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August 7, 2020

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

PROJECT NAME : Chebacco Road Infrastructure Improvements Project
PROJECT MUNICIPALITY : Hamilton
PROJECT WATERSHED : North Coast
EEA NUMBER : 16237
PROJECT PROPONENT : Town of Hamilton Department of Public Works
DATE NOTICED IN MONITOR : July 8, 2020

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 the full-depth reconstruction of Chebacco Road in Hamilton, from Essex Street (Route 22) easterly to the Hamilton/Manchester-by-the-Sea town line. The project will repave the existing paved portion of Chebacco Road, and realign and pave a gravel section of Chebacco Road to create a larger distance between the road and Gravelly Pond. Additionally, the two ± 15 -foot long existing wood retaining walls along Beck Pond will be replaced with two longer concrete retaining walls, one 80 linear feet (lf) in length and one extending 100 lf. The project will create a uniform 20-foot wide roadway and create 8 parking spaces through the construction of two expanded gravel shoulders along the north side of Chebacco Road, near the boat ramp entrance to Chebacco Pond. Degraded and/or poorly functioning culverts, catch basins, and signage will be replaced or improved.

Project Site

The 5.9-acre, 10,670 linear-foot (lf) project corridor is primarily comprised of the existing Chebacco Road Right-of-Way (ROW), with the exception of a 1,225 lf section that is being proposed to be realigned and will be located within an adjacent parcel, referred to in the ENF as the #523 Chebacco Road parcel. The #523 Chebacco Road parcel is an approximately 179.5-acre property owned by Manchester-by-the-Sea that is subject to a recorded Conservation Restriction granted to the Town of Hamilton for the purpose of protecting the natural resources associated with Gravelly Pond (which is used as a public water supply for the Town of Manchester-by-the-Sea) and protected pursuant to Article 97 of the Amendments to the Constitution of the Commonwealth (Article 97). The project corridor is surrounded by rural residential development and undeveloped forested areas, wetlands, and various water bodies, including: Chebacco Lake, Gravelly Pond, Round Pond, and Beck Pond. A perennial stream flows underneath Chebacco Road, connecting Round Pond to Chebacco Lake. A mixed gravel and pavement parking area associated with the public landing on Chebacco Lake is located east of the stream. The two existing retaining walls (located between Chebacco Road and Beck Pond) are degraded, and areas adjacent to the walls exhibit scouring and erosion due to stormwater flowage from Chebacco Road.

The project corridor contains various wetland resource areas associated with the bordering ponds and lakes, as well as the perennial stream, including: Bordering Vegetated Wetland (BVW), Isolated Vegetated Wetlands, Bank, Riverfront Area (RFA), and Bordering Land Subject to Flooding (BLSF). The corridor also contains mapped *Estimated and Priority Habitat of Rare Species* as delineated by the Natural Heritage and Endangered Species Program (NHESP) in the 14th Edition of the Massachusetts Natural Heritage Atlas, as well as several Potential and Certified Vernal Pools. A portion of the project corridor is mapped as Outstanding Resource Water (ORW) associated with Gravelly Pond, which is designated as a Public Water Supply Watershed. The southern portion of the project footprint is mapped within FEMA Zone A – *Special Flood Hazard Areas subject to inundation by the 1% annual chance flood* and the remainder of the project footprint is located within Zone X (unshaded) – *Area of Minimal Flood Hazard*.

Environmental Impacts and Mitigation

As described in the ENF, potential environmental impacts associated with the project include the disturbance of 5.9 acres of land, including 1.0 acre of new land alteration, as well as the alteration of 250 lf of Bank, 3,200 square feet (sf) of BLSF, and 16,400 sf of RFA. The project will result in the conversion of ± 1.14 acres of Article 97 Land. The project may also potentially impact mapped state-listed species habitat.

