

**COMMONWEALTH OF MASSACHUSETTS  
BOARD OF UNDERWATER ARCHAEOLOGICAL RESOURCES  
MINUTES OF PUBLIC MEETING – 27 September 2012**

**MEMBERS PRESENT:** Michael Driscoll (Designee of Director of DCR Division of Waterways)  
Gary Duncan (Designee of Aaron Gross, Director of Environmental Law Enforcement)  
Terry French (Designee of John Warner, State Archivist)  
Lenny Loparto (Designee of Brona Simon, State Archaeologist)  
Graham McKay (Marine Archaeologist)  
Jonathan Patton (Designee of Brona Simon, Executive Director of the Massachusetts Historical Commission)  
Dan Sampson (Designee of Bruce Carlisle, Director of Coastal Zone Management)  
Victor Mastone, Director (Staff for the Board)

**MEMBERS ABSENT:** Marcie Bilinski (Dive Community Representative)  
Gary Murad (Dive Community Representative)

**PROCEEDINGS:**

The public meeting of the Massachusetts Board of Underwater Archaeological Resources was convened by the Director, Victor Mastone, at 1:35 PM on 27 September 2012 in the CZM Conference Room at 251 Causeway Street, Boston.

Victor introduced Graham McKay who was appointed by Governor Patrick as the Marine Archaeologist on the Board. He replaced Dr. Brendan Foley. Victor welcomed back Michael Driscoll who would be serving as the designee for DCR Division of Waterways and Gary Duncan who was filling in for John Tulik of Environmental Law Enforcement.

**1. MINUTES**

**A. Minutes of 31 May 2012**

Victor asked the Board if there were any comments or corrections to the minutes of the public meeting held on 31 May 2012. He noted that he had previously received comments and made those corrections to the draft minutes. There were no other comments or corrections.

Terry French moved to accept the minutes of the public meeting held on 31 May 2012. Dan Sampson seconded. Unanimous vote in favor. So voted.

**2. DIRECTOR'S REPORT**

**A. Bureau of Ocean Energy Management Massachusetts Wind Energy Area**

Victor stated that the Bureau of Ocean Energy Management (BOEM) had asked the Board to be a partner with them in their pilot study of the Massachusetts Wind Energy Area, south of Martha's Vineyard and Nantucket. Other partners include National Park Service, National Marine Sanctuaries, US Geological Survey, and the Mashpee Wampanoag Tribe. Vic said for the Board's part, he provided information and guidance on known shipwreck and aircraft sites, and technical guidance on paleo-landscape reconstruction and testing. Field investigation took place at the end of August/beginning of September; Victor said he was unavailable for that activity. He is waiting to see the results.

**B. National System of Marine Protected Areas Partnership Meeting**

Victor reported that he participated in the National System of Marine Protected Areas meeting of program partners in Silver Spring, Maryland, from June 12-14. The program partners include

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member sites managed by federal, tribal, state or local entities. The Board's Exempted Sites are member sites of the National System. A portion of this meeting was held jointly with the Federal Advisory Committee on Marine Protected Areas. There was a panel discussion on MPAs, Recreation and Tourism. Victor noted that all travel expenses were paid directly by NOAA's MPA Center.

**C. U.S. Coast Guard Collaborative Research**

Victor stated that he had been invited the Office of the Coast Guard Historian to be part of a collaborative research on lost historic Coast Guard vessels. This is building upon the approach and the team brought together for the Minot's Ledge Project. They are currently concentrating efforts on the search for the former revenue cutter Bear. After being sold out of service, it was lost on Brown's Bank in 1963. Vic gave a brief overview on the vessel's history.

**3. BOARD MEMBER REPORTS**

Lenny Loparto noted that October is Massachusetts Archaeology Month. He distributed posters and program of sponsored events.

**4. SUBCOMMITTEE REPORTS: OUTREACH**

**A. Bay State Council of Divers Meeting**

Victor reported that he attended the July 25<sup>th</sup> and the September 12<sup>th</sup> meetings of the Bay State Council of Divers. These meeting focused on the Bay State Council's Club Picnic/Treasure Hunt. The event was held on Sunday, September 25, 2011 at Stage Fort Park in Gloucester. Victor assisted at the registration table. There were approximately 100 people from a number of clubs in attendance, with nearly 50 divers in the diving and snorkeling competitions.

The next Council meeting is scheduled for November 14, 2012.

