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January 4, 2019

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

PROJECT NAME : Cape Cod Rail Trail Extension  
PROJECT MUNICIPALITY : Wellfleet  
PROJECT WATERSHED : Cape Cod  
EEA NUMBER : 15944  
PROJECT PROPONENT : Department of Conservation and Recreation (DCR)  
DATE NOTICED IN MONITOR : November 21, 2018

Pursuant to the Massachusetts Environmental Policy Act (MEPA; M.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** an Environmental Impact Report (EIR).

Project Description

As described in the Environmental Notification Form (ENF), the project consists of the construction of a 2.13-mile long extension of the Cape Cod Rail Trail (CCRT) between LeCount Hallow Road and Route 6 in Wellfleet. The paved multi-use trail is proposed to be 10 feet (ft) wide with two-ft wide grassed shoulders on either side. In order to provide access to four abutting single-family homes, a 12-ft wide gravel driveway is proposed to extend parallel to the proposed multi-use path north of LeCount Hallow Road for approximately 1,600 linear feet (lf). A five-ft revegetated shoulder with a cedar fence is proposed between the driveway and the multi-use path. Wooden guard rails are required in some locations along the path where grades moderately descend. Coir logs and/or biodegradable jute mesh will be utilized in combination with revegetation in select locations to stabilize denuded slopes. A new 0.3-acre access and parking area is proposed off of Route 6. The parking area will consist of 33

parking spaces, including two van accessible handicap spots, a retaining wall along the westerly boundary, and a subsurface drainage infiltration system. An area for benches, bike racks, and a porta-potty will be located at the trail connection off of the southerly end of the proposed parking area. Additionally, improvements to the existing parking lot off of LeCount Hollow Road are proposed. These include reconfiguration of the trailhead to facilitate bike/pedestrian flow along the eastern extent of parking lot before connecting to a new path extension and crossing at LeCount Hollow Road; a shift and expansion of the entrance to the LeCount Hollow Road parking to increase separation between vehicles and bikes/pedestrians; and a minimal shift and expansion of the existing paved parking spots.

I received several comments from individuals regarding safety of the proposed trail terminus and parking lot at Route 6. The CCRT is intended to ultimately connect with a proposed multi-use, shared path along Route 6 associated with the Massachusetts Department of Transportation (MassDOT) Route 6/Main Street Intersection Improvement Project (#3607397). MassDOT comments indicate that there it will continue to coordinate with DCR on the development of a safe connection between the trail terminus and the Route 6/Main Street project, which is currently at a 25 percent design level. Measures proposed to address safety concerns along the trail extension include signage and pavement markings at the crossings at LeCount Hollow Road and Old Kings Highway. Rapid flashing beacons, which will be activated by users through pushbuttons, will be installed at the LeCount Hollow Road crossing. DCR has reviewed comment letters, discussed concerns regarding safety with the Town and will continue to consult with MassDOT. If changes to the project are proposed that will improve safety and will not significantly increase environmental impacts, additional MEPA review will not be required; however, DCR should consult with the MEPA Office regarding any project changes.

### Project Site

The project is located on an approximately 85-ft wide DCR-owned Right-of-Way (ROW), a former railroad bed that extends for approximately 2.13 miles between LeCount Hollow Road and Route 6 in Wellfleet. The Cape Cod National Seashore (CCNS) is located to the north and east. For the majority of the ROW, a 125-foot wide overhead electric utility easement runs parallel to the proposed path between the DCR ROW and CCNS. The project is located within mapped *Estimated or Priority Habitat of Rare Species* as delineated by the Natural Heritage and Endangered Species Program (NHESP) in the 14<sup>th</sup> Edition of the Massachusetts Natural Heritage Atlas. A single isolated vegetated wetland (IVW) occurs within 100 ft of the proposed trail between LeCount Hollow Road and Route 6. Approximately halfway between LeCount Hollow Road and Route 6, the proposed trail abuts Paines Campground which was acquired by DCR in July 2018. The proposed parking area on Route 6 is located approximately 1,000 ft from the Wellfleet Harbor Area of Critical Environmental Concern (ACEC). The existing LeCount Hollow Road parking lot was reviewed as part of the 22-mile CCRT (EEA# 6348).

### Environmental Impacts and Mitigation

Environmental impacts associated with the project include the alteration of approximately 6.91 acres land, creation of an additional 3 acres of impervious area, and impacts to 6.2 acres of mapped *Priority Habitat*. The project will result in a Take of state-listed species. No direct impacts to wetlands are proposed; however, 3,300 square feet (sf) of the proposed work is located within buffer zone.

Measures to avoid, minimize and mitigate Damage to the Environment include implementation of an erosion and sediment control plan, invasive species management plan, and rare species conservation management plan.

#### Jurisdiction and Permitting

The project is undergoing MEPA review and requires an ENF pursuant to 301 CMR 11.03(2)(b)(2) because it requires a State Agency Action and will disturb greater than two acres of designated Priority Habitat that will result in a Take of a state-listed rare species. The project requires a Conservation and Management Permit issued by NHESP pursuant to the Massachusetts Endangered Species Act (MESA) and a State Highway Access Permit from MassDOT.