Measures to avoid, minimize, and mitigate environmental impacts identified in the ENF include the removal of $\pm 1,742$ sf of impervious surface, proposed restoration planting in areas of disturbed Bank, implementation of erosion and sedimentation controls during construction, and best management practices (BMPs) to avoid and minimize impacts to rare species habitat during the construction period. Additionally, ± 1.86 acres of land is proposed as mitigation for the conversion of Article 97 Land; this acreage is proposed to be added to the area subject to the existing Conservation Restriction. Comments from the Massachusetts Department of Environmental Protection (MassDEP) indicate the new portion of realigned roadway is characterized as a new development and may not be

permissible unless the project fully meets MassDEP Stormwater Standards for this portion. The Proponent will also be required to determine a base flood elevation (BFE) for the surrounding flood plain and should conduct a comprehensive climate resiliency analysis prior to finalizing project design.

Jurisdiction and Permitting

This project is subject to MEPA review and preparation of an ENF pursuant to 301 CMR 11.03(1)(b)(3) because it requires a State Agency Action and will involve the conversion of land held for natural resources purposes in accordance with Article 97 of the Amendments to the Constitution of the Commonwealth (Article 97) to any purpose not in accordance with Article 97.

The project will require an Order of Conditions (OOC) from the Hamilton Conservation Commission (or in the case of an appeal, a Superseding Order of Conditions from MassDEP).

Because the project will receive Financial Assistance through Chapter 90 Funding from the Massachusetts Department of Transportation (MassDOT), MEPA jurisdiction is broad in scope and extends to all aspects of the project 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, preliminary project plans, correspondence with NHESP, Conservation Restriction document, and Stormwater Management Memorandum, and identified measures to avoid, minimize and mitigate environmental impacts.

Alternatives Analysis

The Proponent evaluated alternatives for the overall project, as well as alternatives specific to the retaining wall layout and the re-alignment of the gravel portion of Chebacco Road. Overall project alternatives included increasing the roadway width to 21 or 22 feet; however, both alternatives were dismissed as they would result in a net increase in impervious surface area, and increase cost and impacts to wetlands compared to the Preferred Alternative. Repaving only the existing paved portions of Chebacco Road and leaving the gravel section intact was also considered. According to the ENF, the gravel section of Chebacco Road is in very poor condition and requires annual or more frequent maintenance, and erosion from the gravel surface is negatively affecting wetlands and Vernal Pools. The ENF states that leaving the gravel section in its current condition would not meet the project goal of rebuilding Chebacco Road to improve access and safety for the entire length of the road; this alternative was therefore dismissed.

Retaining wall alternatives included installing angled walls in the proposed wall footprint and installing a continuous wall along the entire stretch of roadway adjacent to Beck Pond. According to the ENF, these alternatives were dismissed as they would result in a greater impact to Bank compared to the Preferred Alternative. The Proponent also evaluated replacing the two existing retaining walls with new walls of the same size, but this alternative was dismissed as the new walls would not provide long-term stabilization of the shoreline and the erosion on either end of the walls would persist. Replacing the

walls with graded slopes was also evaluated and subsequently dismissed as it would not allow for a consistent 20-foot roadway cross-section.

Re-alignment alternatives included locating a gravel section of the roadway to an existing secondary existing ROW (dated 1964) that is located further from the existing roadway and Gravel Pond than the proposed re-alignment. According to the ENF, this alignment was dismissed in response to feedback from abutters and due to numerous ledge rock outcrops identified within the existing ROW that would require significant grading and blasting.

Finally, a No-Build Alternative was evaluated but dismissed as it would not meet project goals of addressing the erosion and untreated stormwater discharge into Beck Pond and other wetlands and Vernal Pools, failing retaining walls, and generally unsafe and inefficient travel conditions of the roadway. The Preferred Alternative, described herein, was chosen for its ability to meet project goals while reducing impacts to environmental resources.

