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) 626-1181
http://www.mass.gov/envir

August 28, 2020

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

PROJECT NAME	: Watson Road Dam Removal
PROJECT MUNICIPALITY	: Hinsdale
PROJECT WATERSHED	: Housatonic
EEA NUMBER	: 16249
PROJECT PROPONENT	: Kimberley Wendling
DATE NOTICED IN MONITOR	: July 22, 2020

Pursuant to the Massachusetts Environmental Policy Act (MEPA, 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 the Expanded Environmental Notification Form (EENF) for this project and hereby determine that the project **does not require** the submission of an Environmental Impact Report (EIR) and may proceed to permitting. In a separate Draft Record of Decision (DROD) also issued today, I have proposed to grant a Waiver from the requirement to prepare a mandatory EIR. This Certificate sets forth the issues that must be addressed by the Proponent during permitting and discusses comments and recommendations submitted during MEPA review.

Project Description

As described in the EENF, the project consists of removal of portions of Watson Road dam in Hinsdale. The project is proposed to address structural deficiencies associated with the dam in response to a Dam Safety Order (February 22, 2008) and Certificate of Noncompliance (September 11, 2015) issued by the Massachusetts Department of Conservation (DCR) Office of Dam Safety (ODS). Deficiencies include beaver activity, poor condition of the dam crest and downstream masonry wall, and large trees on the dam crest, abutments and near the downstream toe. The project will permanently lower the dam crest by approximately two feet to make it a non-jurisdictional structure, restore flow and hydrologic and habitat connectivity benefitting fisheries and other aquatic organisms, remove

maintenance requirements and costs, and eliminate owner liability associated with dam failure. The project will construct a new trapezoidal-shaped outlet through which runoff entering the pond will drain without significantly increasing downstream flood elevations.

The project will remove a portion of the dam to allow a channel to connect the upstream unnamed pond to the downstream watercourse. Work includes demolition of the stone masonry walls at the downstream face of the dam embankment; demolition of historic spillway concrete, masonry and piping features, conduits and other features; lowering the elevation of the remaining portion of the dam; installation of riprap aprons including reuse of stones from the masonry wall as riprap fill; removal of trees, stumps and root systems from the earthen embankment and abutments; excavation and regrading of the existing dam embankment; construction of new outlet channel; and restoration of the project site.

Dam removal will eliminate a public safety hazard, reduce maintenance requirements for the Proponent, remove a Significant Hazard Potential structure, restore natural river processes, improve habitat connectivity, and attenuate flood flow to protect downstream infrastructure.

Project Site

The 119.2-acre project site contains Watson Road Dam which is located north of Old Stagecoach Road on a tributary to the East Branch Housatonic River. Work will occur within 0.4 acres of the site (upstream and downstream of the dam). The dam is located at the south end of an unnamed pond which is surrounded by forested land. Watson Road Dam is an earthen dam with a vertical rubble masonry wall on its downstream face. It was constructed between 1960 and 1971 and provides no recreational or commercial value. It has a structural height of nine feet (a hydraulic height of six feet), dam crest length of 100 feet, and an average width of 40 feet. The impoundment has a normal pool storage of 42 acre-feet and a maximum pool storage of 81 acre-feet. The structural height is set by a berm on the upstream side of the crest which may be associated with long-term beaver activity. The original spillway and upstream end of the culvert are near the center of the crest and are no longer hydraulically connected to the pond. An original low-level outlet pipe is assumed to be inoperable. Discharge flows in a relatively stable channel through a breach in the beaver dam across the dam crest near the right end of the dam. Some ponding occurs near the center of the crest. It impounds approximately 13.17 acres of water surface area.

The dam is classified as an intermediate-sized, Significant Hazard structure in Poor condition by DCR ODS. Phase 1 Dam Inspections (2009, 2016, and 2017) identified the following deficiencies: trees and thick vegetation on the dam crest and within 20 feet of the downstream toe; no functional engineered spillway or low level outlet; observed discharge across the dam crest and behind the downstream wall; presence of a berm constructed by beavers along the upstream dam crest; missing or misaligned stones; and seepage at the downstream toe. ODS requires owners of dams in Poor condition to address identified deficiencies.

The outflow from Watson Pond Dam forms the headwater of an unnamed tributary to East Branch Housatonic River. Downstream of Watson Pond, the waterway flows south for 1,300 feet until it passes through a culvert beneath Old Stagecoach Road and then flows in the southwest direction for another 500 feet until it passes through a culvert beneath Old Dalton Road. From that point, the waterway flows in the west direction for another 2,600 feet until its confluence with East Branch Housatonic River.

Wetland resource areas present in the vicinity of the project site include Bordering Vegetated Wetlands (BVW), Bank, Land Under Water (LUW), Riverfront Area (RFA), and Bordering Land Subject to Flooding (BLSF). According to the EENF, there is no BLSF within the project limits of work.

