



The Commonwealth of Massachusetts

Executive Office of Environmental Affairs

100 Cambridge Street, Suite 900

Boston, MA 02114-2524

FILE COPY
115
07
W/C

MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

ROBERT W. GOLLEDGE, JR.
SECRETARY

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

January 3, 2007

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

PROJECT NAME: Onset Bay Marina Pier System Expansion
PROJECT MUNICIPALITY: Wareham
PROJECT WATERSHED: Buzzards Bay
EOEA NUMBER: 13923
PROJECT PROPONENT: Onset Bay II Corporation – Onset Bay Marina
DATE NOTICED IN MONITOR: December 6, 2006

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 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 consists of expanding an existing floating dock and pier system approximately 174' beyond its existing length and adding an additional 9,145 sf of float area. The completed proposed pier and float system would extend 747' beyond mean high water into Onset Bay. Under existing conditions the Onset Bay Marina (OBM) accommodates 99 vessels of varying size within its float system and an additional 34 vessels within its two mooring fields. The proposed expansion would create 29 new boat slips within the float system and eliminate 15 moorings within the mooring fields. This would result in a net gain in marina capacity of 14 vessels. Of the added boat slips, six slips would be designated for transient use and the remaining eight would be conventional use slips. The proposed expansion will require the upgrade and relocation of the existing fuel dock float and fuel dispensing apparatus to the terminus of the new dock system.

The project's anticipated impacts are listed within the ENF as alteration of 0.21 acres of publicly accessible watersheet, alteration of 9,145 sf of Land Subject to Coastal Storm Flowage and Land Under the Ocean due to the placement of the float system, and 55 sf of Land Containing Shellfish through the permanent placement of 70, 12" diameter piles. It is my understanding that the current pier and float system remain in place year-round. The existing

marina facility is presently authorized by the Massachusetts Department of Environmental Protection (MassDEP) under Chapter 91 License number 2413 and a United States Army Corps of Engineers (U.S. ACOE) Section 10 Permit No. 199203001.

This project is subject to review pursuant to Section 11.03(3)(b)(6) of the MEPA regulations, because the project will require a State permit and involves the construction, reconstruction or expansion of a pile-supported or bottom anchored structure of 2,000 or more square feet of base area in a flowed tideland. The project will require a new or amended Chapter 91 License and a Superseding Order of Conditions from MassDEP, a Federal Consistency Statement from the Office of Coastal Zone Management, and a new or amended U.S. ACOE Section 10 Permit.

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. The Chapter 91 License confers broad subject matter jurisdiction under MEPA.

I advise the proponent that the project must meet all the requirements of the Chapter 91 licensing process. MassDEP has stated that the proponent, as part of the Chapter 91 process, will be required to demonstrate how the project meets the provisions of the Ocean Sanctuaries Act and Regulations (M.G.L. c. 132A). The Department of Conservation and Recreation (DCR) has stated that as presented in the ENF, the project does not meet the Public Necessity and Convenience (PNC) standard required for approval under Chapter 91. Therefore, it appears that the proposed project is not permissible as proposed. The proponent will need to address the concerns raised by DCR during the Chapter 91 licensing process.

Finally, I would like to remind the proponent, officials and the public that MEPA is not a permitting agency. The purpose of MEPA is to ensure a disclosure of potential environmental impacts associated with a proposed project and to evaluate whether environmental impacts can be avoided, minimized or mitigated. Many of the extensive comments received from interested parties are under the jurisdiction of MassDEP and will need to be thoroughly examined and evaluated by the proponent and MassDEP prior to issuance of a Chapter 91 license. State agencies and interested parties will have additional opportunities to publicly participate in permitting processes to ensure the performance standards are met in accordance with applicable regulations.

Marina and Public Access

The proponent has submitted supplemental documentation stating a commitment to adopting the environmental practices and standards identified in the "Massachusetts Clean Marina Guide", into their daily operations. The proponent should work with CZM, OBM staff and facility patrons to ensure application of the recommended guidelines. Furthermore, the proponent should consider CZM recommendations to realign the anticipated remaining moorings to reduce impact to watershed and to comply with the U.S. Coast Guard designated Special Anchorage Boundary. CZM has indicated an intention to participate in the Chapter 91 license proceedings for the proposed project. Therefore, I anticipate that the concerns raised by CZM

within its comment letter on the ENF will be thoroughly addressed by the proponent at that time.

As evident at the MEPA site consultation session, the public pedestrian access to tidelands requirement of the existing Chapter 91 license appears to be severely compromised by the daily operations of OBM. Large vessels are stored within the dedicated pedestrian path, a clearly visible walking path is difficult to ascertain, and the operations of the marina itself (use of equipment, movement of drydocked boats, etc.), appears to hinder safe passage of pedestrians. The proponent will be required to work with MassDEP to develop appropriate measures of compensation for interference with the general public's rights to Commonwealth Tidelands during the Chapter 91 licensing process.

Additionally, MassDEP has indicated that during the Chapter 91 licensing process potential navigation issues in Onset Bay will be reviewed with the Wareham Harbormaster and local authorities will be consulted to determine whether the marina expansion complies with the approved Municipal Harbor Management Plan.