Wetlands

The project will result in the alteration of 250 lf of Bank, 3,200 sf of BLSF, and 16,400 sf of RFA. Disturbances to BLSF and RFA are temporary and limited to the existing footprint of Chebacco Road and shoulders. Work within Bank is associated with the removal of the two failing ± 15 -foot long wooden retaining walls and replacement with two longer concrete retaining walls, one 80 lf in length and one extending 100 lf. Disturbed Bank will be restored to pre-construction conditions, including the use of restoration plantings. According to the ENF, work to the retaining walls will be limited to within a 1-foot width. Comments from MassDEP indicate that the increase in length of retaining walls from 30 lf to 180 lf, requiring 250 lf of Bank alteration, should be further evaluated to determine if the additional length is necessary. Additionally, MassDEP states the 1-foot work area between the face of the wall and erosion controls is likely to result in inadvertent wetland alteration during construction and recommends the proponent revise the plans to create a 4 – 5 foot wide work area. MassDEP further states the Proponent should examine the possibility that the terminus ends of retaining walls may result in end scouring and erosion and requests that the Proponent provide additional detail and make any necessary revisions to design to address this issue.

A portion of the project is located within FEMA Zone A, which is subject to inundation during a 100-year flood but does not have a mapped base flood elevation. Comments from MassDEP indicate the proponent should determine the 100-year flood elevation in accordance with 310 CMR 10.57(2)(a)3, and that if permanent filling of BLSF is proposed, the proponent must show how the performance standards contained in 310 CMR 10.57(4)(a) will be met.

Stormwater

The project will replace degraded and/or poorly functioning sub-surface culverts and catch basins during construction. Three existing catch basins and drainage pipes discharging into Beck Pond will be removed and replaced with deep sump catch basins and new drainage pipes. Pre-cast concrete headwalls will be installed at the existing outlets upgradient from the bank to Beck Pond. The ENF states the project will result in the net decrease 0.04 acres of impervious surface. According to the ENF, proposed enhancements to the stormwater management system were limited to improvements to the

existing infrastructure due to ROW constraints. Existing shoulders and slopes will be stabilized by creating grass strips on either side of the new road to reduce gravel wash-out into sensitive wetlands. The new roadway realignment will include a grass swale to collect and infiltrate stormwater prior to discharge to Gravelly Pond. The ENF included a Stormwater Management Memorandum that states the project meets Standards 3, 6, 8, 9, and 10; Standards 1, 2, and 4 have been met to the maximum extents practicable, and Standard 5 does not apply.

Comments from MassDEP indicate the project as designed does not meet the Stormwater Standards and therefore is not permissible. MassDEP states that the portions of the existing roadway that are paved and will be reconstructed will be considered redevelopment (Standard 7), and the Proponent must demonstrate how this portion of the project will meet all the stormwater standards to the maximum extent practicable. However, the areas where the existing road is gravel and will be converted to a paved roadway will be considered new development and must fully meet the Stormwater Standards. Further, MassDEP states that the proposal to replace two existing catch basins with deep sump catch basins and to add one new catch basin, all of which will discharge stormwater directly into Beck Pond, does not meet the Stormwater Standards. Comments from MassDEP indicate that this discharge will likely result in erosion and scouring of Bank and Land Under Water and should be reconfigured to avoid wetland impacts.

Article 97

The project will result in the construction of a new alignment of Chebacco Road on ± 1.14 acres (49,800 sf) of land protected under Article 97. The ENF included a copy of the CR granted from the Town of Manchester-by-the-Sea to the Town of Hamilton, dated April 6, 1998, for the purpose of watershed and natural resource protection. To comply with EEA's No Net Loss Land Disposition Policy, the Proponent proposes to add ± 1.86 acres (81,000 sf) of land within the current roadway and the 1964 ROW located nearby to the areas subject to the CR. According to the ENF, the town of Manchester-by-the-Sea has been consulted throughout the project design process and supports the proposal. The ENF states the realignment of the gravel road will locate the roadway further from Gravelly Pond and is expected to enhance the protection of the Gravelly Pond public water supply watershed area. In accordance with the No Net Loss Policy, the subject land disposition must be authorized by enacted legislation and approved by all municipal, state and federal agencies, authorities, or other government bodies so required and empowered by law prior to conveyance and any construction work.

