

# ENF Environmental Notification Form

*For Office Use Only*  
 Executive Office of Environmental Affairs

EOEA No.: 12867  
 MEPA Analyst: Arthur Pugsley  
 Phone: 617-626-1029

The information requested on this form must be completed to begin MEPA Review in accordance with the provisions of the Massachusetts Environmental Policy Act, 301 CMR 11.00.

Project Name: Eleanor Monaghan Proposed Elevated Walkway		
Street: 36 Tides End Lane		
Municipality: Orleans	Watershed: Meetinghouse Pond, Cape Cod	
Universal Transverse Mercator Coordinates:	Latitude: 041°46' 42.3" N Longitude: 069° 58' 11.3" W	
Estimated commencement date: Jan 2003	Estimated completion date: Jan 2003	
Approximate cost: \$15,000	Status of project design: 100 %complete	
Proponent: Eleanor B. Monaghan		
Street: 59 Diamond Bridge Avenue		
Municipality: Hawthorne	State: NJ	Zip Code: 07506
Name of Contact Person From Whom Copies of this ENF May Be Obtained: Beth E. Hays		
Firm/Agency: Coastal Engineering Company, Inc.	Street: 260 Cranberry Highway	
Municipality: Orleans	State: MA	Zip Code: 02653
Phone: 508-255-6511	Fax: 508-255-6700	E-mail: bhays@ceccapecod.com

- Does this project meet or exceed a mandatory EIR threshold (see 301 CMR 11.03)?  
 Yes  No
- Has this project been filed with MEPA before?  
 Yes (EOEA No. \_\_\_\_\_)  No
- Has any project on this site been filed with MEPA before?  
 Yes (EOEA No. \_\_\_\_\_)  No
- Is this an Expanded ENF (see 301 CMR 11.05(7)) requesting:
- |  |                              |  |
|--|------------------------------|--|
| a Single EIR? (see 301 CMR 11.06(8))           | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| a Special Review Procedure? (see 301CMR 11.09) | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| a Waiver of mandatory EIR? (see 301 CMR 11.11) | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| a Phase I Waiver? (see 301 CMR 11.11)          | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Identify any financial assistance or land transfer from an agency of the Commonwealth, including the agency name and the amount of funding or land area (in acres): N/A

Are you requesting coordinated review with any other federal, state, regional, or local agency?  
 Yes (Specify \_\_\_\_\_)  No

List Local or Federal Permits and Approvals: \_\_\_\_\_  
 \_\_\_\_\_

Which ENF or EIR review threshold(s) does the project meet or exceed (see 301 CMR 11.03):

- |  |                                       |  |
|--|---------------------------------------|--|
| <input type="checkbox"/> Land            | <input type="checkbox"/> Rare Species | <input checked="" type="checkbox"/> Wetlands, Waterways, & Tidelands |
| <input type="checkbox"/> Water           | <input type="checkbox"/> Wastewater   | <input type="checkbox"/> Transportation                              |
| <input type="checkbox"/> Energy          | <input type="checkbox"/> Air          | <input type="checkbox"/> Solid & Hazardous Waste                     |
| <input checked="" type="checkbox"/> ACEC | <input type="checkbox"/> Regulations  | <input type="checkbox"/> Historical & Archaeological Resources       |

Summary of Project Size & Environmental Impacts	Existing	Change	Total	State Permits & Approvals
<b>LAND</b>				<input type="checkbox"/> Order of Conditions <input checked="" type="checkbox"/> Superseding Order of Conditions <input checked="" type="checkbox"/> Chapter 91 License <input type="checkbox"/> 401 Water Quality Certification <input type="checkbox"/> MHD or MDC Access Permit <input type="checkbox"/> Water Management Act Permit <input type="checkbox"/> New Source Approval <input type="checkbox"/> DEP or MWRA Sewer Connection/ Extension Permit <input type="checkbox"/> Other Permits (including Legislative Approvals) – Specify: _____ _____ _____ _____ _____ _____
Total site acreage	.61 +/-			
New acres of land altered		0		
Acres of impervious area	0	0	0	
Square feet of new bordering vegetated wetlands alteration		0		
Square feet of new other wetland alteration		171		
Acres of new non-water dependent use of tidelands or waterways		0		
<b>STRUCTURES</b>				
Gross square footage	2900 +/-	120	3020 +/-	
Number of housing units	1	0	1	
Maximum height (in feet)	30			
<b>TRANSPORTATION</b>				
Vehicle trips per day	5	0	5	
Parking spaces	2	0	2	
<b>WATER/WASTEWATER</b>				
Gallons/day (GPD) of water use	330	0	330	
GPD water withdrawal	330	0	330	
GPD wastewater generation/ treatment	330	0	330	
Length of water/sewer mains (in miles)	N/A	N/A	N/A	

**CONSERVATION LAND:** Will the project involve the conversion of public parkland or other Article 97 public natural resources to any purpose not in accordance with Article 97?

