

**SECRETARIAL APPROVAL**  
**of the**  
**PLEASANT BAY AREA OF CRITICAL ENVIRONMENTAL CONCERN**  
**RESOURCE MANAGEMENT PLAN 2008 UPDATE**

The Pleasant Bay Resource Management Alliance submitted the *Pleasant Bay Area of Critical Environmental Concern (ACEC) Resource Management Plan 2008 Update* to the Secretary of Energy and Environmental Affairs for review and approval. This is the second five-year *Pleasant Bay ACEC Resource Management Plan Update* developed by the Pleasant Bay Resource Management Alliance.

**I. Background**

1. Pleasant Bay was designated as an Area of Critical Environmental Concern (ACEC) in 1987 including 9,050 acres in the towns of Brewster, Chatham, Harwich and Orleans.
2. Through a Memorandum of Agreement, the towns of Chatham, Harwich, and Orleans developed and adopted the *Pleasant Bay ACEC Resource Management Plan (RMP, 1998)*, approved by Environmental Affairs Secretary Bob Durand on March 25, 1999; formed the Pleasant Bay Resource Management Alliance; and implemented recommendations in the *Pleasant Bay ACEC RMP*.
3. *Guidelines and Performance Standards for Docks and Piers in Pleasant Bay (the Guidelines)* were adopted by the towns and approved by Secretary Durand on April 23, 2001.
4. The towns of Chatham, Harwich, and Orleans developed and adopted the first *Pleasant Bay ACEC Resource Management Plan Update*, approved by Environmental Affairs Secretary Ellen Roy Herzfelder on October 15, 2003.
5. The Town of Brewster joined the Alliance in 2007 by signing on to the Memorandum of Agreement between the Pleasant Bay towns and adopting the *Pleasant Bay ACEC RMP* and the *2003 Plan Update*.
6. The Department of Conservation and Recreation (DCR) administers the ACEC Program on behalf of the Secretary's Office. The Pleasant Bay Resource Management Alliance has coordinated the development of the *Pleasant Bay ACEC Resource Management Plan*, the *Guidelines*, and both the *2003* and the *2008 Plan Updates* in consultation with DCR, the Office of Coastal Zone Management (CZM), and the Department of Environmental Protection (MassDEP).

**II. Summary of Public Review**

1. The *2008 Plan Update* was prepared by the Pleasant Bay Resource Management Alliance (the Alliance) over a one-year period with extensive public participation and comment including multiple issue-specific public forums.
2. The *2008 Plan Update* was developed by the Alliance and its workgroups which are comprised of interested citizens, local, state, and county resource management professionals including representatives from the Cape Cod Commission, the Department of Conservation and Recreation (DCR), the Department of Environmental Protection (MassDEP), the Office of Coastal Zone Management (CZM), the Division of Marine Fisheries (DMF), Cape Cod National Seashore, the Barnstable County Cooperative

Extension Service, the Woods Hole Oceanographic Sea Grant Program, the Provincetown Center for Coastal Studies, the Friends of Pleasant Bay Inc., the Orleans Pond Coalition, and the Friends of Chatham Waterways.

3. The Alliance submitted a *Draft 2008 Plan Update* to the Boards of Selectmen of the towns of Brewster, Chatham, Harwich, and Orleans in February 2008. A public comment period extended through March 2008 and included a public hearing. Copies of the *Draft 2008 Plan Update* were made available at the town halls and the main public libraries, as well as on the Pleasant Bay Management Alliance website.
4. The Alliance reviewed input received from the public comment process and modified the *Draft 2008 Plan Update* accordingly and a revised *2008 Plan Update* was submitted to the towns at the end of March 2008.
5. At town meetings for Brewster, Chatham, Harwich, and Orleans in May 2008, the towns voted to adopt the *2008 Plan Update* and authorized the Boards of Selectmen to continue the Memorandum of Agreement that forms the Pleasant Bay Management Alliance.

