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

PROJECT NAME: Mill River Bank RepairPROJECT MUNICIPALITY: NorthamptonPROJECT WATERSHED: ConnecticutEEA NUMBER: 16847PROJECT PROPONENT: Smith CollegeDATE NOTICED IN MONITOR: January 8, 2025

Pursuant to the Massachusetts Environmental Policy Act (MEPA; M.G.L. c. 30, ss. 61-62L) and Section 11.06 and 11.11 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 Expanded Environmental Notification Form (EENF), Smith College (the "Proponent") is proposing to stabilize two areas of riverbank along Mill River, one located upstream of Paradise Pond, and one located downstream of the Paradise Pond Dam along existing athletic fields. The purpose of the proposed project is to avoid additional or future slope failure, sloughing, cracking, erosion, and bank undercutting, as has been previously and currently observed. The project site consists of two work areas ("Work Area 1" and "Work Area 2"), located on adjacent parcels owned by Smith College. Proposed stabilization methods include regrading and installation of erosion protection practices such as riprap, root wad placement, log jam construction and native plantings. The project also

includes maintenance and rehabilitation of three stormwater outfalls within the area of riverbank restoration, and improvements to the existing Lamont Pedestrian Bridge. The existing footings of the bridge will be strengthened, and drainage improvements will be made to minimize erosion.

Project Site

The project site includes two discrete portions of the Mill River riverbank and associated site access, and is located on two parcels owned by Smith College. According to the EENF, Work Area 1 includes the upstream portion of the site along the northwestern property boundary, upstream of Paradise Pond. Work Area 2 includes the riverbank from upstream of the Lamont footbridge downstream to the field house, with both work areas located along the river-right riverbank, facing downstream of the Paradise Pond dam. The adjacent upland area to these work areas is developed as the Smith College athletic facility which includes natural and artificial turf playing fields, tennis courts, a track, maintained lawns, permanent structures (field house, dugouts/bleachers) and a gravel walking path which circumnavigates the developed areas.

According to the EENF, portions of the Mill River within the project site are deeply incised and contain a predominantly rocky substrate of boulders, stones, and gravel with occasional pockets of sand deposition. Upstream portions of the site maintain a greater depth of finer riverbed material. The banks are steep and vegetated with deciduous trees interspersed with moderate density shrub and groundcover layers. The EENF indicates that severe undercutting and areas of bank failure have been observed and are evidence of a high-energy system. Additionally, three stormwater outfalls, oriented roughly perpendicular to the stream, are located within Work Area 2. Two of these outfalls are located near the Lamont footbridge and the other near the field house and convey stormwater runoff from nearby paved areas to the Mill River.

The entire project site is mapped as Estimated or Priority Habitat of Rare Species as delineated by the Natural Heritage and Endangered Species Program (NHESP) in the 15th Edition of the Massachusetts Natural Heritage Atlas. There are no properties listed on the National Register of Historic Places within or adjacent to the project limits. The project site is located within the 100-year floodplain in a Zone AE and regulatory floodway on the current effective FIRM. The EENF indicates that the existing limits of the 100-year floodplain are between elevation 142.5 – 143.9 feet (ft) NAVD88 in Work Area 1 and between elevation 131.5 - 132.4 ft NAVD88 in Work Area 2.

The project site is located within one mile of six Environmental Justice ("EJ") populations characterized by Minority and Income. As described below, the EENF identified the "Designated Geographic Area" (DGA) for the project as one mile around EJ populations, included a review of potential impacts and benefits to the EJ populations within this DGA, and described public involvement efforts undertaken to date.

Environmental Impacts and Mitigation

Potential environmental impacts associated with the project include approximately 681 linear feet (lf) of permanent impacts to Bank (381 lf of new Bank created)¹; 51 square feet (sf) of impacts to Bordering Vegetated Wetlands (BVW); 7,422 sf of permanent impacts to Land Under Waterbodies and

¹ The creation of new bank will be due to the more complex bank configuration following installation of the log jams.

Waterways (LUWW); and 3,170 sf of permanent impacts to Riverfront Area (RA). The project is expected to result in the loss of 1,001 cubic feet (cf) (37 cubic yards (cy)) and creation of 3,464 cf (128 cy) of Bordering Land Subject to Flooding (BLSF) The project will also involve the dredging of approximately 428 cy of sediment.

Measures to avoid, minimize, and mitigate environmental impacts include installation of erosion and sediment control measures; top-dressing rip-rap and log jams with soil and either seeding, staking or planting with native vegetation; and completing work during the summer to take advantage of low flow conditions and avoid impacts to rare species.

Jurisdiction and Permitting

This project is subject to MEPA review because it requires Agency Action and meets/exceeds the MEPA review threshold at 301 CMR 11.03(3)(b)(1)(b) alteration of 500 linear feet or more of inland bank. The project is required to prepare an EIR pursuant to 301 CMR 11.06(7)(b) because it is located within a DGA of one or more EJ populations. The project will require a 401 Water Quality Certification (WQC) from the Massachusetts Department of Environmental Protection (MassDEP) and a Conservation and Management Permit (CMP) from NHESP. The project may require a M.G.L. Chapter 91 (c. 91) license for work below the mean high water line of a non-tidal river or stream. The project is proposed as ecological restoration, but may not meet the criteria for a full (not limited) Ecological Restoration Project as defined in Wetlands Protection Act (WPA) regulations.

The project will also require a National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) from the United States Environmental Protection Agency (EPA) U.S Army Corps of Engineers Section 404 Authorization, and a WPA Order of Conditions from the Northampton Conservation Commission,

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

Request for Single EIR

The MEPA regulations 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 EJ 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 EJ Populations prior to filing the EENF, including any changes made to the project to address concerns raised by or on behalf of EJ Populations; and provides a detailed baseline in relation to any existing unfair or inequitable Environmental Burden and related public health consequences impacting EJ 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(7).

For the reasons stated below, I hereby grant the request to file a Single EIR.

Review of the EENF

The EENF included a project description, alternatives analysis, existing and proposed conditions plans, estimates of project-related impacts, a Floodplain Impact Assessment, and an identification of measures to avoid, minimize and mitigate environmental impacts. It included a description of measures taken to enhance public involvement by EJ populations and a baseline assessment of any existing unfair or inequitable environmental burden and related public health consequences impacting EJ populations. Consistent with the MEPA Interim Protocol on Climate Change Adaptation and Resiliency, the EENF contained an output report from the Climate Resilience Design Standards Tool prepared by the Resilient Massachusetts Action Team (the "MA Resilience Design Tool"),² together with information on climate resilience strategies to be undertaken by the project.

