



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 17, 2020

DRAFT RECORD OF DECISION

PROJECT NAME : Monatiquot River Restoration
PROJECT MUNICIPALITY : Braintree
PROJECT WATERSHED : Boston Harbor
EEA NUMBER : 16224
PROJECT PROPONENT : Town of Braintree in cooperation with Hollingsworth Pond, LLC
DATE NOTICED IN MONITOR : June 10, 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) and hereby **propose to grant a Waiver** from the categorical requirement to prepare an Environmental Impact Report (EIR). In a separate Certificate also issued today, I have set forth the outstanding issues related to the project that can be addressed by permitting agencies.

Upon request of the Proponents, and in a separate Certificate issued today, I have also established a Special Review Procedure (SRP) to guide the review of this project. The SRP acknowledges that the project contemplates both an Ecological Restoration component (Phase 1), which includes dam removal and construction of a vehicle and pedestrian bridge to an adjoining parcel, and potential development of that adjoining parcel (Phase 2) for which access will be newly created by the bridge constructed in Phase 1. The SRP allows this phasing of the project, acknowledges that an EIR waiver will be granted for Phase 1, and sets forth the parameters for future review of Phase 2 if and when development commences on the adjoining parcel.

Project Description

As described in the EENF, Phase 1 of the project consists of removal of the Armstrong dam and the Ames Pond dam, reconstruction of the Monatiquot River channel within Hollingsworth Pond, construction of a fish passage structure at Rock Falls, construction of a multi-use trail adjacent to the river, and construction of a vehicular and pedestrian bridge over the river in Braintree. Phase 2 of the project may include future development of an adjoining parcel for which access will be provided through construction of the new bridge in Phase 1. The project is proposed to restore riverine habitat,

provide uninterrupted aquatic fish and wildlife passage from Fore River Bay to Great Pond, reduce flood risks, encourage public access to the river, and create open space. The project will address three specific barriers to fish passage including both dams and Rock Falls.

The project will dewater the Hollingsworth Pond impoundment and remove the Armstrong dam and overlying building to restore approximately 5,200 linear feet (lf) of natural free-flowing habitat on the Monatiquot River and create over three acres of naturalized open space. Following dam removal, the project will construct a 880-lf natural meandering channel within the former impoundment. According to the ENF, the channel location was determined based on the impoundment's lowest bottom elevations. During channel construction, approximately 4,500 cubic yards (cy) of contaminated sediment will be managed within the former impoundment through off-site disposal or on-site relocation. Any remaining exposed contaminated sediments within the impoundment will be capped with clean topsoil and revegetated. The eastern portion of the impoundment will be covered with geotextile fabric prior to placement of topsoil as this is the area of greatest polycyclic aromatic hydrocarbon (PAH) concentration.

The project will construct a six-foot-wide, 1,600-lf multi-use trail and boardwalk west of the newly constructed channel. The boardwalk will be flanked with planted native wetland trees and shrubs, and will provide recreational opportunities. The project will construct a new bridge near the former location of the existing building which crosses over the river and the Armstrong dam to provide vehicular and pedestrian access to the property located west of the river; the project will also accommodate relocation of utilities currently located under the existing building overlying the dam. The bridge will consist of a clear span cast-in-place concrete deck and will include a sidewalk for pedestrian access to the trail below.

The project will remove the Ames Pond dam to provide year-round fish passage, and provide minor channel modifications/regrading in the area surrounding Ames Pond dam including removal of boulders/stones and/or high points that could cause fish passage impairments during low-flow conditions. The extent of channel modifications will be refined in the field concurrent with or immediately following the Ames Pond dam removal.

The project will maintain the Rock Falls (natural river falls) and restore year-round fish passage through construction of either a new natural bypass channel or a 30-foot-long steep pass fishway based on funding. The proposed multi-use trail will extend to the Rock Falls fishway for public viewing of river herring migrating upstream.

The project is proposed by the Town of Braintree (Town) and Hollingsworth Pond, LLC (the Proponents) in partnership with the Massachusetts Division of Ecological Restoration (DER), the Massachusetts Division of Marine Fisheries (DMF), the U.S. Fish and Wildlife Service (USFWS), the National Oceanographic and Atmospheric Administration (NOAA) Restoration Center and the Fore River Watershed Association. DER selected the project as a "Priority Project" based on the breadth of its ecological benefits. Project partners have performed 11 years of assessment, planning, and design work.

