

July 16, 2001

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS  
ON THE  
FINAL AREA-WIDE ENVIRONMENTAL IMPACT REPORT

PROJECT NAME : Massachusetts Military Reservation  
Master Plan  
PROJECT MUNICIPALITY : Bourne, Falmouth, Mashpee, Sandwich  
PROJECT WATERSHED : Cape Cod  
EOEA NUMBER : 5834  
PROJECT PROPONENT : Massachusetts National Guard  
DATE NOTICED IN MONITOR : June 9, 2001 (originally noticed  
May 23)

As Secretary of Environmental Affairs, I have reviewed the Final Area-Wide Environmental Impact Report (FEIR) submitted on this project and find that it **adequately and properly complies** with the Massachusetts Environmental Policy Act (MEPA, M.G.L. c. 30, ss. 61-62H) and with its implementing regulations (301 CMR 11.00).

Upon reviewing the document before me and the public comments, I find that the substantive discussion of alternatives, impacts, and mitigation meets the requirements of MEPA. In particular, the EPS have progressed considerably since the DEIR, and they now meet or (in some cases) exceed the applicable statewide regulatory standards. But as I have stated in previous Certificates, issues of management and oversight, while generally outside of the purview of the MEPA process, are central to ensuring the future protection of this resource. The standards that the FEIR sets forth by which environmental performance will be measured at the MMR are intimately linked to who will be monitoring and overseeing that performance.

Therefore, my finding of adequacy is premised on the

condition that the proponent and the U.S. Department of the Army will execute an enforceable management agreement that embodies the Guiding Principles agreed to by Governor Jane Swift and Deputy Assistant Secretary of the Army Ray Fatz (a copy of the Principles is attached to this Certificate). Without an enforceable management agreement, the review and mitigation of future impacts is open to question, and there cannot be final closure on this MEPA review.

While the management discussions are proceeding, the proponent shall prepare and make available an Informational Supplement that contains further revisions to the EPS and the State of the Reservation scope, and a revised Section 61 Finding containing all applicable mitigation commitments. The proponent cannot adopt its final Section 61 Findings, and none of the proposed projects may commence, until the management agreement is executed. The ongoing discussions on management are targeted to conclude by September 30. If the management agreement has not been executed by that date, a Notice of Project Change (NPC) will be required and additional MEPA review may ensue.

#### MANAGEMENT OF THE MMR

Many, perhaps most of the commenters on the FEIR, as on previous MEPA filings for MMR, have focused on how the northern 15,000 acres will be managed, and how the guiding principles of the Environmental Performance Standards will be implemented and enforced. I have received many letters urging me to find the FEIR inadequate solely on the grounds that a final management structure is not yet in place.

My finding of adequacy on the DEIR was premised on the assumption that a new management structure would shortly be in place. Since then, the U.S. Department of the Army and the National Guard Bureau in Washington have joined the management discussions. Under the Guiding Principles now agreed to by the federal parties, an oversight body of state environmental agencies will be established. The environmental oversight body will be assisted by an independent Scientific and Technical Advisory Board, as suggested by the Community Working Group (CWG), and by an advisory body representing the affected communities and the general public. All environmental impacts associated with military training will be monitored and reported regularly (including through the annual State of the Reservation reports required under MEPA) to the oversight and advisory bodies. The environmental oversight agencies and the Scientific

and Technical Advisory Board will need to have the ability to verify independently the results of environmental monitoring. When the monitoring shows adverse environmental impacts, military and/or civilian activities will be adjusted accordingly.

Only through implementation of these Principles can we be sure that the work of the CWG and the results of the MEPA process have been carried out. That is why my finding of adequacy today is strictly conditioned on the execution of an enforceable management agreement that embodies the Guiding Principles.

#### HISTORY OF MEPA REVIEW

Since this MEPA review began in 1986, the project has been transformed from a major physical expansion of military facilities within MMR, to a comprehensive land use plan for the entire Reservation that adheres to the key principles of the CWG: that the northern 15,000 acres should be set aside for permanent protection of water supplies, wildlife habitat, and open space, while allowing compatible military training.