Segmentation

MEPA regulations include provisions (301 CMR 11.01 (2)(c)) to ensure that a project is not phased or segmented to evade, defer or curtail MEPA review. In determining whether a Project is subject to MEPA jurisdiction or meets or exceeds any review thresholds, and during MEPA review, the Proponent, any Participating Agency, and the Secretary shall consider the entirety of the project, including any likely future Expansion, and not separate phases or segments thereof. The Proponent, any Participating Agency, and the Secretary must consider all circumstances as to "whether various work or activities constitute one Project, including but not limited to: whether the work or activities, taken together, comprise a common plan or independent undertakings, regardless of whether there is more than one Proponent; any time interval between the work or activities; and whether the environmental impacts caused by the work or activities are separable or cumulative."

As discussed in the EENF, the project was originally withdrawn due to segmentation concerns related to a separate geothermal project undertaken by Smith College in the vicinity of this project. Smith College is pursuing the Central District Geothermal Energy Project (GEP), which involves the installation of a geothermal bore field and distribution piping from the Central District heating and cooling system, including the placement of distribution piping beneath Paradise Pond/Mill River via horizontal direction drilling (HDD). The GEP has three project sections:

² Available at: <u>https://resilientma.mass.gov/rmat_home/designstandards/</u>

- Section 1 The borefield installation under Smith College playing fields which is scheduled to occur from November 2024 to Spring 2026. This effort will temporarily disturb 0.35-acres of buffer zone, 1.62 acres of Riverfront Area, and 0.26 acres of BLSF. Upon installation completion, the playing fields will be returned to their existing condition.
- Section 2 The distribution pipe installation under portions of Smith College on the east side of the Mill River which is scheduled to occur from October 2024 to October 2025. This effort will temporarily disturb 0.19-acre of buffer zone and 0.76-acres of Riverfront Area and serves to connect existing buildings to the underground system.
- Section 3 The installation of two 16-inch pipes under Paradise Pond via HDD is scheduled to occur between June and August 2025. The HDD will be located approximately 30-40 feet below the top of bedrock underneath the Mill River and will temporarily disturb 1.0-acres of buffer zone, 1.98-acre of Riverfront Area, and 1.0 acres of BLSF within the playing fields and developed campus.

According to the EENF, the project will take place during 2026 low-flow conditions and will be phased to complete one project area at a time. The EENF notes that the GEP submitted a Notice of Intent (NOI) and Massachusetts Environmental Species Act (MESA) Review Checklist in July 2024. While NHESP regulations, as with MEPA, contain anti-segmentation provisions requiring all related work to obtain common authorization under MESA regulations, NHESP has indicated that it will treat the GEP as severable from the bank stabilization work described in this EENF, as the project will not result in an adverse impact to the resource area habitats of state-listed wildlife species pursuant to the WPA and will not result in a prohibited Take pursuant to the MESA. NHESP ultimately issued a determination on September 25, 2024, indicating that Sections 1 and 2 of the GEP project would not result in a prohibited Take (321 CMR 10.18); in addition, Section 3 was conditioned to avoid a Take. The EENF states that should an inadvertent release occur within the Mill River as part of the GEP Section 3 (HDD work) that results in a Take, the NHESP may require the preparation of a Conservation Management Plan (CMP).

Based on the above findings from NHESP, I find that due to the projects independent timelines, purposes, and impacts, each project has pursued an independent development plan that does not appear related to each other. Accordingly, I find that the projects are independent of one another and in compliance with the segmentation provisions found at 301 CMR 11.01(2)(c) and will not be considered as one project when determining whether any review thresholds are met or exceeded. Additionally, as this project requires the preparation of an EIR, this finding does not result in this project avoiding the need for full EIR review.

Alternatives Analysis

The EENF evaluated a series of four Alternatives, namely, Alternative 1 (Regrading and installing rip-rap along the entirety of Work Area 1); Alternative 2 (Cutting back the slope and installing a retaining wall along Work Area 2); Alternative 3 (Use only nature-based design elements); and the Preferred Alternative. The project design goals include the use of green-infrastructure and nature-based solutions to stabilize the existing river bank.

EENF Certificate

Alternative 1 (Regrading and installing rip-rap along the entirety of Work Area 1) would provide a stabilized riverbank, but would result in the removal of all mature vegetation within the Area 1 footprint. The installation of rip-rap as a riverbank treatment option requires placement of material on a stable slope. The banks of the Mill River in this area are not stable, are irregular, and include areas of undercutting. Therefore, to achieve a stable slope, the entirety of the bank length to be stabilized would have to be cleared of vegetation, excavated to sub-grade materials, and rebuilt using engineered materials. No mature woody vegetation would be replaced within this footprint or would be allowed to grow within the rip-rap as tree roots would destabilize the revetement over time. This alternative was not selected as it would reduce habitat complexity, result in increased water temperatures, and decrease habitat for wildlife and fisheries.

Alternative 2 (Cutting back the slope and installing a retaining wall along Work Area 2) proposes cutting back the slope to provide additional bank stability and installing a retaining wall along the riverbank. Because utilities are located within the slope above the riverbank, the slope cannot be reduced. To accommodate the existing utilities, the project considered constructing a retaining wall at the toe of the existing slope along the water's edge. During construction, the currently vegetated slope would be cleared of vegetation and filled or regraded and armored to protect the slope from future erosion. Mature vegetation would not be allowed to grow. Similar to the first alternative, this alternative was not selected as it would result in complete vegetation removal, result in increased water temperatures, and decrease habitat for wildlife and fisheries.

Alternative 3 (Use only nature-based design elements) proposes installing log jams and crib wall in place of riprap; however, the EENF notes that because Work Area 1 begins at a bend in the Mill River with high velocities where installing log jams alone would be ineffective because the stream flow could erode the exposed bank between the log jams rather than being deflected by the structures as occurs when the flow runs more parallel along the bank versus impinging directly on it. Additionally, the use of a crib wall was evaluated but eventually dismissed as much of the existing bank consists of sloughed material and anchoring the crib walls would be difficult without removing a considerable amount of material. The EENF also notes that log jam structures would not be feasible under the Lamont footbridge, as the log jams would not prevent the bridge footings from being undermined and could result in the footings needing to be regularly replaced.

The EENF indicates that the Preferred Alternative, as described herein, was selected as it is best suited to stabilize the bank within the two Work Areas and avoid impacts to as well as protect existing mature woody vegetation along the riverbank to the extent practicable. Alternatives that would require the clearing of the riverbanks were only briefly evaluated and dismissed as they did not meet the project design goals.

Environmental Justice (EJ) / Public Health

As noted above, the project is located within one mile of six EJ Populations characterized by Minority and Income criteria, and within five miles of 11 additional EJ Populations (all characterized by Minority and Income criteria). The EENF identified the DGA for the project as one mile. No languages were identified as being spoken by more than 5% of individuals within the DGA that identify as not speaking English very well.

Effective January 1, 2022, all new projects in "Designated Geographic Areas" ("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. 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. 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.