Rare Species

The project corridor contains Priority and Estimated Habitat for the Blue-Spotted Salamander (*Ambystoma laterale*). The Blue-Spotted Salamander and its habitats are protected pursuant to the Massachusetts Endangered Species Act (M.G.L. c. 131A) and its implementing regulations (MESA, 321 CMR 10.00). According to the ENF, NHESP has been consulted to identify measures to avoid, minimize, and mitigate impacts to state-listed rare species habitat. The ENF states roadway upgrades within mapped habitat will remove the on-going gravel wash-out into Certified Vernal Pools abutting the roadway, thereby improving water quality. Erosion and sedimentation controls along the roadway will be staggered and overlapping to allow salamander passage. Signage will be also be installed to alert motorists of the environmentally sensitive areas. Projects that occur in Priority and Estimated habitat

that are not otherwise exempt are required to file with NHESP for compliance with the Massachusetts Endangered Species Act (MESA). Comments from NHESP indicate that they do not anticipate significant impacts to State-listed species as long as the above measures are taken to avoid or minimize impacts to state-listed species during the construction period.

Climate Change Adaptation and Resiliency

Governor Baker's Executive Order 569: Establishing an Integrated Climate Change Strategy for the Commonwealth (EO 569; the Order) was issued on September 16, 2016. The Order recognizes the serious threat presented by climate change and direct Executive Branch agencies to develop and implement an integrated strategy that leverages state resources to combat climate change and prepare for its impacts. The Order seeks to ensure that Massachusetts will meet GHG emissions reduction limits established under the Global Warming Solution Act of 2008 (GWSA) and will work to prepare state government and cities and towns for the impacts of climate change. I note that the MEPA statute directs all State Agencies to consider reasonably foreseeable climate change impacts, including additional greenhouse gas emissions, and effects, such as predicted sea level rise, when issuing permits, licenses and other administrative approvals and decisions. M.G.L. c. 30, § 61.

The Northeast Climate Science Center at the University of Massachusetts at Amherst has developed projections of changes in temperature, precipitation, and sea level rise for Massachusetts. This data is available through the Climate Change Clearinghouse for the Commonwealth at www.resilientma.org. By the end of the century, the average annual temperature in North Coastal Drainage Basin is projected to rise by 4.83 to 9.31 degrees Fahrenheit (°F), including an increase in the number of days with temperatures over 90 °F from a minimum of 17.84 days and a maximum up to 48.54 days compared to the 1971-2000 baseline period. During the same time span, the average annual precipitation is projected to increase by a minimum of 4.01 to a maximum of 4.11 inches, which may be associated with more frequent and intense storm events. The Massachusetts State Hazard Mitigation & Climate Adaptation Plan (2018) may provide additional data and resources applicable to the project site.

Given that a portion of the site is located in a FEMA flood zone, I encourage the Proponent to undertake a climate resiliency analysis prior to finalizing project design, including determining the BFE in the surrounding floodplain as discussed above. This assessment should take into account best available data on anticipated increases in precipitation levels due to climate change during the useful life of the project or other appropriate planning horizon. As this project is receiving State Financial Assistance, it is particularly important to consider climate change factors when undertaking infrastructure upgrades that, if not designed properly, may require additional taxpayer funds to repair or retrofit at a later time.

The Town is a participant in the Commonwealth's Municipal Vulnerability Preparedness (MVP) program. The MVP program is a community-driven process to define natural and climate-related hazards, identify existing and future vulnerabilities and strengths of infrastructure, environmental resources, and vulnerable populations, and develop, prioritize and implement specific actions the Town can take to reduce risk and build resilience. Through the MVP program, the Town received funding to conduct a planning process for climate change resiliency and implementing priority projects. The results of the initial community-driven process were presented in the "Town of Hamilton Community

Resilience Building Workshop – Summary of Findings” (the Report), dated October 24, 2019¹. I encourage the Proponent to consider future climate change conditions as the design of the project is finalized and proceeds to permitting.