State-level environmental impact review of the Massachusetts Military Reservation (MMR) began with the filing of an Environmental Notification Form in 1986 describing 58 separate projects. A Certificate was issued requiring the preparation of an Environmental Impact Report (EIR) and defining the scope for that report. The EIR was never filed.

In December 1992 a Notice of Project Change (NPC) was filed that reduced the number of projects to 17. In October 1994, the proponent filed another NPC that further reduced the number of projects to ten: six Army Guard projects and four Air Guard projects. Following these filings, a new Certificate was issued in December 1994 that redefined and refocused the scope to include the Air Guard projects and the cumulative effects of all activities on the base. In December 1996, a Draft EIR was filed in response to that scope. In April 1997, a Certificate found that the DEIR did not adequately address the issues required by the scope.

By the spring of 1997, it had become clear that the MEPA review process for MMR would have to be entirely refashioned if it was to produce a vision for the long-term use of the base that

fully reflected community concerns and ensured the protection of the water supply. The May 1997 Certificate created a new Special Review Procedure (SRP) for the project. The SRP also required the selection of the Community Working Group (CWG), which includes representatives of the four affected communities, the Cape Cod Commission, and the branches of the military. In June 1998, Governor Cellucci directed the Army Guard to withdraw the five remaining proposed projects within the northern 15,000 acres.

After a lengthy, comprehensive, and open public process, in September 1998 the CWG issued and adopted its Master Plan Final Report. The CWG Master Plan divides MMR into two primary land use zones. Within the northern 15,000 acres of the Reservation, permanent protection for water supply, wildlife, and open space is paramount, while compatible military training may continue. The Cantonment Zone, comprising 5,000 acres in the southern portion of the base, is identified as the appropriate location for new military and civilian development projects. Following the issuance of the report, the scope for the Guard's Area-wide EIR was issued in January 1999. The Draft Area-wide EIR was found adequate in October 1999. In both the scope and the DEIR Certificate, I expressly stated that the CWG Master Plan would provide the foundation for all ongoing and future planning efforts at the Reservation.

The Special Review Procedure has also allowed for the accelerated review of certain projects and activities at MMR, prior to the completion of the Guard's EIR. In particular, separate MEPA review has been authorized for the development by the U.S. Army Corps of Engineers of a new three million gallon/day regional water supply (EOEA #12277). A Phase I waiver was issued in September 2000 that allowed the start of physical construction, and I expect the full EIR to be submitted in the near future.

As in earlier Certificates, I want to restate that MEPA jurisdiction, and hence the obligations of the National Guard, do not extend to areas of MMR under direct federal control, including the PAVE PAWS site, the Coast Guard transmitters and housing, and the Veterans Administration cemetery. MEPA review is distinct from any federal requirements arising under the National Environmental Policy Act (NEPA).

## CONTENT OF THE FEIR

My DEIR Certificate focused the content of the FEIR upon the following four issues:

- To refine the analysis of training alternatives within the northern 15,000 acres.
- To work with a task force of environmental agencies to revise the Environmental Performance Standards (EPS).
- To develop a master plan for the Cantonment to guide current and proposed National Guard and civilian activities and development projects.
- To develop a proposed scope of the monitoring and research activities that will be contained in the first annual State of the Reservation report.

As discussed in more detail below, I have found the analysis of the FEIR generally adequate in each of these four areas. However, in order to ensure the best possible outcome, I am requiring the filing of an Informational Supplement that contains further revisions to the EPS and the State of the Reservation scope, and a revised Section 61 Finding containing all applicable mitigation commitments. This Informational Supplement shall be submitted to the MEPA Office and all commenters on the FEIR no later than August 15, a notice of its availability shall be published in the *Environmental Monitor*, and public comments on the document will be received for at least 30 days.

## ALTERNATIVES ANALYSIS

The DEIR identified a preferred alternative that would continue certain military training activities in the Reserve area, while committing to a permanent ban on the most harmful training activities, including artillery and mortar fire, demolition training, artillery bag burning, use of lead bullets, field latrines, and vehicle maintenance and refueling. As required in the DEIR Certificate, the ban on these activities has now been written into the EPS.