Community Engagement

The EENF described public involvement activities conducted prior to filing, including advanced notification of the project to a list of community-based organizations (CBOs) and tribes/indigenous organizations (the "EJ Reference List") provided by the MEPA Office. The Proponent circulated an EJ Screening Form with an overview of the project to these entities and information on ways to request a community meeting. A copy of the EENF and supporting documentation were distributed to the EJ Reference List. Within the EJ Screening Form, the Proponent provided email addresses and phone numbers of project team members who could be contacted as well as a web address where project files could be obtained and a project meeting requested. According to the EENF, additional public involvement activities included hosting a community outreach meeting on April 20, 2024 at the Smith College Conference Center, where project representatives provided a brief overview of the project. Fliers were also posted at public locations in Northampton to notify the public about the meeting. The Proponent maintains a project website to provide updates, and has circulated fact sheets to local community organizations and all other entities on the EJ Reference List. According to the EENF, the two attendees at the April 20, 2024 meeting were community members who stated that their interests were mainly related to the annual sediment management practices at Paradise Pond but that they were also interested in learning more about the proposed bank stabilization project. The EENF indicates that the participants were provided with copies of the fact sheet and encouraged to reach out with any future questions.

Baseline Assessment and Project Impacts

The EENF contained a baseline assessment of any existing unfair or inequitable Environmental Burden and related public health consequences impacting EJ Populations in accordance with 301 CMR 11.07(6)(n)1. and the MEPA Interim Protocol for Analysis of EJ Impacts. According to the EENF, the data surveyed showed some indication an existing "unfair or inequitable" burden impacting the identified EJ Populations. Specifically, the filing notes that the DPH EJ Tool identifies the City of Northampton in which the EJ Populations in the DGA are located as exhibiting "vulnerable health EJ criteria"; this term is defined in the DPH EJ Tool to include any one of four environmentally related health indicators that are measured to be 110% above statewide rates based on a five-year rolling average. The DPH EJ Tool identifies four census tracts (8216.01, 8219.03, 8219.04, 8220) in Northampton that meet the vulnerable health EJ criteria for Elevated Blood Lead Prevalence.

In addition, the EENF indicates that the following sources of potential pollution exist within the DGA based on the mapping layers available in the DPH EJ Tool:

- M.G.L. c. 21E sites: 2
- Massachusetts (Tier II) Toxics Use Reporting Facilities: 2
- MassDEP Sites with AULs: 8
- Underground Storage Tanks: 12
- Wastewater Treatment Plants: 1
- EPA Facilities: 3
- Energy Generation and Supply Facilities: 2

The EENF states that while the EJ Populations within the DGA may exhibit some existing unfair or inequitable environmental burden, the project is not expected to materially exacerbate such existing conditions. While the site is a private college, some areas are publicly accessible and provide recreational opportunities, which will remain unchanged. Traffic impacts are temporary, limited in nature, and will affect both EJ and non-EJ populations similarly. No significant stormwater infrastructure changes are proposed; however, minor drainage issues along the riverside walking path will be corrected using grading to encourage sheet flow and by installing under drains. Additionally, the project will not increase the volume or rate of offsite stormwater discharge. According to the EENF, the project is a riverbank restoration, and has been designed to protect the existing infrastructure and land use. Utilities, including a sewer interceptor, electrical, water, and gas lines are located within the areas of concerns. Stabilizing these slopes will protect these utilities which connect portions of the Smith College campus as well as surrounding apartment buildings and homes. Further, bank stabilization will protect the existing Smith College athletic fields and associated infrastructure such as the Lamont Bridge, existing RA restoration area, and the cart path around the fields from a bank failure. The EENF notes that the proposed stabilization is not anticipated to increase flood velocity or increase flow within the project area or downstream.

According to the MA Resilience Design Tool discussed below, the project is rated as having High exposure for Extreme Precipitation (urban and riverine flooding) and Extreme Heat. In response to the Extreme Precipitation risk, the EENF notes that the project has been modeled and a Floodplain Impact Assessment has been prepared, as discussed further below. The mapped flood elevation is well below the top of the physical riverbank within each failure area. The proposed stabilization of the bank is not anticipated to increase flood velocity or increase flow within the project area or downstream. The riverbank stabilization will protect the failure areas in light of predicted increased flooding in the future. In response to the Extreme Heat risk, the project has been designed to avoid removing excess mature woody vegetation. The proposed log jams and construction access have been designed to avoid removing mature trees to the extent practicable. Once the log jams are installed, they will be seeded and planted with native shrub species to replace any potential lost shade. Additionally, soil will be installed over the riprap stone and the area will be seeded with conservation wildlife seed mix to help replace lost vegetation.

Wetlands

As noted above, the project will result in direct alteration of 681 lf of Bank (381 lf of new Bank); 51 sf of BVW; 16,311 sf of LUWW (8,889 sf temporary / 7,422 sf permanent); 6,853 sf of RA (3,683 sf

temporary / 3,170 sf permanent). Additionally, impacts to BLSF include a loss of 1,001 cf and a gain of 3,563 cf. The project will also involve the dredging of approximately 428 cy of sediment. The Northampton Conservation Commission will then review the project for its consistency with the WPA, the Wetland Regulations (310 CMR 10.00), and associated performance standards, and, in the event of an appeal, MassDEP will issue a Superseding Order of Conditions.

According to the EENF, a wetland delineation of the project area was completed in October 2019, where a small BVW was observed downgradient at the upstream end of Work Area 2 and just upstream of the Lamont Bridge. The Proponent confirmed that wetland flags marking the resource areas will be reviewed and refreshed prior to the submission of MassDEP and Army Corps of Engineers (ACOE) permits. Comments from MassDEP recommend confirming that the base map information and Resource Area boundaries have not changed since they were originally evaluated. The wetland delineation also identified the upper limits of the Bank or the Mean Annual High Water Line (MAHWL). The project notes that RA was mapped as extending 200 ft perpendicular to the delineated Bank which is coincident with the MAHWL.

As noted above, the proposed project will impact two discrete portions of Bank totaling 681 lf. Work Area 1 will include the stabilization of approximately 286 lf of Bank within a 446 lf work area, while Work Area 2 will include the stabilization of 395 lf of Bank within a 420 lf work area. Log jam and root wad installations are designed to protect the bank from ongoing erosion while limiting the total impact area and retaining most of the existing mature vegetation. Stone slope protection will be installed in limited locations where the use of log jams and root wads is not appropriate. The slopes above Mean Annual High Water (MAHW) will be seeded and mulched. The site will remain essentially in the same configuration and continue to border the Smith College athletic fields.

According to the EENF, the Proponent indicates that the land adjacent to the river does not meet the definition of BLSF as described in WPA regulations³; however, the regulations at 310 CMR 10.57(2)(a); state the following in regard to the Definitions, Critical Characteristics and Boundaries of BLSF:

The boundary of Bordering Land Subject to Flooding [sic] is the estimated maximum lateral extent of flood water which will theoretically result from the statistical 100-year frequency storm. Said boundary shall be that determined by reference to the most recently available flood profile data prepared for the community within which the work is proposed under the National Flood Insurance Program (NFIP), currently administered by the Federal Emergency Management Agency, successor to the U.S. Department of Housing and Urban Development). Said boundary, so determined, shall be presumed accurate. This presumption is rebuttable and may be overcome only by credible evidence from a registered professional engineer or other professional competent in such matters.