Environmental Impacts and Mitigation Measures

The project will improve stream connectivity and fish passage, create riparian wetlands, and remove a deficient dam. Due to the nature of the project, permanent conversion of wetland resource areas is unavoidable. Potential environmental impacts associated with the project include alteration of 1,665 linear feet (lf) of Bank (permanent), 98 square feet (sf) of BVW (temporary), 358,948 sf of LUW (1,024 sf temporary and 357,924 sf permanent), and 13,130 sf of RFA (8,858 sf temporary and 4,272 sf permanent). The project will restore free flowing riverine conditions which will permanently convert some areas of LUW within the impoundment to approximately 355,154 sf (8.15 acres) of BVW.

Measures to avoid, minimize, and mitigate impacts include: creation of 8.15 acres of BVW (converted from LUW); bank stabilization and armoring to minimize erosion effects from increase in water velocity in this section of the river from lowering of surface waters in the existing impoundment following dam removal; monitoring and management of invasive plant species; revegetation of areas disturbed during construction with appropriate native seed mix; and implementation of construction period best management practices (BMPs).

Permitting and Jurisdiction

The project is subject to MEPA review and a mandatory EIR pursuant to 301 CMR 11.03(3)(a)(4) because it requires State Agency Actions and involves structural alteration of an existing dam that causes a decrease in impoundment capacity. The project also exceeds Environmental Notification Form (ENF) review thresholds at 301 CMR 11.03(3)(b)(1)(b), alteration of 500 or more lf of Bank and 301 CMR 11.03(3)(b)(1)(f), alteration of one-half or more acres of other wetlands. The project will require a Chapter 253 Dam Safety Permit from DCR ODS. It is subject to the MEPA Greenhouse Gas (GHG) Emissions Policy and Protocol (GHG Policy).

The project will require a Pre-Construction Notification General Permit for Massachusetts from the U.S. Army Corps of Engineers (ACOE) in accordance with Section 404 of the federal Clean Water Act; and a National Pollutant Discharge Elimination System (NPDES) construction permit from the U.S. Environmental Protection Agency (EPA). The Hinsdale Conservation Commission issued an Ecological Restoration Order of Conditions on November 19, 2019, which was not appealed.

Because the Proponent is not seeking Financial Assistance from the Commonwealth for the project, MEPA jurisdiction for any future reviews would extend to those aspects of the project that are within the subject matter of required or potentially required Agency Actions and that may cause Damage to the Environment as defined in the MEPA regulations.

Waiver Request

In accordance with Section 11.05(7) of the MEPA regulations, the Proponent submitted an

EENF with a request that I waive the requirement for a mandatory EIR. The Proponent provided supplemental information on August 14, 2020 which identifies the project's consistency with the criteria for a Waiver. The EENF was subject to an extended comment period pursuant to Section 11.06(1) of the MEPA regulations. The Waiver request was discussed at the remote consultation session for the project. I have reviewed the EENF and the Waiver request and I hereby find that the project meets the standards for a Waiver at 301 CMR 11.11. Comment letters do not identify additional alternatives or mitigation measures that warrant additional analysis through an EIR.

Review of the EENF

The EENF describes the project, provides plans of existing and proposed conditions, identifies environmental resources and proposed impacts, and analyzes alternatives. It includes a summary of hydraulic and hydrologic (H&H) analyses. The Proponent provided supplemental information on August 14, 2020 to address comments at the remote site visit. For the purposes of this Certificate, this supplemental information and the original filing materials are referred to collectively as the EENF.

According to the EENF, DCR ODS issued a Chapter 253 Dam Safety Permit on July 17, 2019. Comments from DCR did not identify outstanding concerns. While DCR appears to have taken this State Agency Action prior to the completion of MEPA review, this failing has been remedied through this review and issuance of this EENF Certificate. DCR is directed to review its Agency Action to determine whether any conditions should be reconsidered or modified following completion of this review. See 301 CMR 11.12(6).

Alternatives Analysis

The EENF includes an analysis of alternatives to meet the project goal of complying with a Dam Safety Order (dated February 22, 2008) and Certificate of Non-Compliance (dated September 11, 2015) issued by DCR ODS which required the Proponent to address identified deficiencies and bring the dam into conformance with current State and Federal standards. The No Action alternative would maintain the status quo and leave in place a deteriorated and significant hazard dam. The Proponent dismissed the No Action alternative because it would not comply with the Dam Safety Order.

The criteria used for assessing each of the alternatives include environmental and ecological impacts associated with the dam and impoundment, long-term operation and maintenance requirements, and impacts to downstream properties and infrastructure. Because the outflow from the dam forms the headwater of an unnamed tributary to East Branch Housatonic River, changes to the structure and impoundment would impact the H&H conditions in the downstream reach. The H&H analysis estimates peak outflows from the dam for existing conditions and for each alternative to understand its potential for impacts to areas along the downstream reach and assess its viability. It identifies properties and infrastructure that could potentially be impacted by increased flows in the reach between Watson Pond and the confluence with the East Branch Housatonic River.

