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June 25, 2021

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

PROJECT NAME : Construction of a Shared Use Path Along Beach Road
PROJECT MUNICIPALITY : Oak Bluffs
PROJECT WATERSHED : Atlantic Ocean
EEA NUMBER : 16379
PROJECT PROPONENT : MassDOT; Town of Oak Bluffs
DATE NOTICED IN MONITOR : May 26, 2021

Pursuant to the Massachusetts Environmental Policy Act (MEPA; M.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** an Environmental Impact Report (EIR).

Project Description

As described in the Environmental Notification Form (ENF), the project consists of the construction of a 0.69-mile shared-use-path (SUP) along the southern edge of Eastville Ave and Beach Road in the Town of Oak Bluffs (Town). The proposed SUP will connect two existing SUPs that currently terminate on County Road and the Lagoon Pond Drawbridge. The project is proposed to provide a safe, accessible, Americans with Disabilities Act (ADA)-compliant trail for recreation and off-road transportation alternatives. Additional roadway and stormwater improvements to Beach Road/Eastville Avenue are also proposed to address existing deficiencies. Specifically, the project proposes to:

- Construct a 3,665-foot-long, 10-foot-wide asphalt SUP with a 4-foot grass buffer and vertical granite curbing;

- Construct ADA-compliant accessible ramps with tactile warning devices at all crosswalks throughout the Project Corridor;
- Implement new ladder-style crosswalks and pedestrian/bicycle crossing warning signs;
- Replace existing catch-basins with deep-sump catch basins;
- Place cobble beach nourishment within Coastal Dune and Coastal Beach;
- Perform a full-depth reconstruction along Beach Road at its approach to the Lagoon Pond Drawbridge;
- Realign the intersection of Eastville Avenue at Temahigan Avenue to define the right-of-way (ROW) and improve sight lines; and
- Reconstruct the intersection of Eastville Avenue at County Road to provide a single northbound approach to Eastville Avenue, a dedicated right-turn lane at the northbound approach in County Road, walking and bike route signage, and a 3-way stop control in order to improve traffic operations, visibility, and safety.

The project requires the grant of a permanent easement over land owned by the Martha's Vineyard Land Bank to MassDOT for construction of the SUP and related infrastructure. In addition, construction activities on Land Bank property require approval by the Secretary of EEA under Section 6 of Chapter 736 of the Acts of 1985 (the "Land Bank Act"). The land (part of Doug's Cove Preserve) is currently held for natural resource purposes in accordance with Article 97 of the amendments to the Constitution of the Commonwealth (Article 97). Accordingly, the disposition of an interest in land requires legislative approval and compliance with the EEA Article 97 Land Disposition Policy.

Project Site

The 5.13-acre project corridor includes portions of Beach Road, Eastville Avenue, and County Road. Beach Road runs in a northwest/southeast direction and is classified as an urban principal arterial roadway under the jurisdiction of the Massachusetts Department of Transportation (MassDOT). Eastville Avenue runs in an east-west direction; in between Temahigan Avenue and County Road Eastville Avenue is classified as an urban principal arterial roadway under the jurisdiction of MassDOT, in between Temahigan Avenue and County Road Eastville Avenue is classified as an urban collector roadway under the jurisdiction of the Town. County Road runs in north-south direction and is classified as an urban collector roadway under the jurisdiction of the Town. As described in the ENF, the project corridor currently exhibits an inconsistent roadway geometry, insufficient sight lines, and a lack of pedestrian and bicycle accommodations.

Three open space parcels protected by Article 97 are located along the project corridor: Eastville Point Beach, Doug's Cove Preserve, and Quay's Corner. Both Lagoon Pond, which lies to the south of the project corridor, and Vineyard Haven Harbor, which lies to the north, are listed as impaired water bodies. There are numerous wetland resources throughout the project corridor, including: Barrier Beach, Coastal Beach, Coastal Dune, Salt Marsh, Bordering Vegetated Wetlands (BVW), Isolated Vegetated Wetlands (IVW), Isolated Land Subject to Flooding (ILSF), and Land Subject to Coastal Storm Flowage (LSCSF). The project site is not located in Priority and/or Estimated Habitat as mapped by the Division of Fisheries and Wildlife's (MassWildlife's) Natural Heritage and Endangered Species Program (NHESP) or an Area of Critical Environmental Concern (ACEC). There are eleven buildings listed in the Massachusetts Historical Commission's (MHC) Inventory of Historic and Archaeological Assets of the Commonwealth that run along the project corridor.

Environmental Impacts and Mitigation

Potential environmental impacts associated with the project include the alteration of 0.74 acres of land and the creation of 0.49 acres of impervious surface. Impacts to wetland/coastal resource areas include the alteration of 1,956 square feet (sf) of Coastal Beach, 16,380 sf of Coastal Dune, 37,507 sf of Barrier Beach, 80 sf of IVW, 17 sf of BVW, 135 sf of ILSF, and 50,718 sf of LSCSF, much of which is coincident. The project will require the grant of a temporary easement over 6,341 sf of Article 97 Land for project construction and a permanent easement over 2,526 sf of Article 97 Land associated with the SUP.