**B. New England Aquarium Dive Club**

Victor reported that he gave a presentation to the New England Aquarium Dive Club on the evening of July 18. The topic was the on-going investigation of the dugout canoes in Lake Quinsigamond.

**C. Archaeology Month 2010/Archaeology Fair**

Victor reported that October will be a busy month for the Board as it will be participating in several Archaeology Month programs including the Museum of Science/Archaeological Institute of America Archaeology Fair on October 19<sup>th</sup> and 20<sup>th</sup>. Victor said he was looking for assistance if anyone was interested. He noted that Board member Marcie Bilinski had assisted in the past.

**D. Governor Bellingham-Carey House**

Victor reported that he will be giving a presentation to the Governor Bellingham-Carey House in Chelsea on the evening of October 2, 2012. The topic will be the Battle of Chelsea Creek.

**4. OLD BUSINESS**

Victor stated the Board has a lengthy agenda to cover at this meeting. He noted two items on the agenda, Aqua Surveys and Dolan Research, did not need extensions as both projects were now completed.

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**A. Gary Esper**

Victor reported that the Board had received a letter from Gary Esper stating that he was surrendering his permit, no. 11-003, effective 14 August 2012. Victor noted Esper's research had concluded this unidentified vessel was a late nineteenth century coal schooner and not his vessel of interest. Esper's recent Annual Report and the report attached to his surrender letter serve to complete his permit obligations. No further action by the Board is necessary. Esper had taken this action so that there would be no question concerning his interest in this permit.

**B. Gary Esper and Alexander Bezkorovainy**

Victor reported that the permit held by Gary Esper and Alexander Bezkorovainy was up for renewal today. They had submitted their renewal application and annual report in conformance with the Board's regulations. Victor noted that both Gary Esper and Alex Bezkorovainy were currently at sea and could not in attendance at the Board.

Victor reported that the Board had received a letter from Gary Esper stating that he was removing his name as co-permittee on this jointly held permit. Esper took this action so that there would be no question concerning his interest in this permit. Victor had spoken with both Esper and Bezkorovainy regarding this change. Bezkorovainy had decided to continue with the project and renew permit. He has secured the services of the same project archaeologist, Robert Cembrola, and Project Conservator, Scot Herber, and he will be following the same work plan. Bezkorovainy has all the project data. There were no other changes, except for Esper's departure. Victor complimented Bezkorovainy for a thorough renewal application.

There was no further discussion.

Terry French moved to renew the Excavation Permit (06-002) held by Alexander Bezkorovainy for their Salem Sound site with all standard conditions in effect, and the further condition that the permittee submit, for approval by Board staff, a detailed plan for the selection, transportation, and conservation of any objects intended to leave the Commonwealth of Massachusetts, prior to undertaking such action. Graham McKay seconded. Unanimous vote in favor. So voted.

**C. Fathom Research LLC**

**1. New Bedford Harbor Superfund Site Pre-Dredging Archaeological Survey**

Victor stated that Fathom Research LLC had previously submitted its complete special use permit renewal application and Annual Report for the New Bedford Harbor Superfund Site Pre-Dredging Archaeological Survey (No. 11-004) after the deadline prescribed in the Board's Regulations. The Board had granted an extension of the permit until today's meeting. This is basically for archaeological monitoring during dredging and dredging is completed for this season.

No further discussion.

Lenny Loparto moved to renew, retroactive to 31 May 2012, Special Use Permit No 11-004 held by Fathom Research, LLC, for the New Bedford Harbor Superfund Site Pre-Dredging Archaeological Project. Jonathan Patton seconded. Unanimous vote in favor. So voted.

**2. Sengekontacket Pond Channel Dredging Project**

Victor reported that Fathom Research, LLC had not yet submitted a Special Use Permit renewal application and annual report for a marine archaeological reconnaissance survey as part of the Sengekontacket Pond Channel Dredging Project (10-002). He had recently spoken with David

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Robinson who requested an extension. Victor stated the survey was completed and the renewal request was for archaeological monitoring services. Vic noted that standard conditions include the need to submit the survey research design and methodology to the SHPO for review.

No further discussion.

Dan Sampson moved to extend the expiration date until the next meeting of the Board scheduled for November 29, 2012 for Special Use Permit No. 10-002 held by Fathom Research, LLC for the Sengekontacket Pond Channel Dredging Project area (as specified in the application) with all standard conditions in effect. Gary Duncan seconded. Unanimous vote in favor. So voted.

