



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

# 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

September 26, 2024

Massachusetts Department of Transportation  
Highway Division  
10 Park Plaza, Suite 4160  
Boston, MA 02116  
ATTN: Courtney Walker

RE: **AMENDED** 401 WATER QUALITY CERTIFICATION  
BRP WW 10, Major Fill Project  
BRP WW 08, Minor Dredge Project  
Route 6 (Marion and Wareham Roads) over Weweantic River Bridge Replacement Project  
Bridges M-05-001=W-06-013 & W-06-016  
Marion and Wareham, MA

401 WQC Filing Number: 24-WW10-0004-APP (Fill)/24-WW08-0003-APP (Dredge)  
USACE Application No. NAE-2023-00894  
MassDOT File Number: 605311

Dear Ms. Walker:

On June 28, 2024, the Massachusetts Department of Environmental Protection (MassDEP) issued a Water Quality Certification (WQC) to the Massachusetts Department of Transportation (MassDOT) for replacement of two bridges carrying U.S. Route 6 (Marion Road/Wareham Road) over the Weweantic River; full-depth roadway reconstruction and widening; construction of two shared use paths (SUPs); stormwater infrastructure improvements; and salt marsh mitigation. The WQC contained 61 conditions and addressed impacts to Bordering Vegetated Wetlands (BVWs), salt marsh, and Land Under Water (LUW). On September 5, 2024, MassDOT submitted a request to amend Conditions 38, 39, 40, and 42 of the WQC.

MassDOT requested that Condition 38 be revised to better define sediment management activities to be conducted under the supervision of a Licensed Site Professional (LSP). MassDEP is amenable to revising Condition 38 to specify that the handling of contaminated sediment exceeding MCP RCS-1 criteria shall be conducted under the direction of an LSP.

MassDOT requested that Condition 39 be revised to clarify that the Environmental Health and Safety Plan to be prepared by the Contractor will be adequate and that a separate plan specifically for sediment management will not be required. MassDOT also requested confirmation the plan needs to be submitted for MassDEP records only and flexibility in the submission deadline. MassDEP agrees a separate plan specifically for sediment management is not required so long as the Environmental Health and Safety Plan includes provisions to protect workers from any exposure to known/suspected contaminants. MassDEP hereby confirms the plan needs to be submitted for record keeping purposes only and is amenable to submittal of the Environmental Health and Safety Plan at least two weeks prior to the commencement of the dredging operation.

The requested revisions to Condition 40 relate to dredged material stockpile management; specifically, the requirement to bottom line stockpiles on paved surfaces, place them at least 10 feet away from temporary construction roads, and inspect and correct deficiencies during and after storm events. MassDEP is amenable to removing the requirement to bottom line stockpiles so long as they are on paved surfaces and properly secured, and also removing the requirement to place stockpiles at least 10 feet from temporary construction roads so long as a DEP-approved barrier is provided. Inspection of stockpiles shall still occur daily, but MassDEP understands the safety concerns associated with inspection and correcting deficiencies during storm events, especially severe weather. As such, inspections will be required within 24 hours of a storm event that produces 0.5 inches or more of rain within a 24-hour period. Deficiencies shall be corrected in accordance with the timelines specified in the approved Construction Period Pollution Prevention and Erosion and Sedimentation Control Plan (CP/PP).

MassDOT requested that Condition 42 be revised to explicitly allow for stockpiles of sediment exceeding the RCS-1 criteria to be stored onsite longer than 90 days in extenuating circumstances. MassDEP is amenable to extensions of this deadline to accommodate unforeseen delays subject to MassDEP approval.

The conditions of this amended WQC will serve as a replacement to Condition 38, 29, 40, and 42.

MassDEP declines to revise Condition 49 by replacing the requirement to use the Paint Filter Test with visual observation as the means to ensure dredged material shall have no free liquid during transport as MassDEP does not believe that visual observation is an analogous methodology as required by 314 CMR 9.07(5)(a).

