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November 14, 2022

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

PROJECT NAME : Schow Pond Restoration Project
PROJECT MUNICIPALITY : Williamstown
PROJECT WATERSHED : Housatonic River
EEA NUMBER : 16614
PROJECT PROPONENT : The Clark Art Institute
DATE NOTICED IN MONITOR : October 7, 2022

Pursuant to the Massachusetts Environmental Policy Act (MEPA; M.G.L. c. 30, ss. 61-62L) and Section 11.06 of the MEPA Regulations (301 CMR 11.00), I have reviewed the Expanded Environmental Notification Form (EENF) and hereby determine that this project **requires** the submission of an Environmental Impact Report (EIR). In accordance with Section 11.06(8) of the MEPA regulations, the Proponent requested that I allow a Single EIR to be submitted in lieu of the usual two-stage Draft and Final EIR process. I hereby grant the request to file a Single EIR, which the Proponent should submit in accordance with the Scope included in this Certificate.

Project Description

As described in the EENF, the project consists of dredging approximately 3,600 cubic yards (cy) of sediment and organics from a 1.3-acre waterbody known as Schow Pond. The purpose of the project is to improve the pond's aesthetics, water quality, and habitat value by deepening it to its original depth and removing aquatic vegetation that chokes the pond surface during the summer months. Water will be pumped from the pond and discharged to an adjacent

field. Dredging will be conducted in the dry using earth removal equipment such as excavators, bulldozers, front-end loaders and backhoes. Up to approximately five feet of sediment will be dredged to reestablish the natural bottom of the pond with water depths of up to six feet. Dredged material will be allowed to dewater within the pond before being loaded onto trucks for transport to the disposal location. A cofferdam may be placed across the middle of the pond to allow for half of the pond to be dewatered and dredged at a time. According to the EENF, the dredged material is free of contaminants and will be either transported off-site to an upland disposal facility or buried in an approximately one-acre open field at the project site. The project also includes removal of up to 11 trees located adjacent to the pond that are in poor condition.

Project Site

Schow Pond is located on the 140-acre campus of the Clark Art Institute in central Williamstown. The campus of the Clark Art Institute is bordered to the east by residences along South Street, to the north by undeveloped land and a residential neighborhood, to the west and south by undeveloped forestland. Most of the campus consists of open fields and wooded areas. Schow Pond is located in the northeastern part of the campus and is surrounded by museum buildings, walking paths, landscaping and the museum's driveway and parking area.

The pond is roughly rectangular in shape and has a maximum water depth of approximately three feet. It is spring-fed and has no outlet or inlet. There is no floodplain mapped by the Federal Emergency Management Agency (FEMA) associated with the Pond; however, under seasonal wet weather conditions, water may overtop the southern bank of the pond and flow into an adjacent field located on the campus.

The project site is located within one mile of an Environmental Justice (EJ) populations in Williamstown designated as Minority and Minority and Income. The site is located within five miles of additional EJ populations designated as Income located in North Adams.

Environmental Impacts and Mitigation

Potential environmental impacts of the project include alteration of one acre of land associated with potential on-site sediment disposal, and 1.3 acres of Land Under Water (LUW) and 925 linear feet (lf) of Bank due to dredging and dewatering of the pond.

The project will improve the water quality and habitat value of the pond by removing dense aquatic vegetation, including invasive plant species, and restoring the original water depths in the pond. Measures to avoid, minimize and mitigate impacts include the use of sedimentation and erosion controls around the on-site disposal area and areas where water will be discharged and dredging in dry conditions to minimize turbidity in the pond. The Proponent will implement measures to manage the watershed to minimize flow of sediment and nutrients into the pond and control the growth of invasive species.

Permitting and Jurisdiction

The project is undergoing MEPA review because it requires Agency Actions, meets the review thresholds at 301 CMR 11.03(3)(b)(1)(b) (Alteration of 500 or more linear feet of inland bank) and 301 CMR 11.03(3)(b)(1)(f) (Alteration of ½ or more acres of any other wetlands (LUW)) and is located within a Designated Geographic Area (DGA) (here, one mile) around an EJ Population. The project requires a 401 Water Quality Certificate (WQC) from the Massachusetts Department of Environmental Protection (MassDEP).