Measures to avoid, minimize, and mitigate environmental impacts include: beach nourishment, native species plantings, restoration of temporarily impacted wetland resources, stormwater management system improvements, and use of erosion and sedimentation controls during project construction. MassDOT has engaged in conversations with the Martha's Vineyard Land Bank Commission regarding impacts to Article 97 Land, and will adhere to EEA's Article 97 Land Disposition Policy.

Jurisdiction and Permitting

This project is subject to MEPA review and preparation of an ENF pursuant to 301 CMR 11.03(1)(b)(3) because it requires a State Agency Action and will require a conversion, through grant of permanent easement for transportation purposes, of property held for natural resource purposes to non-Article 97 purposes. The project will be undertaken by MassDOT and requires approval by the Executive Office of Energy and Environmental Affairs (EEA) pursuant to Section 6 of the Land Bank Act.

The project requires an Order of Conditions from the Oak Bluffs Conservation Commission. Comments from the Massachusetts Department of Environmental Protection (MassDEP) state that the Conservation Commission issued an Order of Conditions approving the project on April 15, 2021 and no appeal was received. The project also requires a Road Cut Permit and Trench Permit from the Oak Bluffs Department of Public Works.

The project requires authorization from the U.S. Army Corps of Engineers (USACE) under the General Permits for Massachusetts in accordance with Section 404 of the Federal Clean Water Act as well as a National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) from the United States Environmental Protection Agency (EPA).

Because the project will be undertaken by a State Agency, MEPA jurisdiction is broad in scope and extends to all aspects of the project that may cause Damage to the Environment, as defined in the MEPA regulations.

Review of the ENF

The ENF provided a description of existing and proposed conditions, preliminary project plans, correspondence with MHC, and identified measures to avoid, minimize and mitigate environmental impacts. Comments from State Agencies are generally supportive of the project but identify concerns

regarding potential impacts to coastal resources and Priority and Estimated Habitat. State Agencies do not request additional analysis in the form of an EIR but identify additional design measures to be incorporated into the project design. Comments from NHESP request additional consultation by MassDOT prior to project construction.

Alternatives Analysis

The ENF evaluated alternatives based on public safety, impacts to coastal and inland resource areas, impacts to open space, impacts to privately owned land and structures, construction maintenance concerns, and resiliency. The ENF included a No Build Alternative, an Unsupported SUP at-grade with Beach Nourishment Alternative, a Pile-Supported SUP with Beach Nourishment Alternative (Pile Supported Alternative), SUP Located along Northern Limit of ROW Alternative, and the Preferred Alternative.

The No-Build Alternative would leave the project corridor in its current state and would not create further environmental impacts to the area. The ENF states that this Alternative was dismissed as it would not meet the project goal of providing pedestrian and bicycle access, and would fail to address the existing coastal erosion issues within Beach Road and the deficiencies in the safety, accessibility, and functionality of the roadway. The Unsupported SUP at-grade with Beach Nourishment Alternative would involve similar work to the Preferred Alternative but would not include the deep curb and block system proposed in the Preferred Alternative. According to the ENF, this Alternative was dismissed as it would not be as resilient to coastal erosion as the Preferred Alternative due to the lack of the deep curb and block system and would present a challenge to maintain. The Pile-Supported Alternative would involve the use of piles to support the concrete deck within coastal resource areas, which would allow for sediment movement beneath the SUP and would better meet the Coastal Dune Performance Standards. According to the ENF, this Alternative would greatly increase temporary impacts to Coastal Dune from construction activity, increase the cost of the project, and would present significant maintenance issues within the beach/dune nourishment area. The ENF further states the Proponent consulted with the Massachusetts Office of Coastal Zone Management (CZM) and MassDEP regarding the maintenance and construction challenges of this Alternative as compared to the Preferred Alternative.

The SUP Located along Northern Limit of ROW Alternative would locate the path along the northern side of the roadway instead of the south side of the roadway (as proposed in the Preferred Alternative). The ENF states that this Alternative would minimize impacts to Coastal Dune but would increase impacts to open space (specifically, Eastville Point Beach and Quay's Corner), and would also require creating additional pedestrian crossings, increasing environmental impacts and public safety risks, and so it was dismissed. As described in the ENF, due to the location of Eastville Point Beach to the north, Quay's Corner to the northeast, and Doug's Cove Preserve to the south of the project corridor, there was no alternative that would achieve project goals without requiring the disposition of Article 97 Land. The Preferred Alternative was selected as, based on the above criteria, it best met project goals while resulting in the least impact to protected open space and minimizing impacts to environmental resources.