In accordance with the provisions of MGL c. 21, s. 26-53 and Section 401 of the Federal Clean Water Act as amended (33 U.S.C. s. 1251 et seq.), MassDEP has reviewed this project change request and has determined that there is reasonable assurance that the project change will not violate applicable water quality standards. MassDEP hereby approves of the above-mentioned project changes and amends the WQC dated June 28, 2024, by referencing the following documents and subject to the following Special Conditions:

## Reference Documents:

- 1) 401 Water Quality Certification. Route 6 (Marion and Wareham Roads) over Weweantic River Bridge Replacement Project, Bridges M-05-001=W-06-013 & W-06-016. 401 WQC Filing Number: 24-WW10-0004-APP (Fill)/24-WW08-0003-APP (Dredge). Issued June 28, 2024.
- 2) 401 Water Quality Certification Amendment Request. Bridge Replacement: Bridge Replacement, M-05-001=W-06-013 & W-06-016, Marion Road/Wareham Road (Route 6) Over Weweantic River. MassDOT Project #605311. MassDEP 24-WW10-0004-APP (Fill)/24-WW08-0003-APP (Dredge). Dated September 5, 2024.

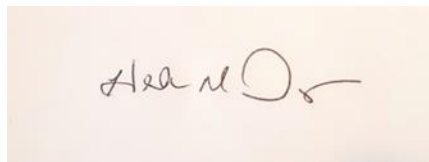
## Revised Special Conditions

38. All handling of contaminated sediment exceeding MCP RCS-1 criteria and authorized by this WQC shall be conducted under the direction of a Licensed Site Professional (LSP). Prior to the Pre-Construction Meeting required in Condition 5, the applicant shall provide MassDEP with the name, qualifications, and contact information of the LSP.
39. An Environmental Health and Safety Plan which has been characterized as exceeding MCP RCS-1 criteria shall be required for the protection of workers from any exposure to known/suspected contaminants present in environmental media (including sediment). A copy shall be provided to MassDEP for records at least two weeks prior to the commencement of the dredging operation.
40. Best Management Practices (BMPs) shall be employed by the contractor to protect resource areas located adjacent to the proposed staging/temporary dredged material stockpiling and dewatering areas. Sediment stockpiles shall be constructed in accordance with the MassDEP approved project plans, stabilized, bottom-lined if not placed on paved surfaces and securely covered with wind tear resistance tarpaulin, polyethylene sheeting or similar impermeable material at all times, and properly labeled. Stockpile covers shall be securely weighed down. Stockpiles shall also be secured to restrict access by the public and shall be set back at least 10 feet from temporary construction access roads or other areas and activities which could disturb the stockpiles and associated erosion controls; if the 10-foot setback cannot be met, then a DEP-approved barrier shall be provided. Inspection of the sediment containment and dewatering location and associated erosion controls shall be conducted daily and within 24 hours of a storm that produces 0.5 inches or more of rain. Any observed deficiency shall be corrected or repaired in a timely manner.
42. Dredging, stockpiling of dredged material, and offsite transport of dredged material shall be sequenced and conducted in a manner to limit stockpiling time. Sediment characterized as having concentrations exceeding the RCS-1 criteria shall not be stockpiled at the site longer than 90 days from the date of generation. Extensions may be requested to accommodate unforeseen delays subject to MassDEP approval.

**All other WQC Special Condition remain in effect as applicable.**

Should you have any questions relative to this permit, please contact me at [heidi.davis@mass.gov](mailto:heidi.davis@mass.gov) or Ryan Hale at [ryan.hale@mass.gov](mailto:ryan.hale@mass.gov).

Very truly yours,

A rectangular box containing a handwritten signature in black ink. The signature appears to read "Heidi M. Davis" in a cursive script.

Heidi M. Davis  
Highway Unit Supervisor

Ecc: DEP SERO – Maissoun Reda  
EEA Office of Coastal Zone Management – Sean Duffey  
USACE – Dan Vasconcelos  
USCG – Jeffrey Stieb  
MassDOT – Bryan Cordeiro  
MassDOT – Melissa Lenker  
MassDOT – Stephanie Regan  
MassDOT – Valerie Kilduff  
MassDOT – Andrea Coates  
MassDOT – David Pichette  
BSC Group – Sara Kreisel  
BSC Group – Matthew Creighton  
BSC Group – Paul Mancuso  
Parsons – Shawn Demeule  
Parsons – Steven Dylingowski  
Marion Conservation Commission – Doug Guey-Lee, Conservation Agent,  
[dgueylee@marionma.gov](mailto:dgueylee@marionma.gov)  
Wareham Conservation Commission – Joshua Faherty, Conservation Administrator  
[jfaherty@wareham.ma.us](mailto:jfaherty@wareham.ma.us)

Failure to comply with this amended certification is grounds for enforcement, including civil and criminal penalties, under MGL Ch. 21 §42, MGL Ch. 21A §16, or other possible actions/penalties as authorized by the General Laws of the Commonwealth.

