

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOUTHEAST REGIONAL OFFICE
20 RIVERSIDE DRIVE, LAKEVILLE, MA 02347 508-946-2700

DEVAL L. PATRICK
Governor

IAN A. BOWLES
Secretary

TIMOTHY P. MURRAY
Lieutenant Governor

LAURIE BURT
Commissioner

OCT 11 2008

Richard Kleiman
LNR South Shore, LLC
1900 Crown Colony Drive, 4th Floor
Quincy, Massachusetts 02169

Jim Young
South Shore Tri-Town Development Corporation
223 Shea Memorial Drive
South Weymouth, Massachusetts 02190

Re: **Water Quality Certificate**
Application for: BRPWW 10
Major Project Certifications
Transmittal No. W228120

at: **Naval Air Station**
Weymouth, Massachusetts


Dear Mr. Kleiman and Mr. Young:

The Department has reviewed your application for Water Quality Certification, as referenced above. In accordance with the provisions of MGL c.21, §§ 26-53, Section 401 of the Federal Clean Water Act as amended (33 U.S.C. §1251 et seq.), and 314 CMR 9.00, it has been determined there is reasonable assurance the project or activity will be conducted in a manner which will not violate applicable water quality standards at 314 CMR 4.00.

The proposed project, the redevelopment of the former Naval Air Station, involves the development of a master-planned mixed use residential community consisting of housing, commercial, recreational and open space areas. As a result of this redevelopment project, approximately 13,950 square feet of isolated and bordering vegetated wetland will be altered at the project site. Of the total 13,950 square feet of wetland alteration, approximately 1,300 square feet will be a temporary alteration of vegetated wetland. In order to mitigate for the proposed loss of vegetated wetland, two separate wetland replication areas with a total amount of 38,000 square feet of created wetland is proposed as part of the mitigation planned for this site.

This information is available in alternate format by calling our ADA Coordinator at (617) 574-6872.

DEP on the World Wide Web: <http://www.state.ma.us/dep>

 Printed on Recycled Paper

In addition to the proposed wetland replication areas, an existing wetland crossing identified as "Old Swamp River Culvert" is proposed to be removed and replaced with a bridge crossing. This will result in the restoration of approximately 10,540 square feet of river substrate. Although bank rip rap is proposed within an Outstanding Resource Water, this reconstruction project will result in an overall increase of wetland resource area. This reconstruction is allowed under 314 CMR 9.06(3)(b) and (c). Also, a portion of the West Branch of French's Stream that flows through a culvert is proposed to be 'daylighted', where an 800-foot section of culvert will be removed and the stream restored to more natural conditions.

These findings for the proposed Naval Air Station redevelopment project have been prepared in accordance with the provisions of M.G.L. c. 30, section 61 and 301 CMR 11.00. On July 18, 2007, the Secretary of Environmental Affairs, Ian A. Bowles, issued a certificate (EOEA #11085R) stating that the project's Final Environmental Impact Report dated June 11, 2007, complied with the Massachusetts Environmental Policy Act statute and regulations. A description of the potential impacts is described in this cover letter and in the Water Quality Certificate application. A description of the mitigation measures is included in this Water Quality Certificate.

Therefore, based on information currently in the record, the Department grants a Water Quality Certification for this project subject to the following conditions to maintain water quality, to minimize impact on waters and wetlands, and to ensure compliance with appropriate state law:

1). All work shall comply with plans entitled:

-Naval Air Station Development Project Plan List [Sheet 1 of 44] dated 06/27/08; Naval Air Station Development Project Existing Conditions Key Plan [Sheet 2 of 44] dated 06/27/08; Naval Air Station Development Project Existing Conditions [Sheets 3 through 7 of 44] dated 06/27/08; Naval Air Station Development Project Overall Proposed Layout Key Plan [Sheet 8 of 44] dated 06/27/08; Naval Air Station Development Project Proposed Layout [Sheets 9 through 13 of 44] dated 06/27/08; Naval Air Station Development Project Wetland Impact Areas B & C [Sheet 14 of 44] dated 06/27/08; Naval Air Station Development Project Wetland Impact Areas D & E [Sheet 15 of 44] dated 06/27/08; Naval Air Station Development Project Wetland Impact Area I [Sheet 16 of 44] dated 06/27/08; Naval Air Station Development Project Wetland Impact Area I (Cross Section) [Sheet 17 of 44] dated 06/27/08; Naval Air Station Development Project Wetland Impact Areas F & N [Sheet 18 of 44] dated 06/27/08; Naval Air Station Development Project Wetland Impact Area N (Cross Section) [Sheet 19 of 44] dated 06/27/08; Naval Air Station Development Project Wetland Impact Area K (with crossing detail) [Sheet 20 of 44] dated 06/27/08; Naval Air Station Development Project Wetland Impact Area L (with crossing detail) [Sheet 21 of 44] dated 06/27/08; Naval Air Station Development Project Wetland Impact Area M [Sheet 22 of 44] dated 06/27/08; Naval Air Station Development Project Wetland Impact Area O [Sheet 23 of 44] dated 06/27/08; Naval Air Station Development Project Wetland Impact Areas P & Q [Sheet 24 of 44] dated 06/27/08; Naval Air Station Development Project West Branch French's Stream Daylighting [Sheet 25 of 44] dated 06/27/08; Naval Air Station Development Project West Branch French's Stream Daylighting (Cross Section) [Sheet 26 of 44]; Naval Air Station Development Project Old Swamp River Culvert [Sheet 27 of 44] dated 06/27/08; Naval Air Station Development Project Old Swamp River Culvert (Cross-Section) [Sheet 28 of 44]; Naval Air Station Development Project Proposed Wetland Replication Area 1 [Sheet 29 of 44]