The EENF states that the Northampton Conservation Commission will be the issuing authority responsible for determining the presence of BLSF. However, given that the site is located in the 100-year floodplain, it would appear that BLSF is present on the project site. Comments from MassDEP confirm that as part of the Notice of Intent (NOI) filing, the Proponent will be required to identify the limits of BLSF in accordance with 310 CMR 10.57(2)(a), which requires reference to the most recently

³ See 310 CMR 10.51(2)(a) at: <u>https://www.mass.gov/doc/310-cmr-1000-the-wetlands-protection-act/download</u>.

available flood profile data. The Single EIR should include such information. MassDEP comments also note that all resource area delineations must be conducted in accordance with the methodologies specified in 310 CMR 10.00 and should be accomplished through flagging in the field, surveying, and then presented on a scaled site plan, as appropriate.⁴ As discussed in MassDEP's comment letter, the Single EIR should detail how the project will meet the performance standards for each wetland resource.

As noted above, the project is being proposed as ecological restoration, but may not meet the criteria for a full (not limited) Ecological Restoration Project under WPA regulations. The Proponent has indicated that it will evaluate whether the performance standards can be met for work within each of the resource areas during the NOI filing process, and that the project will be submitted as an Ecological Restoration Limited Project under 310 CMR 10.53(4)(e)5 if one or more of the performance standards cannot be met.⁵. The Single EIR should include further information regarding how the project will be filed with the Northampton Conservation Commission.

As noted, the project site is located within the 100-year floodplain on the current effective FIRM in a Zone AE with a regulatory floodway. Because of its location in the 100-year floodplain, compliance with the requirements of several federal, state and local measures related to floodplain development are required. According to the EENF, the Proponent conducted a Floodplain Impact Assessment to assess potential impact of the proposed project on the Base Flood Elevation (BFE; 100-year flood elevation profile) of the Mill River. The model indicates that the proposed project may result in localized increases in the 100-year flood elevations on the Mill River and an increase in inundation area by 0.2 acres (less than 0.2% change in the project area) from 101.4 acres to 101.6 acres. The model indicates that the upstream repair would increase water surface elevations between 0.1 and 0.4 feet up to 1,500 feet upstream and 80 feet downstream of the repair site, while the downstream repair would increase water surface elevations between 0.1 and 0.2 feet up to 30 feet upstream of the project area. The change in water surface elevation is negligible in the downstream end of the project area. The Proponent notes that the increase in flood elevations results in only imperceptible increases to the overall area of flooding. According to EENF, because the project is located in a regulatory floodway and results in an increase (however minor) in the BFE, the project must receive a Conditional Letter of Map Revision (CLOMR) issued by FEMA before the City of Northampton can issue a permit for the project.

Stormwater

Two existing stormwater outfalls are located within Work Area 2, and will be maintained and restored to their designed condition. Outfall repairs will include new flared end pipe outlets and the construction of a riprap-lined down chute to protect the slope from stormwater erosion. Walking pathways improvements adjacent to Work Area 2 will include regrading of the path, improving subdrainage conditions, and planting approximately 500 native plantings. Additionally, activities proposed within Work Area 2 include the Lamont Footbridge improvements. The proposed improvements will include cleaning the concrete structure to remove spalling concrete, strengthening the bridge footings and adding upstream facing ice breaker components, mortar repairs to the bridge as

⁴ Ibid.

⁵ I note that, effective January 6, 2023, the MEPA regulations (at 301 CMR 11.01(2)(b)4.) were amended to allow for streamlined review of projects seeking to qualify in its entirety as an Ecological Restoration Project, but not including an Ecological Restoration Limited Project under 310 CMR 10.24(8) and 10.53(4). The Proponent has opted to submit the project for full MEPA review, as it is not yet clear whether the project will qualify for full Ecological Restoration Project status.

needed, and the installation of new railing components. The EENF indicates that the project was modeled to attenuate the current 100-year, 24-hour storm event using NOAA Atlas 14 precipitation data, which indicates a precipitation depth of 7.89 inches. The EENF notes that in accordance with existing best practices, the riprap proposed for the chutes was sized to withstand a current-day 100-year storm. According to the EENF, temporary cofferdams and dewatering will be used during construction on the bridge footings. Comments from MassDEP note that dewatering should be conducted such that no sediment enters resource areas, that minimum stream flow is maintained during the work, and that adequate capacity for bypassing the work area or provisions will be stipulated to accommodate heavy rain or flood events. MassDEP comments note that details of how this will be accomplished should be included as part of the WPA permitting process.

Chapter 91 Waterways/Tidelands

The EENF asserts that the project does not require a c.91 License or Permit as the riverbank stabilization measures include the placement of fill and/or structures within the non-tidal river of materials that do not reduce the space available for navigation and includes revetments, storm drainage outfalls, and similar structures as necessary for bank stabilization, provided that an Order of Conditions is received for the work. However, comments from the MassDEP Waterways Regulation Program (MassDEP WRP) indicate that portions of the project will be constructed below the High Water Mark of a "Great Pond" or "Non-tidal, Navigable River or Stream," potentially requiring a Chapter 91 (c.91) Waterways License. Comments state that the proposed project also includes dredging, installation of a temporary access road and ramp and cofferdams, and repairs to and maintenance of a bridge, which are scopes of work that are not exempt and require c.91 authorization. Comments from MassDEP WRP note that the EENF did not accurately reflect the project relative to c.91 requirements, and should be updated in subsequent MEPA filings. The Single EIR should include updated information regarding c.91 permitting requirements.

Rare Species

According to the EENF, the proposed project is located within mapped Priority and Estimated Habitat for the following state-listed species: Ocellated Darner (*Boyeria grafiana*); Wood Turtle (*Glyptemys insculpta*); Skillet Clubtail (*Gomphurus ventricosus*); and the Creeper (*Strophitus undulatus*), as mapped in the 15th Edition of the MA Natural Heritage Atlas. The Ocellated Darner, Wood Turtle, and Creeper are all species state-listed as Threatened; while the Skillet Clubtail is listed as Special Concern. The species and their habitats are protected pursuant to the Massachusetts Endangered Species Act (MESA) and its implementing regulations (312 CMR 10.00). As identified in the EENF and in comments from NHESP, the project will result in a "Take" and will require a CMP pursuant to 321 CMR 10.23.

According to the EENF, the following avoidance and minimization measures have been incorporated into the project design:

- Reductions in the scope of work including reduction of size of armoring of the bank to limit disturbance within turtle habitat,
- Use of nature-based design elements which result in natural structural elements that provide basking sites for turtles, and more egg laying and enclosure sites for dragonflies,

- Continued use of the water level maintenance plan that the Proponent developed with NHESP to protect dragonfly and mussel habitat downstream,
- Avoidance of work during winter when Wood turtles could be overwintering in overhanging bank habitat and development of a Turtle Protection Plan (TPP) including contractor education, work during summer low flow conditions and site inspections prior to work by an approved biologist. The TPP will be developed and implemented during construction.
- Translocating mussels out of the work area during in-water construction and moving them back to this segment of the stream after.