The project requires an Order of Conditions from the Wellfleet Conservation Commission. In the case of appeal(s), Superseding Orders of Conditions will be required from the Massachusetts Department of Environmental Protection (MassDEP).

MEPA jurisdiction extends to those aspects of the project that are within the subject matter of required or potentially required State Agency Actions and that may cause Damage to the Environment, as defined in the MEPA regulations. Because the project will include funding from DCR, MEPA jurisdiction is broad in scope and extends to all aspects of the project that may cause Damage to the Environment, as defined in the MEPA regulations.

#### Review of the ENF

The ENF provided a description of existing and proposed conditions, project plans, and identified measures to avoid, minimize and mitigate environmental impacts. To facilitate MEPA review, the Proponent provided an addendum to the ENF on December 13, 2018 which included an expanded alternatives analysis for parking, discussion of a future connection/extension of a path along Route 6, improvements and potential connections to Paines Campground, information on safety measures, and updates on consultations with NHESP. For purposes of clarity, references to the ENF in this Certificate include this supplemental information.

The Alternatives Analysis for the multi-use path included a No Build Alternative, two On-Road Alternatives, and the Preferred Alternative (as described herein). The No Build Alternative was dismissed because it would not meet the project's goals of constructing a shared, multi-use trail to extend the CCRT and would not expand connected pathways/greenways across Cape Cod. One On-Road Alternative would extend southwesterly from the LeCount Hallow Road parking lot, along LeCount Hallow Road to Route 6 and continue north. Heavy traffic and high vehicular speeds on Route 6 would create potential safety concerns. The ENF indicates that significant improvements such as roadway/shoulder widening and acquisition of land and/or easements along Route 6 and LeCount Hallow Road would likely be required. For these reasons, DCR dismissed this alternative. A second On-Road Alternative running easterly along LeCount Hallow Road and northerly along Ocean View Drive through CCNS was dismissed by DCR due to potential additional impacts to environmentally-sensitive areas and for similar safety and easement concerns identified above.

Alternatives to the proposed widths and design surfaces were also considered. A wider path and/or shoulder (e.g. 12- and 14-ft wide path and/or 5-ft wide shoulders) would provide greater level of

services for multiple uses and would result in greater land alteration and impacts to state-listed species habitats. A narrower trail (e.g. 8-ft wide path) would not substantially minimize impacts to state-listed species and their habitats and would not meet anticipated needs or accessibility requirements. Different surfaces (e.g. stone dust) would not reduce impacts and would increase maintenance costs over time.

As stated previously, the Proponent provided additional information on the alternatives considered for the proposed parking lot. According to the ENF, possible parking layouts and trail configurations are limited to the 85-ft wide corridor owned by DCR and flipping the location of the trail and the parking lot would not reduce impacts to land alteration. The Proponent asserts that 33 parking spaces represent the minimum needed for existing and projected trail use and therefore, a reduction in the number of spaces does not meet the project goals. Additional sites were considered for the location of the parking lot, including a crushed shell parking area located to the east of the trail terminus, an area off of Old King's Highway, and a location at Paines Campground. The adjacent parking area located at the Route 6 terminus was dismissed because it is not owned by DCR. Constructing a parking area off of Old Kings Highway would significantly increase the impacts to state-listed species habitat and it would be located approximately 1,000 ft short of the trail terminus. For these reasons, this alternative was dismissed. Parking at Paines Campground was dismissed to avoid increasing vehicular and foot traffic at the campground.

#### *Land / Rare Species*

A total of 6.91 acres will be altered (1.58 acres temporary, 5.33 acres permanent) and 3 acres of new impervious area will be created.

The project is located within mapped *Estimated or Priority Habitat of Rare Species* for the Eastern Box Turtle (*Terrapene carolina*) and Common's Panic Grass (*Dicanthelium ovale ssp pseudopubescens*). These species are protected under the MESA and its implementing regulations (321 CMR 10.00). Comments from NHESP state that the project will result in a Take of the Eastern Box Turtle due to the permanent loss of suitable habitats and interference with the feeding, breeding, sheltering, over-wintering and migratory activities of this species and of Common's Panic-grass due to the permanent loss of suitable habitat and the direct loss of known Common's Panic-grass individuals.

Projects resulting in a Take of state-listed species may only be permitted if the project and proposed mitigation meet the standards for issuance of a Conservation and Management Permit (CMP) (321 CMR 10.23). In order for a project to qualify for a CMP, the project proponent must (1) avoid and minimize impacts to state-listed species to the greatest extent practical, (2) demonstrate that an insignificant portion of the local population will be impacted or that no viable alternative exists, and (3) develop and implement a conservation and management plan that provides a long-term net benefit to the conservation of the local population of the impacted species. According to the ENF, consultations with the NHESP regarding a final CMP are on-going. Proposed mitigation measures for impacts to rare plants include the implementation of a NHESP-approved rare plant pre-construction transplantation/monitoring plan, a rare plant protection plan during construction, and a habitat management plan post-construction. Long-term net benefit for impacts to the Eastern Box Turtle may include off-site funding and/or habitat restoration, enhancement, and/or protection on DCR-owned lands containing known turtle populations. Comments from NHESP indicate that it is anticipated that the Project will meet the performance standards of a CMP.

