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December 17, 2008

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
EXPANDED ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME: North Hoosic River Restoration
PROJECT MUNICIPALITY: Clarksburg
PROJECT WATERSHED: Hudson
EEA NUMBER: 14337
PROJECT PROPONENT: Riverways Program - Massachusetts Department of Fish and Game
DATE NOTICED IN MONITOR: November 10, 2008

Pursuant to the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62I) and Sections 11.06 and 11.11 of the MEPA Regulations (301 CMR 11.00), I have reviewed this project and hereby determine that it **does not require** further MEPA review. In a separate Draft Record of Decision also issued today, I have proposed to grant a Waiver from the requirement to prepare a Mandatory Environmental Impact Report (EIR) for the project. This Certificate sets forth the issues that must be addressed by the Proponent during permitting and discusses recommendations that were submitted on the project during the MEPA comment period.

Project Description

The project consists of the removal of the Briggsville (a/k/a Hewat) Dam on the North Branch of the Hoosic River in Clarksburg by the Riverways Program - Massachusetts Department of Fish and Game (Riverways Program). Briggsville Dam is a 15-foot high, 145-foot long broad crest weir dam. The dam owner was issued a Certificate of Non-Compliance and Dam Safety Order from the Department of Conservation and Recreation (DCR) Office of Dam

Safety (ODS) in February 2008. The dam is classified as a "Significant Hazard Potential" by ODS and the owner has been informed that the dam does not meet accepted dam safety standards and is a potential threat to life and property downstream from the dam.

Removal of the dam would commence a proactive habitat restoration project to restore approximately 30 miles of headwater habitat, including benefit to a State-listed species of Special Concern and improvement of habitat for native brook trout. Project partners include: the Hoosuck Chapter of Trout Unlimited, Cascade School Supplies, the Massachusetts Division of Fisheries and Wildlife, the United States Fish and Wildlife Service, the USDA-NRCS, the Town of Clarksburg, American Rivers, the Hoosic River Watershed Association, and the Massachusetts Corporate Wetlands Restoration Partnership – Procter & Gamble (Gillette) and National Grid. This project has been designated as a restoration *Priority Project* by the Riverways Program.

Under existing conditions, the impoundment capacity of the Briggsville Dam is severely limited due to the accumulation of sediment. The Riverways Program has indicated that the residence time of water entering the former impoundment and exiting the spillway is the same as if there were no dam present. Overall project goals include the elimination of a barrier to aquatic and riparian species movement, the reestablishment of the rivers natural flow regime, improvement of water quality, sediment dynamics, and water temperature for coldwater species, and restoration of the natural clean gravel and cobble streambed.

Jurisdiction

The project is subject to the preparation of a mandatory EIR pursuant to Section 11.03(3)(a)(4) and 11.03(3)(b)(1)(d) of the MEPA regulations because it will result in a decrease in impoundment capacity of an existing dam and because it will impact more than 5,000 square feet (sf) of Bordering Vegetated Wetlands (BVW). The project will require a Programmatic General Permit from the U.S. Army Corps of Engineers (ACOE) pursuant to Section 404 of the Clean Water Act; a Chapter 253 Dam Safety from ODS; a 401 Water Quality Certificate from the Department of Environmental Protection (MassDEP); and a Chapter 91 License review from MassDEP. The project will also require an Order of Conditions from the Clarksburg Conservation Commission.

The Riverways Program is both a co-proponent of the project and providing partial funding for construction of the project. Therefore, MEPA jurisdiction for this project is broad and extends to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment as defined by the MEPA regulations.

Review of the EENF

The EENF outlined the project restoration goals, presented a full dam removal/habitat restoration alternative and a no-build alternative, and a discussion of potential aquatic species impacts. The EENF notes that dam removal will improve coldwater habitat for resident and state-listed fish species, including the Eastern Brook Trout, Slimy Sculpin, Longnose Sucker, and

other resident aquatic species. MassWildlife collected fish samples along the North Branch of the Hoosic River in 1990, 2002, 2007, and 2008.