The EENF includes evaluation of the following alternatives: Dam Repair; Full Dam Removal; and Partial Dam Removal (Preferred Alternative). Repair of the dam would require addressing deficiencies noted in the most recent dam safety inspection report in combination with long-term inspection and maintenance programs. In addition to the proposed repairs, the current structure is

hydraulically inadequate to pass the required spillway design flood (the 100-year storm) in accordance with 302 CMR 10; additional engineering design and study would be required to design the repair to meet applicable regulations. While Dam Repair would not increase flood flows in the downstream areas, this alternative was dismissed because it would result in the greatest cost associated with construction and long-term operations and maintenance, would not provide any restoration to the riverine system nor remove potential hazards inherent to all dams to downstream areas, and would not eliminate liability for the Proponent.

The Full Dam Removal alternative would involve removing the entire dam embankment, downstream retaining wall and appurtenant structures. It would also require construction of a channel across the footprint of the dam embankment to connect the existing downstream waterway and the historic upstream waterway. It would cost less than the Dam Repair alternative and more than the Partial Dam Removal alternative. Complete removal of the structure would eliminate the hazard to downstream areas posed by the existing structure, eliminate ongoing costs associated with operation and maintenance, and restore the waterway. This alternative was dismissed because it would increase peak discharges in the downstream reach due to the loss of flood storage/attenuation in the impoundment which would impact downstream properties, roadway crossings and potentially destabilize the reach along Old Dalton Road. The H&H analysis indicates that the increases in the peak discharges in the downstream reach would be substantial (between 4 and 20 times greater than the existing condition, depending on the flood event).

The Preferred Alternative would remove a portion of the dam embankment and downstream retaining wall; all of the appurtenant structures would either be abandoned in-place or removed. The elevation of the dam crest will be lowered to a structural height less than six feet, making the dam a non-jurisdictional structure with a reduction in the normal pond surface area from 13.17 acres to 5.03 acres. Flow from the pond would occur through a channel located in the portion of the dam embankment to be removed which will connect the upstream pond to the downstream waterway. This alternative provides a compromise between repair and complete removal of the dam. It would be the least costly alternative, provide ecological benefits to the riverine system by reducing stream fragmentation (the proposed outlet channel is open with no restrictions), reduce the financial liability of the Proponent, and maintain a small upstream impoundment to allow similar peak flood discharges to the downstream reach compared to existing conditions. The H&H analysis calculates slight increases in the peak outflows for the 2- and 10-year floods and decreases in peak outflows for the 25-year and larger events.

Wetlands and Water Quality

While the project will restore ecological processes on the site on a long-term basis, it will result in unavoidable permanent and temporary impacts to wetland resource areas (Bank, BVW, LUW, RFA and associated buffer zones). The project is therefore proposed as an Ecological Restoration Limited Project pursuant to 310 CMR 10.53(4). The Hinsdale Conservation Commission reviewed the project to determine its consistency with the Ecological Restoration Limited Project provisions of the Wetlands Protection Act (WPA), the Wetlands Regulations (310 CMR 10.00), and associated performance standards, including the Massachusetts Stormwater Management Standards (SMS). It issued an Order of Conditions on November 19, 2019. Dam removal should be undertaken in accordance with MassDEP's guidance document, "Dam Removal and the Wetland Regulations" (December 2007). MassDEP comments indicate that the project appears to qualify as an Ecological Restoration Limited Project, and

it does not appear to require a Section 401 Water Quality Certification (WQC) based on the presumption that no downstream migration of sediments within the impoundment will occur and that the proposed placement of natural stone within LUW is less than 5,000 sf.

Construction-related impacts wetland resource areas are summarized below.

Resource Area	Proposed activity within the Resource Area	Area of Impact (SF)
BVW	Temporary coffer dam, drawdown work area, temporary construction access, and erosion & sedimentation control measures	98
LUWW	Temporary coffer dam, temporary stone check dam, temporary downstream drawdown	1,024
Riverfront Area (0-100 ft)	Temporary construction access, and erosion & sedimentation control measures	7,383
Riverfront Area (100-200 ft)	Temporary construction access road	1,475

The project also involves long-term impacts to wetland resource areas as summarized below.

Resource Area	Proposed activity within the Resource Area	Impacts	
LUWW	Lowered water surface elevation resulting from dam removal is anticipated to convert a portion of LUWW to BVW.	Permanent	357,924 SF
Riverfront Area (0-100 ft)	Grading, tree clearing/vegetation removal, and backfilling of voids left by tree stumps	Permanent	4,272 SF
Bank	Bank alteration/re-configuration	Permanent	305 LF
	Change due to reduced impoundment	Permanent	1,360 LF

According to the EENF, the pond provides flood storage; partial removal of the dam will continue to allow some flood storage capacity upstream of the structure.