Yes (Specify \_\_\_\_\_ )  No

Will it involve the release of any conservation restriction, preservation restriction, agricultural preservation restriction, or watershed preservation restriction?

Yes (Specify \_\_\_\_\_ )  No

**RARE SPECIES:** Does the project site include Estimated Habitat of Rare Species, Vernal Pools, Priority Sites of Rare Species, or Exemplary Natural Communities?

Yes -Priority Habitats of Rare Species PH-1459 & Estimated Habitats of Rare Wildlife WH-401  No

**HISTORICAL /ARCHAEOLOGICAL RESOURCES:** Does the project site include any structure, site or district listed in the State Register of Historic Place or the inventory of Historic and Archaeological Assets of the Commonwealth?

Yes (Specify \_\_\_\_\_)  No

If yes, does the project involve any demolition or destruction of any listed or inventoried historic or archaeological resources?

Yes (Specify \_\_\_\_\_)  No

**AREAS OF CRITICAL ENVIRONMENTAL CONCERN:** Is the project in or adjacent to an Area of Critical Environmental Concern?

Yes (Specify Pleasant Bay)  No

**PROJECT DESCRIPTION:** The project description should include (a) a description of the project site, (b) a description of both on-site and off-site alternatives and the impacts associated with each alternative, and (c) potential on-site and off-site mitigation measures for each alternative (*You may attach one additional page, if necessary.*)

The proposed project is located along the southern shore of Meetinghouse Pond. The pond is within the tidal estuary known as Pleasant Bay, which is also designated as an Area of Critical Environmental Concern (ACEC). The property has a gentle slope towards the coastal beach. There is an existing salt marsh that extends seaward approximately twenty-three feet from mean high water. The area beyond the edge of the salt marsh extends another thirty-one feet to mean low water, and is tidal flats. There is an existing foot path through the coastal beach and the salt marsh with a planked walkway at the end of the marsh. The planked walkway is not elevated and rests directly on the marsh surface. The foot traffic and the walkway prevent the growth of the marsh. The marsh grasses are trampled and stressed, and no vegetation exists under the walkway. The peat at the seaward edge of the marsh has been broken off by repeated foot traffic. As the foot path is used, the marsh will continue to deteriorate and erode away.

The proposed project involves construction of a seasonal elevated walkway over the marsh to protect the marsh from the damage associated with repeated foot traffic. The proposed walkway does not extend into the waterway beyond the end of the marsh. The proposed walkway would prevent further damage to the marsh and, in point of fact, reverse the existing damage and allow the marsh to heal itself. The proposed walkway is designed to function as an elevated means to allow for foot traffic over the salt marsh, preventing damage to the salt marsh. The end of the elevated walkway does not possess a ramp or a float, but rather a ladder, to allow pedestrians to reach the beach below. The depth of water at the end of the walkway is shallow so that no vessel larger than a dighy can float even during high tide. Because of the geometry, it is not possible to enter a boat directly from the ladder. A person would be required to get off the walkway and step into a vessel from off the beach. Furthermore, no float, raft, dock or any other structure is proposed to be attached to the walkway that would extend the functional use to any other purpose than pedestrian access.

The design allows for a 5' public lateral access along the coastal beach, above the mean high water line. The project also proposes to install four erosion control steps (timber landscaping steps) on the slope to further reduce erosion caused by foot traffic to the beach.

**Supplemental Publications for review**

- Pleasant Bay Resource Management Plan (April 1998)
- Pleasant Bay Resource Management Alliance Guidelines for Private Walkways and Stairways in Fresh and Marine Resource Areas in Pleasant Bay (May 2002)

This Environmental Review is required to obtain a Superceding Order of Conditions from the Department of Environmental Protection because the project was denied by the Local Conservation Commission. The basis of the Denial of the project is the Commission's refusal to recognize the structure as an environmentally appropriate elevated pedestrian walkway over a marsh. Instead, the Conservation Commission chose to consider the structure a dock/pier for the purpose of accommodating a denial.

The Pleasant Bay Resource Management Plan (1998) section 11.2.1 recommends that the moratorium on docks and piers be revised and that it remain permanent in areas identified as resource sensitive. Meetinghouse Pond is identified in the plan as a resource sensitive area. Section 11.2.4 tasks the Pleasant Bay Resource Management Alliance and Steering Committee to draft performance standards and design criteria for marsh walkways and related structures.