Removal of the dams will result in significant ecological and climate change resiliency benefits. The Armstrong dam represents a significant barrier to fish passage between the Weymouth Fore River and Great Pond. Its removal will reconnect 36 miles of upstream river access and restore fish passage to 180 acres of spawning habitat in Great Pond. Dam removal will eliminate public safety hazards, reduce

maintenance requirements for the private dam owner (Hollingsworth Pond, LLC) and the Town, remove a High Hazard Potential structure and restore natural river processes, improve fish passage, and reduce flooding potential in the vicinity of the dam. The project will protect and enhance surrounding infrastructure and public utilities.

Project activities associated with Phase 1 are proposed to be completed in four construction phases. Phase 1A includes initial breaching of Armstrong Dam and dewatering of Hollingsworth Pond, removal of Ames Pond Dam, construction of a riffle grade control feature downstream of Plain Street and installation of other scour protection at the bridge. Phase 1B will include removal of Armstrong Dam and channel reconstruction within Hollingsworth Pond. Phase 1C will include installation of a fish passage structure (bypass channel or steep pass), construction of the multi-use trail and boardwalk and interpretive signs, installing restoration plantings, and making modifications to the channel required to facilitate fish passage. Phase 1D will include construction of the vehicular bridge over the river.

Potential future development of the commercial property as Phase 2 is not included in the current MEPA filing. The SRP will guide the review of this second phase of the project as described more fully in the SRP issued separately today.

Project Site

The 13.9-acre project site encompasses the area along the Monaquot River in Braintree from the Massachusetts Bay Transportation Authority (MBTA) railroad bridge at the downstream project limits to the Plain Street bridge at the upstream limits. The Monaquot River enters the Fore River approximately 3.5-miles downstream of the project site. Several barriers to fish passage exist within the project limits. The natural fish passage barrier known as Rock Falls is located upstream of the MBTA bridge and has a four-foot grade drop over a relatively short distance; the significant grade change and channel slope are a barrier to fish passage. Upstream of Rock Falls is the Ames Pond dam, which is a concrete dam that blocks fish passage. Lastly, the Armstrong dam is located upstream of the Ames Pond dam and impounds Hollingsworth Pond. The impoundment stretches from the dam to the Plain Street bridge.

The Ames Pond and Armstrong dams are both owned by Hollingsworth Pond, LLC. The Ames Pond dam (a.k.a. Factory Pond dam) varies between two to three feet high and is approximately 50 feet long and is considered a non-jurisdictional dam. The dam is partially breached and no longer has a formal impoundment upstream; nonetheless, high velocities flowing over the dam impede fish passage. The Armstrong dam is approximately 12 feet high and 92 feet long and is located beneath a former mill building known as the Armstrong Cork building. The concrete dam is classified as an intermediate-sized, high hazard potential structure in Fair condition by the Massachusetts Department of Conservation (DCR) Office of Dam Safety (ODS). A Fair condition rating is assigned when there are significant operational and maintenance deficiencies. The dam has eight main bays separated by concrete piers (structural supports for the building) on the spillway and one low auxiliary bay, which acts as a low-level outlet, located five feet in front of the dam. The dam is a significant barrier to fish passage due to the lack of an existing fish ladder. The dam is operated in a run-of-river mode and does not provide any flood protection; under flooding conditions, the dam acts to increase the water level and area of inundation upstream of the dam.

The Armstrong dam impoundment (Hollingsworth Pond) has an approximate inundation area of 3.8 acres extending approximately 2,400 lf upstream to the Plain Street bridge with a water

storage capacity of approximately 20 acre-feet. Small areas of Bordering Vegetated Wetlands (BVW) are located along the periphery of the impoundment, but most land use surrounding the impoundment is classified as developed and includes the Massachusetts Registry of Motor Vehicles (RMV), the Bayshore Athletic Club, an auxiliary parking lot located east of the impoundment, and the MBTA Old Colony Line Middleboro Branch railroad, which parallels the impoundment to the west.