dated 06/27/08; Naval Air Station Development Project Proposed Wetland Replication Area 1 Plant List [Sheet 30 of 44] dated 06/27/08; Naval Air Station Development Project Proposed Wetland Replication Area 2 [Sheet 31 of 44] dated 06/27/08; Naval Air Station Development Project Proposed Wetland Replication Area 2 Planting Details [Sheet 32 of 44] dated 06/27/08; Naval Air Station Development Project Wetland Replication Areas 1 & 2 Planting Details [Sheets 33 through 35 of 44] dated 06/27/08; Naval Air Station Development Project Wetland Replication Areas 1 & 2 Specifications [Sheets 36 through 38] dated 06/27/08; Naval Air Station Development Project General Construction Sequencing [Sheet 39 of 44] dated 06/27/08; Naval Air Station Development Project Erosion Control Typicals [Sheets 40 through 44 of 44] dated 06/27/08.

-Wetland Replication Plan [Pages 1 through 6]; Water Quality Certification Application.

-Stream Restoration [Section 02485]: [Pages 1 through 10]; dated June 27, 2008.

-Naval Air Station Development Project; Final Environmental Impact Report—Stormwater/Section 8.0 - 8.9.

-Dewatering Specifications [Section 02140]; Pages 1 through 7.

2). Prior to commencement of any work at the site, erosion control measures [staked hay bales combined with siltation fencing] shall be utilized as shown in above-referenced plans. The erosion control barriers shall be maintained until all disturbed areas have been stabilized.

3). The seasonal elevation of ground water must be verified in the wetland replication areas once the proposed replication areas have been excavated to base grade. The wetland base grade shall be established prior to or simultaneous with construction of the proposed access road. If the seasonal high ground water is not present at or within sufficient depth to support wetlands vegetation, then the applicant will be required to create a perched condition, or substantiate elevation of ground water at another upland location suitable for the required wetland replication.

4). The proposed wetland replication area as shown on above-referenced plans above shall be 75% established within two growing seasons pursuant to the Massachusetts Wetlands Protection Act regulations [310 CMR 10.55(4)(b)(6)]. The Department may impose additional conditions to ensure the success of the replicated wetlands.

5). All disturbed or exposed soil surfaces described by this application shall be temporarily stabilized within thirty (30) days of disturbance or exposure, with hay, straw, mulch or any other protective covering and/or method approved by the U.S. Department of Agriculture, Natural Resource Conservation Service, to prevent erosion from taking place.

6). The applicant shall notify the Southeast Region's Division of Wetlands and Waterways in writing of any proposed changes in plans affecting waterways or wetlands. The Southeast Region's Division of Wetlands and Waterways shall make a determination as to whether the proposed changes require a revision to this certification.

7). Prior to the discharge of any fill in wetlands, plans as referenced above shall be finalized and stamped by a registered professional engineer and submitted to this office. The combined amount of permanent and temporary alteration to both isolated and bordering vegetated wetland as described by this application is 13,950 square feet. This amount of 13,950 square feet is the maximum amount of wetland alteration allowed by this permit.

8). In accordance with 314 CMR 9.06(6), stormwater discharges to Outstanding Resource Waters shall be removed or set back from the receiving water or wetland, and provided the highest and best practical method of treatment.

9). All stormwater discharges shall comply with the Department's Stormwater Management Standards set forth under 314 CMR 9.06(6)(a).

This certification does not relieve the applicant of the obligation to comply with other appropriate local, state or federal statutes or regulations. The Applicant is reminded that they are required to comply with the U.S. Army Corps of Engineers Programmatic General Permit including all requirements and conditions of the general permit.