### III. Findings

1. On behalf of the Executive Office of Energy & Environmental Affairs (EEA), the ACEC Program has reviewed the *Pleasant Bay ACEC Resource Management Plan 2008 Update* pursuant to the "Policy Guidelines for the Review and Approval of Areas of Critical Environmental Concern (ACEC) Resource Management Plans." The *2008 Plan Update* was submitted to EEA on September 5, 2008.
2. As Secretary of Energy & Environmental Affairs, I approve the *Pleasant Bay ACEC Resource Management Plan 2008 Update*. The *2008 Plan Update* continues many of the recommended actions previously approved by Secretary Herzfelder in 2003, and includes new proposals for policy development, research, and public education. I find the *2008 Plan Update* continues to serve as an example for how other ACECs and communities across the Commonwealth can cooperatively plan for and manage sensitive natural resources.
3. The *2008 Plan Update* builds upon the foundation laid by the *Pleasant Bay ACEC Resource Management Plan (1998)* and the achievements of the *2003 Plan Update* by highlighting significant accomplishments in four main areas: Biodiversity and Habitat Protection, Wetlands Protection, Coastal Processes, and Watershed Planning. Accomplishments in the *2008 Plan Update* include:
  - The continuation of the Citizens Water Quality Monitoring Program with support from over 150 citizens. For eight consecutive years the Water Quality Monitoring Program has supported the nitrogen threshold modeling and analysis conducted through MassDEP's Massachusetts Estuaries Project (MEP) for Pleasant Bay helping to inform nutrient management decisions within the Bay.
  - Acquiring \$120,000 in local share funds necessary to include the entire Bay in the MEP modeling.
  - Assisting in drafting, providing input, and coordinating public meetings for the final Technical Report for Pleasant Bay developed under the MEP in May 2006 (*Linked Watershed-Embayment Model to Determine Critical Nitrogen Loading Thresholds for the Pleasant Bay System, Orleans, Chatham, Brewster and Harwich, Massachusetts*) and the *Pleasant Bay System Total Maximum Daily Loads for Total Nitrogen (TMDL) Report* developed by the MassDEP in accordance with the Federal Clean

Water Act. The TMDLs were approved by the U.S. Environmental Protection Agency in 2007.

- The development of guidelines establishing performance standards and design criteria for permitting docks in 11 freshwater ponds in the ACEC. These guidelines will be submitted to the towns for adoption and to the Secretary for approval.
  - The design of a salt marsh monitoring program to complement ongoing monitoring of sites by the Cape Cod National Seashore.
  - In July 2005, funding a complete aerial flyover, complementing a similar flyover in 2000. In addition, compiling a digital archive of aerial photographs, dating to 1938. The photographs will serve as an invaluable resource for monitoring shoreline dynamics, changes in aquatic vegetation and shoaling patterns.
  - Hosting the first Pleasant Bay Symposium in April 2006, *Understanding and Managing a Dynamic Coastal System*, which was attended by more than 200 people and addressed the ways in which the barrier beach system affects habitat conditions within the Bay.
  - Sponsoring a study for shoreline-marshline change and tide gage monitoring effort to document changes to the geomorphology of the Bay.
  - Hosting two public forums in June 2007 and 2008 on the status of the Chatham barrier beach inlet and the hydrodynamic implications for the Bay in the short and long term.
4. The *2008 Plan Update* includes recommendations that are priorities for implementation by the towns and the state. These priorities for continued work are:
- Continuing to facilitate watershed-based collaboration to address nitrogen loading into the Bay;
  - Developing a bay-wide sediment management plan;
  - Developing guidelines and performance standards for permitting erosion control structures;
  - Seeking designation of Pleasant Bay as a No Discharge Area;
  - Developing Best Management Practices (BMP) to protect biodiversity;
  - Continuing water quality, aerial, and salt marsh monitoring programs; and
  - Building and strengthening stewardship of the Bay through public information and education.

I find that the *2008 Plan Update* continues the exemplary planning and foresight that characterized both the original *RMP* (1998) and the *2003 Plan Update*. The *2008 Plan Update* recognizes that the complexity of resource management issues requires the use of baseline data and frameworks developed thus far to guide further analysis to ensure protection of the resources and sustainable health of Pleasant Bay.

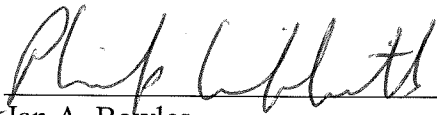
5. I note that there is a recommendation to develop performance standards and design criteria for erosion control structures to provide guidance for future MassDEP permit review for such Chapter 91 license applications when such applications do not meet the regulatory standard for shoreline stabilization or the rehabilitation of an existing shore protection structure or other criteria at 310 CMR 9.32(2). Once these local standards are developed, the Alliance indicates that they will be adopted into regulation by the respective towns and will then be submitted to my office for state approval.