Additionally, the Proponent notes that mitigation measures are being developed with NHESP input to provide a Net Benefit to the Wood Turtle and Creeper. The Net Benefit measures would include the following:

- Wood Turtle: Completion of a Wood Turtle survey of habitat within the Mill River corridor above Paradise Pond following the Wood Turtle Assessment Protocol from the Northeastern Wood Turtle Working Group.
- Creeper: Proponent will fund the ongoing mark-recapture study and annual census survey of mussel species in the Mill River downstream of the Paradise Pond Dam for three years. Reports will be submitted to NHESP annually with comprehensive reports submitted after the 3 years. The Proponent will also continue funding the quantitative mussel monitoring at the two other sites downstream for three years.

Climate Change

Adaptation and Resiliency

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. Based on the output report attached to the EENF/Proposed EIR, the project has a "High" exposure rating based on the project's location for the following climate parameters: extreme precipitation (riverine flooding) and extreme precipitation (riverine flooding). The project also has a "Moderate" exposure rating for the extreme heat. Because the Mill River Bank restoration is considered a "Natural Resource" project, the Tool does not provide design recommendations similar to those provide for projects maintaining physical assets like buildings/facilities and infrastructure assets. Instead, the MA Resilience Design Tool provides a standard of recommendations, here, a planning horizon of 2050 and a return period associated with a 10-year (10% chance) storm event for the recreational fields and walkway, stormwater outfalls, and the Lamont bridge. The Tool recommends planning for the 50th percentile with respect to extreme heat (which indicates an increase in extremely hot days as compared to a historical baseline) for the Mill River Bank restoration, and the 10th percentile for the recreational field/walks and Lamont bridge.

According to the RMAT report, the projected 24-hour precipitation depth associated with the 2050 10-year storm is 6.3 inches. As noted above, the EENF indicates that the project was modeled to accommodate the current 100-year, 24-hour storm event (NOAA Atlas 14), which includes a precipitation depth of 7.89 inches. This exceeds the standard recommendation provided by the MA Resilience Design Tool. As discussed in the EENF, the project includes maintenance of storm drain outlets through the installation of flared end pipe outlets and the construction of riprap-lined chutes to

protect the slope from erosion. The EENF indicates that in accordance with existing best practices, the riprap proposed for the chutes was sized to withstand a current-day 100-year storm. Additionally, erosion and sediment control measures will be installed prior to the start of work and maintained and replaced as needed during construction.

According to the EENF, FEMA data indicates that the existing limits of the 100-year floodplain are between elevation 142.5 – 143.9 feet NAVD88 in Work Area 1 and between elevation 131.5 – 132.4 feet NAVD88 in Work Area 2. As discussed above, the Floodplain Impact Assessment indicates that the proposed project may result in localized increases in the 100-year flood elevations on the Mill River and an increase in inundation area by 0.2 acres (less than 0.2% change in the project area) from 101.4 acres to 101.6 acres. The model indicates that the upstream repair would increase water surface elevations between 0.1 and 0.4 feet up to 1,500 feet upstream and 80 feet downstream of the repair site, while the downstream repair would increase water surface elevations between 0.1 and 0.2 feet up to 30 feet upstream of the project area. As discussed, because the project is located in a regulatory floodway and results in an increase in the BFE, the Proponent has confirmed that the project must receive a Conditional Letter of Map Revision (CLOMR) issued by FEMA before the City of Northampton can issue a permit for the project.

In order to mitigate for the Extreme Heat rating, the project has been designed to avoid the removal of mature woody vegetation along the riverbank. Additionally, log jams above the mean annual high water line will be live-staked with shrub vegetation. These two measures will allow for continued shading of the Mill River to minimize future solar warming of the water.

Greenhouse Gas Emissions (GHG)

Because this project does not exceed any mandatory EIR thresholds and is required to submit an EIR only because it is located within a DGA of EJ populations, a GHG analysis is not required because the project's GHG emissions will be less than 2,000 tpy associated with conditioned spaces. The EENF indicates that GHG emissions associated with this project will be limited to the construction period and are de minimis.

Construction Period

According to the EENF, the project is expected to commence in Spring 2026, with project completion anticipated by Fall 2026. The EENF notes that construction will take place during 2026 low-flow conditions (i.e., summer) and avoid impacts to potential overwintering Wood Turtles. Based on funding availability, the two work areas may be completed as separate mobilizations. All construction and demolition (C&D) activities should be managed in accordance with applicable MassDEP 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, etc.) 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 (MCP; 310 CMR 40.0000). 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 C&D debris to the maximum extent.

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 clearly demonstrate that the Proponent has sought to avoid, minimize and mitigate Damage to the Environment to the maximum extent practicable.

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 update quantified temporary and permanent environmental impacts (including to specific resource types) to the extent these impacts have changed since the filing of the EENF.

The information and analyses identified in this Scope should be addressed within the main body of the Single EIR and not in appendices. In general, appendices should be used only to provide raw data, such as drainage calculations, traffic counts, capacity analyses and energy modelling, that is otherwise adequately summarized with text, tables and figures within the main body of the Single EIR. Information provided in appendices should be indexed with page numbers and separated by tabs, or, if provided in electronic format, include links to individual sections. Any references in the Single EIR to materials provided in an appendix should include specific page numbers to facilitate review.

Environmental Justice / Public Health

The Single EIR should contain a description of measures the Proponent intends to undertake to promote public involvement by EJ populations during the remainder of the MEPA review process, including a discussion of any of the best practices listed in the MEPA EJ Public Involvement Protocol that the project intends to employ. The Single EIR, or a summary thereof, should be distributed to all CBOs and tribes included in an updated "EJ Distribution List". An updated list should be obtained from the MEPA Office to ensure contacts are up to date, and the project-specific EJ Distribution List should be developed and returned to the MEPA Office. Additionally, the Single EIR should describe outreach conducted to the additional EJ Population identified in the Town of Northampton. The Single EIR should provide additional information regarding potential impacts of floodplain changes to EJ

Populations, specifically, whether the documented increase in BFE resulting from the project is likely to affect EJ populations in surrounding areas.

Wetlands and Waterways

As noted in the EENF, the Proponent has indicated that the base map and wetland flagging information depicted on the project plans is derived from data collected in 2012 and 2019. The Single EIR should include documentation which provides details confirming that the base map information and Resource Area boundaries have not changed since they were originally evaluated.

