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July 17, 2009

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

PROJECT NAME : Reconstruction of Route 28 at Reine's Corner  
PROJECT MUNICIPALITY : Falmouth  
PROJECT WATERSHED : Cape Cod  
EEA NUMBER : 14438  
PROJECT PROPONENTS : Massachusetts Highway Department  
DATE NOTICED IN MONITOR : June 22, 2009

Pursuant to the Massachusetts Environmental Policy Act (MEPA) (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).

Project Description

The proposed project involves reconstruction of approximately 0.34 miles of roadway in the Town of Falmouth, beginning at the intersection of Route 28 with Sao Paulo Drive and extending easterly along Route 28 approximately 1,775 feet to a point approximately 400 feet east of Manuhant Road. The purpose of the project is to reconstruct and widen the road to improve roadway geometrics and safety, reconstruct the sidewalk, and improve drainage.

The proposed project will impact 275 linear feet of Coastal Bank; 31,512 square feet (sf) of Land Subject to Coastal Storm Flowage (LSCSF) and Bordering Land Subject to Flooding (BLSF); 42 linear feet of inland Bank; 3,108 sf of Bordering Vegetated Wetlands (BVW); 40 linear feet of Land Under Water; and 35,521 sf of Riverfront Area.

MEPA Jurisdiction and Permitting Requirements

The project is subject to review pursuant to Sections 11.03(3)(b)(1)(a) and (f) of the MEPA regulations because it is being undertaken by a State agency and because it will result in the alteration of coastal bank one-half or more acres of other wetlands. The project required an Order of Conditions from the Falmouth Conservation Commission which was issued on April 3, 2009 and appealed. The Order of Conditions approved the proposed project, but denied the proposed wetland replication area and required buffer zone planting instead. The Department of Environmental Protection (MassDEP) intervened and the Massachusetts Highway Department (MassHighway) appealed the Order of Conditions because the project, as approved by the Conservation Commission without wetland replication, did not comply with performance standards and was contrary to MassDEP's No Net Loss Policy. As a result, the project requires a Superseding Order of Conditions from MassDEP. It also requires a Section 404 Programmatic General Permit from the U.S. Army Corps of Engineers.

The project will be undertaken by and financed by the MassHighway. Because the project will be financed by a State Agency, MEPA jurisdiction for this project is broad and extends to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment, as defined in the MEPA regulations.

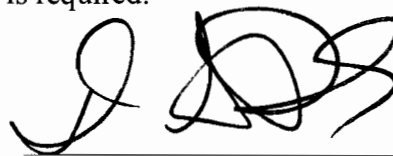
Wetlands and Stormwater Management

In its comments, MassDEP states that it supports the proposed safety improvement project because it will result in significantly improved stormwater management. In order to make this improvement, unavoidable impacts to Coastal Bank will occur. The Superseding Order to be issued by the Department upon completion of the MEPA process will include requirements for a pre-construction meeting between the contractor, MassHighway, MassDEP, and the Conservation Commission. Additional conditions will be included to ensure adequate protection of wetland resource areas as well as proper oversight throughout construction.

Based on the information presented in the ENF, and after consultation with the relevant state agencies, I find that no further MEPA review is required.

July 17, 2009

Date



Ian A. Bowles

Comments received:

07/6/2009 Division of Marine Fisheries

07/14/2009 Department of Environmental Protection Southeast Regional Office (CERO)

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