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September 5, 2008

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

PROJECT NAME : Shoreline Stabilization  
PROJECT MUNICIPALITY : Newburyport  
PROJECT WATERSHED : North Coastal  
EEA NUMBER : 14296  
PROJECT PROPONENTS : Ganton, LLC  
DATE NOTICED IN MONITOR : August 6, 2008

Pursuant to the Massachusetts Environmental Policy Act (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).

As described in the Environmental Notification Form (ENF), the project involves the removal of existing rubble and construction debris from a 550-linear foot section of coastal bank along the Merrimack River in order to construct a riprap seawall and a two-foot-wide vegetated buffer at the top of the riprap slope to stabilize the bank.

MEPA Jurisdiction

The project is undergoing MEPA review pursuant to Section 11.03 (3)(b)(1)(b) and Section 11.03 (2)(b)(1) because it will alter 500 or more linear feet of bank along a fish run or inland bank and it will alter a designated significant habitat. The project will require a Chapter 91 License from the Massachusetts Department of Environmental Protection (MassDEP), and possibly Federal Consistency Review by the Office of Coastal Zone Management (CZM). The

project also requires an Order of Conditions from the Newburyport Conservation Commission (and hence a Superseding Order from MassDEP if the local Order is appealed).

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 rare species, wetlands and stormwater.

#### Wetlands and Stormwater

According to the ENF, the project would alter about 550 linear feet of bank and 4,809 square feet of land subject to coastal storm flowage. Although there is a significant area of salt marsh at the toe of the entire coastal bank where the project is proposed, there are no anticipated impacts to this resource area during or after construction. Construction is proposed entirely from the landside during lower tidal periods in fall and winter, and erosion control measures will be installed near the toe of the slope to prevent sedimentation into the marsh. However, the illustration in the ENF entitled 'proposed detail at the western property line' on the Proposed Site Plan and Sections (Sheet 2 of 2), shows riprap encroaching into two small areas of saltmarsh. This impact appears to be avoidable, based on the discussion at the MEPA site visit held on August 21, 2008, and from photographs provided subsequent to that meeting. A riprap bank also would create a higher wave energy environment that may have an adverse impact on the marsh. In addition, it appears that the coastal bank erosion is more pronounced in areas where there are stormwater discharges. MassDEP recommends as part of the coastal bank stabilization that the proponent address the stormwater runoff issue at these locations project.

MassDEP has indicated that, as part of the permit review, the impact of the proposed project on the applicable wetland resource areas will be assessed and proposed work will be appropriately conditioned to meet the applicable performance standards of the Chapter 91 licensing process. MassDEP therefore has sufficient permitting authority to ensure that no significant impacts occur because of this project. I direct MassDEP to consider the comments submitted by CZM on the ENF when finalizing the conditions of the permit.

#### Rare Species

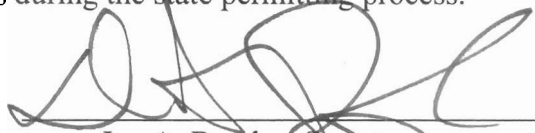
The Natural Heritage and Endangered Species Program (NHESP) of the Massachusetts Division of Fisheries and Wildlife has stated that the project site is located within Priority and Estimated Habitat as indicated in the 12th Edition of the MA Natural Heritage Atlas and therefore requires review through a direct filing with NHESP for compliance with the Massachusetts Endangered Species Act (MESA 321 CMR 10.00). On August 7, 2008, the NHESP issued a conditional no "take" determination letter to the proponent for the proposed stone revetment provided that excavation and construction work is performed in phases to allow excavated sections to be reconstructed daily, thereby minimizing erosion.

Conclusion

I conclude that no further MEPA review is required. The review of the ENF has served to demonstrate that the potential impacts of the project do not warrant the preparation of an EIR. The proponent can resolve the remaining issues during the state permitting process.

September 5, 2008

Date



Ian A. Bowles, Secretary

Comments received:

- 08/25/2008 Natural Heritage and Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife
- 08/26/2008 Office of Coastal Zone Management
- 08/27/2008 Department of Environmental Protection
- 08/28/2008 Larry McCavitt

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