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December 15, 2006

DRAFT RECORD OF DECISION

PROJECT NAME : Nantasket Beach Coastal Storm Damage Protection Project
PROJECT MUNICIPALITY : Hull
PROJECT WATERSHED : Boston Harbor
EOEA NUMBER : 12668
PROJECT PROPONENT : **Department of Conservation and Recreation**
DATE NOTICED IN MONITOR : November 8, 2006

Pursuant to the Massachusetts Environmental Policy Act (MEPA) (G.L.c.30, ss. 61-62H) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I have reviewed the Notice of Project Change (NPC) and request for a Phase I waiver submitted on this project. I propose to grant a Phase I Waiver, allowing the first phase of the project to proceed to the state permitting agencies prior to completion of the Draft and Final Environmental Impact Reports (EIRs) for the entire project.

Project Description

In January, 2005 the proponent submitted a Notice of Project Change (NPC) which addressed two separate changes to the project: a Temporary Seawall Fortification (TSF) that was constructed in the summer of 2004 under emergency authorizations from DEP, the MEPA Office and the Hull Conservation Commission for an area of the seawall most prone to failure; and the division of the project into three phases: 1.) replacement of the northern section of seawall with an approximately 930-foot-long new stone revetment; 2) repairs to the remainder of the existing seawall; and 3) sand nourishment along 6,800 feet of beach. The proponent also requested a Waiver under the MEPA regulations, which was granted, to allow Phase I work to proceed in advance of the preparation of the Environmental Impact Report. The new Phase I work included removing the 550-foot-long section of collapsed seawall as well as the 450-foot-long section that was previously proposed for rubble-toe protection and replacing these with a 930-foot-long stone

revetment, which will be located approximately 21 feet landward from the originally proposed project.

The current NPC requests an expansion of the work to be completed under the Phase I Waiver granted in January, 2005. The proposed expansion of work change includes the construction of 2,000 linear feet of Seawall Toe Protection (STP) designed to improve the stability of a vulnerable section of the seawall along the middle section of the Nantasket Beach Reservation, beach access improvements, minor seawall repairs, and beach and dune nourishment. The proponent has requested a Phase I Waiver to allow this work to proceed in advance of the preparation of the Environmental Impact Report.

The Department of Conservation and Recreation (DCR), the proponent, has been working to expedite the reinforcement of the middle section of the seawall to protect the structural stability and avoid further deterioration. The northern and southern sections have already been reinforced. I note, however, that the Nantasket Board of Selectmen has recently voted to request that the work on the seawall toe protection in the middle reach of the Nantasket seawall be postponed. DCR will move forward with improvements to beach access ways along the southern area of the seawall. The improvements are expected to be completed by early July, 2007.

Criteria for a Phase I Waiver

Section 11.11 of the MEPA regulations provides that the Secretary may waive any provision or requirement of 301 CMR 11.00 not specifically required by MEPA, and may impose appropriate and relevant conditions or restrictions, provided that the Secretary finds that strict compliance with the provision or requirement would: a) result in undue hardship to the proponent, unless based on delay in compliance by the proponent; and b) not serve to minimize or avoid damage to the environment.

In the case of a partial waiver of a mandatory EIR review threshold that would allow the proponent to proceed to Phase I of the project prior to preparing an EIR, this finding shall be based on one or more of the following circumstances: 1) the potential environmental impacts of Phase I are insignificant; 2) ample and unconstrained infrastructure and services exist to support Phase I; 3) the project is severable, such that Phase I does not require the implementation of any other future phases; and 4) the agency action on Phase I will contain conditions that ensure due compliance with MEPA.

Findings

Based upon the information submitted by the proponent and after consultation with the relevant state agencies, I find that Phase 1 of the project will result in potential environmental benefits because it will halt further deterioration of the backshore and prevent the further deterioration of existing facilities and infrastructure. Therefore, I find that strict compliance with the mandatory EIR requirement would a) result in undue hardship to the proponent; and b) not serve to minimize or avoid damage to the environment.

In addition, I find that:

- 1) The potential environmental impacts of Phase I are insignificant.

- 2) Ample and unconstrained infrastructure exists to support Phase I of the project because it will be constructed on state property and prevent the further deterioration of existing facilities and infrastructure.
- 3) The project is severable such that Phase I does not require the implementation of any future phases.
- 4) The state agency actions on Phase I, in this case a 401 Water Quality Certification and Chapter 91 License from DEP, will contain conditions that ensure due compliance with MEPA.

Based on these findings, it is my judgment that the waiver request has merit and meets the tests established in Section 11.11. Therefore, I propose to grant the Phase I waiver. This Draft Record of Decision shall be published in the next issue of the *Environmental Monitor* for a fourteen-day comment period, after which I shall reconsider, modify, or confirm the waiver.

December 15, 2006

Date

Robert W. Golledge, Jr.

Comments received:

11/22/06	Office of Coastal Zone Management
11/24/06	Massachusetts Historical Commission
12/07/06	MA Division of Marine Fisheries

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