**3. Comcast Cable Project**

Victor reported that Fathom Research, LLC had not yet submitted a Special Use Permit renewal application for a marine archaeological reconnaissance survey as part of the Comcast Cable Project (11-005) running from West Falmouth to Tisbury in Vineyard Sound. He had recently spoken with David Robinson who requested an extension. Victor noted the Board and Massachusetts Historical Commission had only just received the draft report for review and comment.

No further discussion.

Graham McKay moved to extend the expiration date until the next meeting of the Board scheduled for November 29, 2012 for Special Use Permit No. 11-005 held by Fathom Research, LLC for the Comcast Cable Project area (as specified in the application) with all standard conditions in effect. Mike Driscoll seconded. Unanimous vote in favor. So voted.

**E. Philip D. Greco Associates, Inc.**

Victor reported that the Board had received, by hand, a letter from Philip Greco stating that he was surrendering his two reconnaissance permits, No. 92-001 and No. 92-002, effective 16 August 2012. Mr. Greco stated that his reasons were both business and personal affairs. In that letter, he stated his support for the application submitted by Gary Esper and has given Esper his records. Victor stated he spoken with both Mr. Greco and Mr. Weckler and they confirmed the letter and its intentions.

**F. John Milner Associates**

Victor noted that the Board received complete renewal applications from John Milner Associates (JMA) for the New Bedford South Terminal Infrastructure Project. JMA is the subcontracted to APEX for this project. JMA had previously identified two intact paleosols, one in each permit area. These permit renewals are for the archaeological monitoring services, as necessary, during the next phase of the terminal project.

**1. New Bedford Harbor South Terminal Infrastructure Subtidal Special Use Permit**

Gary Duncan moved to renew Special Use Permit No.10-005 held by John Milner Associates for the New Bedford South Terminal Infrastructure Project subtidal area, as specified in their application, with all standard conditions in effect. Dan Sampson seconded. Unanimous vote in favor. So voted.

**2. New Bedford Harbor South Terminal Infrastructure Intertidal Special Use Permit**

Graham McKay moved to renew Special Use Permit No. 10-006 held by John Milner for the New Bedford South Terminal Infrastructure Project intertidal area, as specified in their application, with all standard conditions in effect. Mike Driscoll seconded. Unanimous vote in favor. So voted.

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**3. Salem South River Dredging Special Use Permit**

Victor reported that JMA had submitted a revised scope of work related to Salem South River Dredging Project (No. 11-007). The revised scope was for additional coring in the proposed CAD cell area as requested by the Board and MHC. The fieldwork was conducted last week. Victor noted he met in the field with the JMA and Apex project staff on September 19 before they had completed sampling. He has not heard if anything additional was recovered from these cores.

**G. Harry Noyes and Gary Gianotti**

Victor reported that Harry Noyes and Gary Gianotti had not submitted a renewal application at this time. He had spoken to Mr. Gianotti who has requested an extension in order for them to submit their renewal application. In addition, Mr. Noyes had been ill most of the field season. The cannon remains in Vermont undergoing conservation treatment.

There was no further discussion.

Dan Sampson moved to extend the expiration date until the next meeting of the Board scheduled for November 29, 2012 for the Reconnaissance Permit No. 10-007 held by Harry Noyes and Gary Gianotti for their Marblehead Channel site with all standard conditions in effect. Gary Duncan seconded. Unanimous vote in favor. So voted.

**H. Restoration Project**

Victor stated that Restoration Project, Inc. had previously submitted its complete special use permit renewal application and Annual Report after the deadline prescribed in the Board's Regulations. The Board had granted an extension of the permit until today's meeting. Victor said he has received no additional information from the Restoration Project.

There was no further discussion.

Graham McKay moved to renew, retroactive to 31 May 2012, the Reconnaissance Permit No. 10-001 held by the Restoration Project, Inc. for its Willis Pond site in Sudbury with all standard conditions in effect. Mike Driscoll seconded. Unanimous vote in favor. So voted.

**I. Michael Jr. and Joseph Zdanowicz**

Victor reported that the permit held by the Zdanowicz brothers was up for renewal at today's meeting. They had submitted their renewal application and annual report in conformance with the Board's regulations. Victor reminded the Board the permit was initially granted in June 2011 at a special meeting. The Board had extended the permit's expiration date until today to place it in the regularly meeting schedule. He had not heard from the brothers, except for their submission.

There was no further discussion.

