

EPA Official Record

Notes ID: 9BAB64FDEAE72DB686257A3800513094

From: Stephen Perkins/R1/USEPA/US

To: Michael Stover/R1/USEPA/US@EPA

Delivered Date: 08/03/2011 07:06 AM EDT

Subject: Fw: Pile Driving Pilot Test

mike,

below is probably more detail than you want to get into with tribes today..

thanks

stephen

Please only print if necessary

----- Forwarded by Stephen Perkins/R1/USEPA/US on 08/03/2011 07:05 AM -----

From: Matt Schweisberg/R1/USEPA/US

To: Ann Williams/R1/USEPA/US@EPA

Cc: Carl Dierker/R1/USEPA/US@EPA, Stephen Perkins/R1/USEPA/US@EPA

Date: 08/02/2011 08:51 PM

Subject: Re: Fw: Pile Driving Pilot Test

Ann,

Under the MA Programmatic General Permit, Section II- Navigable Waters (Section 10), subpart (f) - Miscellaneous, paragraph 7 reads as follows:

<p>7. Survey activities, such as core sampling, seismic exploratory operations, plugging of seismic shot holes, and other exploratory-</p>
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type bore holes, exploratory trenching, soil surveys, sampling, and historic resources surveys (but not recovery). This does not authorize fill or work in Special Aquatic Sites, permanent structures or the drilling and the discharge of excavated material from test wells for oil and gas exploration (the plugging of such wells is authorized). No activity results in a hazard to navigation.

The activities described in paragraph 7 are listed under Category 1 (no actual permit required) and could be viewed as covering what the Commonwealth wishes to do. Category 1 requires only that a notification form be filled out and sent to the Corps prior to commencement of activity. Once the form is sent, the "applicant" can proceed as long as he/she is certain the activity meets the terms and conditions of the PGP. As we are the "authorizing" agency here, I think the notification process is covered. There is a general requirement in the PGP for consultation with Tribes for Category 2 (screening) projects, but that wouldn't apply here. Nevertheless, it looks like consultation is already

occurring, so that point is moot.

Matt

-----Ann Williams/R1/USEPA/US wrote: -----

To: Carl Dierker/R1/USEPA/US@EPA, Matt Schweisberg/R1/USEPA/US@EPA
From: Ann Williams/R1/USEPA/US
Date: 08/02/2011 03:39PM
Cc: Stephen Perkins/R1/USEPA/US@EPA
Subject: Re: Fw: Pile Driving Pilot Test

Carl -- it seems to me that they'll be temporarily placing structures into a section 10 water and therefore subject to the Rivers and Harbors Act. I don't know if the Corps has a general permit in place that might allow such temporary test work. Matt -- do you have any idea?

Ann

▼ Carl Dierker---08/02/2011 03:10:17 PM---see beginning of this email chain for description of work state's contractor plans to perform. i'm

From: Carl Dierker/R1/USEPA/US
To: Ann Williams/R1/USEPA/US@EPA
Cc: Stephen Perkins/R1/USEPA/US@EPA
Date: 08/02/2011 03:10 PM
Subject: Fw: Pile Driving Pilot Test

see beginning of this email chain for description of work state's contractor plans to perform. i'm not sure i see any cwa/404 jurisdiction triggered by these activities, but wanted to do a quick check-in with you to see if i'm missing something. no need for extensive analysis at this stage.

----- Forwarded by Carl Dierker/R1/USEPA/US on 08/02/2011 03:07 PM -----

From: Stephen Perkins/R1/USEPA/US
To: Carl Dierker/R1/USEPA/US@EPA
Date: 08/02/2011 01:59 PM
Subject: Fw: Pile Driving Pilot Test

thanks
stephen

Please only print if necessary

----- Forwarded by Stephen Perkins/R1/USEPA/US on 08/02/2011 01:57 PM -----

From: Michael Stover/R1/USEPA/US
To: Stephen Perkins/R1/USEPA/US@EPA, Lois Adams/R1/USEPA/US@EPA
Date: 08/02/2011 09:29 AM
Subject: Fw: Pile Driving Pilot Test

Stephen/Lois,

For your information.... a tentative follow-up meeting to discuss the New Bedford South Terminal project has been set up for this Friday, but meanwhile, a notice was sent out yesterday from Gary Davis (State General Counsel) to the Mashpee and Aquinnah Wampanoag tribes about pile-driving activities that will occur "sometime this week". The tribes are concerned that the following requests made in the March 15th meeting are not being followed:

- Tribes requested that any activities be monitored by a cultural resources representative. Gary's email provided a vague schedule with little advanced notice.
- Tribes requested that a scope of work be provided on how sheet piling will be installed, and the email provides only minimal information.
- Tribes requested that protection protocols be spelled out in the event of a cultural discovery
- The map provided does not show where the activity will take place.