Article 97

Prior to submitting the ENF, MassDOT consulted with the Martha's Vineyard Land Bank Commission and EEA to address the project's compliance with the EEA Article 97 Land Disposition Policy (Article 97 Policy). The transfer of land held for Article 97 purposes must be carefully considered to protect these lands from development pressures and to preserve the Commonwealth's legacy of open space conversation and protection. Land protected by Article 97 may not be disposed of without authorization from the legislature. As described above, the ENF states there was no alternative that would meet project goals without requiring permanent easements over Article 97 Land. The ENF states the alignment of the SUP proposed in the Preferred Alternative (south of the roadway) results in the least impact to Article 97 Land but will require both temporary and permanent easements on Doug's Cove Preserve, and that the easement areas have been minimized to the maximum extent possible. MassDOT will provide financial compensation commensurate with the value of the proposed permanent land disposition to the Martha's Vineyard Land Bank Commission to mitigate the impact to Article 97 Land. As described in the ENF, the SUP is proposed for public use and will enhance recreation in the project area by providing safe, accessible pedestrian and bicycle access. Additionally, at the request of Martha's Vineyard Land Bank, *Juniperus virginiana* (Eastern Red Cedars) will be planted within Doug's Cove Preserve to mitigate the loss of any vegetation and the Coastal Dune/Beach stabilization will extend northeast of the terminus of the SUP to address erosion issues along the shoreline within the preserve. Mitigation discussions are ongoing between MassDOT and the Land Bank, and it is possible that MassDOT could take outright fee ownership of the SUP in lieu of a permanent easement. Legislative authorization will ultimately be required for this land disposition. To the extent these discussions result in material changes to project design or mitigation from those disclosed in the ENF, the Proponent is directed to consult with the MEPA Office to determine the need for further review.

Wetland and Coastal Resources

As described in the ENF, the project will impact 1,956 sf of Coastal Beach (permanent), 16,380 sf of Coastal Dune (9,370 sf temporary / 7,010 sf permanent), 37,507 sf of Barrier Beach (29,820 sf temporary / 7,687 sf permanent), 80 sf of IVW (27 sf temporary / 53 sf permanent), 17 sf of BVW (temporary), 135 sf of ILSF (33 sf temporary / 102 sf permanent), and 50,718 sf of LSCSF (6,438 sf temporary / 44,280 sf permanent). The Oak Bluffs Conservation Commission has reviewed the project for its consistency with the Wetlands Protections Act (WPA), the Wetland Regulations (310 CMR 10.00), and associated performance standards, including the Stormwater Management Standards (SMS). As noted above, comments from MassDEP state the Conservation Commission issued an Order of Conditions approving the project on April 15, 2021 and no appeal was received. According to the ENF, erosions and sedimentation controls will be installed prior to construction and all temporarily impacted wetland and coastal resources areas will be restored to pre-construction conditions. Permanent impacts within Coastal Dune/Barrier Beach (coincident) are primarily associated with the construction of the SUP. Approximately 677 sf of degraded Coastal Dune will be revegetated with a native seed mix designed for coastal areas.

Permanent impacts to Coastal Beach/Barrier Beach (coincident) are primarily associated with the proposed beach nourishment, which will be comprised of six- to eight-inch round cobble stones. The ENF states this work will result in 1,956 sf of restoration within Coastal Beach/Barrier Beach. Comments from the CZM state that, to minimize potential scour on the northern terminus of the

proposed nourishment area, the elevation of the cobble nourishment should be extended and gradually tapered into the natural dune. Comments from both CZM and the Massachusetts Division of Marine Fisheries (DMF) recommend including a washed mix of coarse sand to gravel size material in the proposed cobble nourishment to minimize scour. DMF notes that the bordering waters of Lagoon Pond, which are proximate to the proposed nourishment area, have been mapped by MassDEP as a *Zostera marine* (Eel grass) meadow (designated as a “special aquatic site” under the Federal Clean Water Act 404(b)(1) guidelines), and emphasizes that the nourishment design and installation should be done in a manner that avoids direct or indirect impacts to sensitive habitats. Comments from CZM note the Preferred Alternative incorporates pre-filing design recommendations made by CZM to improve coastal resilience and minimize resource area impacts. I encourage MassDOT to continue consulting with these agencies as it finalizes the project design in order to minimize environmental impacts.

Endangered Species

The ENF states the project site does not contain *Estimated and Priority Habitat of Rare Species*; however, comments from NHESP state the western terminus of the project corridor may intersect, or is immediately adjacent to, Priority and/or Estimated Habitat. NHESP requests the Proponent consult with NHESP to determine if formal review is required. I expect the Proponent to complete this consultation prior to commencing project construction and refer the Proponent to NHESP’s comments for further information.

