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December 10, 2008

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

PROJECT NAME : Ducks Unlimited Culvert Replacement (3 Culverts)
PROJECT MUNICIPALITY : Falmouth
PROJECT WATERSHED : Buzzards Bay
EOEA NUMBER : 14338
PROJECT PROPONENTS : Ducks Unlimited, Inc.
DATE NOTICED IN MONITOR : November 10, 2008

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62I) 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).

According to the Environmental Notification Form (ENF), the proposed project consists of the restoration of certain salt marshes in the Great Sippewissett Marsh in West Falmouth, MA. The project involves the replacement of three culverts under the existing rail bed along Great Sippewissett Marsh. The goal of the project is to restore tidal flow to over six acres of impounded fresh/brackish habitat in three separate areas, and to reduce the existence and increased growth of Phragmites, an invasive reed. In addition to culvert replacements, some removal of unauthorized fill is proposed for areas adjacent to the culverts.

The project is subject to review pursuant to Section 11.03(3)(b)(1)(a), Section 11.03(3)(b)(1)(d), Section 11.03(3)(b)(1)(f) and Section 11.03(2)(b)(1) of the MEPA regulations because it requires State permits and will involve alteration of a Coastal Bank, alteration of more than 5,000 square feet of bordering vegetated wetland, alteration of more than a 5.5 acres of salt marsh and possible alteration of a designated significant habitat and rare species. It will require a Chapter 91 Waterways License and a Section 401 Water Quality Certification (WQC) from the Department of Environmental Protection (MassDEP). The project will require a Programmatic General Permit from the U.S. Army Corps of Engineers. The project will also require an Order

of Conditions from the Falmouth Conservation Commission and, on appeal only a Superceding Order of Conditions from MassDEP. Federal Consistency review by the Massachusetts Coastal Zone Management (MCZM) Office may also be necessary.

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction is limited to those aspects of the project that may cause Damage to the Environment as defined in the MEPA regulations and that are within the subject matter of required or potentially required state permits. In this case, MEPA jurisdiction extends to waterways, wetlands and stormwater.

The proponent intends to conduct the work during low tide to reduce impact to wetland resource areas, limit disruption to the local neighborhood, and decrease the potential amount of construction period dewatering. While specific construction equipment and methodology will be at the discretion of the construction contractor, the proponent stated at the on-site consultation that revised plans are being prepared for the Town of Falmouth to show installation of a temporary dewatering basin. The proponent also stated during the on-site consultation that all work would be conducted from the causeway under which the culvert passes and that there will be no equipment placed on the Salt Marsh. The construction period is anticipated to be short in duration, and areas of removed vegetation will be replaced in a timely fashion.

The MassDEP, the Department of Conservation and Recreation (DCR) and the MCZM comment letters summarize additional information that should be addressed by the project proponent during the Chapter 91 and 401 WQC permit processes and prior to construction. Generally, these items include information pertaining to evaluation of wetland impacts, flooding potential, long term monitoring, and construction methodologies. I request that the project proponent specifically address the concerns raised within the MassDEP comment letter during both the 401 WQC and Chapter 91 License permitting processes. I encourage the proponent to implement a thorough monitoring program to ensure the overall success of this restoration project. Should the project be modified, the proponent may need to submit a revised Notice of Intent with the Falmouth Conservation Commission and/or file a Notice of Project Change with the MEPA Office.

The proponent has been closely coordinating the project with the local, state, and federal permitting agencies. According to the Natural Heritage & Endangered Species Program (NHESP), the project site is within the actual habitat of the *Sterna dougalli*, (the Roseate Tern), an Endangered Species, the *Sterna hirundo*, (the Common Tern), an animal of Special Concern, and the *Liatris scariosa var. novae-angliae*, (the New England Blazing Star), a vascular plant of Special Concern. These species are protected pursuant to the endangered species provisions of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.00) and the Massachusetts Endangered Species Act Regulations (321 CMR 10.00). The Roseate Tern is also federally protected pursuant to the U.S. Endangered Species Act (50 CFR 17.11). On November 18, 2008, the NHESP issued a letter to the proponent which states that the project meets the requirements for an exemption under MESA pursuant to 321 CMR 10.14 (11). Although the project qualifies for an exemption, the project may only proceed if a habitat management plan is approved in writing by the NHESP. The proponent should therefore submit the required documentation for the habitat management plan as detailed in NHESP's comment letter.

Prior to commencement of construction, I encourage the proponent and the selected contractor to consider possible ways to mitigate stormwater runoff within the project area through non-structured means. I recognize the limitations in this area, given the location of wetland resource areas; however some consideration should be given to reducing sheet flow velocities and pollutant loads that may directly discharge into wetland resources. Any drainage improvements should be made in accordance with appropriate applicable regulations and design guidelines.

The ENF contains sufficient information to disclose the potential impacts of the project, and associated mitigation. This project provides an opportunity to restore valuable wetland habitat areas within the salt marsh, and to mitigate a public safety issue associated with flooding. I find that the project, while requiring additional information during the MassDEP permit approval process, does not warrant preparation of an EIR. The project has received support from State resource management agencies. I am confident that the proponent can resolve any remaining issues during the state permitting process. No further MEPA review is required.

December 10, 2008

Date



Ian A. Bowles, Secretary

Comments Received:

11/10/08	Division of Marine Fisheries
11/20/08	Cape Cod Commission
11/25/08	Division of Fisheries and Wildlife's Natural Heritage Endangered Species Program
12/01/08	Department of Conservation and Recreation
12/01/08	Department of Environmental Protection, Southeast Regional Office
12/01/08	Massachusetts Coastal Zone Management

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