



The Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Charles D. Baker
GOVERNOR

Karyn E. Polito
LIEUTENANT GOVERNOR

Kathleen A. Theoharides
SECRETARY

Tel: (617) 626-1000
Fax: (617) 626-1081
<http://www.mass.gov/eea>

July 11, 2019

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

PROJECT NAME : Robert Strassler
PROJECT MUNICIPALITY : Alford
PROJECT WATERSHED : Housatonic
EEA NUMBER : 16039
PROJECT PROPONENT : Robert B. Strassler
DATE NOTICED IN MONITOR : June 10, 2019

Pursuant to the Massachusetts Environmental Policy Act (MEPA; M.G. L. c. 30, ss. 61-62I) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project does not require an Environmental Impact Report (EIR).

Project Description

As described in the Environmental Notification Form (ENF), the project consists of dredging a pond to restore it to its original depth. Approximately 3,940 cubic yards (cy) of sediment will be dredged within a 64,600 sf area. Dredging will be conducted in the dry. Dredged materials will be dewatered and trucked to an upland area for disposal on the site.

Project Site

The 57.1-acre site includes a single-family house, garage, sap house and gravel access drive. It includes a 1.7-acre pond, wetland resource areas, wooded areas and a lawn. The western half of the site is undeveloped with the exception of the access drive. Alford Brook, a coldwater fishery, feeds the pond from the northwest. A 30-foot long, non-jurisdictional dam is located on the southeast side of the pond.

A dredge project conducted in 2001 included the installation of a 30-inch diameter bypass pipeline so that subsequent dredging could be conducted in the dry.

Wetland resources within the project site include Bank (Inland), Bordering Vegetated Wetland (BVW), Land Under Water Bodies and Waterways (LUWW), and Riverfront Area (RA). The western area of the parcel is located within *Priority* and *Estimated Habitat* as mapped by the Natural Heritage and Endangered Species Program (NHESP) in the 14th edition of the MA Natural Heritage Atlas.

Environmental Impacts and Mitigation

Potential environmental impacts associated with the project include alteration of 64,346 square feet (sf) of LUW, 30 feet of Bank and 250 sf of BVW. Measures to avoid, minimize and mitigate Damage to the Environment include disposing of sediment outside of rare species habitat; observing time-of-year (TOY) restrictions; pre-construction survey for turtles and relocation of turtles to suitable habitat; conducting dredging in the dry; and installing sedimentation and erosion controls.

Jurisdiction and Permitting

This project is subject to MEPA review and preparation of an ENF pursuant to 301 CMR 11.03 (3)(b)(1)(f) because it requires an Agency Action and it will alter more than ½ acre of any other wetlands. The project requires a 401 Water Quality Certification from the Massachusetts Department of Environmental Protection (MassDEP) and it requires review by NHESP.

It requires an Order of Conditions from the Alford Conservation Commission or, in the case of an appeal, a Superseding Order of Conditions from MassDEP. In addition, it requires authorization from the U.S. Army Corps of Engineers in accordance with Section 404 of the Federal Clean Water Act.

The project is not receiving Financial Assistance from the Commonwealth. Therefore, MEPA jurisdiction is limited to those aspects of the project that are within the subject matter of any required or potentially required Agency Actions and that may cause Damage to the Environment, as defined in the MEPA regulations.

Review of the ENF

The ENF provided a description of existing and proposed conditions, project plans, results of sediment analysis, and identified measures to avoid, minimize and mitigate environmental impacts.

The Alford Conservation Commission will review the project and its consistency with the Wetlands Protection Act (WPA), Wetlands Regulations (310 CMR 10.00) and associated performance standards. The Proponent submitted a Notice of Intent (NOI) to the Commission. MassDEP has requested the Commission hold the hearing open until all comments or permits are issued from other state and Federal agencies, to avoid inconsistencies between the Order of Conditions and other permits.