Mike Driscoll moved to renew Reconnaissance Permit No. 11-006 held by Michael, Jr., and Joseph Zdanowicz for their Beverly/Manchester-by-the-Sea site with all standard conditions in effect. Terry French seconded. Unanimous vote in favor. So voted.

**I. Underwater Discoveries Unlimited**

Victor reported that Mr. Snow had contacted him earlier in the summer to report on changing conditions at the site of the White Squall. He informed Vic that more of the wreck was visible and

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would be sending in some new images. Vic he received four images and distributed them to the Board.

**J. New Bedford Harbor Superfund Site Remediation**

Victor stated he wanted to update the Board as a follow-up to last meeting's discussion regarding the various isolated finds related to the New Bedford Harbor Superfund Site Remediation. He said he was informed by USEPA they would be ceasing dredge operations for the season and wanted to move forward with transferring items, particularly the admiralty anchor isolated find. Victor said he had spoken with the City of New Bedford Planning Department regarding transfer and custody of the anchor. As they agreed to submit an isolated find exemption application for the anchor, Victor was allowing them to take temporary custody of the anchor pending that application. The long-term intent of the City is to display and interpret the anchor, likely at the Whaling Museum.

**6. NEW BUSINESS**

**A. Fathom Research, LLC**

Victor reported that Fathom Research, LLC had submitted a Special Use Permit application for marine archaeological survey as part of the Route 9 Ken Burns Bridge Reconstruction Staging Area. The need to evaluate this area was inadvertently overlooked during previous phase of the project. These services will be provided by marine archaeologist, David Robinson. Victor stated the application meets the requirements specified in the Board's regulations and that he provisionally issued the permit on 29 June 2012. Victor noted that work has been completed and no sites were identified in the study area.

Jonathan Patton stated the SHPO has reviewed the results of this survey and the terrestrial survey as well.

Jonathan Patton moved to grant Fathom Research, LLC a Special Use Permit No. 12-002 for the Project area (as specified in the application) with all standard conditions in effect and the further condition that Fathom Research, LLC submit its survey research design and methodology to the State Historic Preservation Office (SHPO) for review. Terry French seconded. Unanimous vote in favor. So voted.

**B. Fathom Research, LLC**

Victor reported that Fathom Research, LLC had submitted a Special Use Permit application for marine archaeological survey as part of the USS Constitution berth rehabilitation. Victor noted the application meets the requirements specified in the Board's regulations and that he provisionally issued the permit on 29 June 2012. He noted that a portion of the project lies in state.

Victor said it was his understanding that the permittee has not submitted their survey research design and methodology to the State Historic Preservation Office (SHPO) for review. He noted there were issues between the US Navy the National Park Service regarding issuing orders to commence work. Waterside remote sensing took place on the 4<sup>th</sup> of July during the period the the USS Constitution was not at her berth. Jonathan Patton said they were still in consultation on this project and had not received anything. Victor said he would remind the permittee of this obligation.

Mike Driscoll moved to grant Fathom Research, LLC a Special Use Permit No. 12-003 for the Project area (as specified in the application) with all standard conditions in effect and the further condition that Fathom Research, LLC submit its survey research design and methodology to the State Historic Preservation Office (SHPO) for review. Gary Duncan seconded. Six votes in favor (Driscoll, Duncan, French, Loparto, McKay, and Sampson). One vote in opposition (Patton). No abstentions. The motion passes. So voted.

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**C. Public Archaeology Laboratory**

Victor reported that the Public Archaeology Laboratory had submitted a Special Use Permit application for archaeological inspection and monitoring related Taunton State Hospital Dam Removal Project. This work was stipulated under a Memorandum of Agreement governing the project. The Board is party to the MOA. Victor noted the application meets the requirements specified in the Board's regulations and that he provisionally issued the permit on 6 July 2012.

Jonathan Patton noted the State Archaeologist has issued a permit for this project.

There is no further discussion.

Jonathan Patton moved to grant the Public Archaeology Laboratory a Special Use Permit, No. 12-004, for the Taunton State Hospital Dam Removal Project area (as specified in the application) with all standard conditions in effect and the further condition that Public Archaeology Laboratory submit its survey research design and methodology to the State Historic Preservation Office (SHPO) for review. Mike Driscoll seconded. Unanimous vote in favor. So voted.