The EENF included a technical memorandum prepared by Fuss & O'Neill, Inc. This memorandum summarized the initial feasibility study, which was prepared subsequent to detailed field data gathering, hydrologic and hydraulic modeling and sediment management evaluations. At this time, the feasibility study assessed both a full dam removal and a partial dam removal. The project partners determined that restoration efforts would be best served through a full removal of the dam. The Fuss & O'Neill memorandum also addressed design features to prevent scour at the Cross Road Bridge, ensure that the project would not create a barrier to migrating resident fishes, protect the retaining wall on river left, and use the minimum required in-river structures. The use of Roughened Rock Ramp (RRR) and Flow Constrictor/Step Pools (FC/SPs) were evaluated, with the preferred design incorporating FC/SPs to provide scour protection and meet fish passage goals. Grade control and habitat weirs, as well as habitat pools will be installed to facilitate grade changes along the river between the Cross Road Bridge and the area of dam removal. The habitat pools have been proposed adjacent to the channel along the river right bank and have been modeled after the existing backwater pools in the impoundment. The Proponent has prepared a habitat restoration plan that consists of native species and bioengineering structures to facilitate habitat growth in the formerly impounded area. The project will also construct a revetment slope against the existing retaining wall to river left (the left-hand side of the river facing downstream) upstream of the dam to protect from scour and place larger cobbles removed from the streambed to armor the footings of the Cross Road Bridge.

Wetlands

Dam removal will require temporary alterations to Bank, Land Under Water (LUW), BVW, Bordering Land Subject to Flooding (BLSF), and Riverfront Area. The EENF indicates that approximately 5,000 cubic yards of material will be dredged in conjunction with the dam removal. Estimated wetland resource area impacts include: 2,025 linear feet (lf) of temporary impact to Bank, to be replaced by an additional 1,062 lf of new bank; 26,572 square feet (sf) of permanent impact to BVW, which does not include an addition of 8,276 sf of newly created BVW from areas presently classified as LUW; 175,982 sf of temporary, construction-related impact to BLSF; and 118,483 sf of temporary, construction-related impact to Riverfront Area.

The EENF states that dam removal and the associated dredging will allow the river to better accommodate high flows, due to a net gain of approximately 20 percent in floodplain, thereby lowering the 100-year flood level. Presently, the 100-year flood event impacts existing infrastructure by spilling over into the existing adjacent parking lot and Route 8. The Proponent should submit their hydraulic analysis to the Federal Emergency Management Agency (FEMA) upon completion of the project for their use in future floodplain map revisions.

MassDEP has noted that the Proponent will be required to demonstrate that the project meets the General Performance Standards (as defined at 310 CMR 10.04) for jurisdictional Resource Areas (as defined at 310 CMR 10.04). The Proponent should utilize the MassDEP Dam Removal Guidance found at <http://www.mass.gov/dep/water/resources/dampol.pdf> to assist

in the preparation of permit applications. Delineation of jurisdictional wetland resource areas should be conducted in accordance with applicable regulations and the recommendations provided by MassDEP in their comment letter on the EENF.

The Proponent will be required to submit a Notice of Intent (NOI) to the Clarksburg Conservation Commission and a Section 401 Water Quality Certificate application to MassDEP, who administers the Section 401 Water Quality Certification regulations on behalf of the U.S. Army Corps of Engineers. Additionally, the design and construction of BVW mitigation replacement areas should be conducted in accordance with the Massachusetts Inland Wetland Replication Guidelines dated March 2002.

Rare Species / Habitat

According to the Natural Heritage and Endangered Species Program (NHESP) database, the proposed project occurs within habitat of the Longnose Sucker (*Catostomus catostomus*). This species is State-listed as "Special Concern" and both this species and its habitat are protected pursuant to the provisions of the Massachusetts Endangered Species Act (MESA) (M.G.L. c.131A) and its implementing regulations (321 CMR 10.00). The NHESP and the Fisheries Section of the Massachusetts Division of Fisheries and Wildlife have indicated that they believe that the proposed project will improve habitat for the Longnose Sucker by restoring the connectivity and the in-stream and riparian habitat of the North Branch of the Hoosic River. However, the NHESP has outlined specific recommendations in their comment letter on the EENF to allow for further habitat improvement and protection of the Longnose Sucker. I anticipate that the Proponent will address these recommendations during the final design process.