Construction Period

All construction activities should be managed in accordance with applicable MassDEP’s regulations regarding Air Pollution Control (310 CMR 7.01, 7.09-7.10), and Solid Waste Facilities (310 CMR 16.00 and 310 CMR 19.00, including the waste ban provision at 310 CMR 19.017). The project should include measures to reduce construction period impacts (e.g., noise, dust, odor, solid waste management) and emissions of air pollutants from equipment, including anti-idling measures in accordance with the Air Quality regulations (310 CMR 7.11). I encourage the Proponent to require that its contractors use construction equipment with engines manufactured to Tier 4 federal emission standards, or select project contractors that have installed retrofit emissions control devices or vehicles that use alternative fuels to reduce emissions of volatile organic compounds (VOCs), carbon monoxide (CO) and particulate matter (PM) from diesel-powered equipment. Off-road vehicles are required to use ultra-low sulfur diesel fuel (ULSD). If oil and/or hazardous materials are found during construction, the Proponent should notify MassDEP in accordance with the Massachusetts Contingency Plan (310 CMR 40.00). All construction activities should be undertaken in compliance with the conditions of all State and local permits.

Conclusion

The ENF has adequately described and analyzed the project and its alternatives, and assessed its potential environmental impacts and 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. However, according to comments from MassDEP indicate that the project as currently proposed is not permissible. Given the extensive wetland resource areas within the project corridor, redesign of the project to address permitting requirements may result in increased environmental impacts, and the possible exceedance of MEPA threshold 301 CMR 11.03 (3)(b)(1)(f) – *alteration of ½ or more acres of any other wetland*. Should the project undergo substantial design changes during permitting, the Proponent is directed to consult the MEPA Office to determine whether a Notice of Project Change (NPC) filing may be required. The Proponent has acknowledged the concerns of MassDEP and the possible necessity of an NPC, and has stated that it will coordinate with MassDEP prior to submitting a Notice of Intent (NOI) with the Town of Hamilton Conservation Commission².

August 7, 2020

Date



Kathleen A. Theoharides

¹ Report can be accessed from: <https://www.hamiltonma.gov/government/planning-board/public-listening-session-municipal-vulnerability-preparedness-program/>

² Email from Claire Hooeboom (LEC Environmental Consultants, Inc.) to Eva Murray (MEPA Office) sent on July 30, 2020.

Comments received:

07/27/2020 Massachusetts Department of Fish and Game (DFG) – Division of Fisheries and Wildlife (MassWildlife)
07/28/2020 Massachusetts Department of Environmental Protection (MassDEP), Central Regional Office (CERO)

KAT/ELM/elm



Commonwealth of Massachusetts
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Karyn E. Polito
Lieutenant Governor

Kathleen A. Theoharides
Secretary

Martin Suuberg
Commissioner

July 28, 2020

Kathleen A. Theoharides, Secretary
Executive Office of
Energy & Environmental Affairs
100 Cambridge Street
Boston MA, 02114

RE: Hamilton
Chebacco Road Infrastructure Improvements
Project
EEA # 16237

Attn: MEPA Unit

Dear Secretary Theoharides:

The Massachusetts Department of Environmental Protection Northeast Regional Office (MassDEP-NERO) has reviewed the Environmental Notification Form (ENF) for the proposed Chebacco Road Infrastructure Improvements Project in Hamilton. MassDEP provides the following comments.