### *Transportation*

Although the project will require a MassDOT Vehicular Access Permit to access the proposed parking area located on Route 6, it does not meet or exceed MEPA review thresholds for transportation. MassDOT comments indicate that the project is consistent with the joint vision and partnership with DCR and local communities to construct paths and provide connectivity to and through Cape Cod. As previously stated, MassDOT will be coordinating with DCR on a safe connection between the trail terminus and the Route 6/Main Street project. Any proposed mitigation within the state highway layout must be consistent with a Complete Streets design approach that provides adequate and safe accommodations for all roadway users, including pedestrians, bicyclists, and public transit riders. Guidance on Complete Streets design guidelines is included in the MassDOT *Project Development and Design Guide*. Where these criteria cannot be met, the Proponent should provide justification and should work with the MassDOT Highway division to obtain a waiver.

### *Wetlands/Stormwater*

No direct impacts to wetland resource areas are proposed; it will include approximately 3,300 sf of work within buffer zone. The Conservation Commission in Wellfleet will review the project to determine its consistency with the Wetlands Protection Act (WPA), the Wetlands Regulations (310 CMR 10.00), and associated performance standards, including the Stormwater Management Standards (SMS). MassDEP comments indicate that because construction activities will disturb more than 1 acre of land, a National Pollutant Discharge Elimination System (NPDES) Stormwater Permit for Construction Activities may be required.

### *Construction*

The project must comply with MassDEP Solid Waste and Air Pollution Control regulations, pursuant to M.G.L. c.40, s.54 during construction. All construction activities should be undertaken in compliance with the conditions of all State and local permits. The Proponent should incorporate measures to ensure compliance with the Massachusetts Idling Regulations including signage limiting idling to less than five minutes. I encourage the Proponent to require its construction contractors to use equipment manufactured to Tier 4 federal emission standards which are the most stringent emissions standards available for off-road engines. If equipment is not available in the Tier 4 configuration, the Proponent should consider equipment with after-engine emissions controls, such as oxidation catalysts or diesel particulate filters.

MassDEP comments recommend that the Proponent review the document “Best Management Practices for Controlling Exposure to Soil during the Development of Rail Trails” and consider adopting the relevant practices contained therein. The document summarizes Best Management Practices (BMPs) that should be considered before, during, and after former railroad lines are converted to recreation trails<sup>1</sup>. The BMPs have been developed to eliminate or minimize potential exposures to residual oil or hazardous materials commonly found along railroad rights-of-way being converted to rail trails. The document also identifies locations and conditions for which the application of BMPs alone may not be sufficiently protective of public health and the environment.

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<sup>1</sup> See <https://www.mass.gov/files/documents/2016/08/wm/railtrai.pdf>

Conclusion

The ENF has sufficiently defined the nature and general elements of the project for the purposes of MEPA review and demonstrated that the project's environmental impacts will be avoided, minimized and/or mitigated to the extent practicable. Based on review of the ENF and comments received, and in consultation with State Agencies, I have determined that no further MEPA review is required. The project may proceed to permitting.

As noted previously, DCR should consult with the MEPA Office regarding any project changes. If changes to the project are proposed that will improve safety and will not significantly increase environmental impacts, additional MEPA review will not be required.



January 4, 2019

Date

Matthew A. Beaton

## Comments received:

11/27/2018	Massachusetts Division of Marine Fisheries (DMF)
12/05/2018	Carol Magher
12/04/2018 & 12/05/2018	Rebecca Noble
12/09/2018	Audrey Haas
12/10/2018	Barbara and Robert Taylor
12/10/2018	David Drabkin
12/11/2018	Massachusetts Department of Environmental Protection – Southeast Region (MassDEP-SERO)
12/12/2018	Peter Noble
12/12/2018	Michael Farah
12/13/2018	Kathleen Bacon
12/14/2018	Richard Mazza
12/14/2018	Paul Messina
12/17/2018	Carol Magher (2)
12/19/2018	Jane Rainey
12/21/2018	Massachusetts Division of Fisheries and Wildlife's Natural Heritage and Endangered Species Program (NHESP)
12/21/2018	Andrew Freeman
12/24/2018	Cape Cod Commission
12/25/2018	Derek Oliver
12/26/2018	Doug Payson
12/26/2018	Jude Ahern
12/26/2018	Barbara and Robert Taylor (2)
12/26/2018	Massachusetts Department of Transportation (MassDOT)
12/26/2018	Daniel Hoort

EEA# 15944

ENF Certificate

January 4, 2019

12/26/2018

Martha Hevenor

12/30/2018

Stephen Oliver

MAB/ENS/ens