The Proponent asserts that the project qualifies as an Ecological Restoration Limited project. A project can be deemed an Ecological Restoration Limited project if its "primary purpose is to restore or otherwise improve the natural capacity of a Resource Area(s) to protect and sustain the interests

identified in M.G.L. c. 131 § 40, when such interests have been degraded or destroyed by anthropogenic influences...” Comments from MassDEP indicate that the Proponent has not demonstrated that the project meets the criteria for an Ecological Restoration Project and identify information that should be provided to support its assertion, including:

- A detailed description of baseline ecological conditions.
- A detailed description of which interests of the WPA have been impaired, and by what anthropogenic causal factor(s).
- A detailed description of the ecological restoration goals.
- Specifically, how the interests of the WPA will be improved or restored by the proposed work, with any supporting evidence or corroborating statements from applicable entities (e.g., Massachusetts Division of Fisheries & Wildlife regarding fisheries habitat improvement).

The project may require a wildlife habitat evaluation. The Proponent should submit a copy of the application for Dredge Project Certification to both the MassDEP Western Regional Office and the Boston Office for review. If the Proponent is seeking authorization for long-term maintenance, the request should be clearly identified in the permit application.

The project is located within mapped habitat of the Wood Turtle (*Glyptemys insculpta*), a species of Special Concern. This species and its habitats are protected in accordance with the rare species provisions of the WPA and the Massachusetts Endangered Species Act (MESA; MGL c.131A) and its implementing regulations (321 CMR 10.00). NHESP has indicated that the project must be conditioned to avoid adverse effects to the actual habitat of state-protected rare species and must be conditioned to avoid a prohibited Take. The Order of Conditions approving the project, as currently designed, must include the conditions identified in the May 19, 2019 NHESP determination letter. These include, but are not limited to, a TOY restriction on initiation of the bypass and implementation of a Turtle Protection Plan. The Turtle Protection Plan must include visual sweeps by an approved qualified biologist and capture and release of Wood Turtles found on the project site to nearby suitable habitat.

Construction

The Proponent should prepare a spills contingency plan to address prevention and management of potential releases of oil and/or hazardous materials from pre- and post-construction activities. It should include refueling of machinery, storage of fuels and potential releases.

The Proponent should implement anti-idling and other measures to reduce emissions from construction equipment. I encourage the Proponent to require that its contractors use construction equipment with engines manufactured to Tier 4 federal emission standards, or select contractors that have installed retrofit emissions control devices or vehicles that use alternative fuels to reduce emissions. All construction activities should be undertaken in compliance with the conditions of all State and local permits.

Conclusion

The ENF has described the project, assessed its potential environmental impacts and identified mitigation measures. Based on review of the ENF and comments received on it, and in consultation with State Agencies, I have determined that an EIR is not required.

July 11, 2019

Date

Kathleen A. Theoharides

Comments received:

- 6/18/2019 Natural Heritage and Endangered Species Program (NHESP)
- 7/1/2019 Massachusetts Department of Environmental Protection/Western Regional Office (MassDEP/WERO)

KAT/CDB/cdb



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581

p: (508) 389-6300 | f: (508) 389-7890

MASS.GOV/MASSWILDLIFE

May 9, 2019

Alford Conservation Commission
5 Alford Center Road
Alford, MA 01230

Robert B. Strassler
PO Box 750
Great Barrington, MA 01230

Project Location: 102 West Road
Project Description: Dredge manmade pond associated with Alford Brook
MA DEP Wetlands No.: 088-0061
NHESP Tracking No.: 17-37231

Dear Commissioners & Mr. Strassler:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") received a Notice of Intent with plans entitled "WETLANDS PROTECTION ACT NOTICE OF INTENT" (dated 11/19/2018, no revisions, prepared by Accord Engineering & Surveying, LLC) in compliance with the rare wildlife species section of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.58(4)(b), 10.59).