The Aquinnah Wampanoag Tribe sent the attached letter to EPA requesting a "cease and desist order" be issued by EPA. I have left a message this morning to discuss the issue with Gary and request that the activity be postponed until the tribes' concerns are addressed. We have a scheduled call at 9am tomorrow morning to discuss the issue further with Gary.

Mike

▼ 1 attachment

[attachment "Paleosol Locations.pdf" deleted by Ann Williams/R1/USEPA/US] [attachment "m stover pile drive pilot 080111.doc" deleted by Ann Williams/R1/USEPA/US]

----- Forwarded by Michael Stover/R1/USEPA/US on 08/02/2011 08:44 AM -----

From: Bettina Washington <bettina@wampanoagtribe.net>
To: Michael Stover/R1/USEPA/US@EPA, "Davis, Gary (DCR)" <gary.davis@state.ma.us>
Cc: "cgreen@mwtribe.com" <cgreen@mwtribe.com>
Date: 08/01/2011 09:58 PM
Subject: RE: FW: Pile Driving Pilot Test

Good evening,

Please see the attached letter for clarification of the Aquinnah Wampanoag's concerns.

Thank you and I look forward to speaking with everyone Wednesday morning.

Bettina

From: Michael Stover [Stover.Michael@epamail.epa.gov]
Sent: Monday, August 01, 2011 3:55 PM
To: Davis, Gary (DCR)
Cc: Bettina Washington; cgreen@mwtribe.com
Subject: Re: FW: Pile Driving Pilot Test

All,

I have rescheduled the conference call for Wednesday morning at 9am. Please note the revised call-in number and password.

Dial-In Number: (617) 918-2822

Password: 241393

Thank you,

Mike Stover, PE
Indian Program Manager
EPA - New England, Region 1
5 Post Office Square, Suite 100
Mail Code OEP06-3
Boston, MA 02109-3912
(617) 918-1123
stover.michael@epa.gov

I am available early tomorrow and wednesday.

From : Michael Stover [<mailto:Stover.Michael@epamail.epa.gov>]
Sent : Monday, August 01, 2011 01:13 PM
To : Davis, Gary (ENV)
Cc : 'Bettina Washington' <bettina@wampanoagtribe.net>; 'Chuckie Green' <CGreen1@mwtribe.com>
Subject : Re: FW: Pile Driving Pilot Test

Gary,

Chuckie Green, Bettina Washington and I would like to set up a conference call to discuss this activity and to confirm the tentative meeting this Friday at 10:30. I understand that you will be out of the office for the remainder of the afternoon. Please let me know of your availability tomorrow afternoon to participate in a conference call. Once we have a firm time, I will set up a conference line for the call and will relay the call-in number.

Thank you,

Mike Stover, PE
Indian Program Manager
EPA - New England, Region 1
5 Post Office Square, Suite 100
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Boston, MA 02109-3912
(617) 918-1123
stover.michael@epa.gov

From: "Davis, Gary (DCR)" <gary.davis@state.ma.us>
To: "Bettina Washington" <bettina@wampanoagtribe.net>, "Chuckie Green" <CGreen1@mwtribe.com>
Cc: Michael Stover/R1/USEPA/US@EPA
Date: 08/01/2011 10:34 AM

Subject: FW: Pile Driving Pilot Test

Dear Ms. Washington and Mr. Green. I write to inform you that we plan on conducting some pile driving tests sometime this week. I have taken the liberty of providing you with a brief description of the work we propose to do. Please call me if you have any questions or concerns. /gd

Gary Davis, Jr.
General Counsel
Executive Office of Energy & Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114
office - 617-626-4983

From: Chet Myers [<mailto:cmyers@apexc.com>]
Sent: Tuesday, July 26, 2011 12:49 PM
To: Davis, Gary (ENV)
Subject: RE: Pile Driving Pilot Test

Hi Gary,

The pile-driving will take place along the eastern face of the proposed facility, which, even at the southern-most edge of the bulkhead, is still between 250 and 300 feet from the nearest boundary of either Paleosol (see attached figure).

During the driving process, the barge will be located to the east of the driving operation, such that it should be located further away than the test pile (which, as stated earlier, will already be between 250 and 300 feet from the nearest boundary of a paleosol, at its closest).

The sheets will be driven and removed. The sheets are shaped in a Z, are approximately 1.5 feet wide and approximately ½ in thickness, and are 30-40 feet in length.

At present, we anticipate driving 5 sheets in 5 separate locations. The sheets will be driven, and then removed. We anticipate that they will slip into the subsurface without causing a major disturbance, and that they will similarly be removed without any major disturbance.

The purpose of the pilot test is to generate a higher degree of certainty regarding the anticipated penetration of the sheets during construction.

Thanks,

Chet Myers, PE, LSP
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