The Proponent should ensure that all site plans submitted for permitting clearly identify all wetland resource areas and alterations. Specifically, plans should be updated to depict RFA, and distinguish between BVW and LUW through identification of BVW limits, and the top of Bank or Ordinary High Water instead of LUW as shown. MassDEP comments indicate that the upper limits of LUW correspond to the mean annual low water level, which is an elevation that is generally difficult to locate and survey in the field. The Proponent should quantify permanent impacts to LUW associated with polygons identified on plans that depict the addition of stone and "natural material" within LUW on the upstream and downstream sides of the dam.

Grading of the dam to reduce the crest elevation and create the trapezoidal-shaped outlet will

result in 345 cubic yards (cy) of excess soil/sediment, which includes 42 cy of dredge material (currently underwater upstream and downstream) and 343 cy of dam material (currently not underwater). Dredge material will be placed in the nearby upland. The EENF asserts that the material meets criteria outlined at 314 CMR 9.07 which indicates that no chemical testing is required if material contains less than 10 percent particles passing through #200 sieve and a due diligence review demonstrates area is unlikely to contain oil or hazardous material.

Climate Change and Resiliency

The protection and restoration of wetlands play an increasingly important role in promoting ecosystem resiliency and mitigating climate change impacts. The EENF includes a H&H evaluation which references the latest available precipitation data from the Natural Resource Conservation Service (NRCS) to reflect the recent trend in increasing precipitation. The hydrologic model of the watershed draining to Watson Pond Dam was developed using HydroCAD software. Runoff generation in the analysis was calculated based on the curve number method described in Technical Release 55 (TR-55) published by NRCS. The total rainfall depths were obtained from National Oceanic and Atmospheric Administration (NOAA) Atlas 14. The precipitation hyetograph applied to the analyses was based on a Type III rainfall distribution as defined in TR-55. The Proponent indicates that climate change values available from ResilientMA.org were not specifically reviewed.

As previously mentioned, the H&H analysis for the project includes analyses for the 2-, 10-, 25-, 50-, and 100-year flood events to evaluate peak flood discharges for existing and proposed conditions. No downstream flooding is anticipated under these scenarios. It also identifies infrastructure and buildings downstream in the vicinity of the dam that may experience increased risk of erosion/undermining during periods of flooding. According to the EENF, the partial removal of the dam was designed specifically to avoid increasing peak flood flows in the downstream reach while still providing restoration to the riverine system, eliminating the downstream hazard inherent to all dams, and reducing the financial burden on the Proponent. The restored site is expected to provide enhanced floodwater storage capacity and improve resilience as it relates to climate change and increased precipitation.

The Town of Hinsdale (Town) is planning to reconstruct Old Dalton Road and is currently replacing the 48-inch diameter culvert beneath Old Dalton Road with a larger partially embedded pipe that is 6 feet, 8 inches high by 9 feet, 11-inches wide (embedment depth is 3 feet, 9 inches with open height of 2 feet, 11-inches). According to the supplemental information, the partial dam removal has been designed to minimize changes in flows downstream and the minor increases in flows for the 2- and 10-year flood events are not anticipated to adversely impact the culvert crossing based on its larger opening area. The Proponent should consult with the Town to coordinate drawdown of the impoundment and address any potential conflicts during the construction period associated with the timing of the release of water from the pond.

Greenhouse Gas Emission (GHG)

This project is subject to review under the GHG Policy because it exceeds thresholds for a mandatory EIR. The GHG Policy specifically includes a de minimis exemption for projects that are expected to produce minimal GHG emissions. As an ecological restoration project involving dam

removal and restoration of natural stream processes, GHG emissions will be limited to the construction period of the project. As such, this project falls under the GHG Policy's de minimis exemption; therefore, the Proponent was not required to submit a GHG analysis in conjunction with the EENF. The Proponent should encourage the use of low-sulfur diesel, diesel retrofit equipment, and require that contractors minimize idling of equipment to minimize GHG emissions.

Construction Period

The project will commence in the fall of 2020 and will occur over a two-month period. The EENF includes a proposed construction sequence for partial removal of the dam. Dam removal activities will involve site preparation (e.g., staging, installation of erosion sedimentation control barriers and establishment of dewatering areas). All construction and demolition (C&D) 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 Proponent will prepare a detailed spill prevention and control plan which will be included in the Stormwater Pollution Prevention Plan (SWPPP) prepared for the project in accordance with the NPDES CGP requirements to manage erosion and sedimentation during the construction process. 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 40.0000). The Proponent should develop a spills contingency plan. I encourage the Proponent to reuse or recycle C&D debris to the maximum extent.

