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Executive Director

May 29, 2012

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Secretary Richard K. Sullivan, Jr.
Executive Office of Environmental Affairs
Attn: MEPA Office
100 Cambridge Street, Suite 900
Boston, MA 02114

**Re: ENF for Bournes Pond Inlet Widening, Falmouth, MA
EOEEA # 14878**

Dear Secretary Sullivan:

On behalf of the Association to Preserve Cape Cod (APCC), I submit these comments on the ENF filing for the proposed project known as "Bournes Pond Inlet Widening, Falmouth, MA", submitted by Horsley Witten Group, Inc. on behalf of the Applicant, the Town of Falmouth.

APCC was founded in 1968 to promote policies and programs that foster preservation of the natural resources of Cape Cod. Today APCC is the Cape's largest environmental non-profit organization with over 5,500 members from all 15 towns on the Cape. Our goals are to protect water resources, wetlands, coastal habitat, and open space and to promote responsible planned growth and the achievement of an environmental ethic. We provide education, monitoring, technical services, review of proposed projects, advocacy, and leadership to bring together agencies, organizations and stakeholders to address the Cape's most important environmental challenges. Our programs are based on sound environmental science and a working knowledge of the Cape's environmental issues and stakeholders.

APCC has long been a leader in protection of the Cape's water resources and environment. Our successes include: designation of the waters surrounding Cape Cod as Massachusetts Ocean Sanctuaries; designation of the Cape Cod Sole Source Aquifer; passage of the Cape Cod Commission Act establishing a regional planning agency with regulatory authority; designation of Stellwagen Bank as a National Marine Sanctuary; passage of the Cape Cod Land Bank Act; designation of the upper 15,000 acres of the Massachusetts Military Reservation as the Upper Cape's Water Supply Reserve; formation of the Cape Cod Business Roundtable to promote growth management; promotion of regional wastewater management; and designation of No Discharge Areas for boat sewage in Cape Cod Bay and the waters of Nantucket Sound and Vineyard Sound.

We offer the following comments.

- 1) The ENF does not provide enough information to evaluate whether the Project should be exempted from a full EIR process. This is not a restoration project. While the Town acknowledges that the proposed project significantly exceeds EIR thresholds for alteration of salt marsh and other wetlands, it fails to make any case for a waiver.

- 2) The proposal, if constructed, will require a commitment to adaptive management principles. The ENF is unclear how the Town will measure and adapt to ecological changes that are difficult to predict or anticipate. Moreover, the resources necessary to carry out a robust adaptive management plan are not apparent from the ENF.
- 3) Inlet widening has been marketed as an alternative to wastewater collection and treatment systems. This project will likely be used as a model for other Cape communities. It needs to be carefully evaluated and considered. This alone requires an EIR.
- 4) Transfer of the nutrient load from Bournes Pond to Martha's Vineyard Sound needs to be measured, evaluated and monitored.
- 5) The ENF does not contain sufficient information to evaluate whether the Applicant's claim that the benefits of the project will outweigh any impacts is accurate or not. Examples of topics for which there is insufficient information include, but are not limited to, natural resources, habitat, wetland resource areas, water quality, water circulation, coastal landforms, existing uses, economic values, new information that is now available for flood zones, topography and fish and wildlife habitat, etc.
- 6) The need and justification for this project is not clearly described. The specific problems that would be addressed by this project are not described, nor is supporting information (i.e., summaries of other studies, Town decisions, etc.) provided that would document that such problems exist.
- 7) The restoration goals and objectives are not clearly described.
- 8) Potential impacts are not described nor evaluated. Potential impacts that should be evaluated include:
 - a. Impacts on wetlands due to conversion from one type of wetland to another;
 - b. Impacts on fish, shellfish, wildlife and rare species and their habitat;
 - c. Flooding impacts on landowners on Bournes Pond;
 - d. Impacts on erosion, sedimentation and sediment transport patterns in the area;
 - e. Sea level rise should be taken into consideration when evaluating potential impacts (above);
 - f. Impacts on recreation and access, including impacts on recreational beaches, shellfishing, boating and other recreational uses;
 - g. Impacts on water quality due to changes in sedimentation and erosion, boating activity, water circulation, or other factors;
 - h. Economic impact to the Town for permitting, planning, building and maintaining a widened inlet.
 - i. Impacts due to construction activities (temporary and permanent impacts).
- 9) The anticipated benefits (other than reduced cost of wastewater management for the Town) are not described. Such a significant project should explain the anticipated benefits to the environment, recreation, stakeholders, and the town as a whole.
- 10) Alternatives are not evaluated ("Due to the project purpose, alternative locations are not feasible"). Alternatives analysis should include analysis of other measures and approaches to addressing the problems, once the latter are clearly described. If the intent of this project is to improve water quality damaged by septic system discharges, then wastewater management alternatives should be evaluated.
- 11) Coordination with the Town's Harbormaster and Waterways Committee is not mentioned. The Town recently obtained a 10-year dredging permit that allows for maintenance dredging. Can maintenance dredging be done in a way that eliminates the necessity for a widened inlet?
- 12) The ENF Distribution List does not include some key agencies and other stakeholders (e.g., Army Corps of Engineers, EPA Region 1, Wampanoag Tribe, Town of Falmouth departments (e.g., Harbormaster, Natural Resources, Beaches, Building, Finance, etc.).
- 13) Our most significant concern is this: If this proposed project is allowed an exemption from the EIR review process, the regulatory implications for permitting for other nitrogen-attenuation projects are significant. Stakeholders will be forced to attend separate permit hearings and

processes in order to weigh in. This is not only inefficient for stakeholders but may cause significant harm to natural resources because important issues may be overlooked in this piecemeal approach to reviewing a significant project. There will be less coordination and exchange of information between permitting agencies, stakeholders, public and the applicant, potentially leading to mistakes or omissions that could impact resources and stakeholders.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ed DeWitt', with a stylized flourish at the end.

Ed DeWitt
Executive Director