For projects within Estimated Habitat, the WPA Regulations state that "...if a proposed project is found by the issuing authority to alter a resource area which is part of the habitat of a state-listed species, such project shall not be permitted to have any short or long term adverse effects on the habitat of the local population of that species" (310 CMR 10.37, 10.59), and that "no project may be permitted within the riverfront area which will have any adverse effect on specified habitat sites of rare wetland or upland, vertebrate or invertebrate species, ... or which will have any adverse effect on vernal pool habitat certified prior to the filing of the Notice of Intent" (310 CMR 10.58(4)(b)).

Based on the information provided and the information contained in our database, it is the opinion of the Division that this project, as currently proposed **must be conditioned in order to avoid adverse effects** to the Resource Area Habitats of state-listed wildlife species (310 CMR 10.58(4)(b), 10.59). To avoid an adverse effect of state-listed species the following conditions must be met:

1. **Timing Restriction on Drawdown:** In order to allow the sediment to de-water for mechanical removal, Alford Brook will be bypassed.
 - a) The initiation of the bypass shall NOT occur between September 1 and April 15.
 - b) The bypass shall be initiated early enough to ensure that the sediments can be fully dewatered by September 1 to avoid entrapping state-listed turtles.
2. **Turtle Protection Plan:** To protect turtles during construction, all Work during the active period (March 16 - September 30), requires a Wood Turtle Protection Plan.
 - a) Said Protection Plan shall include visual sweeps by a Division-approved qualified biologist(s).

MASSWILDLIFE

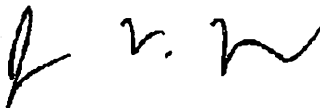
- b) Visual sweeps shall be conducted with the work limits, vehicle/machinery access and along the river and pond banks adjacent to the work.
 - c) A Scientific Collection Permit must be obtained from the Division of Fisheries & Wildlife in order to handle Wood Turtles. The application shall be provided to the Division describing all methods proposed for searching, including timing and effort at the work site and qualifications of the person requesting the permit regarding Wood Turtles and other cryptic aquatic turtles.
 - d) Any Wood Turtle located on site shall be captured and released in nearby suitable habitat after taking photos and data sufficient to meet the reporting requirements of the Scientific Collection Permit in the form of a Rare Animal Observation Form.
 - e) Erosion control barriers, if installed, shall be removed as soon as possible following site stabilization, to ensure that they do not become barriers to wildlife movement. The Division does not require or suggest turtle exclusion barriers for this Project.
3. **Compliance Report:** Within thirty (30) days of completion of Work the Applicant shall submit a brief written report including photographs showing previous and final conditions.
4. **Authorization Duration:** This approval is valid for 5 years from the date of issuance and limited to the project described herein. Thereafter, the applicant shall re-file under the MESA/WPA.
5. **Wetlands Protection Act:** Upon filing for any renewal, extension, amendment, or certification of compliance of any Orders of Conditions associated with this site pursuant to the MA Wetlands Protection Act, the Applicant shall similarly file with the Division.

Provided these conditions are included in any final approving Orders of Conditions, the project will not result in an adverse impact to the Resource Area Habitats of state-listed wildlife species. We ask that the Conservation Commission send a copy of the final Order of Conditions, approving or denying the project, to the Division simultaneous with the applicant.

Any changes to the proposed project or any additional work beyond that shown on the site plans may require an additional filing with the Division pursuant to the rare species provisions of the WPA. This project may be subject to further review if no physical work is commenced within five years from the date of issuance of this determination, or if there is a change to the project.

Please note that this determination addresses only the matter of state-listed species and their habitats. If you have any questions regarding this letter please contact, Misty-Anne Marold, Senior Endangered Species Review Biologist, at (508)-389-6356.

Sincerely,



Jonathan V. Regosin, Ph.D.
Deputy Director

cc: Alexander Thorp, ACCORD Engineering & Surveying, LLC
Thomas Coote

MASSWILDLIFE



DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581
p: (508) 389-6300 | f: (508) 389-7890

MASSWILDLIFE

March 21, 2019

Robert B. Strassler
PO Box 750
Great Barrington, MA 01230

Project Location: 102 West Road (ALFORD)
Project Description: Dredge manmade pond associated with Alford Brook
NHESP Tracking No.: 17-37231

Dear Mr. Strassler:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") received a MESA Project Review Checklist with conceptual plans entitled "NOTICE OF INTENT" (dated 11/19/2018, no revisions, prepared by Accord Engineering & Surveying, LLC, 1 sheet) under the Massachusetts Endangered Species Act (MESA) (MGL c.131A) and its implementing regulations (321 CMR 10.00).