As noted above, the Proponent indicates that the land adjacent to the river does not meet the definition of BLSF as described in the WPA regulations. As stated in MassDEP comments, the Single EIR should identify the limits of BLSF in accordance with 310 CMR 10.57(2)(a), which states that the boundary of BLSF "shall be that determined by reference to the most recently available flood profile data prepared for the community within which the work is proposed under the National Flood Insurance Program." The Single EIR should detail how the project will meet the performance standards for each wetland resource, including whether additional mitigation may be required based on updated delineations.

As noted above, the project is being proposed as ecological restoration, but it is unclear whether it will meet the criteria for a full (not limited) Ecological Restoration Project under WPA regulations. The Proponent has indicated that it will evaluate whether the performance standards can be met for work within each of the resource areas during the NOI filing process, and that the project will be submitted as an Ecological Restoration Limited Project under 310 CMR 10.53(4)(e)5 if one or more of the performance standards cannot be met. The Single EIR should provide an update on this evaluation and clarify how the project will be filed with the Northampton Conservation Commission.

Chapter 91 Waterways/Tidelands

As noted above, comments from MassDEP WRP indicate that the EENF did not accurately reflect the project relative to c.91 requirements. The Single EIR should include details on the scopes of work relative to c.91 jurisdictional boundaries including documentation of how the High Water Mark elevation was calculated and about the anticipated timing that any temporary fill and structures will be installed/deployed within the waterway. The Single EIR should also include the result of c.91 licensing history research for the site, documentation that the shoreline stabilization structures will not reduce the space available for navigation, and information regarding when the bridge was constructed and whether it presently meets the standards for exemption pursuant to 310 CMR 9.05(3)(f).

Rare Species

As identified in the EENF and in comments from NHESP, the project will result in a "Take" and will require a CMP pursuant to 321 CMR 10.23. The Single EIR should include updates on any consultations with NHESP as well as any final mitigation measures that will be implemented.

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 Single EIR 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 (wetlands, rare species, climate change, 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.

Responses to Comments

The Single EIR should contain a copy of this Certificate and a copy of each comment letter received. The Single EIR should contain a direct response to the scope items in this Certificate. To ensure that the issues raised by commenters are addressed, the Single EIR should also include direct responses to comments to the extent that they are within MEPA jurisdiction. This directive is not intended, 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. The Proponent may circulate copies of the Single EIR to commenters other than Agencies in a digital format (e.g., CD-ROM, USB drive) or post to an online website. However, the Proponent should make available a reasonable number of hard copies to accommodate those without convenient access to a computer to be distributed upon request on a first come, first served basis. A copy of the Single EIR should be made available for review in the City of Northampton's Public Library.

February 14, 2025 Date

Rebecca L. Tepper

Comments received:

02/04/2025 Massachusetts Department of Environmental Protection (MassDEP) 02/07/2025 Massachusetts Department of Environmental Protection Waterways Regulation Program (WRP) RLT/AM/am



Department of Environmental Protection

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

Maura T. Healey Governor

Kimberley Driscoll Lieutenant Governor Rebecca L. Tepper Secretary

> Bonnie Heiple Commissioner

February 4, 2025

Rebecca Tepper, Secretary Executive Office of Energy & Environmental Affairs Massachusetts Environmental Policy Act Office Amina Miliani, EEA No. 16847 100 Cambridge Street, 9th Floor Boston, MA 02114-2524

> Re: Mill River Streambank Stabilization, Northampton EENF

Dear Secretary Tepper,

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 Mill River Streambank Stabilization, Northampton, Massachusetts (EEA #16847).

MassDEP attended a Remote Consultation Session on 1/21/25. The applicable MassDEP regulatory and permitting considerations regarding wetlands, stormwater, air pollution, solid waste, hazardous waste and waste site cleanup are discussed.

I. <u>Project Description</u>

The Proponent, Smith College, seeks to stabilize two areas of riverbank along the Mill River to avoid additional or future slope failure, sloughing, cracking, erosion, and bank undercutting, as have been previously and currently observed. The Project site consists of two work areas, located on adjacent parcels owned by Smith College. Proposed stabilization methods include regrading and installations of erosion protection such as riprap, root wad placement, log jam construction and native plantings. The project also includes maintenance and rehabilitation of three stormwater outfalls within the area of riverbank restoration, and improvements to the existing Lamont Pedestrian Bridge. The existing footings of the bridge will be strengthened, and drainage improvements will be made to minimize erosion.

A separate geothermal project on campus has been determined to be separate from the proposed Project discussed herein.

This information is available in alternate format. Please contact Melixza Esenyie at 617-626-1282. TTY# MassRelay Service 1-800-439-2370 MassDEP Website: www.mass.gov/dep Six Environmental Justice populations were identified within one mile of the Project, in the communities of Northampton and Easthampton. The EJ populations were characterized as Minority, Income, and Minority and Income.

Environmental Impacts associated with this project include:

- Total site acreage 1.59 acres (existing)
- Acres of impervious area 0.40 acres (existing), 0.01 acres (new). 0.41 acres (Total)
- Square feet (sq ft) of new bordering vegetated wetlands alteration 51 sq ft
- Square feet of new other wetland alteration 9,325 sq ft

II. <u>Required Mass DEP Permits and/or Applicable Regulations</u>

Wetlands 310 CMR 10.000 <u>Air Pollution</u> 310 CMR 7.00 <u>Solid Waste</u> 310 CMR 16.00 <u>Hazardous Waste</u> 310 CMR 30.00 <u>Bureau of Waste Site Cleanup</u> 310 CMR 40.000

III. <u>Permit Discussion</u>

Bureau of Water Resources

Wetlands Protection Act

The project, as described in the EENF is subject to the Massachusetts Wetlands Protection Act (WPA) MGL c. 131, § 40, and the Regulations promulgated there under at 310 CMR 10.00. The Proponent acknowledges it will file a Notice of Intent (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 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. Should the Proponent file a NOI prior to the issuance of a final Certificate from the Secretary, MassDEP recommends the Proponent file a not the Proponent request that the conservation commission defer a decision and keep the meeting open until the Secretary has issued the final Certificate.

The Site appears to contain Bordering Vegetated Wetland (BVW), Bank (Inland), Land Under Waterbodies and Waterways (LUWW), Bordering Land Subject to Flooding (BLSF), and Riverfront Area.

This project is proposed to be constructed, at least in part, below the High Water Mark of a "Great Pond" or a "Non-tidal, Navigable River or Stream." A Waterways License (either General or Simplified) may therefore be required. The proponent should file either a "Waterways License Application" or a "Request for Determination of Applicability" (to obtain a Determination from the Department that a License is not required). Further information is available at: https://www.mass.gov/waterways-program-chapter-91.

Resource Area Delineation

All resource area delineations must be conducted in accordance with the methodologies specified in 310 CMR 10.00 and should be accomplished through flagging in the field, surveying, and then presentation on a scaled site plan, as appropriate.

The Proponent has indicated that the base map and wetland flagging information depicted on the plans is derived from data collected in 2012 and 2019. MassDEP recommends confirming that the base map information and Resource Area boundaries have not changed since they were originally evaluated.

