



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Northeast Regional Office • 150 Presidential Way Woburn, MA 01801 • 978-694-3200

Maura T. Healey
Governor

Kimberley Driscoll
Lieutenant Governor

Rebecca L. Tepper
Secretary

Bonnie Heiple
Commissioner

February 28, 2025

Jill Griffiths
c/o Gomez and Sullivan Engineers
P.O. Box 2179
Henniker, NH 03242

re: **WATER QUALITY CERTIFICATION**

Application for: **BRP WW 26**, Water Quality Certification
Major Fill and Dredge Project – Larkin Road Dam Removal/Parker River Restoration
Filed: November 2024

at: Parker River, 0 Larkin Road, Newbury
DEP Transmittal # **24-WW26-0041-APP**
DEP File # **050-1442** (Restoration Order of Conditions)

Dear Ms. Griffiths:

The Northeast Regional Office of the Massachusetts Department of Environmental Protection, Wetlands Program (MassDEP), has reviewed your application for Water Quality Certification (WQC), as referenced above. In accordance with the provisions of MGL c.21, §§ 26-53 and Section 401 of the Federal Clean Water Act as amended (33 U.S.C. §1251 et seq.), it has been determined there is reasonable assurance the project or activity will be conducted in a manner which will not violate applicable water quality standards.

The proposed project includes the removal of the Larkin Road Dam on the Parker River. The three major elements of the project include the following:

1. Removal of the Larkin Dam.
2. Installation of scour counter measures through the Interstate 95 (I-95) bridge located approximately 1,000 feet upstream of the dam to mitigate an existing scour condition.
3. Replacement of an existing USGS gage weir approximately 180 feet upstream of the bridge with a rock riffle to eliminate a potential post-dam removal fish passage barrier.

The primary goal of the proposed project is to restore passage for diadromous fish species including river herring and blueback herring, American eel, and sea lamprey. Other project goals

This information is available in alternate format. Please contact Melixza Esenyie at 617-626-1282.

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include decommissioning of aging and unsafe infrastructure and existing defunct fish passage structure, elimination of ongoing maintenance and repair obligations, reduction of upstream flood hazards, restoration of natural riverine processes and ecological functions, and improvement of passage and habitat access for resident fish and aquatic species.

Work proposed as part of the project includes the following:

- Installation of a 100' x 50' staging area adjacent to Boston Street.
- Installation of erosion control construction matting within the defined 200' x 50' workspace.
- Demarcation of proposed dewatering area adjacent to workspace.
- Installation of a 10' x 15' trench box around the subject pipe section.
- Excavation to a depth of 5' to 10' around subject pipe section.
- Visual inspection of pipe section with possible repair and/or replacement actions.
- Backfilling of trench with excavated trench spoils.
- Restoration of work area to pre-construction conditions.

The proposed removal of the dam involves the demolition of the full vertical and horizontal extent of approximately 37 lateral feet of the concrete primary spillway, concrete abutments/retaining walls and downstream stone fish weirs. The design involves grading of sediment in the immediate area of the dam breach to create an approximately bankfull-width channel slope so the post-removal cross section is not over-widened, which would lead to low flow issues for fish passage.

The USGS weir will be replaced with a constructed riffle. The USGS weir and upstream concrete pad will be fully removed. The right stone abutment will be removed and the artificial earthen fill in the overbank area will be graded at a 1V:4H slope to tie into existing grade. This will reduce flood elevations and flow velocities during the fish passage migration period. Rounded riprap will be placed within the channel at a constant slope to create a constructed riffle.

Proposed scour counter measures for the I-95 bridge will involve the placement of an approximately 2.25-foot-thick layer of rounded riprap within the channel through the bridge. A low flow channel will be dredged between the upstream bridge face and the bottom of the proposed riffle to accommodate fish passage.

The project includes approximately 4,419 square feet of temporary impacts to Land Under Water (LUW) associated with access ramps, swamp mats, cofferdams, and bypass pipes needed for the in-water work. The project also includes approximately 10,836 square feet of permanent impacts to LUW associated with the placement of scour protection.

Vegetated Wetlands are located generally along the river. Approximately 453 square feet of temporary impacts to Vegetated Wetlands are proposed for access roads and approximately 1,409 square feet of permanent impacts to Vegetated Wetlands are proposed for structure removal and grading.