No activity may begin prior to the expiration of the appeal period or until a final decision is issued by the Department if an appeal is filed. Failure to comply with this certification is grounds for enforcement, including civil and criminal penalties, under MGL c.21 §42, MGL c.21A §16, 314 CMR 9.00, or other possible actions/penalties as authorized by the General Laws of the Commonwealth.

A) Appeal Rights and Time Limits

Certain persons shall have a right to request an adjudicatory hearing concerning certifications by the Department when an application is required: (a) the applicant or property owner; (b) any person aggrieved by the decision who has submitted written comments during the public comment period; any ten (10) persons of the Commonwealth pursuant to M.G.L. c.30A where a group member has submitted written comments during the public comment period; or (d) any governmental body or private organization with a mandate to protect the environment which has submitted written comments during the public comment period. Any person aggrieved, any ten (10) persons of the Commonwealth, or a governmental body or private organization with a mandate to protect the environment may appeal without having submitted written comments during the public comment period only when the claim is based on new substantive issues arising from material changes to the scope or impact of the activity and not apparent at the time of public notice. To request an adjudicatory hearing pursuant to M.G.L. c.30A, § 10, a Notice of Claim must be made in writing, provided that the request is made by certified mail or hand delivery to the Department, with the appropriate filing fee specified within 310 CMR 4.10 along with a DEP Fee Transmittal Form within twenty-one (21) days from the date of issuance of this Certificate, and addressed to:

Docket Clerk
Office of Administrative Appeals
Department of Environmental Protection
One Winter Street, 3rd Floor
Boston, MA 02108.

A copy of the request shall at the same time be sent by certified mail or hand delivery to the issuing office of the Wetlands and Waterways Program at:

DEP Southeast Regional Office
20 Riverside Drive
Lakeville, MA 02347

B) Contents of Hearing Request

A Notice of Claim for Adjudicatory Hearing shall comply with the Department's Rules for Adjudicatory Proceedings, 310 CMR 1.01(6), and shall contain the following information pursuant to 310 CMR 9.10(3):

- (a) the 401 Certification Transmittal Number and DEP Wetlands Protection Act File Number;
- (b) the complete name of the applicant and address of the project;
- (c) the complete name, address, and fax and telephone numbers of the party filing the request, and, if represented by counsel or other representative, the name, fax and telephone numbers, and address of the attorney;
- (d) if claiming to be a party aggrieved, the specific facts that demonstrate that the party satisfies the definition of "aggrieved person" found at 314 CMR 9.02;
- (e) a clear and concise statement that an adjudicatory hearing is being requested;
- (f) a clear and concise statement of (1) the facts which are grounds for the proceedings, (2) the objections to this Certificate, including specifically the manner in which it is alleged to be inconsistent with the Department's Water Quality Regulations, 314 CMR 9.00, and (3) the relief sought through the adjudicatory hearing, including specifically the changes desired in the final written Certification; and
- (g) a statement that a copy of the request has been sent by certified mail or hand delivery to the applicant, the owner (if different from the applicant), the conservation commission of the city or town where the activity will occur, the Department of Environmental Management (when the certificate concerns projects in Areas of Critical Environmental Concern), the public or private water supplier where the project is located (when the certificate concerns projects in Outstanding Resource Waters), and any other entity with responsibility for the resource where the project is located.

C) Filing Fee and Address

The hearing request along with a DEP Fee Transmittal Form and a valid check or money order payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100) must be mailed to:

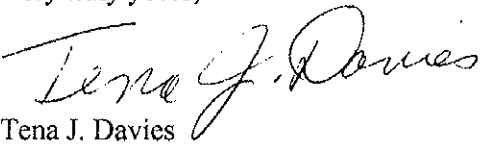
Water Quality Certificate
Transmittal No. W228120
Naval Air Station Development Project

Commonwealth of Massachusetts
Department of Environmental Protection
Commonwealth Master Lockbox
P.O. Box 4062
Boston, Massachusetts 02211

The request will be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver. The filing fee is not required if the appellant is a city or town (or municipal agency), county, or district of the Commonwealth of Massachusetts, or a municipal housing authority. The Department may waive the adjudicatory hearing filing fee pursuant to 310 CMR 4.06(2) for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file an affidavit setting forth the facts believed to support the claim of undue financial hardship together with the hearing request as provided above.

If you have further questions on this decision, please contact Gary Makuch at (508) 946-2807.

Very truly yours,


Tena J. Davies
Bureau of Resource Protection

D/GJM/gjm

cc: Weymouth Conservation Commission

Abington Conservation Commission

Rockland Conservation Commission

U.S. Army Corps of Engineers
Regulatory Section
696 Virginia Road
Concord, MA 01742-2751