The MESA is administered by the Division, and prohibits the Take of state-listed species. The Take of state-listed species is defined as "in reference to animals...harm...kill...disrupt the nesting, breeding, feeding, or migratory activity...and in reference to plants...collect, pick, kill, transplant, cut or process...Disruption of nesting, breeding, feeding, or migratory activity may result from, but is not limited to, the modification, degradation, or destruction of Habitat" of state-listed species (321 CMR 10.02).

The Division has determined that this Project, as currently proposed, will occur within the mapped *Priority* and *Concern* habitats for the Wood Turtle (*Glyptemys insculpta*), a species of Special Concern. This species and its habitats are protected in accordance with the rare species provisions of the WPA and state-listed species can be found at www.mass.gov/nhesp.

Based on the information provided and the information contained in our database, the Division finds that a portion of this project, as currently proposed, **must be conditioned** in order to avoid a prohibited Take of state-listed species (321 CMR 10.18(2)(a)). To avoid a prohibited Take of state-listed species, the following conditions must be met:

- 1) **Timing Restriction on Drawdown:** In order to allow the sediment to be removed, Alford Brook will be bypassed.
 - a) The initiation of the bypass shall NOT occur between September 1 and April 15.
 - b) The bypass shall be initiated early enough to ensure that the sediment can be fully dewatered by September 1 to avoid entrapping state-listed turtles.
- 2) **Turtle Protection Plan:** To protect turtles during construction, all Work (March 16 - September 30), requires a Wood Turtle Protection Plan.
 - a) Said Protection Plan shall include visual sweeps by a Division-approved qualified biologist(s).
 - b) Visual sweeps shall be conducted with the work limits, vehicle/machinery access and along the river and pond banks adjacent to the work.

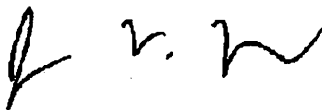
MASSWILDLIFE

- c) A Scientific Collection Permit must be obtained from the Division of Fisheries & Wildlife in order to handle Wood Turtles. The application shall be provided to the Division describing all methods proposed for searching, including timing and effort at the work site and qualifications of the person requesting the permit regarding Wood Turtles and other cryptic aquatic turtles.
 - d) Any Wood Turtle located on site shall be captured and released in nearby suitable habitat after taking photos and data sufficient to meet the reporting requirements of the Scientific Collection Permit in the form of a Rare Animal Observation Form.
 - e) Erosion control barriers, if installed, shall be removed as soon as possible following site stabilization, to ensure that they do not become barriers to wildlife movement. The Division does not require or suggest turtle exclusion barriers for this Project.
- 3) **Compliance Report:** Within thirty (30) days of completion of Work the Applicant shall submit a brief written report including photographs showing previous and final conditions.
- 4) **Authorization Duration:** This approval is valid for 5 years from the date of issuance and limited to the project described herein. Thereafter, the applicant shall re-file under the MESA.
- 5) **Wetlands Protection Act:** Upon filing for any Order of Conditions or renewal, extension, amendment, or certification of compliance of any Orders of Conditions associated with this site pursuant to the MA Wetlands Protection Act, the Applicant shall similarly file with the Division.

Provided the above-noted condition is fully implemented and there are no changes to the project plans, this project will not result in a Take of state-listed species. We note that all work is subject to the anti-segmentation provisions (321 CMR 10.16) of the MESA. This determination is a final decision of the Division of Fisheries and Wildlife pursuant to 321 CMR 10.18. Any changes to the proposed project or any additional work beyond that shown on the site plans may require an additional filing with the Division pursuant to the MESA. This project may be subject to further review if no physical work is commenced within five years from the date of issuance of this determination, or if there is a change to the project.