Wetland resource areas present in the vicinity of the project site include BVW, Bank, Land Under Water (LUW), Riverfront Area (RFA), and Bordering Land Subject to Flooding (BLSF). Below Rock Falls, the Monatiquot River provides habitat for the passage for American eel, alewife, blueback herring, rainbow smelt (also spawning habitat further downstream), and white perch. The Fore River contains habitat for soft shell clam and razor clam and also provides habitat for the spawning and early development of winter flounder and Atlantic tomcod.

Environmental Impacts and Mitigation Measures

The project will improve water quality; restore stream connectivity, sediment transport, and fish passage; create riparian wetlands; and remove deficient dams. Due to the nature of the project, permanent conversion of wetland resource areas is unavoidable. Potential environmental impacts associated with the project include impacts to 4,655 lf of Bank, 3,437 square feet (sf) (0.11 acres) of BVW, 5.57 acres of LUW, 1.13 acres of BLSF and 0.37 acres of RFA. The project will restore free flowing riverine conditions which will permanently convert some areas of LUW within the Hollingsworth Pond impoundment to approximately 3.53 acres of BVW.

Measures to avoid, minimize, and mitigate impacts include: adherence to time-of-year (TOY) restrictions; removal of 0.1 acres of impervious area; creation of 3.53 acres of BVW (converted from LUW); protection and enhancement of surrounding infrastructure and public utilities; 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; creation of micro pool, eddies, and flow diversity to mitigate for select areas downstream predicted to have shallow depths which may impede fish passage; consistency with the Massachusetts Stream Crossing Standards (MSCS); management of invasive plant species; revegetation of areas disturbed during construction with appropriate local indigenous vegetation; 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; 301 CMR 11.03(3)(1)(b)(e), new fill or structure or expansion of existing fill or structure in a velocity zone or regulatory floodway; and 301 CMR 11.03(3)(b)(1)(f), alteration of one-half or more acres of other wetlands. The project will require a Section 401 Water Quality Certificate (WQC), a Chapter 91 (c. 91) Dredge Permit, and a c. 91 Waterways License from the Massachusetts Department of Environmental Protection (MassDEP), a Chapter 253 Dam Safety Permit from DCR ODS, a Fishway Construction Permit from DMF, an Access Permit from the Massachusetts Department of Transportation (MassDOT) and a Special Use Permit from the Massachusetts Board of Underwater

Archaeological Resources (BUAR). It is subject to the MEPA Greenhouse Gas (GHG) Emissions Policy and Protocol (GHG Policy).

The project will require an Ecological Restoration Order of Conditions from the Braintree Conservation Commission (or in the case of an appeal, a Superseding Order of Conditions from MassDEP); authorization under the General Permits for Massachusetts from the U.S. Army Corps of Engineers (ACOE) in accordance with Section 404 of the federal Clean Water Act; review by the Massachusetts Historical Commission (MHC) acting as the State Historic Preservation Officer (SHPO) pursuant to Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended (36 CFR 800); and a National Pollutant Discharge Elimination System (NPDES) construction permit from the U.S. Environmental Protection Agency (EPA).

The Proponents have received financial assistance from the Commonwealth including DER, one of the project partners, the Massachusetts Dam and Seawall Repair or Removal Grant Program, and the Massachusetts Municipal Vulnerability Preparedness Program. Therefore, 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.

Waiver Request

In accordance with Section 11.05(7) of the MEPA regulations, the Proponents submitted an EENF with a request that I waive the requirement for a mandatory EIR. The EENF identifies the project's consistency with the criteria for a Waiver and 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 from Federal and State Agencies and other commenters identify strong support for the project and Waiver request and do not identify additional alternatives or mitigation measures that warrant additional analysis through an EIR. The project is a collaboration of local, state, and federal partners working together to restore natural river processes, improve fish passage, and reduce potential flooding in the vicinity of the dam. The local, state, and federal permits required for this project will result in additional review from regulators and opportunities for public review and comment.

Standards for All Waivers

The MEPA regulations at 301 CMR 11.11(1) state that I may waive any provision or requirement in 301 CMR 11.00 not specifically required by MEPA and may impose appropriate and relevant conditions or restrictions, provided that I find that strict compliance with the provision or requirement would:

- (a) Result in an undue hardship for the Proponent, unless based on delay in compliance by the Proponent; and,
- (b) Not serve to avoid or minimize Damage to the Environment.