Once the dam is removed and the impoundment has drained, approximately 67,000 square feet of LUW will be lost. However, that entire area is expected to convert to Vegetated Wetlands.

Approximately 1,296 cubic yards (CY) of material will be dredged throughout the project corridor. Where possible, this material will be beneficially reused for various purposes in the vicinity of the former dam and impoundment. The remainder will be transported to an appropriate facility off site. In addition, approximately 1,000 cubic yards of sediment is expected to mobilize during future storm events and settle in depositional areas downstream. See table below for additional details.

Category	Description	Volume (CY) or Dimensions as Specified				Reuse/Disposal Plan
		Larkin Dam	I-95 Bridge	USGS Weir	TOTAL	
DREDGE VOLUME	Passive sediment release	1,000	-	-	1,000	Passive downstream release
	Active sediment dredging	286	573	340	1,198	Instream repositioning, reuse onsite to fill a former fishway to be removed, and/or disposal at an approved waste facility
	Concrete removal	61	-	12	73	Recycling and/or disposal at an approved facility
	Stone masonry removal	3	-	22	25	Reuse stones onsite as instream fish habitat features and/or to create riffle at USGS gage site
	TOTAL DREDGE	1,350	573	374	2,296	

Sediment samples upstream of the USGS gage weir, within the impoundment, and downstream of the dam were collected for analysis. The results of the chemical analysis were compared to MassDEP's *Interim Policy for Sampling, Analysis, Handling and Tracking Requirements for Dredged Sediment Reuse and Disposal* (COMM-94-007). All of the results were either non-detect or below the Reportable Concentration (RC) S-1 criteria of the Massachusetts Contingency Plan (MCP).

Section 61 Findings: Pursuant to MGL Chapter 30, Sections 61 to 62H (MEPA), this project was not subject to MEPA review because it is an Ecological Restoration Project which has received a Restoration Order of Conditions (DEP File Number 050-1442).

MassDEP concurs that given the nature of the project site, existing site constraints, and the ecological benefit of the removal of the Larkin Dam, the impacts to Vegetated Wetlands and LUW have been avoided, minimized, and mitigated, while meeting pertinent engineering requirements. The Applicant has explored sufficient alternatives regarding the need for impacts to resource areas as related to the design requirements and arrived at an alternative that minimizes impacts.

The Criteria for Evaluating Proposed Discharge to Wetlands at 314 CMR 9.00 of the Regulations requires the submittal of information necessary for MassDEP to determine that the project complies with the Wetlands Protection Act, minimizes individual and cumulative impacts, and complies with the Massachusetts Surface Water Quality Standards. This information has been provided and specific mitigating measures required by MassDEP are itemized below. Therefore, based upon information currently in the record, MassDEP grants a Water Quality Certification subject to the following conditions to maintain water quality, to minimize impact on waters and wetlands, and to ensure compliance with the appropriate state law. MassDEP did not receive any public comments on the project.

1. All activities shall conform to the following documents and plans:
 - Application for Combined Permit, DEP Application # 24-WW26-0041-APP, dated July 1, 2024, as revised through February 13, 2025, with attachments.
 - “Parker River Restoration Project,” Prepared by Gomez and Sullivan Engineers, DPC, dated February 13, 2025. On File with: MassDEP, the Newbury Conservation Commission, and the US Army Corps of Engineers.
 - Document entitled “Larkin Dam Removal/Parker River Restoration Project, Environmental Pre- & Post-Construction Monitoring & Management Plan,” consisting of 11 pages, dated November 2024, as revised through February 2025, prepared by Gomez and Sullivan Engineers, DPC.
 - Document entitled “Dredging & Disposal Operation,” consisting of 2 pages, dated July 1, 2024, as revised through February 12, 2025, prepared by Gomez and Sullivan Engineers, DPC.
2. MassDEP shall be notified of all changes in plans affecting waters or wetlands. MassDEP will determine whether the changes require a revision to this certification.
3. The contractor shall take all steps necessary to ensure that the proposed activities will be conducted in a manner that will avoid violations of the antidegradation provisions of the Massachusetts Surface Water Quality Standards, 314 CMR 4.00, that protect all waters, including wetlands.
4. Filling/excavation and dredging in accordance with this 401 WQC may begin following the 21-day appeal period and once all other permits have been received.
5. No later than four weeks after issuance of this 401 WQC, the applicant shall submit a notification procedure outlining the reporting process to MassDEP for incidents relating to dredging activities that impact surrounding resource areas and habitats including, but not limited to, observed dead or distressed fish or other aquatic organisms, observed oily sheen on the surface of the water, a sediment spill, a turbidity plume beyond the deployed Best Management Practices (BMPs), and a barge or equipment accident/spill. If at any time during implementation of the project such an incident occurs, the applicant shall immediately notify MassDEP and all site related activities impacting the water shall cease until the source of the problem is identified and adequate mitigating measures are deployed to the satisfaction of MassDEP.
6. Future maintenance dredging is not authorized under this 401 WQC.
7. Flow to the downstream channel (Parker River) shall be maintained throughout construction of the project.