Stormwater

The project will create an additional 0.49 acres of impervious surface within the project site, for a total of 3.59 acres. Measures proposed to mitigate additional stormwater generated from the proposed impervious surface include the rehabilitation of portions of the existing drainage infrastructure that are degraded and installing 13 new deep-sump catch basins to provide stormwater pre-treatment. According to the ENF, there are existing stormwater discharges to Lagoon Pond at the western terminus of the project and to BVW southeast of the Eastville Avenue/County Road intersection, although a majority of the drainage from the project corridor discharges outside of the project area. The existing outfall that discharges to the BVW is proposed to be relocated 50 feet to the northeast, such that it is outside of the BVW. A stone pad is also proposed to be constructed at the relocated outfall to prevent erosion and sedimentation in the adjacent BVW. The ENF states the limited ROW, surrounding wetland/coastal resource areas, and high groundwater elevations within the project site prevent substantial stormwater treatment, but that the project has been designed to meet the SMS to the maximum extent practicable.

Historic Resources

The project corridor runs along 11 buildings listed in MHC’s Inventory. Correspondence from MHC included in the ENF states the project will have No Adverse Effect on any listed historic properties. Comments from the Massachusetts Board of Underwater and Archaeological Resources (BUAR) indicate that there is no record of any underwater archaeological resources in the project area and that the project is unlikely to impact submerged cultural resources. However, BUAR states the area may be archaeologically sensitive, and, thus, should heretofore unknown archaeological resources be encountered during the course of work, the Proponent should take steps to limit adverse effects and

notify BUAR and MHC, as well as other appropriate agencies, in accordance with the BUAR's *Policy Guidance for the Discovery of Unanticipated Archaeological Resources*.

Construction

According to the ENF, project construction is expected to commence March 2022 and be completed July 2023. All construction activities should be managed in accordance with applicable MassDEP's regulations regarding Air Pollution Control (310 CMR 7.01, 7.09-7.10), and Solid Waste Facilities (310 CMR 16.00 and 310 CMR 19.00, including the waste ban provision at 310 CMR 19.017). The project should include measures to reduce construction period impacts (e.g., noise, dust, odor, solid waste management) and emissions of air pollutants from equipment, including anti-idling measures in accordance with the Air Quality regulations (310 CMR 7.11). Consistent with the GreenDOT policy directive, MassDOT requires that contractors install emission control devices in all off-road vehicles. MassDOT's Revised Diesel Retrofit Specification also requires that emissions control standards must be met or technology must be used for non-road, diesel-powered construction equipment in excess of 50 horsepower. Contractors will be instructed to limit engine idling and use ultra-low sulfur diesel fuel. If oil and/or hazardous materials are found during construction, the Proponent should notify MassDEP in accordance with the Massachusetts Contingency Plan (310 CMR 40.00). All construction activities should be undertaken in compliance with the conditions of all State and local permits.

Conclusion

The ENF has adequately described and analyzed the project and its alternatives, and assessed its potential environmental impacts and mitigation measures. Based on review of the ENF and comments received on it, and in consultation with State Agencies, I have determined that an EIR is not required.

June 25, 2021

Date



Kathleen A. Theoharides

Comments received:

06/14/2021	Massachusetts Division of Fisheries and Wildlife (MassWildlife), Natural Heritage and Endangered Species Program (NHESP)
06/15/2021	Massachusetts Office of Coastal Zone Management (CZM)
06/15/2021	Massachusetts Department of Environmental Protection (MassDEP), Southeast Regional Office (SERO)
06/16/2021	Massachusetts Board of Underwater Archaeological Resources (BUAR)
06/17/2021	Massachusetts Division of Marine Fisheries (DMF)

KAT/ELM/elm

View Comment

Comment Details			
EEA #/MEPA ID*	First Name	Address Line 1	Organization
16379	David	1 Rabbit Hill Road	MA Division of Fisheries and Wildlife-NHESP
Comments Submit Date	Last Name	Address Line 2	Affiliation Description
6-14-2021	Paulson	--	State Agency
Review Due By	Phone	State	Status
6-16-2021	--	MASSACHUSETTS	Opened
Reviewer	Email	Zip Code	
Eva Murray (857) 408-6381	david.paulson@mass.gov	01581	

Comments
<p>Topic: Construction of a Shared Use Path Along Beach Road ENF (21-40245; 16379)</p> <p>June 14, 2021 Kathleen A. Theoharides, Secretary Executive Office of Energy and Environmental Affairs Attention: MEPA Office 100 Cambridge St. Boston, Massachusetts 02114 Project Name: Construction of a Shared Use Path Along Beach Road Proponent: MassDOT Highway Division Location: Oak Bluffs Document Reviewed: Environmental Notification Form EEA No.: 16379 NHESP No.: 21-40245 Dear Secretary Theoharides: The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the Division) has reviewed the Environmental Notification Form for the proposed Shared Use Path Along Beach Road Project and would like to offer the following comments regarding state-listed rare species and their habitats. The majority of the project appears to be outside of Priority and Estimated Habitat. The western terminus of the project may intersect or is immediately adjacent to Priority and Estimated Habitat. As a result, the Division requests that the Applicant engage in coordination to determine if a formal review is required. We appreciate the opportunity to comment on this project. If you have any questions about this letter, please contact David Paulson, Senior Endangered Species Review Biologist, at (508) 389-6366 or david.paulson@state.ma.us.</p>

Attachments
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THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
OFFICE OF COASTAL ZONE MANAGEMENT
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MEMORANDUM

TO: Kathleen A. Theoharides, Secretary, EEA
ATTN: Eva Murray, MEPA Office
FROM: Lisa Berry Engler, Director, CZM
DATE: June 15, 2021
RE: EEA-16379, Mass DOT Shared Use Path, Oak Bluffs

The Massachusetts Office of Coastal Zone Management (CZM) has completed its review of the above-referenced Environmental Notification Form (ENF), noticed in the *Environmental Monitor* dated May 26, 2021, and offers the following comments.

