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February 8, 2008

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

PROJECT NAME : Proposed Dune Restoration on Barrier Beach
PROJECT MUNICIPALITY : Chatham
PROJECT WATERSHED : Cape Cod
EEA NUMBER : 14160
PROJECT PROPONENT : Goodrich Chatham Realty Trust
DATE NOTICED IN MONITOR : January 9, 2008

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.03 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), this project involves the repair and rehabilitation of a coastal dune on Fox Hill barrier beach, located adjacent to a single family residence at 110 Old Salt Works Road. The project will include the placement of approximately 1,200 square feet (sf) of in-kind sediment on the eastern tip of the barrier beach to recreate the former coastal dune, supplemented with the vegetation of the dune with American Beach grass and anchored with the use of fiber rolls. Fox Hill barrier beach protects a small tidal basin with accompanying salt marsh, as well as the upland portion of the project site. The project site has a history of resource area improvements on the property, including dune restoration and vegetation, placement of snow fencing, salt marsh propagation, scarp control, and beach and dune grass nourishment. The property has experienced negative impacts associated with the new breach in North Beach (from the April 2007 storm), a beach southeast of the locus.

The project site contains or is adjacent to numerous wetland resource areas. The entire parcel is located on a low flatland consisting of coastal beach, coastal dune, and land subject to coastal storm flowage. The existing dwelling is constructed on land subject to coastal storm flowage with an easterly and westerly perimeter of coastal dune and coastal beach with salt marsh vegetation. The eastern facing shoreline abuts a channel entering a small salt pond. The western shoreline faces Bassing Harbor in Pleasant Bay. Portions of the proposed project will occur seaward of the Mean High Water (MHW). The project is located in the Pleasant Bay Area of Critical Environmental Concern (ACEC).

The project is undergoing MEPA review pursuant to Section 11.03(3)(b)(1)(a) because the project requires a State Agency Action and will involve the alteration of coastal dune, barrier beach and coastal bank; and Section 11.03(11)(b) because the project is located within a designated ACEC. The project requires a new Chapter 91 Waterways License from the Massachusetts Department of Environmental Protection (MassDEP) and a permit from the United States Army Corps of Engineers (U.S. ACOE). The project requires an Order of Conditions from the Town of Chatham Conservation Commission, or in the case of appeal, a Superseding Order of Conditions from MassDEP. A consistency statement from the Office of Coastal Zone Management may also be required.

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, Waterways and Tidelands, and ACECs.

Wetlands, Waterways and Tidelands

As noted previously, the project will permanently alter approximately 1,200 sf of coastal beach, coastal dune, and barrier beach in order to re-establish a coastal dune along Fox Hill barrier beach. Added sediment, fiber rolls, and vegetative plantings will be placed both seaward and landward of the MHW. The proponent presented several project alternatives in the ENF including: doing nothing, aggressive vegetation of the coastal dune, aggressive vegetation of the coastal dune with the construction of drift fences, the use of Longard Tubes, dune restoration and vegetation (alone), fiber rolls (alone), and the preferred alternative of fiber roll placement and dune restoration with vegetation. The MassDEP Waterways Regulation Program has noted that it has previously determined that cases similar to this project will require a Chapter 91 License. The proponent should file a Ch. 91 application with MassDEP and work with the Waterways Regulation Program to ensure that the project meets all applicable performance standards.

MassDEP has stated in its comment letter that while new fill and structures are generally not allowed within an ACEC, they may license shoreline stabilization projects provided that reasonable measures are taken to avoid, minimize, and mitigate any encroachment in the waterway (310 CMR 9.32(2)). In accordance with MassDEP's request, the proponent must demonstrate in its Chapter 91 application that placement of the fiber rolls and fill above the current MHW line would not be sufficient to meet the project purpose. Furthermore, while

deferring to MassDEP for regulatory review of the project, the ACEC Program concluded that it is not aware that this project will threaten the interests of Chapter 91 or the coastal resources of Pleasant Bay while protecting the private interests of the property owner. MassDEP has stated that it supports beach and dune restoration and nourishment projects that comply with the requirements for clean, compatible material at 310 CMR 10.27(5).

Bassing Harbor is mapped shellfish habitat for quahogs (*Mercenaria mercenaria*) and bay scallops (*Argopecten irradians*) which is afforded protection under the Wetlands Protection Act (310 CMR 10.34). Eelgrass (*Zostera marina*) beds are also located in Bassing Harbor. Finally, Bassing Harbor, Crows Pond and nearby Strong Island are Division of Marine Fisheries (*Marine Fisheries*) mapped horseshoe crab spawning beaches. The proponent should follow the recommendations of the *Marine Fisheries* comment letter when preparing construction plans to limit impact to these marine resources.

Rare Species

The project site, or a portion thereof, is located within *Priority Habitat* and *Estimated Habitat* as indicated in the *Massachusetts Natural Heritage Atlas* (12th Edition). The ENF indicated that portions of the project site have been identified as habitat for Common Tern, Roseate Tern, and Arctic Tern. A letter from the Natural Heritage and Endangered Species Program (NHESP) included in the ENF stated that the NHESP has determined that this project, as currently proposed, will not adversely affect the actual Resource Area habitat of state-protected rare wildlife species. Furthermore, the correspondence from the NHESP concludes that, as currently proposed, the project will not result in a prohibited “take” of state-listed rare species. The project proponent should coordinate with the NHESP to ensure that beach slopes, vegetation plans, and ongoing monitoring practices will be established and conducted in a manner that will not adversely affect bird habitat. I remind the proponent that any changes to the proposed project or any additional work beyond that shown on the site plans may require an additional filing with the NHESP pursuant to the Massachusetts Endangered Species Act (MESA) regulations (321 CMR 10.00).

Construction Impacts / Project Maintenance

The proposed project should be constructed in accordance with anticipated conditions within applicable state permits. The proponent should work with the Chatham Conservation Commission and MassDEP to establish construction guidelines and work protocols for the project, including designation of work limits, construction equipment access routes, establishment of construction periods (based on tides, horseshoe crab spawning seasons, etc.), clean up protocols, and designation of materials stockpiles and staging areas, if necessary. Construction protocols should consider the recommendations provided by *Marine Fisheries* in their comment letter on the ENF.

The proponent should work with the Chatham Conservation Commission and MassDEP Waterways to prepare an Operations and Maintenance (O&M) Plan for the proposed dune

restoration project. Given the ongoing changes to this area of shoreline as a result of the recent North Beach inlet, it is likely that supplemental restoration efforts will be required. I encourage the proponent to establish an extended monitoring program and create project protocols to evaluate conditions under which additional sediment placement, dislodged fiber roll retrieval or replacement, or vegetative plantings may be required. The proponent is reminded that if maintenance efforts will be more extensive than those reviewed within this ENF and/or will require a new or amended Chapter 91 License or other State agency action, a Notice of Project Change (NPC) may be required to be filed with the MEPA office.

Based on the information in the ENF and after consultation with relevant public agencies, I find that no further MEPA review is required at this time. The project may proceed with obtaining required State permits.

February 8, 2008
Date



Ian A. Bowles

Comments received:

1/28/2008	Division of Marine Fisheries
1/29/2008	Massachusetts Department of Environmental Protection – SERO
1/30/2008	Department of Conservation and Recreation – Areas of Critical Environmental Concern (ACEC) Program

IAB/HSJ/hsj