8. All equipment/machinery shall be stored above the High-Water Mark (HWM) and outside any wetland resource areas when not in use.
9. All activities shall conform to the requirements set forth in the National Pollutant Discharge Elimination System (NPDES) Construction General Permit. Any violation of this permit shall be considered a violation of the 401 WQC.
10. Areas required to facilitate construction access shall be limited to those shown on the referenced plans. In the event that other access areas are required by the applicant or by the contractors, MassDEP shall be notified.
11. To protect migrating and spawning diadromous fish present in the Parker River from temporary impacts from the project as proposed, a Time of Year Restriction shall be in place. No in-water or silt producing work, including, but not limited to dredging, shall occur from April 1st through June 15th of any given year.
12. The project proponent shall employ an Environmental Monitor (EM) to oversee the wetland restoration area and any emergency placement of controls and regular inspection or replacement of sedimentation and turbidity control devices (if necessary) for this project. The EM must be a qualified wetland professional with a minimum of 5 years of professional experience and shall have, at a minimum, a working knowledge of botany, hydrology, and general construction practices. The name and phone number of the EM shall be provided to MassDEP prior to the start of work. The EM may also be the wetland scientist specified to perform monitoring activities required herein.
13. To prevent erosion and sedimentation from disturbed areas from entering the wetlands and waterways, the following erosion and sedimentation control measures will be taken:
 - An erosion control plan shall be deployed as shown on the referenced plans and described in the Notice of Intent and application for 401 Water Quality Certification. Any further erosion control plan or site-specific Stormwater Pollution Prevention Plan (SWPPP) developed for this project shall be supplied to MassDEP and the Newbury Conservation Commission prior to construction activities. Noncompliance with the SWPPP shall constitute non-compliance with the requirements of this Certification.
 - Siltation devices shall be installed before the commencement of any site work. These devices shall be inspected regularly, and entrapped silt shall be removed and disposed of in an upland location greater than 100 feet from wetland resource areas. Siltation devices shall be maintained or replaced when clogged with sediment or deteriorated.
 - Prior to the commencement of any other work within vegetated wetlands, a qualified EM shall inspect all sedimentation controls (e.g., compost filter tubes, hay bales, silt fence, etc.) within and immediately adjacent to wetland resource areas prior to construction.

- Construction should be scheduled so that areas shall be denuded or disturbed for only the duration necessary for the specific phase of construction. Siltation control devices shall be used during all phases of construction to reduce flow velocity and intercept the sediment before it leaves the construction area.
14. Pre-construction photographs of areas of BVW and LUW where impacts are anticipated shall be submitted to MassDEP prior to the start of work.
 15. Photographic stations shall be selected to provide “control” sites in unaltered areas adjacent to the areas of alteration and adjacent to the replication and restoration areas, where photographs shall be taken as representative baseline conditions. Additionally, photographic stations shall be selected within the restoration areas where photographs shall be taken to monitor restoration success. Such photographs shall be taken during each monitoring inspection and submitted with reports.
 16. The effective time period for the 401 WQC runs with the overlying USACE PGP which expires on June 1, 2028. Time allowed for completion of the project described herein is the same as that is allowed under the PGP; specifically, those activities that commence before the PGP’s expiration date will have until June 1, 2029, to complete the activity under the terms and general conditions of the current PGP. Work within jurisdiction that is not completed by June 1, 2029, will be able to proceed only in accordance with any reissued or new PGP.
 17. All temporary construction fill shall be completely removed after the construction phase of this project is complete.
 18. The contractor shall be provided with a copy of this Certification and all documents referenced herein, and copies shall be available at the work site headquarters.
 19. No sediments, plumes, floatables, debris or pollutants shall be introduced into the water or wetlands. All refueling and maintenance of oil and hydraulic fluid levels shall be done outside of water or wetlands.
 20. MassDEP and the Newbury Conservation Commission shall have the right to enter and conduct site inspections throughout the construction process to evaluate compliance with the conditions herein. Such visits shall be coordinated with the applicant’s representatives, but MassDEP reserves the right to make unannounced compliance inspections. MassDEP may require the submittal of any data deemed necessary relative to this WQC. The applicant and their contractors shall respond to all requests made by MassDEP to comply with the terms of this WQC or to prevent environmental damage to jurisdictional areas.
 21. Prior to the commencement of any activity on this site, there shall be a pre-construction meeting between the project supervisor, the contractor responsible for the work, and the EM, to ensure that the requirements of the WQC are understood. The pre-construction meeting shall be held two weeks prior to any activity regulated by this WQC.