6. The original *RMP* (1998) designated 10 intertidal areas of significant habitat value as *Areas of Critical Marine Habitat* (ACMH), which provided guidance for protecting those areas via the *Guidelines and Performance Standards for Docks and Piers in Pleasant Bay* and for further ecological inventory and monitoring to confirm their status as critical habitats. The *2008 Plan Update* includes recommendations to revise those ACMH and the protections afforded them as further described in the *Update*.
7. There is discussion in the *2008 Plan Update* regarding clarification of potential Chapter 91 licensing for private water-dependent structures on islands and Nauset Beach. The *Update* recommends that due to the unique character and exemplary habitat value of these areas, structures in these areas should only be considered for permitting where they are necessary to provide safe and reasonable access, and only when it has been demonstrated that alternative forms of access are impractical. The recommendation further states that in such cases where a structure is deemed necessary to provide reasonable access, it should be the minimal necessary and must meet all applicable performance standards and design criteria as defined in the Alliance dock and pier guidelines (previously adopted into local regulation and approved by my office in 2001) and local and state regulations. I recognize that there may be cases where safe and reasonable access to the islands is found necessary and can provide less harm than continuous informal access to the beach profile and in-water resources. Therefore, I recommend that a demonstrated need for access be balanced by designing the least intrusive structure that meets the applicable performance and design criteria to the maximum extent.
8. I note that there is a recommendation to study the potential need for, impacts from, and feasibility of improvement dredging in certain areas. I also note that the MassDEP Waterways (Chapter 91) Regulations prohibit improvement dredging within ACECs except for the purposes of fisheries or wildlife enhancement. The RMP process can provide the necessary data and analysis for the basis for any future recommendation regarding improvement dredging. Should the need for limited improvement dredging be justified for overriding environmental and public benefits, the Alliance should continue to consult with the DCR ACEC Program, MassDEP, and CZM regarding potential solutions.
9. As stated in the 2001 Secretary approval of *Guidelines and Performance Standards for Docks and Piers in Pleasant Bay* and as stated in the Accomplishments and Priority Actions above, I recognize that resource assessment and planning for freshwater ponds, Muddy Creek, and shoreline erosion control structures is ongoing. The Alliance and the towns should continue to work closely with the MassDEP Wetlands and Waterways staff and other agencies, including DCR and CZM, in completing this recommended planning. The resource assessment and analysis that was accomplished for the guidelines for freshwater ponds with the development of performance standards and design criteria for licensing, and adoption of these into local regulations, will form the basis for local and state permitting review. Should the new standards revise the current Pleasant Bay ACEC guidelines regarding Waterways (Chapter 91) Regulations and private water-dependent structures, the new guidelines must be adopted by the towns and submitted to the Secretary for state approval.

10. I commend the Alliance for the management framework they have developed, which includes coordination with local, regional, state, and federal agencies; participation by professional experts and interested citizens; and funding of a full-time coordinator. I strongly support the continued implementation of the *2008 Plan Update*, and direct EEA agencies to provide funding and technical support and assistance consistent with agencies' policies and resources for relevant recommendations in the *2008 Plan Update*.
11. As stated in the "Policy Guidelines for the Review and Approval of ACEC Resource Management Plans," parties initiating plan updates and revisions should consult with DCR ACEC Program staff regarding the need for formal review and approval by the Secretary. Changes or revisions to plans which substantively address the Waterways (Chapter 91) Regulations at 310 CMR 9.32(1)(e)(4)(c) will require formal approval by my Office.

#### IV. Conclusion

Based upon the background, public review, and findings described above, I formally approve the *Pleasant Bay ACEC Resource Management Plan 2008 Update* dated March 2008. I would like to thank and congratulate the many citizens, organizations, and agencies that worked so hard with the municipalities and the Alliance to complete this document. I encourage them to continue with their record of exemplary achievement. The *2008 Plan Update* embodies the long-term commitment to vision and stewardship for this premier ACEC – the Pleasant Bay.

  
for Ian A. Bowles

8/17/2010  
Date

Secretary of Energy & Environmental Affairs