According to the Massachusetts Board of Underwater Archaeological Resources (BUAR), if archaeological resources are encountered during the course of the project, the Proponent should take steps to avoid or limit adverse impacts and notify BUAR, the Massachusetts Historical Commission (MHC), and other appropriate agencies in accordance with BUAR's *Policy Guidance for the Discovery of Unanticipated Archaeological Resources*. All construction activities should be undertaken in compliance with the conditions of all State and local permits.

Conclusion

Based on a review of the information provided in the EENF and 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 local, State, and federal permitting processes.

I have also issued today a DROD proposing to grant a Waiver from the requirement to prepare an EIR for the project. In accordance with 301 CMR 11.15(2), the DROD will be published in the next

edition of the *Environmental Monitor* on September 9, 2020 which will commence the public comment period. The public comment period lasts 14 days and will conclude on September 23, 2020. Based on written comments received concerning the DROD, I shall issue a Final Record of Decision (FROD) or a Scope within seven days after the close of the public comment period, in accordance with 301 CMR 11.15(6).

K. Theoharides

August 28, 2020
Date

Kathleen A. Theoharides

Comments received:

08/05/2020 Caleb Mitchell, Conservation Agent, Town of Hinsdale (updated comments 08/08/2020)
08/19/2020 Massachusetts Department of Environmental Protection (MassDEP) – Western Regional Office (WERO)
08/20/2020 Massachusetts Department of Conservation and Recreation (DCR)
08/21/2020 Berkshire Regional Planning Council (BRPC)
08/24/2020 Massachusetts Board of Underwater Archaeological Resources (BUAR)

KAT/PPP/ppp

RE: NOTICE OF REMOTE MEPA CONSULTATION SESSION EEA#16249 Watson Pond Dam Removal - HINSDALE

Mitchell, Caleb <CMitchell@hinsdalema.gov>

Sat 8/8/2020 4:13 PM

To: Patel, Purvi (EEA) <purvi.patel@mass.gov>

Hi Purvi,
You can include my comments. The only additional comment I wanted included is the fact that the Town of Hinsdale is reconstructing Old Dalton Road (removal of asphalt & repaving), which is downstream of Watson Road Pond. The project includes the replacement of the existing stream channel culvert, which the Pond flows into. This could be a potential problem depending on the timing of the release of water from the pond. The property owners consultants (Fuss & O'Neill) should contact Town officials to coordinate
Sincerely,
Caleb

From: Patel, Purvi (ENV) [mailto:purvi.patel@state.ma.us]
Sent: Wednesday, August 5, 2020 10:08 PM
To: Mitchell, Caleb <CMitchell@hinsdalema.gov>
Subject: Re: NOTICE OF REMOTE MEPA CONSULTATION SESSION EEA#16249 Watson Pond Dam Removal - HINSDALE

Thanks very much Caleb. Sorry to hear you couldn't connect to the meeting. Would you like to me to include your email as part of the formal comments on the project or would you like to submit separate comments?

From: Mitchell, Caleb <CMitchell@hinsdalema.gov>
Sent: Wednesday, August 5, 2020 11:00 AM
To: Patel, Purvi (EEA) <purvi.patel@mass.gov>
Subject: RE: NOTICE OF REMOTE MEPA CONSULTATION SESSION EEA#16249 Watson Pond Dam Removal - HINSDALE

Hi Purvi,
I was listening to the hearing, since I couldn't connect to the GoTo Meeting. I did connect through the conference call number & code, but evidently I couldn't be heard! I should tell you that the project was approved through an Ecological Restoration Limited project Order of Conditions. Frankly, I think it is a good project to restore the area back closer to what existed prior to the damming of the channel. It will change resource areas to what should exist at the site. If you have any additional questions for me about the project please feel free to contact me
Sincerely,
Caleb Mitchell
Conservation Agent
Town of Hinsdale

From: Patel, Purvi (ENV) [mailto:purvi.patel@state.ma.us]
Sent: Wednesday, July 29, 2020 3:42 PM
To: Planning <Planning@hinsdalema.gov>; Hinsdale BOH <Public.Health@hinsdalema.gov>; Select Board Assistant <Select.Board@hinsdalema.gov>; Graves, Bob <Town.Administrator@hinsdalema.gov>; Conservation Commission <ConCom@hinsdalema.gov>; Backman, Andy (DCR) <andy.backman@state.ma.us>; Boeri, Robert (ENV) <robert.boeri@state.ma.us>; Briggs, Andrea (DEP) <andrea.briggs@state.ma.us>; Burtner, Jason (ENV) <jason.burtner@state.ma.us>; Carlson, Eric (DCR) <eric.carlson@state.ma.us>; Carr, Jillian (FWE) <jillian.carr@state.ma.us>; Cheeseman, Melany (FWE) <melany.cheeseman@state.ma.us>; Davis, Shannon (FWE)

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

August 19, 2020

Kathleen A. Theoharides, Secretary
Executive Office of Energy & Environmental Affairs
Massachusetts Environmental Policy Act Office
Purvi Patel, EEA No. 16249
100 Cambridge Street, 9th Floor
Boston, MA 02114-2524