The project requires an Order of Conditions from the Williamstown Conservation Commission (or in the case of an appeal, a Superseding Order of Conditions from MassDEP). The project requires a National Pollutant Discharge Elimination System (NPDES) Stormwater General Permit from the Environmental Protection Agency (EPA) and the filing of a Pre-Construction Notification (PCN) to the Army Corps of Engineers (ACOE) in accordance with the General Permits for Massachusetts.

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

Request for Single EIR

The EENF included a request that I allow a Single EIR in accordance with 301 CMR 11.06(8). The MEPA regulations at 301 CMR 11.06(8) indicate that a Single EIR may be allowed provided I find that the EENF:

- a) describes and analyzes all aspects of the project and all feasible alternatives, regardless of any jurisdictional or other limitation that may apply to the Scope;
- b) provides a detailed baseline in relation to which potential environmental impacts and mitigation measures can be assessed; and,
- c) demonstrates that the planning and design of the project use all feasible means to avoid potential environmental impacts.

For any Project for which an EIR is required in accordance with 301 CMR 11.06(7)(b), I must also find that the EENF:

- d) describes and analyzes all aspects of the Project that may affect Environmental Justice Populations located in whole or in part within the Designated Geographic Area around the Project; describes measures taken to provide meaningful opportunities for public involvement by Environmental Justice Populations prior to filing the expanded ENF, including any changes made to the Project to address concerns raised by or on behalf of Environmental Justice Populations; and provides a detailed baseline in relation to any existing unfair or inequitable Environmental Burden and related public health consequences impacting Environmental Justice Populations in accordance with 301 CMR 11.07(6)(n)1.

Consistent with this request, the EENF was subject to an extended comment period under 301 CMR 11.05(8).

Review of the EENF

The EENF described existing site conditions, provided a project description and conceptual plans and identified alternatives to the project. It included estimates of the project's impacts to wetlands and land alteration and identified potential measures to mitigate these impacts. Consistent with the MEPA Interim Protocol on Climate Change Adaptation and Resiliency, the ENF contained an output report from the MA Climate Resilience Design Standards Tool prepared by the Resilient Massachusetts Action Team (RMAT) (the "MA Resilience Design Tool").¹ The Single EIR should provide additional information as set forth in the limited Scope below.

SCOPE

General

The Single EIR should follow Section 11.07 of the MEPA regulations for outline and content and provide the information and analyses required in this Scope. It should demonstrate that the Proponent will pursue all feasible measures to avoid, minimize and mitigate Damage to the Environment to the maximum extent feasible.

Project Description and Permitting

The Single EIR should identify any changes to the project since the filing of the EENF. It should identify and describe State, federal, and local permitting and review requirements associated with the project and provide an update on the status of each of these pending actions. The Single EIR should include a description and analysis of applicable statutory and regulatory standards and requirements, and a discussion of the project's consistency with those standards. The Single EIR should include detailed site plans for existing and post-development conditions at a legible scale.

Alternatives Analysis

The EENF reviewed a No Build Alternative and included a comparison of alternative dredging methods and disposal locations. According to the EENF, under a No Build Alternative the pond would continue to build sediment from runoff, windblown sand and dirt and dead vegetation. The pond would eventually transition into an isolated vegetated wetland with no aquatic habitat, which is contrary to the Proponent's goal of maintaining the pond as an open waterbody and improving its habitat value.

The EENF evaluated alternative dredging techniques, including dredging under wet conditions without dewatering the pond using either a bucket or hydraulic dredge equipment and

¹ https://resilientma.org/rmat_home/designstandards/

dredging under dry conditions using conventional excavation equipment. According to the EENF, the use of a bucket is an effective technique when the sediment to be dredged includes sand, gravel and other coarse material, but not fine-grained silt and vegetative matter forming the sediments in Schow Pond. The use of hydraulic dredging equipment would require a large containment basin in which the mix of sediment and pond water would be discharged and allowed to dewater, after which the dry sediment would be transferred into trucks using excavation equipment such as a front-end loader or bulldozer. Hydraulic dredging was not adopted as the preferred dredging technique because it would involve greater disturbance of surrounding land areas to accommodate the containment basin. The Preferred Alternative involves dredging the pond in dry conditions by dewatering and dredging either the entire pond at once, or installing a cofferdam across the middle of the pond to facilitate dewatering and dredging of one half of the pond at a time. Pond water will be pumped into an area surrounded by sedimentation and erosion controls located on a field adjacent to the pond. The sediment will be excavated and placed in a pile within the pond to allow the material to dry before it is loaded onto trucks for transport to the disposal area.

