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August 7, 2009

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

PROJECT NAME : Gloucester Inner Harbor Dredging, North Channel
PROJECT MUNICIPALITY : Gloucester
PROJECT WATERSHED : North Coastal
EEA NUMBER : 14447
PROJECT PROPONENT : City of Gloucester and Massachusetts Department of
Conservation and Recreation
DATE NOTICED IN MONITOR : July 8, 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

As described in the Environmental Notification Form (ENF), the project consists of the improvement dredging of the Gloucester Inner Harbor – North Channel between Federal Channel and the existing bulkheads and piers in Gloucester. The project includes the dredging of 20,700 cubic yards (cy) of dense clay near Jodrey State Pier and 51,200 cy from the North Berth area from the United States Coast Guard station northward. The majority of dredged materials is suitable for unrestricted open water disposal at the Massachusetts Bay Disposal Site (MBDS); however a portion of the dredged material is classified as unsuitable for unrestricted open water disposal at MBDS. The Proponent has indicated this unsuitable material will either be remediated to permit open water disposal or disposed of at an approved upland disposal site. The project is proposed to allow deeper drafts for commercial vessels to use the dredged areas during lower tidal stages of the channel.

MEPA Jurisdiction and Required Permits

The project is undergoing review pursuant to Sections 11.03(3)(b)(1)(f), 11.03(3)(b)(3) and 11.03(3)(b)(4) of the MEPA regulations because the project requires a State Agency Action and it has the potential to alter one-half or more acres of other wetlands (Land Under the Ocean, Land Containing Shellfish and Designated Port Areas), it will require dredging of 10,000 or more cubic yards of material, and it may require disposal of 10,000 or more cy of dredged material at a location other than a designated in-water disposal site. The project will require: a Chapter 91 (c.91) Waterways Dredge Permit and a Section 401 Water Quality Certificate (WQC) from the Massachusetts Department of Environmental Protection (MassDEP); an Individual Section 404 Permit from the United States Army Corps of Engineers (U.S. ACOE); an Order of Conditions (OOC) from the Gloucester Conservation Commission (and, on appeal only, a Superseding Order of Conditions from MassDEP); and federal consistency review by the Office of Coastal Zone Management (CZM). The project may require a National Pollutant Discharge Elimination System (NPDES) Stormwater Permit for construction activities which disturb one acre or more of land.

The project will be undertaken by and financed by the Massachusetts Department of Conservation and Recreation (DCR), a State Agency. Therefore, 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.

Review of the ENF

According to the documentation provided in the ENF, the cumulative project impacts are estimated to include alteration of: 242,000 (sf) of Land Under the Ocean, Land Containing Shellfish and a Designated Port Area.

The project proposes improvement dredging to -24 feet below Mean Lower Low Water (MLLW) along the State Fish Pier, and -20 feet below MLLW along the North Wharf, with a two-foot allowable over dredge at the proposed locations. Improvements to associated beach structures such as jetties, groins, sinks, boat ramps, etc., are not included as part of this project. The Proponent has indicated that other projects may be undertaken in the future.

The Proponent should use the guidance presented in the MassDEP and CZM comment letters, in addition to permit application requirements, to determine the level of detail necessary to obtain required State permits. Specifically, I refer the Proponent to MassDEP's comments regarding the 401 WQC application requirements.

Of the approximately 71,900 cy of mechanically dredged material, 14,300 cy is considered unsuitable for disposal at MBDS. The Proponent should provide details of this disposal, including appropriate dewatering plans, during the permitting process. The Proponent disclosed that National Grid is planning remediation activities in the vicinity of the North Wharf where the unsuitable material is situated and that these activities may impact the dredged material's future suitability for open water disposal. The Proponent intends to conduct further testing following the completion of the remediation efforts by National Grid. In the event the

remediation efforts in this location produce the ability to dispose of the material at MBDS, the Proponent should provide the results of the sediment testing as part of the permitting process to demonstrate the material's suitability. According to the comments from MassDEP, the OOC issued by the Gloucester Conservation Commission on February 6, 2009 requires the Proponent to file a new Notice of Intent for this portion of the project.

According to the comments provided by CZM, the OOC approved the project subject to review and approval by the City of Gloucester Engineering Department or a third party. I encourage the Proponent to work with the City to ensure that the dredging operation will not adversely affect the ability of the impacted land under the ocean to provide support for adjacent man-made structures such as piers and seawalls. The Proponent should provide the results of this analysis during the permitting process.

According to the ENF the Proponent has proposed to avoid potential impacts to fish habitat, and shellfish spawning by prohibiting dredging or disposal between February 15 through July 31 of any year. The Massachusetts Division of Marine Fisheries (*Marine Fisheries*) has identified the area in the vicinity of dredging activities as winter flounder (*Pseudopleuronectes americanus*) spawning habitat. Accordingly, *Marine Fisheries* recommends a time-of-year (TOY) restriction prohibiting in water silt-producing work from February 15 through June 30 of any year. In addition, *Marine Fisheries* has identified the area as productive habitat for American Lobster (*Homarus americanus*) and recommends a TOY restriction prohibiting in-water work from May 1 to October 1 of any year. CZM recommends that the Proponent work with *Marine Fisheries* to assure that habitat impacts from the project are avoided or minimized.

I note the endorsement of the project by the Gloucester Fisherman's Wives Association (GFWA). I encourage the Proponent to review the recommendations of the GFWA regarding the inclusion of historical sample locations and analytical data in future dredge proposals in the region. In addition, I encourage the Proponent to consider the GFWA's recommendations on conducting separate dredging projects which would allow the majority of the project to proceed in advance of the dredging of the North Wharf area, which is slated for remediation activities.

Comments from the Board of Underwater Archaeological Resources (the Board) indicate that the project is unlikely to impact submerged cultural resources. However, it is possible that there are submerged cultural resources in the project area. If heretofore-unknown submerged cultural resources are encountered during the course of the project, the Proponent should take steps to limit adverse effects and notify the Board, as well as other appropriate agencies, in accordance with the Board's *Policy Guidance for the Discovery of Unanticipated Archaeological Resources* (updated 9/28/06).

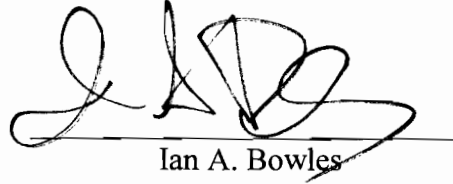
Pursuant to 301 CMR 13.02, I am declining to require an additional Public Benefit Review for the project. Furthermore, as a water-dependent project, it is presumed that this project will provide adequate public benefit in accordance with 301 CMR 13.04. I am satisfied that the project's impacts to tideland resources can be adequately addressed during the permitting process.

Conclusion

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 to State permitting.

August 7, 2009

Date



Ian A. Bowles

Comments received:

07/24/2009 Massachusetts Board of Underwater Archaeological Resources
07/28/2009 Massachusetts Department of Environmental Protection – NERO
07/28/2009 Massachusetts Office of Coastal Zone Management
07/28/2009 Gloucester Fisherman's Wives Association
08/06/2009 Massachusetts Division of Marine Fisheries

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