Re: Watson Road Partial Dam Removal
Hinsdale EENF

Dear Secretary Theoharides,

The Massachusetts Department of Environmental Protection (MassDEP), Western Regional Office (WERO) appreciates the opportunity to comment on the Expanded Environmental Notification Form (EENF) submitted for the proposed Watson Road Dam Removal Project in Hinsdale, Massachusetts. The dam is listed as an "Intermediate-sized, Significant potential dam" by the Massachusetts Department of Conservation and Recreation (DCR) - Office of Dam Safety (ODS). The Proponent (Ms. Kimberly Wendling) seeks a Waiver of a Mandatory Environmental Impact Report. The applicable MassDEP regulatory and permitting considerations regarding wetlands, air pollution, solid waste, hazardous waste and waste site cleanup are discussed.

I. Project Description

Ms. Kimberly Wendling, property owner and Proponent, is seeking to remove a portion of the dam that is on her residential property to allow a channel to connect the upstream unnamed pond to the downstream watercourse which is a tributary to East Branch Housatonic River. The dam was constructed between 1960 and 1971 and provides no recreational or commercial value. It impounds approximately 13.17 acres of water surface area which will be reduced to 5.03 acres. No negative environmental impacts are expected. The project is being conducted as an Ecological Restoration Limited Project and will remove

fill and restore flow and hydrologic and habitat connectivity benefitting fisheries and other aquatic organisms. The project will lower the dam crest and is expected to begin in the summer of 2020 and be completed in the fall of 2020. There will be temporary impacts to Land Under Waterbodies and Waterways as a temporary coffer dam and a temporary stone check dam will be installed. There will be a temporary drawdown of the downstream portion of the project area.

The dam which is located north of Old Stagecoach Road in Hinsdale, Massachusetts has a structural height of 9 feet, has a crest length of 100 feet and an average width of 40 feet. It is an earth fill dam with a vertical rubble masonry wall on its downstream face. Beaver activity over a period of years has increased the structural height by creating a berm. Thick vegetation covers the dam crest. The original spillway and upstream end of the tailrace culvert are now near the center of the crest and are not hydraulically connected to the pond. An original low-level outlet pipe is assumed to be inoperable. Instead, discharge runs through a breach in the beaver dam across the dam crest. There is no functional engineered spillway and no functional low-level outlet.

The project work area is approximately 0.4 acres including the upstream and downstream areas. The historic spillway concrete, masonry and piping features, conduits and other features will also be demolished. Stones from the masonry wall of the existing dam will be reused in the areas proposed to have riprap fill. Trees, stumps and root systems from the earthen embankment and abutments will be removed and the existing dam embankment will be excavated and regraded. A new outlet channel is also proposed. The elevation of the dam will be lowered. Temporary sediment control barriers will be used and at the end of the project, any sediment collected will be placed at an upland location and stabilized to prevent its later erosion into a waterway or wetland.

Environmental impacts associated with this project include:

- 8.58 acres of new land altered
- 98 SF of BVW alteration (temporary)
- 357,924 SF BVW created – LUWW conversion to BVW (permanent)
- 1.074 SF LUWW (temporary_
- 4,272 SF Riverfront Area (1-100; permanent)
- 7,383 SF Riverfront Area (0-100; temporary)
- 1,475 SF (1-200; temporary)

II. Required Mass DEP Permits and/or Applicable Regulations

Wetlands
310 CMR 10.00
Water Quality Certificate
314 CMR 9.00

Air Pollution
310 CMR 7.00
Solid Waste
310 CMR 16.00
Hazardous Waste
310 CMR 30.00
Bureau of Waste Site Cleanup
310 CMR 40.000

III. Permit Discussion

Bureau of Water Resource

401 Water Quality Certificate

As presented, the project does not appear to require an Individual Clean Water Act Section 401 Water Quality Certification (WQC). This presumes that no downstream migration of sediments within the impoundment will occur, and that the proposed placement of natural stone within LUWW is less than 5,000 square feet.

Wetlands and Waterways

The Site appears to contain Bank (Inland), Bordering Vegetated Wetland, Land Under Water Bodies and Waterways (LUWW), and Riverfront Area.

Resource Area Delineation and Site Plans

All resource areas must be clearly depicted and resource area alterations quantified on the site plans submitted for subsequent permitting. The current plans show certain resource area flags (apparently for BVW and LUWW), but the distinction between the two is not clear, and would benefit from: 1) the addition of wetlands symbols to more clearly show BVW limits; and 2) the location of top of Bank or Ordinary High Water flags in place of where LUWW is shown, as the upper limits of LUWW are the mean annual low water level, an elevation generally difficult to locate and survey in the field. MassDEP notes that Riverfront Area is not depicted on the plans.