Wetlands

While MassDEP acknowledges the Town's efforts to relocate portions of Chebacco Road further way from the wetlands and its intentions to reduce stormwater runoff and sediment into adjacent wetlands, including certified vernal pools, the project as designed does not meet the Stormwater Standards. The portions of the existing roadway that are paved and will be reconstructed/paved would be considered redevelopment (Standard 7). The proponent must demonstrate how the project will meet all the stormwater standards to the highest level possible (Vol 1, Ch. 1, MA Stormwater Handbook). The other areas where the existing road is gravel and will be converted to a paved roadway must fully meet the Stormwater Standards. MassDEP also notes that the proposal to replace two (2) existing catch basins with deep sump catch basins and adding one new catch basin that will all be discharged directly into Beck Pond does not meet the Stormwater Standards. The discharge is likely to result in erosion and scouring of Bank and Land Under Water and should be reconfigured to avoid wetland impacts. MassDEP is aware that site constraints will play a role in how the stormwater standards

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

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are met; however, the proponent should explore using LID techniques and obtaining drainage easements from landowners.

A portion of the project is located within a Zone A (100 year floodplain) and therefore, the proponent should determine the 100 year flood elevation in accordance with 310 CMR 10.57(2)(a)3. If filling of Bordering Land Subject to Flooding ("BLSF") is proposed, the proponent must show how the performance standards contained in 310 CMR 10.57(4)(a) will be met.

The MEPA narrative says the two (2) existing wooden retaining walls are both 15 linear feet in length. The rationale for altering 250 linear feet of Bank associated with Beck Pond for the new retaining walls should be discussed. The proponent should also explore ways to reduce Bank impacts, including using soft solutions. Although it was mentioned during the MEPA scoping session that these existing retaining walls will be reconstructed from the roadway, it is MassDEP's opinion that the one (1) foot of work area between the face of the wall and erosion controls is likely to result in inadvertent wetland alteration during construction. MassDEP recommends the proponent revise the plans to create at 4 – 5 foot wide work area. The applicant should examine the possibility that the terminus ends of retaining walls may result in end scouring and erosion and provide additional detail as well as making any necessary revisions. A detail of the walls should be included in the plans. Finally, all temporary wetland alterations should be quantified and shown on the plans and a detailed restoration plan, including monitoring, should be prepared showing all areas to be replanted/restored and the location and species to be planted.

The MassDEP appreciates the opportunity to comment on this proposed project. Please contact Rachel.Freed@mass.gov at (978) 694-3258 for further information on wetlands issues. If you have any general questions regarding these comments, please contact me at John.D.Viola@mass.gov or at (978) 694-3304.

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.

John D. Viola
Deputy Regional Director

cc: Brana Simon, Massachusetts Historical Commission
Eric Worrall, Rachel Freed, Pam Merrill, MassDEP-NERO

View Comment

Comment Details			
EEA #/MEPA ID*	First Name	Address Line 1	Organization
16237	David	1 Rabbit Hill Road	MA Division of Fisheries and Wildlife-NHESP
Comments Submit Date	Last Name	Address Line 2	Affiliation Description
7-27-2020	Paulson	--	State Agency
Review Due By	Phone	State	Status
7-30-2020	--	MASSACHUSETTS	Opened
Reviewer	Email	Zip Code	
Eva Murray eva.murray@mass.gov	david.paulson@mass.gov	01581	

Comments

Topic: Chebacco Road Infrastructure Improvements Project (20-39386/16237)

NHESP 20-39386 EEA 16237 Dear Secretary Theoharides: The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the “Division”) has reviewed the Environmental Notification Form (ENF) for the proposed “Chebacco Road Infrastructure Improvements Project” and would like to offer the following comments regarding state-listed rare species and their habitats. The project site is mapped as Priority and Estimated Habitat for State-listed rare species therefore, the above reference project will need to file for project review pursuant to the Massachusetts Endangered Species Act (MESA 321 CMR 10.00). The Division would like to note that we do not anticipate there being significant concerns for State-listed species. We appreciate the opportunity to comment on this project. If you have any questions about this letter, please contact David Paulson, Senior Endangered Species Review Biologist, at (508) 389-6366 or david.paulson@mass.gov.

Attachments

Update Status

Status

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▼

SUBMIT

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