Project Description

The project involves the construction of a 0.69 mile long, 10-foot wide, shared-use path (SUP) along the southern edge of Beach Road and Eastville Avenue, as well as intersection reconfigurations and stormwater management improvements along the proposed project corridor in Oak Bluffs. Portions of the project will impact natural resource areas that are subject to jurisdiction under the Massachusetts Wetlands Protection Act including: Barrier Beach, Coastal Dune, Coastal Beach, Isolated Land Subject to Flooding, Bordering Vegetated Wetlands, Land Subject to Coastal Storm Flowage, Coastal Beach, and Salt Marsh. The project results in a total of 9,370 square feet (sf) of temporary Coastal Dune alteration, 7,010 sf of permanent Coastal Dune alteration, and restoration of 677 sf of degraded Coastal Dune to vegetated Coastal Dune. Additional restoration includes 1,956 sf of cobble beach nourishment adjacent to the SUP along the edge of Lagoon Pond.

Project Comments

Beach Road is an important road on Martha's Vineyard, and connects Oak Bluffs and Vineyard Haven. Vehicle traffic, bicycle traffic and pedestrian traffic all use this roadway, and the Martha's Vineyard Hospital is located along the proposed project corridor. A portion of Beach Road is located on a barrier beach and is adjacent to numerous coastal resource areas. This project represents a challenging balance between the need to improve vehicle and pedestrian safety, while minimizing impacts to sensitive resource areas.

CZM commends MassDOT for their consultation during the project design process, and for evaluating various alternatives meant to minimize resource impacts and improve coastal resilience. The ENF contains an alternatives analysis which incorporates those recommended during consultation on the project design. The proposed design (preferred alternative) represents a balance of many interests, including existing site conditions and constraints, MassDOT roadway design standards, ADA compliance design standards, resource area impacts, coastal resilience, as well as budget and maintenance limitations.

As designed, the proposed project should result in significant improvements to vehicle and pedestrian safety, ADA accessibility, and stormwater treatment. The proposed cobble beach nourishment will help mitigate some resource area impacts, help protect the SUP and improve coastal



resilience. To minimize potential scour on the north end of the nourishment, the elevation of the cobble nourishment should be extended and tapered down gradually to blend into the natural dune. Extending the cobble further north will reduce end effects and provide more protection as the high tide line migrates landward with sea level rise. The proposed cobble nourishment specification should include a mix of coarse sand to gravel size material so that it functions more like a cobble dune and does not facilitate scour between the cobbles. In addition, the material should be washed so that it does not contain fines that will wash into Lagoon Pond.

Federal Consistency Review

The proposed project may be subject to CZM federal consistency review and if so must be found to be consistent with CZM's enforceable program policies. For further information on this process, please contact Robert Boeri, Project Review Coordinator, at robert.boeri@mass.gov, or visit the CZM web site at <https://www.mass.gov/federal-consistency-review-program>.

LE/sm/rh

cc: Stephen McKenna, CZM
Heidi Davis, DEP NERO
Bryan Cordeiro, MassDOT



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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Secretary

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Commissioner

June 15, 2021

Kathleen A. Theoharides
Secretary of Environment and Energy
Executive Office of Energy and
Environmental Affairs
RE: ENF Review. EOEEA 16XXX
100 Cambridge Street, Suite 900
ATTN: MEPA Office
Boston, MA 02114

RE: ENF Review. EOEEA 16379
OAK BLUFFS. Construction of a Shared
Use Path along Beach Road from the
Lagoon Pond Bridge Northerly to the
Eastville Avenue/ County Road Intersection

Dear Secretary Theoharides,

The Southeast Regional Office of the Department of Environmental Protection (MassDEP) has reviewed the Environmental Notification Form (ENF) for Construction of a Shared Use Path along Beach Road from the Lagoon Pond Bridge Northerly to the Eastville Avenue/ County Road Intersection, Oak Bluffs, Massachusetts (EOEEA #16379). The Project Proponent provides the following information for the Project:

The Massachusetts Department of Transportation (MassDOT) Highway Division, in coordination with the Town of Oak Bluffs, proposes construction of a 0.69 mile shared-use path (SUP) along the southern edge of Beach Road and Eastville Avenue, as well as intersection reconfigurations and stormwater management improvements along the Project Corridor in Oak Bluffs, Massachusetts (herein referred to as “the Project”). The improvements are intended to enhance safety conditions, connect existing bicycle and pedestrian amenities, and meet current Americans with Disabilities Act (ADA) and Architectural Access Board (AAB) standards throughout the Project corridor.

