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September 5, 2008

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

PROJECT NAME : Alteration of a Coastal Bank  
PROJECT MUNICIPALITY : Westport  
PROJECT WATERSHED : Buzzards Bay  
EEA NUMBER : 14301  
PROJECT PROPONENT : Mr. Martin Keller  
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 involved the construction of 162-linear feet of a stepped granite block retaining wall and associated plantings located on a coastal bank. Work has taken place on a coastal bank and within a Federal Emergency Management Agency (FEMA) mapped velocity flood zone.

MEPA Jurisdiction

The project is subject to review pursuant to Section 11.03(3)(b)(1)(a) of the MEPA regulations because the project altered a Coastal Bank. It will require a Superseding Order of Conditions (SOC) from the Department of Environmental Protection (MassDEP). In April 2008,

the Westport Conservation Commission denied to the proponent's request for an Order of Conditions.

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 wetlands and stormwater.

### Wetlands

The project has already been completed and the proponent is seeking approval after-the-fact for the removal of vegetation from a coastal bank and the construction of 162 linear feet of a stepped granite block upper retaining wall and the repair of a two-foot-high lower retaining wall. Prior to the removal of the bank vegetation, the site had dense vegetation in the upper portions of the coastal bank face and had a deteriorating lower retaining wall at the base of the coastal bank. The coastal bank does not appear to be a sediment source for adjacent or downdrift coastal beaches but rather serves as a vertical buffer to storm waves. The Wetlands Protection Act Regulations state that any project on a coastal bank or within 100 feet landward of the top of a coastal bank must have no adverse effects on the stability of the coastal bank. MassDEP has stated that bulkheads, revetments, seawalls, groins or other coastal engineering structures may be permitted on a coastal bank.

The Flood Insurance Study for the Town of Westport, prepared by FEMA and dated September 18, 1984, indicates that the site is located within the 10-year wave envelope flood zone and would be subject to elevation 12.3 wave heights during a 10-year frequency storm event. Within the ENF the plan entitled, "Typical Slope Cross Section Detail" dated July 1, 2008, shows the top-of-wall elevation as 11.6, indicating that the wall will likely be overtopped during a 10-year storm event resulting in scour and erosion of the sediments landward of the wall. I note that the scour and erosion could ultimately lead to failure of the structure and destabilization of the underlying coastal bank. In order to ensure that the wall will withstand the flood water forces, the wall design should be evaluated and certified by a Massachusetts Registered Professional Structural Engineer and the proponent should consult with MassDEP and the Office of Coastal Zone Management (CZM).

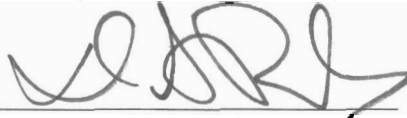
MassDEP has indicated that, as part of the review for the SOC, the impact of the proposed project on the applicable wetland resource areas will be assessed and proposed work will be appropriately conditioned to meet the applicable performance standards of the Wetlands Protection Act. MassDEP has sufficient permitting authority to ensure that no significant impacts occur because of this project. I ask that MassDEP consider the comments received from the CZM and the Division of Marine Fisheries during the ENF review when finalizing the conditions of the SOC.

MassDEP has stated in its comment letter that the entire project as described in the ENF will not require a Chapter 91 License, pursuant to the Waterways Regulations. Specifically, the wall is up-gradient of geographic areas subject to jurisdiction.

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

  
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Ian A. Bowles

Comments received:

- 08/26/2008 Division of Marine Fisheries
- 08/26/2008 **Massachusetts Department of Environmental Protection – SERO**
- 08/26/2008 Office of Coastal Zone Management

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