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June 20, 2008

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

PROJECT NAME : Old Forge Redevelopment
PROJECT MUNICIPALITY : Gloucester
PROJECT WATERSHED : North Coastal
EOEA NUMBER : 14245
PROJECT PROPONENT : McNiff Company
DATE NOTICED IN MONITOR : May 21, 2008

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 determine that this project does not require the preparation of an Environmental Impact Report (EIR).

Project Description

As described in the Environmental Notification Form (ENF), the proposed project entails the development of 10 residential units in two buildings, and associated infrastructure including a non-commercial boat docking facility on the 3.3-acre site of the former Cape Ann Forge iron works site. The project involves site remediation to address existing contaminated soils and residual metal slag and coal cinders on the site as a result of the operation of the former iron works. The remediation will involve removal of contaminated material and debris and the addition of clean fill for capping. The fill will raise the project site above the 100-year flood plain. The project also proposes to remove the remains of a timber bulkhead and to stabilize a section of the shoreline with a combination of armoring and bio-engineering techniques. I note and commend the proponent for proposing a landscaping plan that focuses on species native to this region of Massachusetts, thereby requiring minimal need for watering or nutrient supplements once they are established.

MEPA Jurisdiction and Permitting Requirements

The project is undergoing review pursuant to 301 C.M.R. 11.03(3)(b)(1)(a) and (f) of the MEPA regulations because it will alter coastal bank and more than half an acre (1.69 acres) of wetlands. The project is also undergoing review pursuant to 301 C.M.R. 11.03(3)(b)(6) of the MEPA regulations because it entails construction of a pile-supported structure of 2,000 or more square feet (sf) base area in flowed tidelands, in this case 2,225 sf. The project requires a Chapter 91 License from the Department of Environmental Protection (MassDEP) and an Order of Conditions from the Gloucester Conservation Commission (and hence, a Superceding Order from MassDEP if the local Order is appealed). The project may be subject to federal Consistency Review by the Office of Coastal Zone Management (CZM), in which case the project must be found to be consistent with CZM's enforceable program policies. The project requires a Special Permit from the Gloucester City Council, a Category II Permit from the U.S. Army Corps of Engineers (ACOE), and must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site greater than one acre. Because the project requires a Chapter 91 License, MEPA jurisdiction is broad in scope and extends all aspects of the project with the potential to cause damage to the environment.

Review of the ENF

Chapter 91 Waterways

As described in the ENF, the non-water-dependent residential component of the project appears to be located outside of Chapter 91 jurisdiction. The remaining proposed structures and uses on filled and flowed tidelands are considered water-dependent uses and include the stormwater facilities, shoreline protection, a non-commercial community docking facility for nine vessels, and a publicly accessible waterfront walkway.

The proponent states that the entire project, including the proposed dock, is located on private tidelands, and that the project is not subject to the Chapter 91 requirements for recreational boating facilities. However, projects that are located below the current mean low water line are generally considered to be located within Commonwealth tidelands. The proponent has stated that the proposed dock will be used solely by occupants of the proposed residential units, which would generally not be allowable for a project located on Commonwealth tidelands.

The location of the proposed dock is in close proximity to the fender pier of a Massachusetts Bay Transportation Authority (MBTA) railroad bridge. The proponent has consulted with the MBTA's Commuter Rail Engineering Division and indicated that the location of the dock may be shifted. The final location of the dock can be determined during the Chapter 91 Licensing and ACOE reviews. However, if the relocation requires dredging, thereby requiring an individual 401 Water Quality Certification, the proponent should contact the MEPA Office to determine if the submission of a Notice of Project Change (NPC) would be required.

The proposed location of the dock may also pose potential navigation issues for the existing channel. The proponent should work the local Harbormaster, the U.S. Coast Guard and ACOE to ensure that the project does not interfere with navigation. These issues and any remaining Chapter 91-related issues can be addressed during the licensing of this project.

Wetlands

The project would alter approximately 80 sf of Land Under Water, 370 linear feet of Coastal Bank, 19,520 square feet of Land Subject to Coastal Storm Flowage, and 54,300 sf of Riverfront Area. The project is being proposed as a limited project, pursuant to 310 CMR 10.24 (7)(c)6. The Gloucester Conservation Commission approved an Order of Resource Area Delineation for the site on February 23, 2007.

The ENF states that the existing armoring on a portion of the shoreline at the site will be removed and replaced. At the site visit held on June 4, 2008, the proponent stated that the existing material in the intertidal area would be removed, filter fabric would be installed, and material of similar sediment size would be placed in a manner that would reflect the existing landform and slope. Although the plan submitted with ENF depicts a smooth riprap revetment, the proponent stated that it does not reflect the actual design for the project. If armoring is allowed in this area, CZM recommends maintaining the existing form, slope and sediment structure in order to avoid or minimize erosion of the coastal bank due to wave action. As discussed at the site visit, it appears that overland stormwater sheetflow contributes significantly to the existing erosion issues at the site. CZM recommends that this issue can be successfully addressed by redirecting on-site stormwater away from the Coastal Bank, and by using vegetation to improve upland stability.

In its comments, the Division of Marine Fisheries (DMF) recommends minimizing hard shoreline armoring where feasible. Because the site contains historically filled high marsh, DMF recommends that the proponent explore the potential for restoration of marsh to stabilize the shoreline and to mitigate the loss of coastal beach and bank.

Stormwater Management

The project's stormwater management system will incorporate Low Impact Development (LID) measures, including a lined bioretention basin, which will avoid the potential to mobilize any remaining contaminants in the soil or groundwater after remediation of the site, under the Massachusetts Contingency Plan (MCP), and an infiltrating bioretention basin, in addition to conventional best management practices, such as catch basins and Stormceptor unit(s). The ENF provided information on the stormwater management system design and grading and drainage plans. The proponent should note MassDEP's more detailed comments on snow removal, parking lot sweeping, and the model(s) of Stormceptor units proposed for the site.

Marine Fisheries

The project site abuts mapped shellfish habitat for soft-shell clams, razor clams, and blue mussels and is in close proximity to shellfish growing areas that are conditionally approved for harvest. Additionally, the Annisquam River provides migratory habitat for diadromous fish species including alewife, rainbow smelt and American eel. In its comments, DMF recommends that the proponent implement a mechanism, such as a deed restriction, to ensure the long-term maintenance of and performance of LID systems on the project site, including the proposed front lawn rain gardens and bioretention system in order to protect water quality, thereby minimizing the frequency and duration of shellfish closures due to contaminated runoff.

The construction of the proposed dock facility may require additional evaluation by DMF to assess the potential need for implementing a closed safety zone, which is required by the National Shellfish Sanitation Program for all marinas that are contiguous to shellfish areas. DMF also suggests that the proponent assess the current status and capacity of pump-out facilities in the vicinity of the project, and if needed, provide a pump-out facility to accommodate the new dock.

Construction and Recycling

As the project will generate a significant amount of construction and demolition (C&D) waste, The proponent should note MassDEP's extensive comments regarding the recycling of C&D waste.

Conclusion

Based on the information provided by the proponent and consultation with relevant public agencies, I conclude that no further MEPA review is required. The review of the ENF has served adequately to disclose potential impacts and mitigation, and to demonstrate that project impacts do not warrant the preparation of an Environmental Impact Report.

June 20, 2008

Date



Ian A. Bowles

Comments received:

6/6/08	Office of Coastal Zone Management
6/12/08	Division of Marine Fisheries
6/12/08	Department of Conservation and Recreation
6/16/08	Department of Environmental Protection Northeast Regional Office
6/18/08	Stevan Goldin

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