The Project will result in conversion of a portion of the Doug’s Cove Preserve, owned by the Martha’s Vineyard Land Bank Commission, from Open Space land use to transportation land use through construction of a portion of the SUP on the Doug’s Cove Preserve Property (Assessor’s Map 6, Parcels 14 and 18), located to the south of Beach Road at the western terminus of the Project.

The Project proposes a 6,341 square foot temporary easement and 2,526 square foot permanent easement on this property for construction of the SUP, construction of the Coastal Dune / Beach Nourishment, grading, and planting. These easements are minor and negligible in size, compared to the size of the property (224,060 square feet / 5.14 acres). In addition, at the request of Martha’s Vineyard Land Bank, additional Coastal Dune

restoration and native vegetation planting is proposed on their property to mitigate for the land use conversion.

Bureau of Water Resources (BRW) Comments

Wetlands. MassDEP Wetlands Program notes that the Oak Bluffs Conservation Commission has issued an Order of Conditions approving the Project under DEP File No. SE 53 - 837 on April 15, 2021. No appeal request was received by MassDEP within 10 business days of the issuance date per 310 CMR 10.05(7)(c). Therefore, the Order is considered Final, and work may commence in accordance with the Order's conditions and plan of record.

In accordance with the procedures and criteria at 314 CMR 9.00, MassDEP has determined that this Project is not subject to regulation required under an individual Water Quality Certification.

Stormwater Management/National Pollutants Discharge Elimination System (NPDES) Permit.

The Project construction activities are scheduled to disturb more than an acre of land and therefore may require a NPDES Stormwater Permit for Construction Activities. The Proponent can access information regarding the NPDES Stormwater requirements and an application for the Construction General Permit at the EPA website: https://www.epa.gov/sites/production/files/2017-07/documents/cgp_flow_chart_do_i_need_a_permit2.pdf

The Proponent is advised to consult with David Gray at gray.david@epa.gov, 617-918-1577 for any of its questions regarding EPA's NPDES stormwater permitting requirements.

Bureau of Waste Site Cleanup Comments

Based upon the information provided, the Bureau of Waste Site Cleanup (BWSC) searched its databases for disposal sites and release notifications that have occurred at or might impact the proposed Project area. A disposal site is a location where there has been a release to the environment of oil and/or hazardous material that is regulated under M.G.L. c. 21E, and the Massachusetts Contingency Plan [MCP – 310 CMR 40.0000].

There are no listed MCP disposal sites located at or in the vicinity of the site that would appear to impact the proposed Project area. Interested parties may view a map showing the location of BWSC disposal sites using the MassGIS data viewer (Oliver) at: http://maps.massgis.state.ma.us/map_ol/oliver.php. Under "Available Data Layers" select "Regulated Areas", and then "DEP Tier Classified 21E Sites". MCP reports and the compliance status of specific disposal sites may be viewed using the BWSC Waste Sites/Reportable Release Lookup at: <https://eeaonline.eea.state.ma.us/portal#!/search/wastesite>

The Project Proponent is advised that if oil and/or hazardous material are identified during the implementation of this Project, notification pursuant to the Massachusetts Contingency Plan (310 CMR 40.0000) must be made to MassDEP, if necessary. A Licensed Site Professional (LSP) should be retained to determine if notification is required and, if need be, to render appropriate opinions. The LSP may evaluate whether risk reduction measures are necessary if contamination is present. The BWSC may be contacted for guidance if questions arise regarding cleanup.

Bureau of Air and Waste (BAW) Comments

Air Quality. Construction and operation activities shall not cause or contribute to a condition of air pollution due to dust, odor or noise. To determine the appropriate requirements please refer to:

310 CMR 7.09 Dust, Odor, Construction, and Demolition

310 CMR 7.10 Noise

Construction-Related Measures

MassDEP requests that all non-road diesel equipment rated 50 horsepower or greater meet EPA's Tier 4 emission limits, which are the most stringent emission standards currently available for off-road engines. If a piece of equipment is not available in the Tier 4 configuration, then the Proponent should use construction equipment that has been retrofitted with appropriate emissions reduction equipment. Emission reduction equipment includes EPA-verified, CARB-verified, or MassDEP-approved diesel oxidation catalysts (DOCs) or Diesel Particulate Filters (DPFs). The Proponent should maintain a list of the engines, their emission tiers, and, if applicable, the best available control technology installed on each piece of equipment on file for Departmental review.

Massachusetts Idling Regulation

According to the Project Proponent, "Contract specifications will require that the contractor comply with the provisions of MGL Chapter 90, section 16A and the DEP Anti-Idling Regulations (310 CMR 7.11(b)) which prohibit unnecessary engine idling and require that engines be shut down if the vehicle will be stopped for more than five minutes.

