



# The Commonwealth of Massachusetts

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October 31, 2005

## DRAFT RECORD OF DECISION

PROJECT NAME : Plympton Street Cranberry Bog  
 PROJECT MUNICIPALITY : Plympton Street - Middleborough  
 PROJECT WATERSHED : Taunton River  
 EOEА NUMBER : 13632  
 PROJECT PROPONENT : John Melville  
 DATE NOTICED IN MONITOR : September 24, 2005

Pursuant to the Massachusetts Environmental Policy Act (MEPA) (G.L.c.30, ss. 61-62H) and Section 11.11 of the MEPA regulations (301 CMR 11.00), I have reviewed this project and propose to grant a waiver from the requirement to prepare a mandatory Environmental Impact Report (EIR).

### Project Description

As described in the Environmental Notification Form (ENF), the project consists of the restoration of 234,000 square feet (sf) of Bordering Vegetated Wetlands (BVW) to rectify impacts from cranberry bog expansion into 192,706 sf of BVW. The project contains 27.58 acres of cranberry bogs on a 38.5-acre site. Irrigation water is supplied by the existing Reservoir and Water Hole. The existing Reservoir has a surface area of 1.1 acres, and the existing Water Hole has a surface area of 0.28 acres. The proponent is proposing an additional Water Hole (0.2 acres) as a withdrawal point for irrigation. The proponent needs to obtain a Water Management Act Permit for approximately 220,000 gallons per day (gpd) to irrigate approximately 24.5 acres of existing, unregistered bogs.

The impact and subsequent mitigation occurs in two areas. In the construction of Bog #2 (about 2.77 acres) and Bog #3 (about 2.5 acres) the proponent altered approximately 0.258 acres of open water, 1.178 acres of scrub swamp, 1.717 acres of deciduous wooded swamp, and 0.352 acres of mixed wooded swamp. Another 0.11 acres of deciduous wooded swamp was also impacted on the edge of Bog #3. The construction of Bog #5 (about 3.0 acres) altered

0.485 acres of scrub swamp. The proponent altered about 0.566 acres of scrub swamp for the construction of Bog #6 (about 0.42 acres) and 0.24 acres of deciduous wooded swamp for the construction of Bog #9 (about 0.5 acres). The proponent is using about 218,600 gallons per day (gpd) of water. The eastern bogs (#7, 8, 9, 10, and 11) on the site utilize a flow through irrigation system to Whetstone Brook. The western bogs (#1, 3, 4, and 5) use a closed-loop tailwater recovery system. The Reservoir and Water Hole are open wells that are recharged via groundwater. The backflow from the western bogs is recycled back to the Reservoir.

The proponent has altered about 192,706 sf or 4.42 acres of BVW, 20,000 sf of Riparian Zone, 377 linear feet of Inland Bank, and 17,500 sf of Bordering Land Subject to Flooding (BLSF).

The project is being proposed as part of an Administrative Consent Order (ACO) issued by DEP on May 9, 2005 to restore altered wetlands in Bog #2 and #6 as BVW.

#### Categorical Inclusion

The project is included for the preparation of a mandatory EIR pursuant to Section 11.03(3)(1) of the MEPA regulations because it altered one or more acres of BVW.

#### Jurisdiction

The project will require a Water Management Act Permit from the Department of Environmental Protection (DEP). On May 4, 2005, the proponent signed the ACO with DEP to bring its current operations into compliance with the Water Management Act. It will also need a 401 Water Quality Certificate from DEP. The project must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site. It may need a Programmatic General Permit from the U.S. Army Corps of Engineers. Because the proponent is not seeking financial assistance from the Commonwealth, MEPA jurisdiction is limited to the environmental impacts related to water, wetlands, and drainage.

#### Waiver Request

On September 9, 2005, the proponent requested a waiver from the requirement for the preparation of an EIR. The proponent has prepared a proposal detailing the corrective measures it will undertake to comply with the ACO. The waiver request was

discussed at the consultation/scoping session, which was held on October 4, 2005.

### Criteria for Waiver

Section 11.11 of the MEPA Regulations provides that a waiver may be granted upon a finding that strict compliance with the regulations will result in undue hardship and will not serve to minimize or avoid damage to the environment. In the case of categorically included projects, this finding shall be based on one or more of the following circumstances: 1) the project is likely to cause no damage to the environment; and 2) ample and unconstrained infrastructure exists to support the project. The terms agreed to as a condition of the waiver will bring about benefits in excess of those that could be achieved in the absence of a waiver.

### Findings

Based upon the information submitted by the proponent and after consultation with DEP, I find that:

1. The project will improve the environment by restoring past wetland alterations. The proponent will remove Bog #2 and Bog #6 from active cranberry production. It will replicate approximately 123,039 sf of BVW and 6,400 sf of BLSF in this area. In this same area, the proponent will restore 110,961 sf of BVW, 20,000 sf of Riparian Zone, 377 linear feet of Inland Bank, and 11,600 sf of BLSF. The proponent submitted a plan showing Proposed Conditions dated July 5, 2005, which shows the Areas discussed.
2. The proponent's on-site wetlands restoration and improvements are estimated to cost the proponent approximately \$165,000. The proponent has the resources and knowledge to provide a successful replication/restoration with DEP's supervision. It has committed to complete the above work on or before June 15, 2006.
3. The western bogs use a closed-loop tailwater recovery system (to the Reservoir) and are squared-off and leveled. The proponent does wet harvesting of the bogs. The management of the bogs provides for a minimal use of water. The proponent has applied for a Water Management Act Permit.
4. The proponent has entered into a Cooperator's Agreement with the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) to conserve water usage.
5. The proponent has also applied for certification from NRCS for

his Buzzards Bay Watershed cranberry bogs located on Frances and on Pine Streets in Middleborough.

Based on these findings, it is my judgement that the waiver request has merit and meets the tests established in Section 11.11. DEP has sufficient permitting authority to ensure that the proponent complies with the findings of this Certificate. Therefore, I propose to grant the waiver requested for this wetlands restoration and water withdrawal project, subject to the above findings. 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.

October 31, 2005

DATE

Stephen R. Pritchard

cc: David Murphy, DEP/Boston  
Sharon Stone, DEP/SERO

Comments received:

DEP/SERO, 9/23/05  
DEP/SERO, 10/4/05  
DEP/SERO, 10/6/05  
DEP/SERO, 10/19/05  
Mass Audubon, 10/24/05

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