Please note that this determination addresses only the matter of state-listed species and their habitats. If you have any questions regarding this letter please contact, Misty-Anne Marold, Senior Endangered Species Review Biologist, at (508)-389-6356.

Sincerely,



Jonathan V. Regosin, Ph.D.
Deputy Director

cc: Alexander Thorp, ACCORD Engineering & Surveying, LLC

cc: Alford Conservation Commission
Alexander Thorp, ACCORD Engineering & Surveying, LLC
Thomas Coote
MA DEP Western Region



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581
p: (508) 389-6300 | f: (508) 389-7890
MASS.GOV/MASSWILDLIFE

May 24, 2019

Robert Strassler
PO Box 750
Great Barrington MA 01230

RE: Project Location: 102 West Road
 Project Description: Dredge manmade pond associated with Alford Brook
 Town: ALFORD
 DEP Wetlands File No.: 088-0061
 NHESP File No.: **17-37231**

Dear Applicant:

The Natural Heritage & Endangered Species Program of the MA Division of Fisheries and Wildlife (the "Division") has received and reviewed revised plans entitled "WETLANDS PROTECTION ACT NOTICE OF INTENT" (2 sheets, dated 5/8/19, prepared by Accord Engineering & Surveying, LLC) for the subject project.

The Division finds that the revised plans do not change our previous determination that this project **must be conditioned to avoid adverse effects** the actual Resource Area Habitat of state-protected rare wildlife species (Division letter dated 5/9/19) and **must be conditioned to avoid a prohibited Take** of state-listed rare species (Division letter dated 3/21/19) and that previous determination stands. Issuance of an Order of Conditions approving the project as currently designed is consistent with the Interests of the WPA strictly related to rare species, provided the conditions in the Division's previous determination letter are included. A copy of any final Order of Conditions shall be mailed or hand delivered to the Division simultaneous with sending to the applicant as required pursuant to 310 CMR 10.05(6)(e)).

We note that all work is subject to the anti-segmentation provisions (321 CMR 10.16) of the MESA. Any activity not included in the current filing and located within *Priority Habitat* may require an additional filing with the Division for review if not otherwise exempt. If no physical work is commenced on the above proposed project within five years from the date of issuance of our original letter or there is a material change in the plans that were submitted to the Division, updated information and/or plans must be sent to the Division for review prior to any work.

Please contact Melany Cheeseman, Endangered Species Review Assistant, at (508) 389-6357 with any questions or comments.

Sincerely,

Jonathan V. Regosin, Ph.D.
Deputy Director

MASSWILDLIFE

Attachments

[Alford_17-37231_050919.pdf](#)

[Alford_17-37231_052419.pdf](#)

[Alford_17-37231.pdf](#)

Update Status

Status

Opened ▼

SUBMIT

Share Comment

SHARE WITH A REGISTERED USER

[BACK TO SEARCH RESULTS](#)



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Western Regional Office • 436 Dwight Street, Springfield MA 01103 • 413-784-1100

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Kathleen A. Theoharides
Secretary

Martin Suuberg
Commissioner

July 1, 2019

Kathleen A. Theoharides, Secretary
Executive Office of Energy & Environmental Affairs
Massachusetts Environmental Policy Act Office
Deirdre Buckley, EEA No. 16039
100 Cambridge Street, 9th Floor
Boston, MA 02114-2524

Re: Robert Strassler Dredge ENF
Alford, MA

Dear Secretary Theoharides,

The Massachusetts Department of Environmental Protection (MassDEP), Western Regional Office (WERO) appreciates the opportunity to comment on the Environmental Notification Form (ENF) submitted for the Robert Strassler Pond Dredge project in Alford (EEA #16039). Applicable MassDEP regulatory and permitting considerations regarding wetlands, waterways, hazardous waste, solid waste, and waste site cleanup are discussed.