The Project has been designed to conform to MassDOT standards and guidelines. Construction equipment will be required to abide by the Massachusetts 5-minute idle law. Furthermore, MassDOT requires that contractors to install emission control devices in all off-road vehicles. MassDOT's Revised Diesel Retrofit Specification states emissions control standards must be met, or technology must be used for non-road diesel powered construction equipment in excess of 50 horsepower on MassDOT job sites."

MassDEP commends the Proponent that unnecessary idling (i.e., in excess of five minutes), with limited exception, is not permitted during the construction and operations phase of the Project (Section 7.11 of 310 CMR 7.00). Regarding construction period activity, typical methods of reducing idling include driver training, periodic inspections by site supervisors, and posting signage. In addition, to ensure compliance with this regulation once the Project is occupied, MassDEP requests that the Proponent install permanent signs limiting idling to five minutes or less on-site.

Spills Prevention. A spills contingency plan addressing prevention and management of potential releases of oil and/or hazardous materials from pre- and post-construction activities should be presented to workers at the site and enforced. The plan should include but not be limited to, refueling of machinery, storage of fuels, and potential on-site activity releases.

Solid Waste Management.

1. *Waste Materials that are determined to be Solid Waste:* (e.g., construction and demolition waste) and/or recyclable material (e.g., metal, asphalt, brick, and concrete) shall be disposed, recycled, and/or otherwise handled in accordance with the Solid Waste Regulations including 310 CMR 19.017: *Waste Bans*.

Asphalt, brick, and concrete (ABC) rubble, such as the rubble generated by the demolition of buildings or other structures must be handled in accordance with the Solid Waste regulations. These regulations allow, and MassDEP encourages, the recycling/reuse of ABC rubble. The Proponent should refer to MassDEP's Information Sheet, entitled "Using or Processing Asphalt Pavement, Brick and Concrete Rubble, Updated February 27, 2017", that answers commonly asked questions about ABC

rubble and identifies the provisions of the solid waste regulations that pertain to recycling/reusing ABC rubble. This policy can be found on-line at the MassDEP website: <https://www.mass.gov/files/documents/2018/03/19/abc-rubble.pdf>

2. *Clean Wood:*

The Project will require the handling of clean wood associated with tree removal. As defined in 310 CMR 16.02, clean wood means “discarded material consisting of trees, stumps and brush, including but limited to sawdust, chips, shavings, bark, and new or used lumber” ...etc. Clean wood does not include wood from commingled construction and demolition waste, engineered wood products, and wood containing or likely to contain asbestos, chemical preservatives, or paints, stains or other coatings, or adhesives. The Proponent should be aware that wood is not allowed to be buried or disposed of at the Site pursuant to 310 CMR 16.00 & 310 CMR 19.000 unless otherwise approved by MassDEP. Clean wood may be handled in accordance with 310 CMR 16.03(2)(c)7 which allows for the on-site processing (i.e., chipping) of wood for use at the Site (i.e., use as landscaping material) and/or the wood to be transported to a permitted facility (i.e., wood waste reclamation facility) or other facility that is permitted to accept and process wood.

If you have any questions regarding the Solid Waste Management Program comments above, please contact Mark Dakers at (or 508) 946-2847.

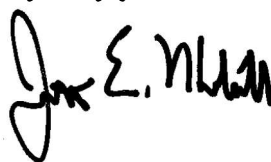
Proposed s.61 Findings

The “Certificate of the Secretary of Energy and Environmental Affairs on the Environmental Notification Form” may indicate that this Project requires further MEPA review and the preparation of an Environmental Impact Report. Pursuant to MEPA Regulations 301 CMR 11.12(5)(d), the Proponent will prepare Proposed Section 61 Findings to be included in the EIR in a separate chapter updating and summarizing proposed mitigation measures. In accordance with 301 CMR 11.07(6)(k), this chapter should also include separate updated draft Section 61 Findings for each State agency that will issue permits for the Project. The draft Section 61 Findings should contain clear commitments to implement mitigation measures, estimate the individual costs of each proposed measure, identify the parties responsible for implementation, and contain a schedule for implementation.

Other Comments/Guidance

The MassDEP Southeast Regional Office appreciates the opportunity to comment on this ENF. If you have any questions regarding these comments, please contact George Zoto at (508) 946-2820.

