



The Commonwealth of Massachusetts

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May 26th, 2006

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

PROJECT NAME: Smolak Farms Irrigation Pond
PROJECT MUNICIPALITY: North Andover
PROJECT WATERSHED: Ipswich River
EOEA NUMBER: 13786
PROJECT PROPONENT: H. Michael Smolak Jr.
DATE NOTICED IN MONITOR: April 26, 2006

Pursuant to the Massachusetts Environmental Policy Act (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).

As described in the Environmental Notification Form (ENF), the project involves the construction of an irrigation pond to be used as a source of water for a drip irrigation system at Smolak Farms in North Andover. The project also involves the clearing of an approximately 3.8-acre wooded area adjacent to the proposed pond to be used for growing blueberries. The new irrigation pond is located within Bordering Vegetated Wetlands (BVW), and construction of the pond will result in the alteration of approximately 16,000 square feet (sf) of BVW.

The project is undergoing review pursuant to Section 11.03(3)(b)(1)(d) of the MEPA regulations because it requires state permits and will result in the alteration of greater than 5,000 sf of BVW. The project requires a Programmatic General Permit (PGP) from the U.S. Army Corps of Engineers (ACOE) pursuant to Section 404 of the Clean Water Act (CWA); a 401 Water Quality Certificate from the Department of Environmental Protection (DEP); and an Order of Conditions from the North Andover Conservation Commission. At the time of the site visit

held for the project, it was unclear what category of PGP would be required from the ACOE. The proponent will be consulting with the ACOE regarding permitting of the project under the Clean Water Act. The proponent is not seeking financial assistance from the Commonwealth for the project. Therefore, MEPA jurisdiction is limited to the subject matter of required state permits. In this case, MEPA jurisdiction extends to wetlands.

The pond will be approximately 60 feet by 100 feet, and 10 feet deep, with a volume of approximately 206,800 gallons of water. Approximately 1,235 cubic yards of material will be excavated from the wetland to create the pond. Material excavated from the pond will be placed in trenches that will be planted with blueberries on an adjacent field. No over road transfer will occur and all material will stay on the farm. The project was filed as an agricultural limited project pursuant to 310 CMR 10.53(5) and will result in the alteration of approximately 16,000 square feet of Bordering Vegetated Wetlands. Approximately 6,000 sf of BVW will be impacted to create the pond, and approximately 10,000 sf of BVW will be impacted by construction activities around the pond.

The proponent has received an Order of Conditions from the North Andover Conservation Commission for the project (DEP #242-1298). The project will also require a Water Quality Certificate from DEP. An alternatives analysis for the project was performed by the Natural Resource Conservation Service, and included with the proponent's Notice of Intent and ENF submission. The proponent should note comments from DEP regarding the requirement for a pond maintenance plan.

The impacts of the project within MEPA jurisdiction do not warrant the preparation of an EIR. I conclude that no further MEPA review is required. The proponents may resolve any remaining issues during the state and local permitting processes. The proponent should consult with DEP regarding the potential requirement for a Water Management Act permit.

May 26, 2006

Date


Stephen R. Pritchard

Comments received:

5/15/2006 Department of Environmental Protection, Northeast Regional Office

SRP/BA/ba