I found that the DEIR presented an adequate case for the contention that it was not feasible to relocate all military training activities outside of the Reserve. As required, the FEIR analyzes several variants on the preferred alternative. In each case, the impacts are properly compared to the baseline of current activity levels - not against a baseline of no military activity at all.

The FEIR commits to limiting the use of tired vehicles to existing roads, and to limiting the use of tracked vehicles to existing unimproved trails. (The EPS contain further conditions on road and trail use.) The FEIR also describes limited feasible relocations of two-week annual training programs off-site, and it describes current and potential simulation training within the Cantonment. The FEIR has demonstrated to my satisfaction that the relocation of bivouac activities to the Cantonment is not feasible. However, to protect the most sensitive resources, the EPS require that no existing or new bivouac areas will be located within the Zone I of any water supply well, or within 500 feet of any wetland.

As discussed below, the annual State of the Reservation reports must report on off-site as well as on-site training, and on the status of mitigation measures arising out of the FEIR, including road and track restrictions, relocations, and restoration, new simulation activities, and relocation of bivouacs.

#### CANTONMENT AREA MASTERPLAN

The environmental masterplanning issues affecting the Cantonment area are very different from those affecting the northern 15,000 acres. The Cantonment contains the 2,692 acre Otis Air Base, home of the 102nd Fighter Wing of the Air Force National Guard; 697 acres of land controlled by the Army National Guard; the 936 acre U.S. Coast Guard facility, which contains family housing, support facilities, and a nine hole golf course; the 749 acre Veterans Administration cemetery; and 662 acres of grasslands wildlife habitat outside the Air Base. In addition, the Cantonment is the location of three Town of Bourne public schools, a regional solid waste transfer facility, and the proposed new Barnstable County Jail (EOEA #11361R).

The CWG Masterplan identified the Cantonment as the appropriate focus for more intensive activities and development projects, both military and civilian. The FEIR provides masterplan level of detail on current proposed military land uses by the Army and Air Guards, and it describes uses by the Coast Guard and other parties outside MEPA jurisdiction. The FEIR shows that proposed land uses are generally compatible with resource protection, and that the existing infrastructure of the Cantonment is adequate for current uses. However, as noted in the DEP comment letter, the MMR wastewater treatment system is

nearing its capacity. Review and permitting of any expansion in this system will need to demonstrate consistency with the FEIR, and it will need to consider the secondary growth impacts of any increased capacity.

As noted in the DFW comment letter, a large portion of the Cantonment provides grassland habitat for two state-listed rare species, the Grasshopper Sparrow and the Upland Sandpiper. This habitat is now at risk because the Air National Guard has not performed any habitat management for more than a decade in this area. To complete the MEPA process, the Air Guard must commit to begin implementing its grasslands management plan.<sup>1</sup> This commitment must be incorporated into the revised Section 61 Findings and into the INRMP for the Air Guard lands.

Of the three proposed projects within the Cantonment, comments have focused upon the Unit Training Equipment Site Facility (UTES) proposed for the 3600 area. This location, which was identified as a potential alternative in the CWG Master Plan, lies outside the northern 15,000 acres, but within a Zone II for two Bourne wells. So long as the UTES is restricted to maintenance and storage of vehicles and there is no bulk storage of fuels, this project may proceed to final site design upon the adoption of the Section 61 Findings.

#### ENVIRONMENTAL PERFORMANCE STANDARDS

The Environmental Performance Standards (EPS) contained in the FEIR will provide a key link between the MEPA review process and the parallel development of a permanent management and oversight structure. Effective monitoring and reporting of activities will ensure compliance with the EPS, and the adjustment of training activities if adverse environmental impacts are revealed in the future.

In the DEIR certificate I required specific changes to the EPS, including:

- Incorporating the permanent ban on certain training activities;
- Treating the entire 15,000 acres as a potential zone II for public water supply wells; and

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<sup>1</sup> Funding constraints do not excuse failure to implement this important environmental mitigation program - particularly since the Massachusetts Port Authority has committed to fund an initial 150 acres of habitat restoration at MMR, as off-site mitigation for EOE #10458.

- Incorporating all regulatory standards arising out of the MOU dated January 27, 1997, and the associated Groundwater Protection Policy.