According to the EENF, the sediment does not contain concentrations of contaminants that would limit its use or disposal location. The sediment will be either transported by truck to an off-site disposal location, which could be a site where the property owner has agreed to accept the material or a licensed receiving facility such as a landfill or composting facility. According to the Proponent, approximately 300 truck trips (10 to 20 truck trips per day) will be necessary to transport the sediment off-site. If the sediment is disposed of on-site, it will be placed on an approximately one-acre area of a field on the campus approximately 1,200 ft southwest of the pond. Prior to placing the sediment in this location, the existing topsoil and grass will be removed and stockpiled, then used to cover the sediment. According to the EENF, the elevation of the field in the disposal area would increase by approximately 18 to 36 inches. On-site disposal of sediment was identified as the preferred option in the EENF; however, at the site visit held on November 2, 2022, the Proponent indicated that off-site disposal is the more likely disposal method because it would avoid disturbance of the field, which is adjacent to publicly accessible recreational trails and areas used for livestock grazing. If possible, the Single EIR should identify a preferred alternative for the sediment disposal location; if the preferred disposal method is significantly different than either of those described in the EENF, the Single EIR should provide a detailed description of the disposal method/location, an analysis of impacts and proposed mitigation measures.

Environmental Justice

The project site is located within one mile of EJ populations designated as Minority and Minority and Income in two census tracts in Williamstown. Within these census tracts, no languages are identified as being spoken by 5% or more of residents who also identify as not speaking English very well.

Effective January 1, 2022, all new projects in a Designated Geographic Area (DGA, as defined in 301 CMR 11.02, as amended) around EJ populations are subject to new requirements imposed by the Chapter 8 of the Acts of 2021: *An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy* (the “Climate Roadmap Map”) and amended MEPA regulations at

301 CMR 11.00.² Two related MEPA protocols—the MEPA Public Involvement Protocol for Environmental Justice Populations (the “MEPA EJ Public Involvement Protocol”) and MEPA Interim Protocol for Analysis of Project Impacts on Environmental Justice Populations (the “MEPA Interim Protocol for Analysis of EJ Impacts”)—are also in effect for new projects filed on or after January 1, 2022.³ Under the new regulations and protocols, all projects located in a DGA around one or more EJ populations must take steps to enhance public involvement opportunities for EJ populations, and must submit analysis of impacts to such EJ populations in the form of an EIR. The EENF indicated that the DGA for the project is one mile.

The Proponent prepared an EJ Screening Form, which was distributed to a list of community-based organizations (CBOs) and tribes/indigenous organizations (the “EJ Reference List”) provided by the MEPA Office. The Proponent also prepared a project fact sheet which was posted at 14 locations in Williamstown and North Adams, including municipal buildings, churches, supermarkets and community centers. In addition, a sign posted at the pond provides information about the project and a link to the project website. The sign and website will be maintained throughout the permitting process. The Single EIR should provide an update on public outreach conducted since the filing of the EENF and provide a plan for future outreach to EJ populations in the DGA.

The EENF included a review of baseline public health conditions within the DGA based on the Massachusetts Department of Public Health’s (DPH) EJ Tool. According to the EENF, the Town of Williamstown falls below the statewide average for heart attack rate; however, no data were provided for other vulnerable health EJ criteria in the town due to the lack of available data in the DPH EJ Tool. The EENF also provided a review of potential sources of pollution in the DGA based on mapping layers available in the DPH EJ Tool. The identified potential pollution sources include the following:

- Major air and waste facilities: 1
- M.G.L. c. 21E sites: 1
- MassDEP Tier II toxics use reporting facilities: 3
- MassDEP sites with Activity and Use Limitations (AULs): 2
- Road infrastructure: 2 regional highways
- Regional transit agencies: 1
- Energy generators: 1

Although not required by the MEPA Interim Protocol for Analysis of EJ Impacts, the EENF surveyed environmental indicators tracked through the U.S. EPA’s “EJ Screen,” which shows the indicators measured for the identified EJ populations as percentiles of the MA statewide average. According to the EENF, none of the environmental indicators exceeded the 80th percentile of statewide rates for any of the identified EJ populations within the DGA.