I. Project Description

Alford Brook, a coldwater fishery is ponded on property owned by Robert Strassler. The Proponent has submitted an ENF to dredge approximately 3,940 cubic yards (cy) of sediment from the approximately 1.7-acre pond to restore original pond depth and resurface the 30 feet long, non-jurisdictional dam. The dredge project conducted in 2001 included the installation of a 30-inch diameter bypass pipeline to facilitate future dredging under dry conditions. The water will be directed through the bypass pipe and the level in the pond will be drawn down so that the project will be conducted as a dry dredge. Dredged materials from the pond will be drained and disposed onsite on an upland portion of the property. Access to the pond will be via mowed lawn.

The project will require review by Natural Heritage Endangered Species program, a 401 Water Quality Certification from the Massachusetts Department of Environmental Protection, authorization from the U.S. Army Corps of Engineers in accordance with Section 404 of the Federal Clean Water Act and an Order of Conditions from the Alford Conservation Commission.

Environmental impacts from the proposed project are as follows:

- 64,346 square feet (sf) of Land Under Water (LUW),
- 30 feet of Bank,
- 250 sf of Bordering Vegetated Wetland (BVW), and
- 3,940 cubic feet of dredge material.

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

TTY# MassRelay Service 1-800-439-2370
MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

II. Required Mass DEP Permits and/or Applicable Regulations

Wetlands

310 CMR 10.000

Water Quality Certification

314 CMR 9.00

Air Pollution

310 CMR 7.00

Solid Waste

310 CMR 19.00

Bureau of Waste Site Cleanup

310 CMR 40.0000

III. Permit Discussion

Bureau of Resource Protection

Wetlands

As proposed, this project is subject to regulation under the Wetlands Protection Act and the associated regulations. Also note the project is subject to MassDEP's "Stormwater Management Policy"; the Proponent is referred to Volumes One and Two (MassDEP March 1997). A Notice of Intent has been submitted to the Alford Conservation Commission. The Commission is advised to hold the hearing open until all comments or permits are issued from other state and Federal agencies as applicable, to avoid conflict between Order of Condition (OOC) and other permits. MassDEP will not issue any permits until the Secretary has issued a Certificate. MassDEP's Circuit Rider is available to advise the Commission.

The Site appears to contain Bank (Inland), Bordering Vegetated Wetland (BVW), Land Under Water Bodies and Waterways (LUWW), and Riverfront Area (RA). The work is primarily proposed in the pond but may potentially include impacts to Bank and BVW for access, and Buffer Zone. The Proponent is advised to amend any submittals if the project access changes and affects presented impacts.

The narrative included with the ENF and the Notice of Intent submittals, make an unsupported assertion that the project qualifies as an Ecological Restoration Limited project. The following is the minimum requisite information required to demonstrate a project qualifies as an Ecological Restoration Project:

1. That the proposed work meets the definition of an Ecological Restoration Project per 310 CMR 10.04, specifically that "...[the] primary purpose is to restore or otherwise improve the natural capacity of a Resource Area(s) to protect and sustain the interests identified in M.G.L. c. 131 § 40, when such interests have been degraded or destroyed by anthropogenic influences...".
2. A detailed description of baseline ecological conditions.
3. A detailed description of which interests of the Act have been impaired, and by what anthropogenic causal factor(s).
4. A detailed description of the ecological restoration goals.
5. Specifically, how the interests of the Act will be improved or restored by the proposed work, with any supporting evidence or corroborating statements from applicable entities (e.g., Massachusetts Division of Fisheries & Wildlife regarding fisheries habitat improvement).

Bordering Vegetated Wetland General Performance Standards

The proponent is advised to plan and construct any Bordering Vegetated Wetland "replacement area" per "Massachusetts Inland Wetland Replication Guidelines" (MassDEP March 2002); the issuing authority will reference these guidelines to determine compliance.