**D. Gary Esper**

Victor reported the Gary Esper had submitted an Excavation Permit for an area off Wellfleet/Eastham and a Reconnaissance Permit application for an area off Eastham. Both application are complete and in accordance with the Board's regulations. Mr. Esper could not be in attendance to present the application. The Project Archaeologist, Mr. Robert Cembrola, was planning to attend, but has not as yet shown up to represent Mr. Esper.

Victor said there were several issues he wanted to review before opening the discussion. Through emails, he asked Board members whether they would consider a discussion of the new permit application if the applicant could not be in attendance. He note that typically the Board requires new applicants or their representative to be present for the initial consideration. In this case, however, the Board has previously met the applicant, has a lot of familiarity with his research, his previous work products have been good, and he has been responsive to the Board. He said there was consensus among Board members that the Board could discuss and act on this application.

Victor noted that Esper submitted his application for roughly the same areas as previously held by Philip D. Greco Associates after Greco had surrendered the 2 permits. In surrendering his permits, Greco has supplied his remote sensing and other research records to Esper, given Esper explicit permission to use all his previous data, supports Esper's applications, and will serve as a consultant to the project. Victor then stated he had verbally confirmed this with both Mr. Greco and Mr. Weckler. Esper is using that magnetometer data as his demonstrable proof and copies of the survey were available at the meeting for Board member inspection. Victor reminded the Board this is similar to when Greco essentially took over Old Blue's permit areas in 1992 and the Magnifique Group (Cook and Morton) took over Blaszcak's permit area in 1991.

With respect to the permit areas being requested by Esper, they are not identical to those previously held by Greco. Victor said he told Mr. Esper the Board would not likely grant permit areas identical to those held by Mr. Greco's as those permit areas did not fully conform with current the buffer zone requirements. Both permit areas would need to be separated by the .2 nautical mile buffer zone unlike Greco's which were immediately adjacent to each other. Equally important would be that the demonstrable proof would need to support the areas being requested. Mr. Esper submitted permits areas that included the full buffer zones and justified by demonstrable proof. Further, the proposed northern boundary is further south of Greco's boundary creating a .4 nautical miles buffer to the area previously permitted to Maritime Underwater Surveys, the Whydah Project. Victor added that

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while this is not a recognized permit area by the Board, the Board endeavors to maintain a buffer zone separation as if it were a Board permitted area. Victor noted that any work within the buffer zones would require the prior permission of the Board. He distributed a map to the Board members depicting Greco's former permit areas and Esper's requested areas.

Victor summarized that the application has a thorough work plan and that Esper has both a Project Archaeologist and Project Conservator. Graham McKay asked if Greco had found anything. Victor said there were a number of anomalies, one of which he believe to be tin. Graham then asked if Greco had done any excavation. Victor said there was none and it could not be undertaken under a reconnaissance permit. Victor noted Greco had been doing mostly video survey of the area with the hope that favorable storm action might expose the anomalies.

Dan Sampson moved to grant an Excavation Permit No. 12-005 to Gary Esper for his Eastham/Wellfleet site with all standard conditions in effect, and the further condition that the permittee coordinate all field activities with the staff of the Cape Cod National Seashore. Mike Driscoll seconded. Unanimous vote in favor. So voted.

Mike Driscoll moved to grant a Reconnaissance Permit No. 12-006 to Gary Esper for his Eastham site with all standard conditions in effect and the further condition that the permittee coordinate all field activities with the staff of the Cape Cod National Seashore. Graham McKay seconded. Unanimous vote in favor. So voted.

Victor noted, with respect to the condition requiring the permittee coordinate all field activities with the staff of the Cape Cod National Seashore, the Board and the Seashore have begun discussion over the jurisdiction issue. The Board does not believe the Seashore has any jurisdiction over our permit areas in Wellfleet and Eastham as those towns did not cede that territory to the federal government. This issue has been raised again and both parties have turned to their respective legal counsels to review this issue. He noted the parties would like to come to an amicable agreement in this matter.

**E. Walter (Wally) Westphal**

Mr. Wally Westfall asked to address the Board regarding a project he was involved with in northern Florida. He said this involved the study of early colonial conflict between the Spanish and the French. This conflict resulted in the massacre of 300 French soldiers in the vicinity of the St. John's River near Jacksonville, FL. Victor reminded the Board that Wally has assisted the Board in the investigation of Heaton shipwreck in Boston Harbor.

Terry French moved to adjourn the meeting at 2:18 PM. Mike Driscoll seconded. Unanimous vote in favor. So voted.

Respectfully submitted,

Victor T. Mastone  
Director