



The Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Deval L. Patrick
GOVERNOR

Timothy P. Murray
LIEUTENANT GOVERNOR

Ian A. Bowles
SECRETARY

Tel: (617) 626-1000
Fax: (617) 626-1181
<http://www.mass.gov/envir>

November 7, 2008

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

PROJECT NAME : Maintenance of Rock Revetement
PROJECT MUNICIPALITY : Wellfleet
PROJECT WATERSHED : Wellfleet Harbor
EOEA NUMBER : 14327
PROJECT PROPONENTS : Robert Zimmerman
DATE NOTICED IN MONITOR : October 8, 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).

The project consists of repair of an existing stone revetement, approximately 255 linear feet in length. In addition to repairing portions of the revetement that have settled, the project includes placement of filter fabric behind the structure and resetting of the existing toe stones and armor stones. The project is undergoing environmental review pursuant to Section 11.03(3)(b)(1)(a) because it involves alteration of a coastal bank and Section 11.03(3)(b)(11)(b) because it is located within the Wellfleet Harbor Area of Critical Environmental Concern (ACEC). The project requires a Chapter 91 License and may require a 401 Water Quality Certification from the Massachusetts Department of Environmental Protection (MassDEP). The project received an Order of Conditions from the Wellfleet Conservation Commission, which was issued on February 27, 2008.

The proponent is not seeking financial assistance from an agency of the Commonwealth. Therefore, MEPA jurisdiction is limited to those aspects of the project that are within the subject matter of any required or potentially required state permits and that may cause Damage to the Environment as defined in the MEPA regulations. In this case, MEPA jurisdiction extends to land and stormwater, wetlands, waterways and tidelands, and water quality.

As noted in the comment letter from the Division of Marine Fisheries (*Marine Fisheries*), the project site abuts mapped shellfish habitat for American oysters (*Crassostrea virginica*) which is protected under the Wetlands Protection Act (310 CMR 10.34) and Mayo Beach, which is a spawning habitat for horseshoe crabs (*Limulus polyphemus*). The Order of Conditions includes a time-of-year (TOY) restriction such that no work shall be performed from May 1 to July 31, as recommended by *Marine Fisheries*, to protect horseshoe crabs during the spawning and egg development period. *Marine Fisheries* also recommends that all construction activity should be completed from the upland portion of the site to avoid adverse impacts to resource areas and species that may be caused by the use of heavy equipment and storage of construction material or debris.

The proponent indicates that the reconstruction of the revetement will occur within the footprint of the existing structure as recommended by *Marine Fisheries*, and that disturbed areas will be revegetated, and rocks and other debris will be removed from the project area following construction. The proponent is required to provide annual beach nourishment as mitigation for sediment loss associated with project. The Order of Conditions requires that the proponent provide 135 cubic tons of sediment over the face of the rock each year prior to May 1.

The proponent has submitted a Chapter 91 License application to MassDEP for the proposed reconstruction and to license a portion of the revetement that was not included under the previously issued license. Based on the comment letter from MassDEP, the project appears to meet the criteria for licensing a structure within an ACEC. As part of the Chapter 91 license application process, the proponent should provide additional information to MassDEP regarding the proposed beach nourishment. As noted in MassDEP's comment letter, a 401 Water Quality Certification will be required if the project results in removal of more than 100 cubic yards of material from below the mean high water shoreline. I refer the proponent to MassDEP's comment letter for additional information on stormwater permitting and notification requirements pursuant to the Massachusetts Contingency Plan if oil and or hazardous material is identified during project implementation.

I am satisfied that the ENF has sufficiently defined the nature and general elements of the project, and has proposed measures to avoid, minimize, and mitigate environmental impacts. Based on review of the ENF and comments received, and in consultation with state agencies, I have determined that no further MEPA review is required. The project may proceed to state permitting.

November 7, 2008

DATE



Ian A. Bowles, Secretary

Comments Received:

10/27/08 Cape Cod Commission
10/28/08 Department of Environmental Protection, Southeast Regional Office
10/28/08 Division of Marine Fisheries

IAB/AE/ae