Determinations for an EIR Waiver

The MEPA regulations at 301 CMR 11.11(3) state that, in the case of a Waiver of a mandatory

EIR review threshold, I shall at a minimum base the finding required in accordance with 301 CMR 11.11(1)(b) stated above on a determination that:

- (a) The project is likely to cause no Damage to the Environment; and,
- (b) Ample and unconstrained infrastructure facilities and services exist to support those aspects of the project within subject matter jurisdiction.

Findings

Based on the EENF, supplemental information and consultation with State Agencies, I find that the Waiver request has merit and that the Proponents have demonstrated that the project meets the standards for all waivers at 301 CMR 11.11(1). I find that strict compliance with the requirement to prepare a Mandatory EIR for the project would result in undue hardship by delaying completion of an environmental restoration project and would not avoid or minimize Damage to the Environment, as the Proponents have adequately analyzed project alternatives, and comment letters do not identify alternatives or mitigation measures that warrant additional analysis through an EIR. Furthermore, the restoration project will restore natural riverine processes and improve fish passage. State Agency comments note that the permitting process will support resolution of any remaining issues and the majority of comments fully support the EIR Waiver request.

I also find that compliance with the requirement to prepare an EIR for the project would not serve to avoid or minimize Damage to the Environment. In accordance with 301 CMR 11.11(3), this finding is based on my determination that:

1. The project is not likely to cause Damage to the Environment. The project will employ the following mitigation measures to ensure the impacts of the project are avoided, minimized and mitigated:
 - The Proponents will obtain an Ecological Restoration Limited Project Order of Conditions from the Braintree Conservation Commission, and a c.91 License/Permit and 401 WQC from MassDEP, and will comply with all conditions of these permits;
 - The Proponents will monitor conditions post-construction to gauge the efficacy of restoration efforts;
 - adherence to (TOY) restrictions;
 - protection and enhancement of surrounding infrastructure and public utilities;
 - 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;
 - creation of micro pool, eddies, and flow diversity to mitigate for select areas downstream predicted to have shallow depths which may impede fish passage;
 - consistency with the Massachusetts River and Stream Crossing Standards;
 - improvement of access to the riverfront through construction of a multi-use path;
 - management of invasive plant species; and
 - implementation of construction period best management practices (BMPs).

The Braintree Conservation Commission will review the project to determine its consistency

with the Wetlands Protection Act (WPA), the Wetlands Regulations (310 CMR 10.00), and associated performance standards. MassDEP will review the project to determine its consistency with the 401 WQC Regulations (314 CMR 9.00) and c. 91 Waterways Regulations (310 CMR 9.00). The c.91 authorization from MassDEP will include conditions maintaining appropriate public navigation access. The Proponents should continue to work collaboratively with project partners, State Agencies and stakeholders during the permitting process to further refine project mitigation measures.

2. Ample and unconstrained infrastructure facilities and services exist to support those aspects of the project within subject matter jurisdiction:
 - The project does not require any infrastructure or services to accomplish its overall goal of ecological restoration. Therefore, this criterion has been met.

Conclusion

Based on these findings, I have determined that the Waiver request has merit, and am issuing this Draft Record of Decision (DROD), which will be published in the next edition of the *Environmental Monitor* on July 22, 2020 in accordance with 301 CMR 11.15(2), which begins the public comment period. The public comment period will last for 14 days and will end on August 5, 2020. Based on written comments received concerning the DROD, I will 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).

July 17, 2020

Date

Kathleen A. Theoharides

Comments received on EENF:

06/22/2020	Massachusetts Historical Commission (MHC)
06/30/2020	National Oceanic and Atmospheric Administration (NOAA) Restoration Center
07/01/2020	Massachusetts Division of Ecological Resources (DER)
07/02/2020	Sierra Club Massachusetts
07/03/2020	Sustainable Braintree
07/07/2020	Massachusetts Department of Conservation and Recreation (DCR)
07/09/2020	Massachusetts Division of Marine Fisheries (DMF) (final comments 07/13/2020)
07/09/2020	Meredith Boericke, Braintree Town Council District 5
07/10/2020	Massachusetts Department of Environmental Protection (MassDEP) – Southeast Regional Office (SERO)
07/10/2020	Massachusetts Board of Underwater Archaeological Resources (BUAR)
07/10/2020	Mass Audubon

KAT/PPP/ppp