green Harbor River and estuary, to address flooding issues in the Fieldston and Rexhame areas. The channel was proposed to be dredged to a minimum depth of -3.0 feet at the upstream extent, adjacent to a 36-inch culvert at Ocean Street and to a maximum depth of -4.0 feet at the downstream extent. This excavation, along with a 1 foot over dredge would result in a dredge volume of approximately 9,000 cubic yards of sediment which will be pumped via pipeline to the Town's Dredge Spoils Area where it would be dewatered and disposed.

Regulatory Environment

The project is undergoing review pursuant to Section 11.03 (3)(b)(1)(f) of the MEPA regulations, because the project involves alteration of more than ½ acre of wetland resources other than bordering vegetated wetlands. The project will require a new Chapter 91 License and a 401 Water Quality Certificate from the Department of Environmental Protection (MassDEP), and a US Army Corps of Engineers Permit. The project also requires an Order of Conditions from the Town of Marshfield's Conservation Commission and a Marshfield Zoning Board of Appeals' Special Permit.

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 permits and that may cause significant Damage to the Environment. In this case, MEPA jurisdiction exists over wetlands and water quality issues.

NPC Project Change Description

The project change involves emphasis on ecosystem improvement, including removal of Phragmites and the change of dredging and disposal methods, including new staging areas and the confirmation/re-delineation of resource areas. The proposed project will dredge approximately 9,000 cubic yard of material from a 5,150-foot long section of Bass Creek. Specific modifications to the project include minor changes in the alignment of the proposed channel, changes in the methods of dredging and sediment disposal, and the inclusion of a Phragmites removal project.

During the review of the ENF the project contained substantial areas of Bordering Vegetated Wetland (BVW) that would be impacted by the proposed dredge channel and side slopes. Since the filing of the ENF, the proponent has performed additional research and survey work to delineate the jurisdictional wetland resource areas. Plans accompanying the NPC now show the delineation of the resource areas including: Land Under Water Bodies & Waterways, Bank, Bordering Vegetated Wetland and Riverfront Area. The NPC indicates that approximately 18,000 sf of bordering vegetated wetland will be temporarily impacted by construction equipment access and off-loading of dredge sediments. The NPC indicates that the disturbed wetland will be restored at the completion of the dredge activities. I advise the proponent that the criteria used to establish the boundaries of the resource areas should be included with the submittal of the Notice of Intent.

The NPC includes a component for Phragmites removal, which would be performed prior to the channel dredging. Based on the information provided in the NPC, MassDEP has stated in its comment letter that while MassDEP encourages this resource area improvement project, there are concerns with the removal methodology outlined in the NPC. The project narrative indicates that Phragmites removal will be accomplished by mechanical dredging. Approximately 1-foot of fine grain water saturated sediments, referred to as "muck" in the NPC, and vegetation will be excavated and sidecast onto adjacent areas along the creek. MassDEP has stated in its comment letter that it is opposed to the sidecast method because it will likely result in additional alteration of bordering vegetated wetland. I advise the proponent that utilizing this method may thereby

exceed the one-acre threshold which would trigger the preparation of an EIR. Mass DEP recommends that the material be removed and properly disposed in a manner similar to the proposed dredging or that the proponent explore other management alternatives. MassDEP also recommends that the proponent consider the development of a comprehensive Phragmites management plan, not just limited to the area confined within the proposed dredge footprint. The proponent should work closely with MassDEP on this issue and the others raised in its detailed comment letter.

The Division of Marine Fisheries (Marine Fisheries) has identifies Bass Creek as a diadromous fish passage, migration and spawning habitat. Remnant populations of river herring and eels are present in the upper reaches of the system, although their migration has been inhibited by a tide gate in the Green Harbor River. In an effort to minimize impacts to these resources, Marine Fisheries recommends a time-of-year (TOY) estriction prohibiting all dredging or silt producing activities from April 1 – July 31st. Mass Audubon has also raised concerns with several aspects of the proposed design of the project in their comments. Specifically, Mass Audubon has raised several issues that promote ecological restoration the Green Harbor River Estuary, to a brackish/salt marsh estuary. The proponent should coordinate with Mass Audubon and Marine Fisheries in addressing these issue and others raised in their comment letters.

The project site is within an Estimated and Priority Habitat for rare species. The project, therefore, requires review through a direct filing with Natural Heritage & Endangered Species Program (NHESP) for compliance with the Massachusetts Endangered Species Act (MESA 321 CMR 10.00). The NHESP is concerned with the proposed alteration the habitat of the Eastern Box Turtle, a state-listed rare species, for the creation of Staging and Access Area “Site A”. The NHESP will require a habitat assessment focusing on the Eastern Box Turtle in of Staging and Access Area “Site A” and adjacent areas be submitted as part of the MESA review. I request that the proponent conduct a rare species habitat assessment working closely with NHESP. Based on the results of this habitat assessment, impacts to the habitat of Eastern Box Turtle will need to be minimized or avavoided to the greatest extent possible. In addition, NHESP has expressed concerns in its comment letter with the restoration of all temporary access areas. The proponent must submit a restoration plan as part of the MESA review.

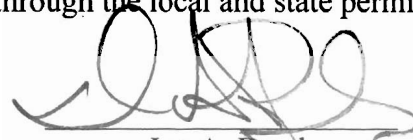
I note that the project, or portions of the project, as presented in the NPC may now qualify as a “limited project” pursuant to the Wetland Regulations at 310 CMR 10.53(4). However, with the submittal of the Notice of Intent, the Proponent is encouraged to perform the appropriate wildlife habitat evaluations in accordance with 310 CMR 10.54 & 10.56. These evaluations shall be performed in accordance with MassDEP’s “Massachusetts Wildlife Habitat Protection Guidance for Inland Wetlands”, dated March 2006.

Portions of the project are located adjacent to the northeastern end of the Marshfield Municipal Airport (3B2) and some work may be located near or within the Massachusetts Aeronautics Commission (MAC) defined surfaces surrounding 3B2. I advise the proponent to consult with MAC on the possible submission of MAC Form E-10, Request for Airspace Review, relative to the proposed equipment heights and also to consult with the Federal Aviation Administration (FAA) on the proposed project.

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.

May 23, 2008

Date



Ian A. Bowles

Comments received:

- 05/09/08 Division of Fisheries and Wildlife
- 05/09/08 Division of Marine Fisheries
- 05/13/08 Department of Environmental Protection SERO
- 05/21/08 Mass Audubon

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