² MEPA regulations have been amended to implement Sections 55-60 of the Climate Roadmap Act, and took effect on December 24, 2021. More information is available at <https://www.mass.gov/service-details/information-about-upcoming-regulatory-updates>.

³ Available at <https://www.mass.gov/service-details/eea-policies-and-guidance>.

Finally, the EENF reviewed the output report from the Climate Resilient Design Standards Tool to determine which climate risks applicable to the project site may serve as indicators of climate risks for nearby EJ populations. The project has a “High” Ecosystems Benefit Score and “Moderate” exposure ratings for extreme heat and urban and riverine flooding due to extreme precipitation. The site has only moderate exposure to flooding caused by extreme precipitation because the pond is not connected to major rivers and streams or their associated floodplains and does not receive runoff from a large area. Ecosystem benefits of the project include improved water quality, wildlife habitat and educational and recreational values.

According to the EENF, EJ populations within the DGA are not likely to be negatively impacted by the project. The project will not increase impervious area or alter patterns of stormwater runoff or flooding. The project will generate approximately 5 to 10 new vehicle trips during the construction period associated with construction workers and a total of approximately 360 truck trips (up to 10 to 20 trips per day over an approximately two- to three-month period) associated with transport of dredged material to an off-site disposal site. In addition, the sediment to be disposed of contains minimal concentrations of contaminants and will not have off-site impacts. The project will enhance the ecological and aesthetic properties of the pond, which is on a portion of the campus which is available for public recreational and educational use. The Single EIR should identify likely routes for trucks hauling sediment to a disposal facility, including routes through EJ populations, and identify measures to minimize impacts.

Wetlands and Water Quality

The project will alter 1.3 acres of LUW as a result of dredging activities. In addition, 925 lf of Bank will be temporarily impacted due to lowering of the water level in the pond associated with dewatering to create dry conditions for dredging of sediment. Other than LUW, the project will not directly impact the Bank of the pond or any other wetland resource areas. The project will minimize water quality impacts by dredging in dry conditions and allowing the pond to naturally refill with water upon completion of dredging activities. Pond water pumped from the pond will be slowly discharged onto the adjacent field with sedimentation and erosion controls. The Proponent will plant native vegetation along the pond edge to minimize sedimentation and nutrient loading in the pond, and manage invasive aquatic plant species in the pond if they become reestablished after dredging.

The EENF included the results of physical and chemical tests of the sediment in the pond. The sediments are comprised of approximately 30 to 35 percent fine silt, 63 to 67 percent sand, and small amounts of gravel. The EENF included the results of sediment sampling for concentrations of volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), petroleum hydrocarbons and metals. The data show that low concentrations of a variety of contaminants were detected, which according to the EENF are below levels requiring any special treatment, handling or disposal requirements. However, the EENF did not include a discussion of contaminant levels or a comparison of contaminant concentration to regulatory standards to support the assertions that the material can be disposed of with no restrictions; this analysis should be provided in the Single EIR. According to MassDEP, the sediment sampling results will be reviewed during the permitting process to determine appropriate disposal options for the material.

Climate Change

The MEPA statute directs all permitting 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 under M.G.L. c. 30, § 61. The GHG Policy and requirements to analyze the effects of climate change through EIR review play an important role in this statewide strategy. These analyses advance proponents' understanding of a project's contribution and vulnerability to climate change. Additionally, 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. The Town's *Community Resilience Building Workshop Summary of Findings* (June 30, 2018) identifies the Town's vulnerabilities to climate change and potential measures to increase its resilience; a major climate-related priority is the protection of public infrastructure from riverine flooding.