Boundaries of BVW should be established through reference to 310 CMR 10.55(2)(c)2. and the Massachusetts Handbook for Delineation of Bordering Vegetated Wetlands (DEP 2022) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region (version 2.0, January 2012)

Delineation of the Mean Annual High Water Line (MAHWL) of all perennial rivers on site should be performed according to 310 CMR 10.58(2)(a)2. Use of "bankfull field indicators" may be necessary to establish the MAHWL in certain reaches per 310 CMR 10.58(2)(a)2.b. The applicant should be prepared to describe and justify the selected methodology to the Northampton Conservation Commission.

As part of the filing, the Proponent will be required to identify the limits of BLSF in accordance with 310 CMR 10.57(2)(a), which states that the boundary of BLSF "shall be that determined by reference to the most recently available flood profile data prepared for the community within which the work is proposed under the National Flood Insurance Program."

Ecological Restoration Project

The Proponent has presented the Project as an Ecological Restoration Project. The Proponent will be required to determine if it wishes to file as an Ecological Restoration Notice of Intent under 310 CMR 10.12 or as an Ecological Restoration Limited Project under 310 CMR 10.53(4). At that time, the Proponent will be required to demonstrate how Project meets the criteria for consideration as an Ecological Restoration Project. While an Ecological Restoration Project may result in the temporary or even permanent loss of Resource Areas and/or the conversion of one Resource Area to another, the Proponent must document that such loss is necessary to achieve of the project's ecological restoration goals.

The Proponent has identified invasive species within the limits of work. As part of the WPA filing, Ecological Restoration Projects are required to include a plan for invasive species prevention and control.

Bank (Inland) General Performance Standards

The Proponent is required to document how the project meets the performance standards for inland Bank set forth at 310 CMR 10.54(4), as applicable.

As part of the WPA filing for the project, the Proponent should review and include provisions for bank stabilization along the proposed channel and adhere to the principles, methods, and techniques of the Natural Resources Conservation Service (NRCS) *Stream Restoration Design Handbook, National Engineering Handbook Part 654 (*Released September 20, 2007). Specifically, proposed design should consider and incorporate as appropriate techniques and methods described within the following references:

- *Technical Supplement 14I, Streambank Soil Engineering,* Part 654 National Engineering Handbook;
- Technical Supplement 14J, Use of Large Woody Material for Habitat and Bank Protection, Part 654 National Engineering Handbook.

Bordering Vegetated Wetland General Performance Standards

The Proponent is required to document how the project meets the performance standards for BVW set forth at 310 CMR 10.55(4), including replacing any lost area of BVW, as applicable. The Proponent is advised to plan and construct any BVW "replacement area" per *Massachusetts Inland Wetland Replacement Guidelines*, Second Edition, September 2022, available at: <u>https://www.mass.gov/doc/wetland-replacement-guidelines-2022/download</u>

Land Under Water Bodies and Waterways General Performance Standards

As part of the WPA filing, the Proponent is required to document how the project meets the performance standards for LUWW set forth at 310 CMR 10.55(4), as applicable.

Bordering Land Subject to Flooding General Performance Standards

The Proponent is required to document how the project meets the performance standards for BLSF set forth at 310 CMR 10.57(4)(a), including demonstration that foot-for-foot compensatory flood storage is adequately provided, as applicable.

Riverfront Area Performance Standards

Should the stream(s) described in the EENF be determined to be a presumptive "river" with an associated Riverfront Area, the project should be designed to meet the General Performance Standards for work within Riverfront Area at 310 CMR 10.58(4)(c) or the Riverfront Area "Redevelopment" performance standards per 310 CMR 10.58(5), as applicable. Per the General Performance Standards, the Proponent must prepare a written alternatives analysis per 310 CMR 10.58(4)(c), a copy of which should be submitted to MassDEP.

Massachusetts Natural Heritage and Endangered Species Program

Compliance with 310 CMR 10.59 (Estimated Habitats for Rare Wildlife) is required regardless of any project component qualifying for "limited project" status.

Dewatering

At various stages of the project dewatering activities are likely to be necessary. Dewatering should be conducted such that no sediment enters resource areas. The Proponent must also ensure that minimum stream flow is maintained during the work and that adequate capacity for bypassing the work area or provisions will be stipulated to accommodate heavy rain or flood events. Details of how this will be accomplished should be included as part of the WPA permitting process.

The Proponent has indicated that a portion of the work will be completed in the wet within the Mill River. As part of the WPA filing and WQC Application, the Proponent is required to detail how this work will occur without releasing sediment into Resource Areas and why the work area is not proposed to be dewatered.

Massachusetts Stormwater Standards

The Proponent has indicated that work includes modifications to stormwater outfall structures and improvements to the walking pathway. As part of the WPA filing, the Proponent will be required to demonstrate compliance with Stormwater Management Regulations at 310 CMR 10.05(6)(k) through (q), as applicable.

Massachusetts Stream Crossing Standards

The Proponent is proposing repairs to an existing stream crossing. As part of the WPA and WQC filings, the Proponents is required to document compliance with the Massachusetts Stream Crossing Standards to the maximum extent practicable.

401 Water Quality Certification

MassDEP administers the Section 401 Water Quality Certification regulations on behalf of the US Army Corps of Engineers and under the Massachusetts Clean Waters Act, MGL c. 21, §§ 26 through 53, inclusive, and the Regulations promulgated there under at 314 CMR 9.00. The Proponent is required to provide sufficient information to adequately describe cumulative impacts to "Waters of the United States within the Commonwealth" (BVW, Isolated Vegetated Wetlands and LUWW). Under these regulations, impacts are to be avoided, minimized and mitigated. The Proponent indicates that the Project will require a WQC issued by MassDEP and that the project involves dredge and a discharge of fill into Waters of the Commonwealth. The Proponent should stipulate which WQC permit application will be filed. In addition, a pre-filing meeting with MassDEP must be requested at least 30 days prior to submitting requests for certification (40 CFR 121.4). Further information is available at: WW 26: Combined Licenses/Permits for Waterways & Water Quality Certification | Mass.gov.

As part of the WQC filing, the Proponent is required to prepare and submit a written alternatives analysis exploring alternatives to the proposed discharge of dredged or fill material that would have less adverse impact on the aquatic ecosystem in accordance with 314 CMR 9.06(1). MassDEP wishes to clarify that the Alternatives Analysis submitted under the MEPA process does not substitute for, nor serve as, the project site-specific impact *Alternatives Analysis* required in 310 CMR 10.00 and 314 CMR 9.00.

Mitigation for any unavoidable impacts is a requirement of the regulations. Appropriate mitigation will be determined as part of the WQC application process. MassDEP staff are available for consultation.

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 Waste Prevention Regulations 310 CMR 7.01, 7.09, and 7.10.

