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August 9, 2006

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

PROJECT NAME : Little Namskaket Creek Salt Marsh Restoration Project
PROJECT MUNICIPALITY : Orleans
PROJECT WATERSHED : Cape Cod
EOEA NUMBER : 13833
PROJECT PROPONENT : Town of Orleans
DATE NOTICED IN MONITOR : July 10, 2006

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), this project consists of culvert replacement to increase tidal exchange in anticipation of restoration of seven (7) acres of former salt marsh habitat in Little Namskaket Creek. The project site lies upstream of a culvert that flows beneath Skaket Beach Road (near the roads' intersection with Gull Lane) into the Little Namskaket Creek salt marsh. The existing culvert consists largely of a 15-inch corrugated metal pipe (CMP) that crosses beneath Skaket Beach Road near the intersection with Gull Lane. This culvert has experienced significant corrosion and the downstream end was recently replaced by a 24-inch corrugated polyethylene pipe after the CMP collapsed. The existing culvert is listed as Site OR-3 on the Cape Cod Atlas of Tidally Restricted Salt Marshes. The project is located within the Inner Cape Cod Bay Area of Critical Environmental Concern (ACEC). The Natural Heritage and Endangered Species Program (NHESP) has determined that the project is located immediately adjacent to the actual Resource Area habitat of the Diamondback Terrapin (*Malaclemys terrapin*). The project site also contains Salt Reedgrass (*Spartina cynosuroides*).

Both the Diamondback Terrapin and Salt Reedgrass are listed as “Threatened” and are protected from a “take” under the Massachusetts Endangered Species Action (MESA).

The project will consist of filling in place of the existing culvert and placement of a new 4’ by 5’ box culvert in a proximate location under Skaket Beach Road to increase tidal exchange within the creek. The culvert will contain a manually operated tide gate to restrict tidal flows during extreme flooding or tidal events. Based upon information gathered at the public consultation meeting, it appears that the box culvert is not required to follow the *Massachusetts River and Stream Crossing Standards: Technical Guidelines* issued by the Army Corps of Engineers due to tidal nature of the wetland resource areas. However, the box culvert has been sized and designed to limit impediments to both tidal flows and migration of wildlife. Construction of the culvert will require the use of small to medium-sized excavators or hand dug excavation, most of which it is anticipated can be done from upland areas along or within the existing roadway. Proposed erosion and sedimentation controls include the use of haybales and silt fences, and a coffer dam will be utilized to limit tidal flows during the construction period.

The project is undergoing MEPA review pursuant to Section 11.03(11)(b) and 11.03(3)(b)(1)(c) because it requires a State permit and is located within an ACEC and will involve the alteration of 1,000 or more square feet of salt marsh or outstanding resource waters. The project requires a Chapter 91 Waterways License and 401 Water Quality Certificate (WQC) from the Department of Environmental Protection (DEP). The project construction activities will disturb one or more acres of land and therefore, may require a NPDES Stormwater Permit for Construction Activities. It is our understanding that an amended Order of Conditions (DEP #54-1637) was issued for this project by the Orleans Conservation Commission in June 2006. Correspondence received from the Natural Heritage and Endangered Species Program indicates that “due to previous review and approval under the Wetlands Protection Act, we did not require the project to file at this time under the MA Endangered Species Act.”

The ENF contains sufficient information to understand the potential impacts of the project, and to demonstrate that the impacts of the project do not warrant the preparation of an EIR. The project will result in substantial environmental benefits by increasing the viability of the upstream salt marsh and reducing invasive *Phragmites australis* (common reed). The ENF has examined project alternatives including: leaving the deteriorating culvert in its existing condition, replacing the culvert with a new culvert of the same size, and the preferred alternative of a larger box culvert.

The DEP comment letter summarizes additional information that should be addressed by the project proponent prior to permitting and construction. Generally, these items include information pertaining to final site grades and elevations, construction methodologies, impact summaries, alternative erosion and sedimentation control measures, operations and maintenance plans, and project monitoring. DEP stated, “It is MassDEP’s opinion that although the information above appears extensive, it may be provided and outstanding issues addressed during permitting for the 401 WQC and Ch. 91 License.” I request that the project proponent specifically address the concerns raised within the DEP comment letter during both the 401 WQC and Ch. 91 License permitting process. I encourage the proponent to implement a

thorough monitoring program to ensure the overall success of this restoration project. I request that the project proponent also submit salt marsh monitoring documents to NHESP throughout the evaluation and monitoring phase. Should the project be modified, the proponent may need to submit a revised Notice of Intent with the Orleans Conservation Commission, supplemental materials to NHESP, and/or file a Notice of Project Change with the MEPA Office.

I am confident that the proponent's preferred alternative can effectively minimize environmental impacts to wetlands and tidelands, the ACEC and Rare Species. The project, while requiring additional information during the DEP permit approval process, has received support from State resource management agencies. The proponent can resolve any remaining issues during the state permitting process. No further MEPA review is required.

August 9, 2006
Date


Stephen R. Pritchard

Comments received:

- 07/12/2006 Division of Marine Fisheries
- 07/31/2006 Division of Fisheries and Wildlife – Natural Heritage and Endangered Species Program
- 07/31/2006 Department of Environmental Protection – SERO
- 07/31/2006 Department of Conservation and Recreation – ACEC Program

SRP/HSJ/hsj