Effective October 1, 2021, all MEPA projects are required to submit an output report from the MA Resilience Design Tool to assess the climate risks of the project. As noted above, based on the output report attached to the EENF, the project has a "High" Ecosystems Benefit Score and "Moderate" exposure ratings for extreme heat and urban and riverine flooding due to extreme precipitation. As the project is characterized as a Natural Resource project, no project components were assigned an asset risk rating. The site has only moderate exposure to flooding caused by extreme precipitation because the pond is not connected to major rivers and streams or their associated floodplains and does not receive runoff from a large area.

Construction Period

All construction and demolition 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 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. I encourage the Proponent to reuse or recycle construction and demolition (C&D) debris to the maximum extent. The Proponent should review the comment letters submitted by

MassDEP and the Board of Underwater Archaeological Resources (BUAR) for additional guidance on construction-period requirements.

Mitigation and Draft Section 61 Findings

The Single EIR should include a separate chapter summarizing all proposed mitigation measures including construction-period measures. This chapter should also include a comprehensive list of all commitments made by the Proponent to avoid, minimize and mitigate the environmental and related public health impacts of the project, and should include a separate section outlining mitigation commitments relative to EJ populations. The filing should contain clear commitments to implement these mitigation measures, estimate the individual costs of each proposed measure, identify the parties responsible for implementation, and contain a schedule for implementation. The list of commitments should be provided in a tabular format organized by subject matter (traffic, water/wastewater, GHG, environmental justice, etc.) and identify the Agency Action or Permit associated with each category of impact. Draft Section 61 Findings should be separately included for each Agency Action to be taken on the project. The filing should clearly indicate which mitigation measures will be constructed or implemented based upon project phasing to ensure that adequate measures are in place to mitigate impacts associated with each development phase.

To ensure that all GHG emissions reduction measures adopted by the Proponent in the Preferred Alternative are actually constructed or performed by the Proponent, the Proponent must provide a self-certification to the MEPA Office indicating that all of the required mitigation measures, or their equivalent, have been completed. The commitment to provide this self-certification in the manner outlined above shall be incorporated into the draft Section 61 Findings included in the Single EIR.

Responses to Comments

The Single EIR should contain a copy of this Certificate and a copy of each comment letter received. It should include a comprehensive response to comments on the EENF that specifically address each issue raised in the comment letter; references to a chapter or sections of the Single EIR alone are not adequate and should only be used, with reference to specific page numbers, to support a direct response. This directive is not intended to, and shall not be construed to, enlarge the Scope of the Single EIR beyond what has been expressly identified in this certificate.

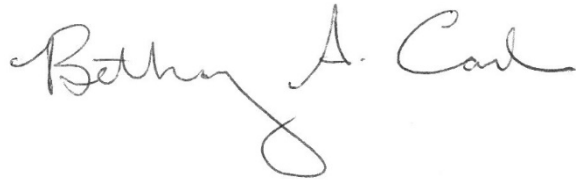
Circulation

The Proponent should circulate the Single EIR to each Person or Agency who previously commented on the EENF, each Agency from which the Project will seek Permits, Land Transfers or Financial Assistance, and to any other Agency or Person identified in the Scope. Per 301 CMR 11.16(5), the Proponent may circulate copies of the EIR to commenters in CD-ROM format or by directing commenters to a project website address. Pursuant to 301 CMR 11.16(5), the Proponent may circulate copies electronically. However, the Proponent must make a reasonable number of hard copies available to accommodate those without convenient access to

a computer and distribute these upon request on a first-come, first-served basis. Copies of the Single EIR should be made available for review at the Williamstown Public Library.

November 14, 2022

Date

A handwritten signature in cursive script that reads "Bethany A. Card". The signature is written in dark ink and is positioned above a horizontal line.

Bethany A. Card

Comments received:

11/07/2022 Massachusetts Department of Environmental Protection (MassDEP)/Western
Regional Office (WERO)
11/08/2022 Board of Underwater Archaeological Resources (BUAR)

BAC/AJS/ajs



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Secretary

Martin Suuberg
Commissioner

November 7, 2022

Bethany A. Card, Secretary
Executive Office of Energy & Environmental Affairs
Massachusetts Environmental Policy Act Office
Alexander Strysky, EEA No. 16614
100 Cambridge Street, 9th Floor
Boston, MA 02114-2524

Re: Schow Pond Restoration EENF
Williamstown -Clark Institute

Dear Secretary Card,

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 Schow Pond Restoration Project in Williamstown, MA (EEA #16614).

