



The Commonwealth of Massachusetts

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February 22, 2007

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

PROJECT NAME : Bulkhead Construction, Revetment Repair, Float
Realignment, and Site Improvements at 21 Cape Isle Drive
PROJECT MUNICIPALITY : Yarmouth
PROJECT WATERSHED : Cape Cod
EOEA NUMBER : 13956
PROJECT PROPONENT : Stephen Walsh
DATE NOTICED IN MONITOR : January 23, 2007

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 placement of a vertical vinyl bulkhead, revetment repair, float realignment, and site improvements (including reconstruction and expansion of a deck) located at 21 Cape Isle Drive in Yarmouth. The project site is adjacent to the Parker's River and an associated tidal inlet, and is presently characterized by a mixture of large sloped rip rap revetments, small unconsolidated rip rap, and exposed wetland resource areas (either Bordering Vegetated Wetland or Salt Marsh). The existing single family dwelling is very close to the edge of the tidal inlet and may limit construction methodologies and revetment alternatives. The project will result in the removal of the existing rip rap along the southern property line and placement of a vinyl sheet piling bulkhead. Furthermore, the project proposes to extend the bulkhead to the east to tie into an existing bulkhead on an adjacent property. Landward of the eastern portion of the bulkhead is a proposed wetland restoration area. The Division of Marine Fisheries has indicated that a portion of the project site lies within mapped shellfish habitat for blue mussels (*Mytilus edulis*) and

American oysters (*Crassostrea virginica*). Additionally, the Parker's River has been identified as winter flounder (*Pseudopleuronectes americanus*) spawning habitat; additionally, it supports passage and spawning activity for several diadromous fish species.

The project is undergoing MEPA review pursuant to Section 11.03(3)(b)(1)(a) because it requires a State permit and will involve the alteration of Coastal Bank. The project requires a 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) (either a Programmatic General Permit or an Individual Permit). The project may require a Section 401 Water Quality Certificate from MassDEP. The project will also require an Order of Conditions from the Town of Yarmouth 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.

The ENF indicates that the project will impact approximately 416 square feet (sf) of Land Under Ocean, 180 sf of Coastal Beaches, 95 linear feet (lf) of Coastal Bank, 180 sf of Land Containing Shellfish, 800 sf of Land Subject to Coastal Storm Flowage, 175 sf of Bordering Vegetated Wetlands (BVW) and 800 sf of Riverfront Area. It should be noted that during the MEPA site visit, questions were raised as to the classification of portions of the project site as BVW rather than salt marsh. The proponent should clarify this delineation as part of the Notice of Intent process and accurately identify various wetland resource areas (as may be amended) on subsequent permitting application plans.

The proponent should investigate alternatives to limit direct impact to wetland resources areas as part of the Chapter 91, Notice of Intent, and U.S. ACOE permitting processes. Consideration should be given to applicable performance standards that limit fill or alteration within certain wetland resource areas. Specifically, the proponent should provide the information requested by MassDEP during the ENF comment period when applying for a Chapter 91 license. The proponent should clarify the presence of salt marsh, and if applicable, apply for a Section 401 Water Quality Certificate with MassDEP. The proponent should also provide detailed construction, dewatering and stabilization information for consideration by MassDEP and should strive to ameliorate construction related concerns expressed by the Division of Marine Fisheries (DMF).

I encourage the proponent to work with DMF to establish appropriate construction periods in accordance with recommended time-of-year restrictions to protect marine species. Additionally, as part of anticipated supplemental alternatives investigations associated with the Chapter 91 and U.S. ACOE permitting processes, the proponent should make every effort to limit the footprint of the proposed structure to avoid unnecessary impact to intertidal areas or public trust tidelands.

The proposed project will directly impact wetland resource areas and should be designed in accordance with applicable performance standards. The proponent should investigate additional alternatives to further reduce resource area impacts where feasible. The proponent should consult with the MEPA office to determine if a Notice of Project Change would be required if as part of State and Federal permitting processes, a different Preferred Alternative is proposed. The proponent can resolve any remaining issues during the state permitting process. No further MEPA review is required at this time.

February 22, 2007

Date



Ian A. Bowles

Comments received:

02/09/2007 Massachusetts Department of Environmental Protection – SERO
02/12/2007 Division of Marine Fisheries
02/14/2007 Massachusetts Department of Environmental Protection - Boston

IAB/HSJ/hsj