Marine Resources

The project site lies within mapped shellfish habitat which is afforded protection under the Wetlands Protection Act (310 CMR 10.34). The Division of Marine Fisheries (DMF) has indicated that the area is considered significant habitat for quahogs (*Mercenaria mercenaria*), soft shelled clams (*Mya arenaria*), and bay scallops (*Argopecten irradians*). Additionally, Onset Bay has been identified as winter flounder (*Pseudopleuronectes americanus*) spawning habitat. The structures in described in the ENF have the potential to negatively impact these shellfish and fish habitat areas. One of the impacts of the proposed project will be a likely increase in the area of seasonal marina shellfish closure in Onset Bay. The National Shellfish Sanitation Program's Model Ordinance requires a shellfish closure to be placed around all marinas during their seasonal operating period. The proponent must work with DMF and the Town of Wareham to create a mitigation plan to offset the anticipated increase in seasonal shellfish closure area within Onset Bay, as directly attributable to the proposed project. At the ENF site consultation session it was indicated that this mitigation may include a one time payment for purchase of seed or other comparable contribution.

Furthermore, the proponent must acknowledge and incorporate into project phasing and construction plans the recommended time of year (TOY) restriction on water activity outlined in the DMF comment letter. I anticipate that as part of MassDEP permitting processes, the proponent will evaluate the potential impact to marine resources associated with vessel clearance and propeller dredge.

Underwater Archaeological Resources

The Office of Coastal Zone Management Board of Underwater Archaeological Resources (the Board) stated in its ENF comment letter that subsequent to a preliminary review, no record of any underwater archaeological resources was found within the project area. Furthermore, since the proposed underwater activities consist primarily of the placement of pilings in a previous disturbed seafloor (mooring field), the Board does not expect that the project will

adversely impact submerged cultural resources. The proponent should note that if unknown submerged cultural resources are encountered during the course of the project, the Board expects that the proponent will take steps to limit adverse effects and notify the Board, as well as other appropriate agencies, immediately in accordance with the Board's *Policy Guidance for the Discovery of Unanticipated Archaeological Resources* (updated 9/28/2006).

Stormwater

The proponent indicated at the site consultation session that improvements will be made on-site to create a "closed system" power washing station. Under existing conditions power washing is done proximate to wetland resources and stormwater management structures. The proponent will upgrade the system to reduce the likelihood of untreated discharges in accordance with MassDEP Stormwater Management policy guidelines. Additionally, the proponent stated that future parking area improvements may occur on OBM property subsequent to local site plan review by the Wareham Planning Board. The proponent should file a Notice of Intent with the Wareham Conservation Commission for proposed activities within jurisdictional wetland resource areas and strive to upgrade the on-site stormwater management system in accordance with MassDEP policies.

Hazardous Materials


The project proponent is advised that, if oil and/or hazardous material is identified during the implementation of this project, notification pursuant to the Massachusetts Contingency Plan (MCP) (310 CMR 40.0000) must be made to MassDEP, if necessary. Additionally, it has been brought to my attention that subsequent to the conclusion of the MEPA site consultation session, a fuel oil spill was reported on the OBM property. The proponent should take the necessary remediation to mitigate the spill in accordance with the MCP.

Conclusion

Based on a review of the information provided by the proponent and comments received from relevant public agencies, I find that the potential impacts of this project do not warrant further MEPA review. Outstanding issues will be evaluated within applicable State Agency permitting processes.

January 3, 2007

Date



Robert W. Gollidge, Jr., Secretary

Comments Received

11/27/2006 Andrew Harrington (on behalf of Save Onset Bay)
11/28/2006 Marjorie M. Wyatt
11/28/2006 Eleanor Maddigan

11/29/2006 Herbert Reinke and Geraldyn Reinke
12/01/2006 Diane Ede-Nichols
12/04/2006 Helene Bassett
12/04/2006 Alexander G. Khandji
12/04/2006 William Gay
12/05/2006 Elias Ede
12/06/2006 David DePrest
12/11/2006 Brendan James DePrest
12/11/2006 Jonathan P. Gay
12/11/2006 Massachusetts Marine Trades Association
12/15/2006 Massachusetts Board of Underwater Archaeological Resources
12/18/2006 Gerry and Herb Reinke (2nd letter)
12/19/2006 Division of Marine Fisheries
12/19/2006 Save Onset Bay
12/20/2006 Nanumett Heights Beach Club (c/o Thomas P. Daly)
12/20/2006 William Gay (2nd letter)
12/20/2006 David and Helena Moezelaar
12/21/2006 Joan Kennedy Maynard
12/21/2006 Office of Coastal Zone Management
12/21/2006 Andrew Harrington
12/22/2006 Wareham Marine Resources Commission
12/22/2006 The Tramontozzi Family
12/22/2006 Department of Conservation and Recreation
12/22/2006 Andy Prasnal
12/26/2006 Frank E. O'Brien
12/26/2006 The Coalition for Buzzards Bay
12/26/2006 Massachusetts Department of Environmental Protection
12/26/2006 G.A.F. Engineering (on behalf of Onset Bay II Corporation)
12/26/2006 Jackson Gillman
12/26/2006 Jonathan Gay (2nd letter)
12/26/2006 Howard Yenke

RWG/HSJ/hsj