The plans depict the addition of stone and "natural material" (undefined) within LUWW on the up-and downstream sides of the dam, yet these polygons have not been quantified and clearly characterized as permanent impacts to LUWW.

Wetlands Protection Act

The scope of work requires that a Notice of Intent be submitted for the project. The project appears to qualify as an Ecological Restoration Limited Project, as the dam will only be

partially removed. Prior to commencement of project construction, a final Order of Conditions must be issued.

Chapter 91 Waterways

The project does not require a Waterways License of Permit.

Bureau of Air and Waste

Air Quality

Construction and Demolition Activities
The construction and demolition 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 construction and demolition activities. Such measures must comply with the MassDEP's Bureau of Air and Waste (BAW) Regulations 310 CMR 7.01, 7.09, and 7.10.

Solid Waste

The proponent shall properly manage and dispose of all 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). In addition, the proponent shall manage regulated asbestos and asbestos-containing waste material as special wastes in accordance with 310 CMR 19.061 if they are present.

Asphalt, brick and concrete (ABC) generated through crushing and reuse on-site must be handled in accordance with regulation and policy. Otherwise, the proponent would need to obtain a site assignment and facility permit for the crushing activity and a Beneficial Use Determination (BUD) for the reuse of the crushed material. The BUD regulations at 310 CMR 19.060 establish levels of assessment for four categories of beneficial use. More information regarding the handling of ABC, and a copy of the 30-day notification form may be found at the following website:
http://www.mass.gov/eea/agencies/massdep/recycle/reduce/using-or-processing-asphalt-pavement-brick-and-concrete-.html.

Any discarded objects encountered during the demolition of the former dam shall be removed from the site for disposal as Solid Waste or recycling as appropriate.

Hazardous Waste

Any hazardous wastes generated by the demolition and earthwork activities or universal wastes must be properly managed in accordance with 310 CMR 30.0000.

If any hazardous waste, including waste oil, is generated at the site, the proponent must ensure that such generation is properly registered with the Department and managed in accordance with 310 CMR 30.00.

Bureau of Waste Site Cleanup

Spills Prevention

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.

IV. Other Comments/Guidance

With respect to Greenhouse Gas (GHG) Emissions, MassDEP concurs that the long term GHG impacts from the construction stage of this project are De Minimis.

The MassDEP permitting process will ensure environmental impacts are avoided where possible and minimized where necessary. MassDEP staff is available for discussions as the project progresses. If you have any questions regarding this comment letter, please do not hesitate to contact Kathleen Fournier at (413) 755-2267.

Sincerely,

Michael Gorski
Regional Director

cc: MEPA File

BRPC
Berkshire Regional Planning Commission

KYLE HANLON, Chair
JOHN DUVAL, Vice-Chair
SHEILA IRVIN, Clerk
MALCOLM FICK, Treasurer
THOMAS MATUSZKO, A.I.C.P.
Executive Director

August 20, 2020

Kathleen Theoharides, Secretary
Executive Office of Energy and Environmental Affairs
Attn: Anne Canaday
100 Cambridge Street, Suite 900
Boston, MA 02114

Re: Watson Road Dam Removal EENF, EEA# 16249

Dear Secretary Theoharides:

The Berkshire Regional Planning Commission (BRPC) hereby submits comments on the Expanded ENF for the Watson Road Dam Removal Project (EEA #16249) in the Town of Hinsdale. The proposed project is located north of Old Stagecoach Road, on a tributary to the East Branch Housatonic River in Berkshire County. The proposed project includes partial removal of an existing privately owned dam which will result in reduction of the existing impoundment, restoration of the upstream bordering vegetated wetland area, habitat connectivity through a designed notch, and stormwater retention protective of downstream infrastructure. The proposed project has meet or exceeded MEPA review thresholds for a Mandatory Environmental Impact Report (EIR) due to alteration of a dam that causes a decrease of impoundment capacity. The proponent has requested a waiver from the Mandatory EIR.

The dam is classified by the Department of Conservation and Recreation's (MADCR) Office of Dam Safety as an "Intermediate" size structure and has a "Significant" hazard classification. The MADCR Office of Dam Safety requires owners of dams in "Poor" condition to address identified deficiencies. Partial dam removal was the chosen alternative and lowering of the dam crest will eliminate concerns associated with potential dam failure. As a result of this project, the normal pond surface area will be reduced from 13.17 acres to 5.03 acres. This will result in a conversion of approximately eight acres of land under water to bordering vegetated wetland.

BRPC concurs with the assessment that an EIR is not necessary due to several factors. The project requires several environmental permits, under which the potential impacts to the natural environment will be reviewed in detail and the partial removal of the dam does not require new or improved infrastructure facilities to support the project. There are no rare and endangered species impacts and the project is not located in an Area of Critical Environmental Concern. Additionally, the project has been designed to comply with a Dam Safety Order. This Intermediate size, Significant hazard potential dam is currently in poor condition due to several noted deficiencies.