The applicable MassDEP regulatory and permitting considerations regarding wetlands and waterways, air pollution, solid waste, hazardous waste and waste site cleanup are discussed.

I. Project Description

The Proponent, The Clark Art Institute, proposes to dredge the on-site Schow Pond to restore aquatic viability of this open water feature. The spring-fed pond has accumulated organic matter and sediments and the surface is nearly choked off by vegetation including invasive species, especially during the summer months, prohibiting the native waterfowl from utilizing the pond. There is no distinct inlet or outlet to the pond which measure approximately 220 feet wide, 230 feet long and between 0 – 3 feet deep. Approximately 3,600 cubic yards of organics and sediments have accumulated on the pond bottom. The project proposes that the pond be dewatered by siphoning and/or pumping, sediments removed by excavators, front end loaders, backhoes or other traditional excavating equipment and the excavated materials will either be managed on-site within an open field or disposed off-site at a landfill or composting facility. All areas disturbed during the project will be restored.

This information is available in alternate format. Contact Glynis Bugg at 617-348-4040.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

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Environmental Justice populations are identified within one and five-mile radii of the project site including in the municipalities of Williamstown and North Adams. The categories are Income, Minority, and Minority and Income. The Proponent posits the project will have neither short-term nor long-term environmental or public health impacts affecting Environmental Justice Populations. This Proponent is requesting it be allowed to submit a Single Environmental Impact Report.

Environmental Impacts associated with this project include:

- Total site acreage (existing) - 140 acres
- New acres of land altered – 2.3 acres
- Acres of impervious area (existing) – 11.73, no change
- Square feet of new other wetland alteration – 56,340 SF
 - 1.3 acres Land Under Water – temporary
- 925 linear feet Bank - temporary

II. Required Mass DEP Permits and/or Applicable Regulations

Wetlands

310 CMR 10.000

Waterways

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 Resources

Wetlands Protection Act

While the Proponent indicates that Schow Pond has no inlet or outlet, it appears to meet the definition of Pond (as defined at 310 CMR 10.04) in that it is reported to contain standing water and be greater than 10,000 square feet. As such, it is a waterbody subject to the jurisdiction of the Massachusetts Wetlands Protection Act (WPA).

The Proponent proposes to alter the following regulated resource areas: Land Under Water Bodies and Waterways (310 CMR 10.56) and Bank (310 CMR 10.54). WPA resource areas potentially associated includes Bordering Vegetated Wetland (as defined at 310 CMR 10.55). Any activity that proposes or will result in alteration of WPA Resource Areas requires the filing of a Notice of Intent (NOI). The Proponent acknowledges it will file a NOI under the WPA with the affected municipality. In the event the municipal Order of Conditions is appealed to MassDEP, MassDEP cannot issue a Superseding Order of Conditions (SOC) until after the project has received a final Certificate from the Secretary. Therefore, to ensure full opportunities for public involvement and to avoid any potential conflict with the final Certificate from the Secretary, MassDEP recommends that no such filing occur until after the Project has received a final Certificate from the Secretary. Should the Proponent file a NOI prior to the issuance of a final Certificate from the Secretary, MassDEP recommends the Proponent request that the local conservation commission defer a decision and keep the meeting open until the Secretary has issued the final Certificate, and MassDEP has issued any relevant Water Quality Certification.

As part of the Notice of Intent filing, the Proponent will be required to identify and delineate, using the relevant methodology described in the regulations, any resource areas that occur on or near the project site. The project site includes the pond itself, any potential resource areas adjacent to the pond, and any areas impacted for transport or disposal of sediment. Through the WPA permitting process, the Proponent is required to demonstrate how the project will protect the interests of the WPA.

Limited Project Status

While this Project may qualify as a Limited Project under 310 CMR 10.53(4), as for all Limited Projects, allowance under these provisions is at the discretion of the local conservation commission and to the extent practicable, work must comply with the General Performance Standards. However, the EENF indicates that the project is not being considered as a Limited Project. The Proponent should clarify whether it intends to submit the Project as a Notice of Intent for an Ecological Restoration Project under 310 CMR 10.12 or as a Limited Project pursuant to 310 CMR 10.53(4). If the Project is to be filed as a NOI for an Ecological Restoration Project, the Proponent should note the minimum requirements for such filings specified at 310 CMR 10.12(1). The Proponent should be aware that one such requirement (310 CMR 10.12(1)(l)) specifies that if an Ecological Restoration Project involves greater than 100 cubic yards, the Proponent must apply for and receive a Water Quality Certification pursuant to 314 CMR 9.00 prior to submitting the Notice of Intent under the WPA.

