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June 15, 2007

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
NOTICE OF PROJECT CHANGE

PROJECT NAME : Filling of Existing Boat Slip
PROJECT MUNICIPALITY : New Bedford
PROJECT WATERSHED : Buzzards Bay
EOEA NUMBER : 13067
PROJECT PROPONENT : NSTAR
DATE NOTICED IN MONITOR : N/A

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 change is insignificant and does not require the preparation of an Environmental Impact Report.

The Notice of Project Change (NPC) describes an alternative remediation plan for the above referenced project. The project is located in New Bedford Harbor within the Designated Port Area (DPA). The site is a boat slip adjacent to property owned and operated by NSTAR. The remediation is proposed to fulfill NSTAR's requirements under the Massachusetts Contingency Plan (MCP). The sediment within the boat slip is contaminated with a layer of pure phase coal tar. As part of its requirements under the MCP, the proponent conducted an extensive evaluation of alternatives ranging from containing sediments on site with a concrete cap to complete excavation of the tar layer and contaminated sediment with off site incineration. Six alternatives were analyzed in depth for consistency with the requirements of the MCP. The 2003 Environmental Notification Form (ENF) identified filling of the boat slip as the preferred alternative for providing a permanent solution and adequately protecting the risk to public health and the environment of New Bedford Harbor.

Initially, the proponent proposed to mitigate project impacts through the provision of shellfish seed to the City of New Bedford for establishment of a shellfish bed within New Bedford Harbor. The 2006 NPC identified additional mitigation consisting of the restoration of a degraded site in New Bedford Harbor to fulfill a requirement by the New Bedford Conservation Commission and to meet US Army Corps of Engineers (ACOE) requirements for mitigation of impacts associated with the State Pier Dredging Project (EOEA #12655).¹

The current proposal consists of permanent removal of the contaminated sediments through dredging, on-site stabilization and off-site disposal at an incinerator. This alternative was evaluated through the MCP process and identified in the materials provided with the ENF. The project will include erosion control measures, use of turbidity curtains to minimize sediment transport and absorbent and containment booms to collect and contain floating oil and/or hazardous materials. The Division of Marine Fisheries (DMF), in its comments on the ENF, encouraged the proponent to pursue this dredging alternative to provide a permanent solution to the contamination and to restore the boat slip for marine uses.

The original project is undergoing MEPA review pursuant to Section 11.03 (3)(b)(6) because it requires a state permit and consists of construction of a solid fill structure of 1,000 or more square feet base area within flowed tidelands. The original project required a Chapter 91 license and a 401 Water Quality Certification from the Department of Environmental Protection (MassDEP). Also, it required an Orders of Conditions from the New Bedford Conservation Commission (issued on July 29th, 2005, and April 4th, 2006, respectively). The project change requires an amended Chapter 91 License, a 401 Water Quality Certification and an Order of Conditions.

Because the proposed remediation is more protective than that which was previously reviewed under MEPA in the ENF and NPC, I find that the proposed project change is insignificant, in accordance with the MEPA regulations at 310 CMR 11.10(6). No further MEPA review is required.

June 15, 2007

Date



Ian A. Bowles

IAB/CDB/cdb

¹ The dredging project was conducted by the New Bedford Harbor Development Commission (NBHDC) and included dredging of 50,000 cubic yards (cy) of sediment.