The DEIR Certificate also required that the MNG engage in a consultation process with an inter-agency task force comprised of DEP, DEM, DFW, the MDC, and the CCC. This task force has met regularly since last fall, and I want to thank its members for all their hard work.

The EPS have progressed considerably since the DEIR. They now meet or (in some cases) exceed the applicable statewide regulatory standards. Notably, the EPS now prohibit any new or existing bivouac areas or roads within the Zone I of any water supply well, and within a 100-foot buffer around all wetlands (including vernal pools). Within a 500-foot buffer around all wetlands, bivouac areas are prohibited, and most roads will be seasonally closed during the rare species breeding season (March 1 - June 15). Because vernal pools comprise so much of the wetlands at MMR, the proponent must commit to seeking certification for all pools as they are identified.

The Informational Supplement shall include the final revision of the EPS. In particular, the wildlife habitat standards of the EPS shall be coordinated with the Sykes Act process (see below), and the EPS shall ensure that there is no long-term storage or permanent disposal of any solid or hazardous material and waste within the 15,000 acres.

#### ANNUAL REPORTS

The DEIR Certificate required the MNG to file an annual "State of the Reservation" report. The FEIR contains a draft scope for the contents of the first Annual Report. A number of commenters have suggested that the State of the Reservation report would be most valuable if the monitoring and reporting were directly tied to the EPS, so that one could directly measure environmental performance against the goals set forth in the EPS and the EIR. I endorse these suggestions. A revised scope shall be contained in the Information Supplement, which should contain the following elements:

- Reporting on levels of training and range area usage (including usage levels for civilian activities)
- Describing the range of resource management activities
- Reporting on environmental indicators for training



activities (including a separate section for each of the 18 specific resource performance standards for the Camp Edwards Training Area). Environmental performance shall be quantified and/or mapped whenever possible - the revised scope shall identify proposed indicators for each standard.

- Coordination with other activities and projects (summarize status of the regional water supply and other projects undergoing separate MEPA review, and of remediation activities within the IRP and the Impact Area Groundwater Study).
- ENF filings for proposed new National Guard projects within MMR, when required.
- Mitigation status tracking for all MEPA projects.

Information on levels of training and environmental impacts is best understood not for individual years, but rather in the context of long-term trends. Therefore, in each report major categories of information should be reported for the past five years whenever such data is available.

The first Annual Report should be submitted to the environmental oversight agencies, the scientific and public advisory entities, and the MEPA Office within twelve months of the execution of the management agreement (or upon a schedule mutually agreed to by EOEAs and the Guard). A notice of the availability of each report shall be published in the *Environmental Monitor*, and the executive summary shall be made available on the proponent's web site.

#### OTHER ISSUES

##### Future MEPA Project Reviews

Upon the execution of the management agreement, the adoption of Section 61 Findings, and the completion of the grasslands plan, MEPA review of the masterplanning project shall be deemed complete, and the two airfield projects and the UTES may proceed to project permitting and other final agency actions.

Within the Cantonment, future projects and activities shall only be subject to MEPA review if they exceed a stand-alone review threshold set forth in Section 11.03 of the MEPA

Regulations. Any ENF or EIR for a future project must describe the project's consistency with the FEIR Masterplan.

Within the 15,000 acres, MEPA review shall be required for future projects and activities that exceed a stand-alone review threshold set forth in Section 11.03 of the MEPA Regulations. In addition, the filing of an ENF shall be required for military or civilian projects within the northern 15,000 acres consisting of any new or expanded building or structure, paved or improved roadway, or wastewater infrastructure. The Informational Supplement shall also identify appropriate review thresholds within the 15,000 acres for new impervious surfaces and new vegetative clearing or other land alterations. These lowered thresholds shall not apply to water supply or environmental remediation, restoration, and mitigation projects (such as controlled burns).

I suggest that each annual State of the Reservation report should contain the ENF analysis of all projects proposed for the upcoming year. This will ensure that environmental review of future projects occurs in the context of basewide monitoring and reporting.

#### Section 61 Findings

The FEIR contains proposed Section 61 Findings that detail the enforceable mitigation commitments arising from this MEPA review process, including a description of each proposed action, its timing, and the party responsible.