Very truly yours,



Jonathan E. Hobill,
Regional Engineer,
Bureau of Water Resources

JH/GZ

Cc: DEP/SERO

ATTN: Millie Garcia-Serrano, Regional Director
Gerard Martin, Deputy Regional Director, BWR
John Handrahan, Acting Deputy Regional Director, BWSC
Seth Pickering, Deputy Regional Director, BAW
Jennifer Viveiros, Deputy Regional Director, ADMIN
Daniel Gilmore, Chief, Wetlands and Waterways, BWR
Carlos Fragata, Wetlands and Waterways, BWR
Mark Dakers, Chief, Solid Waste, BAW
Elza Bystrom, Solid Waste, BAW
Allen Hemberger, Site Management, BWSC



The COMMONWEALTH OF MASSACHUSETTS
BOARD OF UNDERWATER ARCHAEOLOGICAL RESOURCES
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
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www.mass.gov/orgs/board-of-underwater-archaeological-resources

June 15, 2021

Kathleen A. Theoharides, Secretary
Executive Office of Energy and Environmental Affairs
Attention: Eva Murray, MEPA Unit (via email attachment)
100 Cambridge Street, Suite 900
Boston, MA 02114

RE: Construction of a Shared Use Path Along Beach Road, From the Lagoon Pond Bridge Northerly to the Eastville Avenue/County Road Intersection (EEA #16379), Oak Bluffs, MA

Dear Secretary Theoharides,

The staff of the Massachusetts Board of Underwater Archaeological Resources has reviewed the above-referenced proposed project as detailed in the Environmental Monitor of May 26, 2021 and offers the following comments.

The Board has conducted a preliminary review of its files and secondary literature sources to identify known and potential underwater archaeological resources within the beach nourishment and vegetated wetlands portions of proposed project area. No record of any underwater archaeological resources was found within the area. Based on the results of this review, the Board expects that this project is unlikely to impact submerged cultural resources.

Should heretofore-unknown underwater archaeological resources be encountered during the course of the project, the Board expects that the project's sponsor will take steps to limit adverse effects and notify the Board and the Massachusetts Historical Commission, as well as other appropriate agencies, immediately, in accordance with the Board's *Policy Guidance for the Discovery of Unanticipated Archaeological Resources*.

The Board appreciates the opportunity to provide these comments as part of the MEPA review process. Should you have any questions regarding this letter, please do not hesitate to contact me at the address above or by email at david.s.robinson@mass.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "David S. Robinson", with a stylized flourish at the end.

David S. Robinson
Director

/dsr

Cc: Brona Simon, MHC
Robert Boeri and Stephen McKenna, MCZM (via email attachment)
Bettina Washington, WTGH/A (via email attachment)
David Weeden, MWT (via email attachment)



The Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400, Boston, MA 02114
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Governor

KARYN E. POLITO
Lt. Governor

KATHLEEN A. THEOHARIDES
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

June 14, 2021

Secretary Kathleen Theoharides
Executive Office of Energy and Environmental Affairs (EEA)
Attn: MEPA Office
Eva Murray, EEA No. 16379
100 Cambridge Street, Suite 900
Boston, MA 02114

Dear Secretary Theoharides:

The Division of Marine Fisheries (MA DMF) has reviewed the Environmental Notification Form (ENF) by the Massachusetts Department of Transportation (MassDOT) Highway Division and the Town of Oak Bluffs for the construction of a shared use path along Beach Road in the Town of Oak Bluffs. The proposed path would travel along Beach Road from the Lagoon Pond bridge to the Eastville Avenue and County Road intersection. Proposed work includes beach nourishment consisting of the placement of six to eight-inch rounded cobble. Existing marine fisheries resources and habitat and potential project impacts are described below.

The waters bordering the project site contain mapped habitat for a variety of shellfish species. Nearby waters of Lagoon Pond provide habitat for soft shell clam (*Mya arenaria*), razor clam (*Ensis leei*), blue mussel (*Mytilus edulis*), quahog (*Mercenaria mercenaria*) and bay scallop (*Argopecten irradians*). Nearshore waters on the Vineyard Sound side of the project also include razor clam, quahog, and bay scallop habitat. Land containing shellfish is deemed significant to the interest of the Wetlands Protection Act (310 CMR 10.34) and the protection of marine fisheries.

Bordering waters of Lagoon Pond have been mapped by the Massachusetts Department of Environmental Protection (MA DEP) as an eelgrass (*Zostera marina*) meadow. Eelgrass beds provide one of the most productive habitats for numerous marine species (Jackson et al. 2001; Heck et al. 2008) and are designated "special aquatic sites" under the Federal Clean Water Act 404(b) (1) guidelines.

MA DMF offers the following comments for your consideration:

- Given the proximity of the project to shellfish habitat for a variety of species as well as mapped eelgrass habitat, the proposed beach nourishment design and installation should be done in a manner that avoids direct or indirect impacts to these resources. Inclusion of a mix of coarse sand to gravel size material would aid in reducing scour between the

larger proposed cobble material. Pre-washing the nourishment material would also help to avoid or minimize the creation of turbidity resulting from the release of any finer material post-installation.

Questions regarding this review may be directed to John Logan in our New Bedford office at john.logan@mass.gov.

Sincerely,

A handwritten signature in black ink, reading "Daniel J. McKiernan". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Daniel J. McKiernan

Director

cc: Oak Bluffs Conservation Commission
Kaitlyn Shaw, NMFS
Rebecca Haney, CZM
Tori LaBate, DFG
Ryan Nuttall, DMF

DM/JL/sd