This amended certification does not relieve the applicant of the obligation to comply with other appropriate state or federal statutes or regulations.

#### NOTICE OF APPEAL RIGHTS

##### A) Appeal Rights and Time Limits

Certain persons shall have a right to request an adjudicatory hearing concerning certifications by MassDEP when an application is required: (a) the applicant or property owner; (b) any person aggrieved

by the decision who has submitted written comments during the public comment period; (c) any ten (10) persons of the Commonwealth pursuant to M.G.L. c.30A where a group member has submitted written comments during the public comment period; or (d) any governmental body or private organization with a mandate to protect the environment which has submitted written comments during the public comment period. Any person aggrieved, any ten (10) persons of the Commonwealth, or a governmental body or private organization with a mandate to protect the environment may appeal without having submitted written comments during the public comment period only when the claim is based on new substantive issues arising from material changes to the scope or impact of the activity and not apparent at the time of public notice. To request an adjudicatory hearing pursuant to M.G.L. c.30A, § 10, a Notice of Claim must be made in writing, provided that the request is made by certified mail or hand delivery to MassDEP, with the appropriate filing fee specified within 310 CMR 4.10 along with a DEP Fee Transmittal Form within twenty-one (21) days from the date of issuance of this Certificate, and addressed to:

Case Administrator  
Department of Environmental Protection  
100 Cambridge Street, Suite 900  
Boston, MA 02108

A copy of the request shall at the same time be sent by certified mail or hand delivery to the Department of Environmental Protection at:

Department of Environmental Protection  
Commissioner's Office  
100 Cambridge Street, Suite 900  
Boston, MA 02108

**B) Contents of Hearing Request**

A Notice of Claim for Adjudicatory Hearing shall comply with MassDEP's Rules for Adjudicatory Proceedings, 310 CMR 1.01(6), and shall contain the following information pursuant to 314 CMR 9.10(3):

- a.) the 401 Certification Transmittal Number;
- b.) the complete name of the applicant and address of the project;
- c.) the complete name, address, and fax and telephone numbers of the party filing the request, and, if represented by counsel or other representative, the name, fax and telephone numbers, and address of the attorney;
- d.) if claiming to be a party aggrieved, the specific facts that demonstrate that the party satisfies the definition of "aggrieved person" found at 314 CMR 9.02;
- e.) a clear and concise statement that an adjudicatory hearing is being requested;
- f.) a clear and concise statement of (1) the facts which are grounds for the proceedings, (2) the objections to this Certificate, including specifically the manner in which it is alleged to be inconsistent with the MassDEP's Water Quality Regulations, 314 CMR 9.00, and (3) the relief sought through the adjudicatory hearing, including specifically the changes desired in the final written Certification; and
- g.) a statement that a copy of the request has been sent by certified mail or hand delivery to the applicant, the owner (if different from the applicant), the conservation commission of the city or town where the activity will occur, the Department of Environmental Management (when the certificate concerns projects in Areas of Critical Environmental Concern), the public or private water supplier where

the project is located (when the certificate concerns projects in Outstanding Resource Waters), and any other entity with responsibility for the resource where the project is located.

C) Filing Fee and Address

The hearing request along with a DEP Fee Transmittal Form and a valid check or money order payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100) must be mailed to:

Commonwealth of Massachusetts  
Department of Environmental Protection  
Commonwealth Master Lockbox  
PO Box 4062  
Boston, MA 02211

The request will be dismissed if the filing fee is not paid unless the appellant is exempt or granted a waiver. The filing fee is not required if the appellant is a city or town (or municipal agency), county, or district of the Commonwealth of Massachusetts, or a municipal housing authority. MassDEP may waive the adjudicatory hearing filing fee pursuant to 310 CMR 4.06(2) for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file an affidavit setting forth the facts believed to support the claim of undue financial hardship together with the hearing request as provided above.