#### Coordination with Sykes Act

Independent of their obligations under MEPA, both the Army and the Air Guards are required by Federal law (the Sykes Act) to undertake a range of environmental planning and performance measures with respect to MMR. The Army Guard and the Air Guard must each complete an Integrated Natural Resources Management Plan (INRMP) for the lands controlled by each agency by November 2001. Both documents must incorporate the enforceable standards of the final EPS and Section 61 Findings and all other applicable provisions of the FEIR.

July 16, 2001  
Date

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Bob Durand, Secretary

Comments received :

Appleton, Warren  
Association for the Preservation of Cape Cod  
Birdsey, Charles and Barbara  
Bleicken, Eric  
Boyd, Lisa  
Buessler, Wendi  
Cape Cod Chamber of Commerce  
Cape Cod Commission  
Cape Cod Group of the Sierra Club  
Chin, Helen  
Citizens United for MMR Watershed and Wildlife Refuge  
Clarke, Robin  
Cole, Lawrence  
Community Working Group  
Cormier, Al  
Crocker, Jean  
Crocker, Merle  
Davis, Phyllis  
DeMuth, Anne  
Department of Environmental Management  
Department of Environmental Protection  
Department of Fisheries & Wildlife  
Department of Food and Agriculture  
Department of Public Health  
Duquet, Ernest  
FMMR, PACERS, STRONG  
Foster, Matthew  
Herbst, Ralph  
International Fund for Animal Welfare  
Jacobson, Alan  
Jaworski, Walter  
Jones, Stan  
Judge, Richard and Sharon  
Hughes, Richard

King, Maria  
Kinney, James  
Kleekamp, Charles  
LaFleur, Barbara  
League of Barnstable County Sportsman's Clubs  
League of Women Voters of Falmouth  
League of Women Voters of Massachusetts  
League of Women Voters of the Cape Cod Area  
Lyons, Paul  
Manire-Gatti, Eleanor  
Mashpee Environmental Coalition  
Massachusetts Audubon Society  
Massachusetts Sportsmen's Council, Inc.  
Murphy, Elizabeth  
Murphy, Robert  
Murray, Martha  
Orenda Wildlife Land Trust  
Otis Fish and Game Club  
PACERS  
Palmer, David  
Perkins, Beatrice  
Phillips, Susan  
Pineyro, Sandra  
Representatives Provost and Turkington  
Richards, Peter  
Rigoli, Mary  
Roach, Marilynne  
Rosenberg, Beth  
Sandwich Director of Planning and Development  
Schlesinger, Peter  
Senator O'Leary  
Sinclair, Harry  
Southeast Wildlife District - DF&W  
Souza, Teresa  
Spellman, Michael  
Stetson, Judith  
The Compact of Cape Cod Conservation Trusts, Inc.  
The Pegasus Foundation  
Walker, Chip  
Walker, Sue  
Wampanoag Tribe of Gay Head-Aquinna  
Whately, Kareen  
Winn, Jane  
Wolk-Hall, Lauren

**Guiding Principles  
for  
MMR Long-term Management Structure**

The goal of the joint working group is to develop a long-term management structure for the Massachusetts Military Reservation (MMR) guided by the following Principles:

- The primary objectives in developing the management structure will be to ensure permanent protection of the drinking water supply and to preserve the wildlife habitat of the northern 15,000 acres.
- Any long-term management structure will serve the interests of the public and will establish and promote a working and cooperative partnership between the Commonwealth and the military.
- All options and tools potentially useful in the establishment of a long-term management structure will be considered.
- All environmental standards that are dictated by applicable federal, state, and local laws and regulations, including MMR-specific environmental performance standards, will be followed.
- An oversight body comprised of state environmental agencies, with input and advice from the public and scientific communities, will be established.
- The military and other users will adjust their activities when adverse environmental impacts have been identified by the military or the oversight body.
- Military and other activities that are compatible with protection of the water supply and wildlife habitat will continue on MMR.
- The military will conduct and manage compatible training on MMR in order to achieve and maintain military readiness.
- The military will continue to monitor, identify, and provide to the public information regarding the environmental impacts associated with military training.
- The oversight body and users of MMR will regularly provide information to the public on the status of, or activities that may affect, the protection of the drinking water supply and wildlife habitat.