Land Under Water and Bank General Performance Standards

This project as proposed may exceed thresholds specified under the general performance standard, and therefore requires a wildlife habitat evaluation as detailed in regulation under 310 CMR 10.60. The Proponent is referred to the "Massachusetts Wildlife Habitat Guidance for Inland Wetlands" (DEP March 2006).

Riverfront Area General Performance Standards

Work conducted in undisturbed Riverfront Area, must meet *General Performance Standards* as detailed in regulation; an alternatives analysis may be require.

- *Redevelopment*

Work conducted within existing degraded Riverfront Area may be considered under the "redevelopment" provisions.

401 Water Quality Certification

As proposed, this project will require a 401-water quality certification (WQC). Under these regulations, impacts are to be avoided, minimized and mitigated; the proponent is required to provide sufficient information to adequately describe cumulative impacts to "Waters of the United States within the Commonwealth" (Bordering and Isolated Vegetated Wetlands and Land Under Water). The Proponent should submit a copy of the application for Dredge Project Certification to both the Western Regional and the Boston Office of MassDEP for review. A single permit for the dredge project will be issued from Boston. The Proponent is advised to be clear if the permit application is for long term maintenance as MassDEP has the regulatory authority to condition the permit for maintenance. If the long term maintenance plan will be proposed at a later date, the Proponent is advised to consult with MassDEP and the MEPA office.

Bureau of Waste Prevention

Air Pollution Control

Construction

The construction activity must conform to current Air Pollution Control Regulations. The proponent should implement measures to alleviate dust, noise, and odor nuisance conditions that may occur during the works. Such measures must comply with the MassDEP's Bureau of Waste Prevention Regulations 310 CMR 7.01, 7.09, and 7.10.

Construction Period Air Quality Mitigation Measures

MassDEP believes it is necessary to mitigate the construction-period impacts of diesel emissions to the maximum extent feasible and recommends that the project proponent participate in the MassDEP Diesel Retrofit Program. In addition, pursuant to 40 CFR 80.510, all non-road engines shall be operated using only ultra low sulfur diesel (ULSD) with a sulfur content of 15 ppm.

Solid Waste

As applicable, dredged spoils shall be managed and reused or disposed of in accordance with conditions of a 401 Water Quality Certificate Permit. The Proponent has proposed to dispose of

the dredged material on-site. Sampling and analysis of soils, if not suitable for on-site reuse, must be conducted in accordance with the *MassDEP Interim Policy COMM 94-007 Sampling, Analysis, Handling & Tracking Requirements for Dredged Sediment Reused or Disposed at Massachusetts Permitted Landfills*.

The Proponent shall properly manage and dispose of any solid waste generated by this proposed project pursuant to 310 CMR 16.00 and 310 CMR 19.000, including the regulations at 310 CMR 19.017 (waste ban).

The Proponent is advised that construction activity at the site must comply with both Solid Waste and Air Quality Control regulations. The appropriate Solid Waste provisions addressing this include M.G.L. Chapter 40, Section 54.

Bureau of Waste Site Cleanup

The Massachusetts Contingency Plan (MCP) and associated regulation governs the cleanup of oil and hazardous material (OHM) releases in Massachusetts. There are no identified releases at this site. The Proponent is advised that if OHM contamination is encountered during on-site activities, a Licensed Site Professional (LSP) should be retained to manage the contaminated media in compliance with the provisions of the MCP and regulation.

Spills Contingency Plan

A spills contingency plan addressing prevention and management of potential releases of oil and/or hazardous materials from pre- and post-construction activities should be presented to workers at the site and enforced. The plan should include, but not be limited to, refueling of machinery, storage of fuels, and potential releases. This plan is of importance due to the proximity of the work to the resource areas on site.

IV. Other Comments/Guidance

If you have any questions regarding this comment letter please do not hesitate to contact Catherine Skiba at (413) 755-2119 or catherine.skiba@state.ma.us.

Sincerely,

This final document copy is being provided to you electronically by the Department of Environmental Protection. A signed copy of this document is on file at the DEP office listed on the letterhead.

Michael Gorski
Regional Director

cc: MEPA File