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June 8, 2007

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

PROJECT NAME : Bunky's Marina Dredging
PROJECT MUNICIPALITY : Danvers
PROJECT WATERSHED : North Coastal
EOEEA NUMBER : 14018
PROJECT PROPONENT : Bunky's Realty, LLC
DATE NOTICED IN MONITOR : May 9, 2007

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.03 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 maintenance and improvement dredging at the Bunky's Marina on the Porter River in Danvers, Massachusetts. Approximately 5,520 cubic yards (cy) of material over a total area of approximately 42,682 square feet (sf), including side slopes, will be removed from a previously dredged area associated with the marina (Phase I), as well as an improvement dredging area (Phase II). The project will provide the required navigational improvements for safe access to and from the marina once both phases have been completed.

The project site is located at 112 Liberty Street and is situated on the north shore of the Porter River and across the river from the Town Landing. The marina provides anchorage and marine services for approximately 50 recreational vessels. The ENF states that Phase I of the project will impact approximately 35,639 sf of Land Under Ocean (LUO), 1,800 sf of Coastal

Beaches (CB), while Phase II will impact an additional 1,600 sf of LOU and 3,643 of CB. The project will also temporarily impact 520 linear feet of adnadromous fish run. In addition, the Order of Conditions for the project, issued by the Danvers Conservation Commission on March 16, 2007, finds that 3,957 sf of the site are significant to the protection of land containing shellfish.

The project has been designed to be “piggybacked” onto the proposed dredging of the Porter River, a project proposed by the Town of Danvers, to reduce river and habitat impacts during the construction period. The Town dredging project has completed MEPA review (EOEA No. 10233) and is currently undergoing State and local review processes. Dredging operations will be conducted by mechanical methods, using a crane or excavator-mounted barge with a clamshell bucket. Once excavated, dredge sediments will be loaded directly into a scow and transported to the Massachusetts Bay Disposal Site (MBDS) for unconfined offshore disposal. Dredge sediments from the project site still need to be deemed suitable for unconfined disposal at the MBDS by the U.S. Army Corps of Engineers (U.S. ACOE) and the U.S. Environmental Protection Agency (U.S. EPA). If sediments do not meet the criteria for disposal at MBDS, it is likely that the project will be required to file a Notice of Project Change (NPC) with the MEPA office to allow for evaluation of alternative disposal sites for dredge spoils.

The project is undergoing review pursuant to Section 11.03 (3)(b)(f) because the project requires a State Agency action and will result in the alteration of ½ or more acres of wetland resource areas. The project will require an Order of Conditions from the Danvers Conservation Commission, a Section 401 Water Quality Certificate (WQC) and a Chapter 91 Permit from the Massachusetts Department of Environmental Protection (MassDEP), and a Programmatic General Permit from the U.S. ACOE. The project may also be subject to Office of Coastal Zone Management (CZM) federal consistency review.

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that may have significant environmental impacts and that are within the subject matter of required or potentially required state permits. In this case, MEPA jurisdiction exists over wetlands, waterways, and stormwater.

Wetlands and Waterways

Phase I of the project will impact approximately 35,639 sf of Land Under Ocean (LUO), 1,800 sf of Coastal Beaches (CB), while Phase II will impact an additional 1,600 sf of LOU and 3,643 of CB. The project will also temporarily impact 520 linear feet of adnadromous fish run. Phase II areas are improvement areas beyond those previously dredged and likely cannot be performed in conjunction with the Town’s dredging project due to conflicting permitting timelines. The proposed project area will be dredged to a depth of 5.0 feet below mean low water (MLW) with a 1.0 foot allowable over-dredge. Wetland resource areas identified in the ENF within the project area include Land Under Ocean, Land Containing Shellfish (according to the Order of Conditions), Coastal Beach and Fish Run. Dredging activities should be conducted in accordance with the applicable performance standards under the Wetlands Protection Act for each wetland resource area on site.

Dredge sediments from the project site (Phase I and Phase II) still need to be deemed suitable for unconfined disposal at the MBDS by the U.S. Army Corps of Engineers (U.S. ACOE) and the U.S. Environmental Protection Agency (U.S. EPA). In accordance with CZM's recommendation, I encourage the proponent to coordinate with MassDEP to ensure the acceptability of these sediment data for use in developing the WQC for the project.

As the project proceeds through the State permitting process, the proponent should identify the potential impacts of Phase II associated with an additional season of dredging, and identify what measures will be taken to avoid, minimize, or mitigate the additional impacts from the second phase. The ENF has acknowledged the placement of time of year restrictions to limit impact to marine resources; however the proponent should work closely with DMF to address the concerns raised in their comment letter and the National Marine Fisheries Service during the permitting process and provide further information or alternatives to demonstrate that impacts in the Phase II area have been minimized and/or mitigated.

The ENF states that the docks in the area of the improvement dredging were licensed under Chapter 91 in 2005. CZM recommends in their comment letter that the proponent explore alternatives to the improvement dredging, such as reconfiguration of dock space, to improve access to these slips and minimize impacts from docks as currently configured. The proponent should work closely with CZM to address the concerns raised in their comment letter.

Habitat

The Porter River in the vicinity of the project site has been designated by the Division of Marine Fisheries (DMF) as mapped shellfish habitat for soft shell clams (*Mya arenaria*) and provides essential habitat for the passage and continued juvenile development of rainbow smelt (*Osmerus mordax*), alewife (*Alosa pseudoharengus*) and blueback herring (*Alosa aestivalis*), and the spawning and juvenile development of winter flounder (*Pseudopleuronectes americanus*). However, DMF has stated that dredging may result in turbidity and changes in water quality that are detrimental to the critical life stages of the species listed above. Furthermore, the proposed dredging may also cause indirect impacts, including increased vessel use, resulting in additional pollutant load, scour and erosion from vessel wake, and propeller dredging. Portions of the area to be dredged will include intertidal habitat. At the recommendation of DMF, the proponent should investigate ways to minimize the proposed Phase II improvement dredging of intertidal mudflats where possible.

To minimize impacts to sensitive marine fisheries resources the proponent should place time of year restrictions on the construction period, with no silt producing in-water work conducted from February 1 through October 1 of any year. Additionally, turbidity barriers should be placed around the work area and strictly monitored and maintained to limit migration of sediment into adjacent resource areas.

Archaeology

The Massachusetts Board of Underwater Archaeological Resources (BUAR) has stated that upon preliminary review of its files and secondary literature sources, no record of any

underwater archaeological resources was found within the project area. Therefore, following review of the project characteristics, the BUAR has concluded that the project is unlikely to negatively impact submerged cultural resources. However, should heretofore-unknown submerged cultural resources be encountered during the course of the project, the BUAR expects that the project proponent will take steps to limit adverse affects and notify the BUAR, as well as other appropriate agencies in accordance with the BUAR's *Policy Guidance for the Discovery of Unanticipated Archaeological Resources* (updated 9/28/06).

Stormwater

As recommended by CZM, the I encourage the proponent to work with the Town of Danvers to proactively address the sedimentation issued associated with the Porter River and its tributaries, particularly with regard to the possibility that stormwater runoff entering the river via outfalls may be carrying significant loads of sediment. This sediment may be contributing to the rapid rate of accretion in the area and may limit the effectiveness and sustainability of the dredging project.

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 with obtaining required State permits.

June 8, 2007

Date



Ian A. Bowles

Comments received:

05/29/2007 Office of Coastal Zone Management
05/29/2007 Board of Underwater Archaeological Resources
05/29/2007 Division of Marine Fisheries

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