The BRPC Environmental Review Committee endorsed these comments at their meeting on August 18, 2020.

Sincerely,

Thomas Matuszko, AICP
Executive Director

1 Fenn St., Suite 201, Pittsfield, MA 01201
berkshireplanning.org
T: (413) 442-1521 · F: (413) 442-1523
TTY: 771 or 1(800) 439-2370

dcr
Massachusetts

August 21, 2020

Secretary Kathleen A. Theoharides
Executive Office of Energy and Environmental Affairs
MEPA Office, Attn: Purvi Patel
100 Cambridge Street, Suite 900
Boston, Massachusetts 02114

RE: 16249 Watson Road Dam Removal EENF, Hinsdale

Dear Secretary Theoharides:

The Department of Conservation and Recreation ("DCR") Office of Dam Safety ("ODS") has reviewed the Expanded Environmental Notification Form ("EENF") for the Watson Road Dam Removal (the "Project") located in Hinsdale, submitted by Fuss & O'Neill on behalf of Kimberly Wendling (the "Proponent").

Based upon review of the EENF, ODS understands the Proponent plans to demolish the stone masonry walls existing along the downstream slope of the dam embankment as well as the historical concrete spillway, masonry, conduits and other features; construct a rip-rap lined trapezoidal outflow channel through the embankment and lower the embankment crest; and restore wetland and upland areas disturbed by construction. The proposed channel will have sufficient capacity to pass flows resulting from the 100-year storm event. The EENF indicates the Project will yield a number of public safety and environmental benefits, including partial restoration of the riverine system.

Based on review of currently available information, implementation of the project design will likely result in improvement over existing site conditions. This Project appears to be in the interest of both public safety and compliance with dam safety regulations. The project plan is to breach the dam and lower the elevation of the dam crest such that the dam height is reduced to less than six feet, the dam height threshold for ODS regulatory jurisdiction. Completion of the project will result in Watson Road Dam being classified non-jurisdictional under the dam safety regulations. Therefore, project completion will mitigate potential for downstream damages in the event of dam failure.

In July 2019, Fuss & O'Neill submitted to ODS a Chapter 253 dam safety permit application for this project. After receipt of all required technical information demonstrating compliance with ODS regulations, a Chapter 253 Dam Safety Permit was processed and issued by ODS.

Department of Conservation and Recreation
251 Causeway Street, Suite 600
Boston, MA 02114-2199
617-626-1250 617-626-1351 Fax
www.mass.gov/orgs/department-of-conservation-recreation

Charles D. Baker
Governor

Karyn E. Polito
Lt. Governor

Kathleen A. Theoharides, Secretary
Executive Office of Energy & Environmental Affairs

Jim Montgomery, Commissioner
Department of Conservation & Recreation

DCR appreciates the opportunity to comment on this project. Please contact David Ouellette at (617) 626-1347 with any questions or to request additional information or coordination with ODS.

Sincerely,

Jim Montgomery
Commissioner

cc: William Salomaa, Dam Safety Director
Andy Backman, MEPA Review Coordinator

The COMMONWEALTH OF MASSACHUSETTS
BOARD OF UNDERWATER ARCHAEOLOGICAL RESOURCES
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
251 Causeway Street, Suite 800, Boston, MA 02114-2136
Tel. (617) 626-1014 Fax (617) 626-1240
www.mass.gov/orgs/board-of-underwater-archaeological-resources

August 21, 2020

Kathleen A. Theoharides, Secretary
Executive Office of Energy and Environmental Affairs
Attention: Purvi Patel, MEPA Unit
100 Cambridge Street, Suite 900
Boston, MA 02114

RE: Watson Road Dam Removal (EOEA #16249), 110 Watson Road, Hinsdale, MA

Dear Secretary Theoharides,

The staff of the Massachusetts Board of Underwater Archaeological Resources has reviewed the above-referenced proposed project as detailed in the *Environmental Monitor* of 22 July 2020 and offers the following comments.

The Board has conducted a preliminary review of its files, the MHC's MACRIS inventory, historic maps, and secondary literature sources to identify known and potential submerged cultural resources in the proposed project area. No record of any underwater archaeological resources was found. Based on the results of this review, the Board expects that this project is unlikely to impact submerged cultural resources.

However, in the event that heretofore-unknown submerged cultural resources are encountered during the course of the project, the Board expects that the project's sponsor will take steps to limit adverse effects and notify the Board and the Massachusetts Historical Commission, as well as other appropriate agencies, immediately, in accordance with the Board's *Policy Guidance for the Discovery of Unanticipated Archaeological Resources*.

The Board appreciates the opportunity to provide these comments as part of the MEPA review process. Should you have any questions regarding this letter, please do not hesitate to contact me at (617) 626-1014, or by email at david.s.robinson@mass.gov.

Sincerely,

David S. Robinson
Director

/dsr
Cc: Brona Simon, MHC