The EENF states: "Temporary use of cofferdams and dewatering during construction for strengthening the bridge footings will be required, since the footings are embedded into the stream bed;..." MassDEP notes that sediments may contain decaying materials with the potential to create odors. In addition, MassDEP notes the Proponent should exercise caution during construction activities to control dust both onsite and offsite e.g on city streets during entrance end egress from the work site.

Construction Equipment

MassDEP believes it is necessary to mitigate the construction-period impacts of diesel emissions to the maximum extent feasible and recommends that the Proponent to require the contractors and subcontractors to use diesel equipment/machinery that are fitted with pollution control devises as well as to minimize excessive idling. All non-road engines shall be operated using only ultra-low sulfur diesel with a sulfur content of no greater than 15 ppm pursuant to 40 CFR 80.510.

<u>Asbestos</u>

Vintage drainage pipes used as culverts are known to have been made of asbestos-cement products known as "transite". Vintage concrete also has been found to contain asbestos. Asbestos removal must comply with all applicable state and federal regulations regarding asbestos handling, including testing prior to handling. MassDEP also notes vintage caulks used in concrete repairs are known to contain PCB in addition to asbestos and must be managed in accordance with regulation.

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.

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

Solid and Hazardous Waste Management (Soil/Sediment Excavation)

If MassDEP determines that either because of the nature of the proposed activity, the amount of the material, and/or the characteristics of the material that the material requires management as a hazardous or solid waste, then the disposition of the excavated sediments must comply with any applicable requirements pursuant to 310 CMR 30.0000, 310 CMR 16.00 or 310 CMR 19.000. In addition, reuse or disposal of the excavated soils and/or sediments shall comply with the following MassDEP Policies: COMM-97-001 "Reuse and Disposal of Contaminated Soil at Massachusetts Landfills" the "Revised Guidelines for Determining Closure Activities at Inactive Unlined Landfill Sites" and BWP-94-007 "Sampling, Analysis, Handling and Tracking Requirements for Dredged Sediment Reused or Disposed at Massachusetts Permitted Landfills" and in compliance with the 401 WQC.

<u>Hazardous Waste</u>

Any hazardous wastes discovered at any parts of the work areas, shall be properly managed in accordance with 310 CMR 30.0000 including reporting to MassDEP.

If any hazardous waste, including but not limited to waste oil, lead paint and PCB's, is generated at the site, the Proponent must ensure that the site is properly registered through EPA and managed in accordance with 310 CMR 30.0000.

Bureau of Waste Site Cleanup

There are disposal sites within a 0.5-mile radius from the project area with Response Action Outcomes (RAOs) and/or Permanent Solutions with or without conditions (PS/PSC). If soil and/or groundwater contamination is encountered during construction 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 and agricultural activities should be presented to workers at the site and enforced. The plan should include but not be limited to, refueling of machinery, storage of fuels, and potential releases. This plan is of particular importance due to the proximity of the work to the Mill River.

IV. Other Comments/Guidance

The proponent is requesting that the Secretary allow a Single EIR in accordance with 301 CMR 11.06(8). MassDEP has no objection should the Secretary approve that request.

Greenhouse Gas (GHG) Emissions

Proponent states that a GHG Emissions analysis is not required with this EENF as the Project does not exceed a mandatory EIR threshold.

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 Sean Gonsalves at (781) 400-4272.

Sincerely,

Sean Gonsalves, R.S. for Michael Gorski Regional Director

cc: MEPA File



Department of Environmental Protection

100 Cambridge Street Suite 900 Boston, MA 02114 • 617-292-5500

Maura T. Healey Governor

Kimberley Driscoll Lieutenant Governor Rebecca L. Tepper Secretary

> Bonnie Heiple Commissioner

Memorandum

To:	Amina Miliani, Environmental Analyst, MEPA
From:	Don Giard, Waterways Regulation Program, MassDEP
cc:	Daniel J. Padien, Program Chief, Waterways Regulation Program, MassDEP
Re:	Mill River Streambank Stabilization EEA #16847 – EENF Comments from the Chapter 91 Waterways Regulation Program
Date:	February 7, 2025

The Department of Environmental Protection Waterways Regulation Program (the "Department") has reviewed the above referenced Expanded Environmental Notification Form (EENF) #16847 submitted by Smith College (the "Proponent") for the Mill River Streambank Stabilization Project (the "Project") at 126 West Street, Northampton. The project includes shoreline stabilization, dredging, repairs to an existing footbridge, and associated temporary construction activities.

The Department previously provided comments on the June 2024 EENF submittal, which identified scopes of work subject to Chapter 91 jurisdiction that were not accurately described or addressed in the context of Chapter 91 regulations in the June 2024 filing. Based on a review of this December 2024 EENF filing, there have not been updates or corrections to address the Department's prior comments. The previously submitted comments and additional comments are provided herein.

Chapter 91 Jurisdiction

As noted in the EENF, portions of the project will occur within the Mill River, a navigable nontidal river or stream which is a geographic area subject to jurisdiction pursuant to 310 CMR 9.04(1)(e).

Regulatory Review

The EENF asserts that "The riverbank stabilization measures are identified as an activity not requiring a license or permit at 310 CMR 9.05(3)(g)(4). The Project proposes the placement of fill and/or structures within the non-tidal river of materials that do not reduce the space available for navigation and includes revetments, storm drainage outfalls, and similar structures as necessary for bank stabilization", provided that an Order of Conditions is received for the work.

Based on the Department's review, that statement appears to be accurate with respect to the placement of the shoreline revetment fill and structures. However, the proposed project also includes dredging, installation of a temporary access road and ramp and cofferdams, and repairs to and maintenance of a bridge, which are scopes of work that are not exempt and require Chapter 91 authorization.

The EENF does not accurately reflect the project relative to Chapter 91 requirements in the Wetlands, Waterways, and Tidelands section, specifically Part III, which should be updated in the subsequent MEPA filing. Please also include the result of Chapter 91 licensing history research for the site, documentation that the shoreline stabilization structures will not reduce the space available for navigation, and information regarding when the bridge was constructed and whether it presently meets the standards for exemption pursuant to 310 CMR 9.05(3)(f). In the event the bridge is either authorized or exempt pursuant to Chapter 91, its maintenance and the minor improvements may not require a Chapter 91 license.

The dredging, temporary cofferdams, and construction access/ramp that will occur within the waterway require a Chapter 91 permit or license. Plans included with the subsequent MEPA filing should include details on those scopes of work relative to Chapter 91 jurisdictional boundaries (i.e., High Water Mark (HWM) as defined at 310 CMR 9.02). Additional information that should be included is documentation of how the HWM elevation was calculated, and information about the anticipated timing that any temporary fill and structures will be installed/deployed within the waterway.

Prior to preparing the subsequent MEPA filing, it is recommended that the Proponent schedule a meeting with Chapter 91 staff to discuss the project and to identify the appropriate Chapter 91 authorization pathway(s). If there are any questions regarding the Department's comments, please contact Don Giard at <u>Donald.e.giard@mass.gov</u>.