



The Commonwealth of Massachusetts

Executive Office of Environmental Affairs

100 Cambridge Street, Suite 900

Boston, MA 02114-2524

MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

STEPHEN R. PRITCHARD
SECRETARY

Tel. (617) 626-1000
Fax. (617) 626-1181
<http://www.mass.gov/envir>

June 30, 2006

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

PROJECT NAME: Urgent Repairs to Byron Weston Mill Dam No. 1
PROJECT MUNICIPALITY: Dalton
PROJECT WATERSHED: Housatonic
EOEA NUMBER: 13804
PROJECT PROPONENT: Crane and Company, Inc.
DATE NOTICED IN MONITOR: May 24, 2006

Pursuant to the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62H) and Section 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 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

As outlined in the Expanded Environmental Notification Form (EENF), the project proposes the completion of dam safety repairs to the Byron Weston Mill Dam No. 1 that were initiated in August 2005 but were disrupted by extreme flow conditions in October 2005. The Byron Weston Mill Dam No. 1 is located on the East Branch of the Housatonic River. The dam impounds Center Pond and is located approximately 100 feet downstream of Route 8. The dam is classified as an Intermediate size structure and has a hazard potential classification of Significant (Class II), as per 302 CMR 10.00.

On August 24, 2005, the Department of Conservation and Recreation (DCR) Office of

Dam Safety issued a letter determining that the dam was in an unsafe condition, and ordering the proponent to drain the impoundment. During the emergency repairs, a large 2-foot by 2-foot cavity on the downstream east toe of the dam was discovered. The proponent then initiated several emergency actions to stabilize the dam and to limit seepage below and through the dam, but the work was interrupted by October 2005 rain events.

The Byron Weston Mill Dam No. 1 is no longer considered unsafe, and the Office of Dam Safety does not consider the work required to complete the dam improvements initiated in August 2005 to be of an emergency nature. The remaining repairs are designed to mitigate continued observed seepage below and around the dam, which is causing a potentially hazardous condition.

The proposed dam safety repairs outlined in the EENF include lowering the impoundment; dewatering the area immediately downstream of the dam by means of pumping water out within a sandbag cofferdam; pouring a concrete plug at the downstream toe of the dam in order to encapsulate eroded bedrock at the interface of the dam and the bedrock foundation; repointing the masonry faces of the dam, training walls, and abutments; replacing a section of the west downstream training wall, placing low permeability earth fill along the upstream training wall, and potentially performing additional grouting in order to plug remaining seepage paths through the stone masonry, if necessary. The water level in the impoundment will be restored to its normal pool level once the work is completed.

Jurisdiction

The project is subject to the preparation of a mandatory EIR pursuant to Section 11.03(3)(a)(1)(b) of the MEPA regulations because it will result in the alteration of more than ten acres of wetlands (Land Under Water). The project will require a Category 2 permit from the U.S. Army Corps of Engineers (ACOE) pursuant to Section 404 of the Clean Water Act; a Chapter 253 Dam Safety Permit from DCR; a 401 Water Quality Certificate and a Chapter 91 Determination from the Department of Environmental Protection (DEP); review from the Massachusetts Historical Commission (MHC); and an Order of Conditions from the Dalton Conservation Commission.

The proponent is not seeking financial assistance from the Commonwealth. Therefore, MEPA jurisdiction applies to those aspects of the project within the subject matter of required or potentially required permits with the potential to cause Damage to the Environment. In this case, MEPA jurisdiction on this project extends to wetlands, waterways and historic resources.

Wetlands and Waterways

The project will temporarily impact 16 acres of Land Under Water during the drawdown of Center Pond. The project also involves the dredging of approximately 660 cubic yards of the substrate of Center Pond so that low permeability soil can be placed along the east upstream wall to prevent seepage. Dredged soil will be used to restore Center Pond grades to pre-emergency repairs grades.

The proponent submitted a comprehensive alternatives analysis with the EENF demonstrating that the proposed method of drawing down the pond is the least environmentally damaging practicable alternative. The preferred alternative consists of dewatering Center Pond by allowing all water currently in the Pond to flow into a 30-inch diameter penstock and into a sump located just upstream of the dam. The alternatives analysis was developed in consultation with permitting agencies and to comply with the Water Quality Certificate regulations at 314 CMR 9.06(1).

Prior to the drawdown of the pond, the proponent should contact the Massachusetts Division of Fisheries and Wildlife (DFW) to ascertain whether or not a permit to capture and release fish and other stranded wildlife needs to be obtained; and whether or not the drawdown meets the *Drawdown Performance Standards for Protection of Fish and Wildlife Resources* (Massachusetts Fisheries and Wildlife Board, September 23, 2002). In addition, DEP has recommended that the proponents follow the recommendations outlined in the drawdown section of the *Eutrophication and Aquatic Plant Management in Massachusetts Final Generic Environmental Impact Report*.

DEP has determined that the project does not require a Chapter 91 Waterways License because the impacts associated with the repair work at the dam below the High Water Mark of the non-tidal Housatonic River are necessary for the benefit of public safety and to ensure that the standards at 310 CMR 9.35 and 9.36 are preserved in the future. In accordance with 310 CMR 9.05(3)(f), DEP has found that the work is associated with the continuation of an existing unauthorized structure constructed prior to 1939 on a non-tidal river. Therefore, the work does not require a license.

Historic Resources

The Byron Weston Paper Mill (Centennial Paper Mill) is included in MHC's Inventory of Historic Assets of the Commonwealth. The Massachusetts Historical Commission has determined that the proposed project will have "no adverse effect" (36 CFR 800.5(b) and 950 CMR 71.07(2)(b)(2)) on historic properties. The Stockbridge-Munsee Tribal Historic Preservation Office has stated that it will defer to the State Archaeologist on the review of the

project.

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.

June 30, 2006
Date



Stephen R. Pritchard

Comments received:

6/15/2006 Department of Environmental Protection, Western Regional Office

SRP/BA/ba