The NHESP has stated that based upon the information provided, the project may qualify for a habitat management exemption under MESA pursuant to 321 CMR 10.14(11). To qualify for the exemption, the project must include restoration activities that maintain or enhance habitat for the benefit of State-listed species and prepare a habitat management plan approved by the Division of Fisheries and Wildlife. This habitat management plan should be prepared in accordance with applicable guidelines and incorporate the recommendations presented in the NHESP comment letter on the EENF. The Proponent should continue to work with the NHESP to develop appropriate mitigation measures both during and after construction to minimize impacts to State-listed species.

Historic

The Massachusetts Historical Commission (MHC) has indicated that they will review the project under Section 106 of the National Historic Preservation Act of 1966, (36 CFR 800), as amended. I encourage the Proponent to work with the lead federal agency and MHC as the project proceeds with regard to assessment of the potential historical significance of the Briggsville dam.

Greenhouse Gas Emissions

The project is subject to the EEA Greenhouse Gas Policy and Protocol because it requires a mandatory EIR and MEPA has full scope jurisdiction. This is an environmental restoration project that will not result in significant emissions of Greenhouse Gases (GHG) and therefore falls within the de minimis exception of the policy. The Proponent was not required to prepare an analysis of GHG emissions or identify measures to mitigate GHG emissions.

Construction Period Impacts

The EENF has stated that the Proponent will utilize Best Management Practices (BMPs) during the construction period to limit impact to wetland resource areas, habitat, and rare species. The Proponent should evaluate construction period impacts, including erosion and sedimentation, air quality and solid waste disposal and commit to measures to minimize construction impacts. The removal of the dam should be completed during low flow periods in late summer, August and September, to minimize impacts to spawning Longnose Suckers. MassDEP has noted that demolition and construction activities must comply with both MassDEP Solid Waste and Air Quality control regulations. The Proponent should carefully review MassDEP's comments and commit to ensure that the project is consistent with the applicable Solid Waste and Air Quality control regulations.

The Proponent should follow the recommendation of the Berkshire Regional Planning Commission (BRPC) that no hay bales be used for erosion control in order to reduce the threat of introduction of invasive species.

MassDEP has recommended that the Proponent retain a Licensed Site Professional (LSP) to review MassDEP's oil and/or hazardous material disposal site list and associated files prior to start-up of the project, in order to determine contaminated areas that could pose a problem with onsite excavation activities. The Proponent is advised that if soil and/or groundwater contamination is encountered during construction activities, a LSP will be needed to manage the contaminated materials in compliance with the Massachusetts Contingency Plan (MCP).

Conclusion

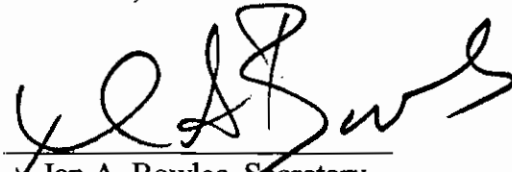
Based on a review of the information provided by the Proponent and after consultation with the relevant public agencies, I find that the potential impacts of this project do not warrant further MEPA review. Outstanding issues may be addressed during the permitting process.

I have also issued today a Draft Record of Decision (DROD) proposing to grant a Waiver from the requirement to prepare an EIR for the project. The DROD will be published in the next edition of the Environmental Monitor on December 24, 2008 in accordance with 301 CMR 11.15(2), which begins the public comment period. The public comment period lasts for 14 days and will end on January 7, 2009. Based on written comments received concerning the DROD, I shall issue a Final Record of Decision or a Scope within seven days after the close of

the public comment period, in accordance with 301 CMR 11.15(6). If the Full Waiver is not approved based on comments received on the DROD, then this Certificate on the EENF will be re-issued with a Scope for an EIR.

December 17, 2008

Date



Ian A. Bowles, Secretary

Comments received:

11/20/2008	Massachusetts Historical Commission
12/1/2008	Hoosic River Watershed Association
12/1/2008	Massachusetts Department of Environmental Protection – WERO
12/3/2008	Berkshire Regional Planning Commission
12/9/2008	American Rivers
12/10/2009	MassAudubon
12/10/2008	Town of Clarksburg
12/10/2008	Division of Fisheries and Wildlife – Natural Heritage and Endangered Species Program
12/12/2008	Department of Conservation and Recreation

IAB/HSJ/hsj