401 Water Quality Certification

The Proponent indicates that the Project will require a Water Quality Certification (WQC) issued by MassDEP. The EENF does not discuss discharge of fill into Waters of the Commonwealth, however it does discuss dredging of said waters. The Proponent should clarify if the intent is to apply for a WQC Dredge Permit. WQC Dredge permits are

administered by the Boston Office of the 401 WQC Dredge Program. If the Proponent is applying for a WQC Dredge permit, the Proponent will need to coordinate with that Program. Regional staff are available for consultation if requested. Further information is available at: <https://www.mass.gov/how-to/ww-07-08-09-water-quality-certifications-dredging-projects>

Based on the results of sediment sampling required through the WQC permitting process, the Proponent may either use the sediments on site or dispose of the dredged material off-site. The dredged spoils shall be managed and disposed in accordance with conditions of a 401 Water Quality Certificate Permit as detailed in the *MassDEP Interim Policy COMM 94-007 Sampling, Analysis, Handling & Tracking Requirements for Dredged Sediment Reused or Disposed at Massachusetts Permitted Landfills*. This policy references MassDEP Solid Waste regulations should the quality of the sediments exceed certain thresholds. MassDEP staff are available for consultation regarding the proposed disposal of sediments.

Bureau of Air and Waste

Air Quality

Construction Activities

Construction activity must conform to current Air Pollution Control Regulations. The Proponent acknowledges it will implement measures to alleviate dust, noise, and odor nuisance conditions that may occur. Such measures must comply with the MassDEP's Bureau of Air and Waste (BAW) Regulations 310 CMR 7.01, 7.09, and 7.10.

Construction Equipment

All non-road engines shall be operated using only ultra-low sulfur diesel (ULSD) with a sulfur content of no greater than 15 ppm pursuant to 40 CFR 80.510.

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).

Hazardous Waste

Any hazardous wastes generated 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 MassDEP and managed in accordance with 310 CMR 30.0000.

Odor

The Proponent proposes a full drawdown of the pond prior to excavation. The Proponent and its contractors are advised to take all necessary measures to contain odors should they occur.

Bureau of Waste Site Cleanup

Massachusetts Contingency Plan (MCP)

If soil and/or groundwater contamination is encountered during excavation activities, the Proponent should retain a Licensed Site Professional (LSP); the MCP details procedures to follow for the parties conducting work. MassDEP staff are available for guidance.

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

Greenhouse Gas Policy (GHG)

The Proponent indicates that GHG emission from the project will be below the applicable reporting threshold and that during the construction phase of the project, short-term localized air quality effects will be minimal.

Section 61 Findings

Section 61 Findings were not included in the EENF. Section 61 Findings (draft or final as appropriate) must be included in future submittals.

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,



Catherine V. Skiba, P.G. for
Michael Gorski
Regional Director

cc: MEPA File



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

November 8, 2022

Bethany A. Card, Secretary
Executive Office of Energy and Environmental Affairs
Attention: Alexander Strysky, MEPA Unit (via email attachment)
100 Cambridge Street, Suite 1020
Boston, MA 02114

RE: EEA #16614 – Schow Pond Restoration Project, Williamstown

Dear Secretary Card,

The staff of the Massachusetts Board of Underwater Archaeological Resources has reviewed the above-referenced proposed project as detailed in the *Environmental Monitor* of October 7, 2022 and offers the following comments.

The Board has conducted a preliminary review of its files 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 and the pond being an artificial landscape feature (created by excavation), the Board expects that this project is unlikely to impact submerged cultural resources.

However, should heretofore-unknown submerged cultural resources be 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 the address above or by email at david.s.robinson@mass.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "David S. Robinson", with a stylized flourish at the end.

David S. Robinson
Director

/dsr