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August 10, 2007

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

PROJECT NAME : Fairhaven Shipyard
PROJECT MUNICIPALITY : 50 Fort Street - Fairhaven
PROJECT WATERSHED : Buzzards Bay/Acushnet River
EEA NUMBER : 14055
PROJECT PROPONENT : Rodman Candle Works Realty, LLC
DATE NOTICED IN MONITOR : July 11, 2007

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 determine that the above project **does not require** the preparation of an Environmental Impact Report (EIR).

According to the Environmental Notification Form, the proposed project consists of three phases. Phase I would begin in 2008 and Phase III is anticipated to be completed in 2012. Phase I includes the expansion of the existing "T" timber pier and transient float at the north side of the marina, and the construction of a pressure washing facility with a concrete pad and collection system at the eastern side. Phase II includes the maintenance dredging of 89,340 square feet (sf) of the marina. The proponent estimates that the dredging will generate approximately 14,000 cubic yards of sediment. The dredging would provide adequate depths for boats using the marina. The proponent will dredge to a depth of 16.0 feet below Mean Lower Low Water (MLLW) with a one-foot overdredge. The proponent is proposing to dispose of the dredged material at the confined aquatic disposal site (CAD Cell) in New Bedford Harbor. The dredging will be via mechanical dredging via a crane-mounted floating barge with a clamshell bucket loaded onto scow barges. As part of Phase II, the proponent will install a 208-foot long steel bulkhead in the area of an existing seawall, and it will construct a travel lift pier to support a 400-ton travel lift. The proponent will also replace a 35-ton travel lift pier. Phase III includes the reconfiguration and expansion of the existing floats and piers. The proponent will add wave attenuators to the new southern concrete floats and a northern floating breakwater. It will also relocate the fuel dock as part of Phase III.

The proponent will locate the reconfigured piers and floats within the Combined Pierhead and Bulkhead Line. The project will remove and replace the timber piles in-kind as needed during each phase. The marina is comprised of about 3.5 acres of land area. It contains existing dockage for approximately 184 vessels, haul-out services, repairs, sales, and storage. The proponent is proposing to increase dockage to about 196 vessels with the project. The project is located on a site that is within the Municipal Harbor Plan (dated August 2002) area for New Bedford and Fairhaven.

The project is subject to MEPA review pursuant to Sections 11.03(3)(b)(1)(a), 11.03(3)(b)(1)(f), 11.03(3)(b)(3), and 11.03(3)(b)(6) because the project alters coastal bank; alters 0.5 or more acres of wetlands; dredges 10,000 or more cubic yards of material; and constructs, reconstructs, or expands a pile-supported or bottom-anchored structures of 2,000 or more sf of base area. It will require a Chapter 91 Waterways License for the dredging and the addition of new coastal structures for a water-dependent project from the Department of Environmental Protection (MassDEP). The project will also require a Water Quality Certificate from MassDEP. It may undergo review with the Natural Heritage & Endangered Species Program (NHESP) under the Massachusetts Endangered Species Act to determine if a permit is required. The project may need to comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site. On August 6, 2007, an Order of Conditions was issued by the Fairhaven Conservation Commission. A Programmatic General Permits (PGP) may be needed from the U.S. Army Corps of Engineers. A Federal Consistency Review by the Massachusetts Coastal Zone Management (MCZM) office may also be necessary. MEPA jurisdiction is limited to those aspects of the project whose environmental impacts are related to the subject matter of the state permits (wetlands, stormwater, and waterways).

According to the proponent, the project would affect approximately 92,815 sf of Land Under the Ocean (LOU) - 86,895 sf/1.99 acres from dredging, 5,809 sf of net increase from the pile-supported pier & float area, and 111 sf of net increase from the pile area; 208 linear feet of Coastal Bank – bulkhead work; 2,445 sf of Intertidal Area - dredging; and 4,800 sf of Land Subject to Coastal Storm Flowage (LSCSF) – pressure washing pad.

The proponent should upgrade any portions of its stormwater management system to meet DEP's Best Management Practices and correct past system deficiencies. The proponent has committed to provide existing catch basins with hoods for oil separation before discharging runoff into the Acushnet River. Roof runoff will continue to be sheet flow to the existing stormwater collection system. The proposed pressure wash water collection system design has not been finalized. However, the proponent has indicated that wash water will be treated prior to its release to the local municipal sewer system. The proponent has committed to provide an annual inspection and maintenance program of its stormwater collection system and a regular

sweeping program of driveways, sidewalks, and parking areas.

The project's impacts to wetland resource areas can be adequately handled during the MassDEP, Federal, and local permitting processes. MassDEP has sufficient authority to deal with any outstanding issues during project permitting. Dredging should be restricted to between January 15th and May 31st to avoid fisheries and shellfish impacts. The proponent should coordinate with Marine Fisheries to remove and relocate quahogs found within the project footprint and develop a mitigation plan for unavoidable impacts to shellfish habitat. It should also identify the amount of filled Commonwealth tidelands on the project site and how the proponent proposes to accommodate public pedestrian use of such tidelands. MassDEP has indicated that compensation for any water dependent use project shall provide compensation to the public for interfering with public access rights. During the Chapter 91 licensing process, MassDEP will address the issue of compensation or access by the proponent.

Based on a review of the information provided by the proponent and after consultation with relevant public agencies, I find that the potential impacts of this project do not warrant the preparation of an EIR and can be properly addressed in the MassDEP and local permitting processes. If the final results of the suitability of the dredge material for disposal at the CAD Cell indicate that the dredge material is incompatible with CAD Cell material, the proponent should provide the MEPA Office with a letter detailing an appropriate location for disposal.

August 10, 2007

Date



Ian A. Bowles

Comments received:

MCZM, 7/23/07

MA Division of Marine Fisheries, 7/24/07

MA Board of Underwater Archaeological Resources, 7/30/07

MassDEP/SERO, 7/31/07

CLE Engineering, 8/2/07

CLE Engineering, 8/3/07

CLE Engineering, 8/7/07

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