The Pleasant Bay Resource Management Alliance and Steering Committee drafted guidelines for elevated walkways and they were submitted (in draft form) for comment by public officials. The guidelines were not issued (to be implemented

voluntarily by each town) until May 15, 2002. Section 1.0 of the guidelines provide more than a full page to describe the importance of the marsh system and its protection, and the urgency to develop standards and criteria for marsh walkways. Section 3.0 defines a walkway as "an elevated structure used to traverse a resource area as defined in the Wetlands Protection Act...but walkways that extend below Mean High Water (MHW) in particular, are equated to, and should be regulated as a dock or a pier...". The paragraph that follows states that the work group address this concern with an additional definition of a walkway: "A Walkway is an elevated or at-grade structure used as a walkway to traverse fresh or salt meadow, (*Spartina patens*) marsh, bank, dune or beach". Also, "A walkway differs from a dock or pier in that it begins and terminates above mean high water".

Section 3.0 of the guidelines is flawed. The two definitions of a walkway conflict with each other. A salt marsh can only exist below the Spring High Tide Line (Wetlands Protection Act, 310 CMR 10.32). Attempting to follow the guidelines makes it impossible to construct a walkway that serves to traverse a marsh below MHW where the marsh exists. Therefore, the guidelines outlined in the Pleasant Bay Resource Management Alliance, as written, are incorrect and inconsistent with the policies outlined in the Wetlands Protection Act because they do not provide a method to protect the Salt Marsh. The proposed project provides protection for the marsh and is consistent with other local and state guidelines for its construction.

The Conservation Commission incorrectly re-defined the walkway as a dock and then denied the project. Clearly, new docks or piers are not allowed under the current moratorium for Pleasant Bay. However, this project was denied on March 27, 2002 based on the draft guidelines. Proposed guidelines for elevated walkways were not issued until May 2002, and are implemented by each town voluntarily. The entire project, as proposed, will reverse the damage being done to the marsh and the surrounding resource areas. This project was never proposed as a dock, and can not function as a dock because of the practical limitations described above. To re-define the walkway as a dock in order to deny this project serves only to perpetuate the damage to the marsh and surrounding resource areas and in no way protects them. The guidelines are incorrect and require revision to restrict docks, not catwalks, so that the resource area(s) can be protected.

This proposed walkway meets all the appropriate design standards for an elevated walkway over a saltmarsh. If this project were denied, pedestrian foot traffic would continue over the marsh, further destroying the important resource.

#### **Discussion of Options:**

##### **Option 1 –Do nothing**

If nothing is done at this site, the marsh will continue to be trampled and damaged. The erosion caused by foot traffic will continue to be break off the end of the marsh, and the marsh will recede to the shoreline. The destruction of the salt marsh vegetation will not allow the marsh to trap and filter sediments from upland runoff, thereby eliminating one of the primary functions of the marsh. The peat, fines and soft sediments will continue to be introduced into Meetinghouse Pond, further degrading the water quality of the pond. The resulting loss of vegetation and valuable resource area is not consistent the policies or intent set forth in the Wetlands Protection Act and therefore is not a preferred option.

##### **Option 2 – Preferred Alternative, Project as Proposed**

This option would provide a safe means to traverse the resource area and allow the marsh to regenerate. The design of the elevated walkway is consistent with section 5.0 of the standards and guidelines for elevated walkways as outlined in the Pleasant Bay Resource Management Alliance. The walkway minimizes impact on the salt marsh due to its seasonal installation, use of permanent stub piles, and height above existing vegetation, and near north-south orientation (as recommended in the guidelines). Because of its location and minimal length, the elevated walkway can not be used as a dock or pier and can be conditioned to prohibit such use. The removal of the existing walkway will allow the marsh to re-generate itself and be restored to its proper function. The installation of the Erosion control steps provides protection from erosion of the slope due to foot traffic, but allows any natural erosion to continue along the length of the slope.

##### **Option 3 – Construct an elevated walkway from the upland area to Mean High Water**

This option would not provide any benefit to the salt marsh since the walkway would not traverse over the marsh. The marsh would continue to be destroyed by foot traffic as well as the reduction of water quality in Meetinghouse Pond. As in Option 1 above, this option does not provide any protection from foot traffic for the salt marsh. The walkway would interfere with lateral public access. This option is not consistent with the policies and intent of the Wetlands Protection Act, and is therefore not a preferred option.