22. No later than 21 days prior to commencement of dredging activity, a dredged material dewatering plan shall be submitted to MassDEP for review and written approval. At a minimum, the dewatering plan shall include, but not be limited to, the type of containment, method of dewatering (i.e., mechanical or by gravity), method of collecting the dewatered effluent, and method of disposal.
23. No later than 21 days prior to commencement of dredging activity, a construction phase water control plan shall be submitted to MassDEP for review and written approval.
24. MassDEP shall be notified in writing of the name and location of the upland licensed facility accepting the dredged material for disposal or reuse as daily cover material. If the licensed facility is located out of state, documentation shall be provided to MassDEP that the dredged material disposal/reuse has been approved and will be accepted by the receiving state in accordance with 314 CMR 9.07(13)(b). The dredged material shall not be transported to the facility without the concurrence of MassDEP.
25. A Material Shipping Record (MSR) shall be used to track the dredged material to the licensed upland facility. A fully executed copy of the MSR shall be provided to MassDEP within 30 days of final shipment to the reuse location or facility.
26. BMPs shall be implemented during transportation of the dredged material to the licensed receiving facility. At a minimum, when transported upon public roadways, all dredged material shall have no free liquid as determined by the Paint Filter Test or other suitably analogous methodology acceptable to MassDEP, and a tarpaulin or other means shall be used to cover the dredged material during transport.
27. During construction, storing, servicing, or cleaning of equipment, including but not limited to fueling, changing, adding, or applying lubricants or hydraulic fluids, or washing/rinsing of trucks or equipment, shall be performed outside of jurisdictional areas. If a spill of hazardous materials occurs, contaminated soils shall be removed according to MassDEP guidance and applicable requirements of the MCP.
28. During work on this project there shall be no intentional discharge of pollutants or release of any oil or hazardous material, including sediments contaminated by any such discharge or release, into any jurisdictional area. The Contractor shall take all reasonable precautions to prevent the discharge of pollutants or the release of oil or hazardous material by ignorance, negligence, accident, or vandalism. Any release of oil or hazardous material that is a reportable quantity pursuant to the MCP, accidental or otherwise, including sediments, shall be reported in accordance with the MCP and to MassDEP's Wetlands Section, MassDEP's Bureau of Waste Site Cleanup (BWSC) and the Newbury Conservation Commission.
29. This Office, attention Kyle Lally, Wetlands Program (kyle.lally@mass.gov) and the Newbury Conservation Commission shall be notified 48 hours in advance of construction activity for this project. The 48 hours shall not include weekends or holidays.

30. Within 30 days of the completion of dredging, photographs of the affected areas depicting post-dredge conditions shall be taken and submitted to both Kyle Lally [kyle.lally@mass.gov] and Derek Standish [derek.standish@mass.gov] at MassDEP.

31. A copy of the monitoring reports described in the Monitoring Plan cited in Condition # 1 shall be submitted to both Kyle Lally [kyle.lally@mass.gov] and Derek Standish [derek.standish@mass.gov] at MassDEP once a year for 2 years following the removal of the dam.

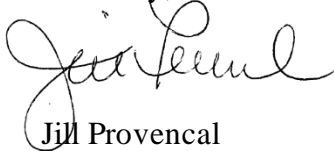
No activity may begin prior to the expiration of the appeal period or until a final decision is issued by MassDEP if an appeal is filed.

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

This Certification does not relieve the applicant of the obligation to comply with other appropriate state or federal statutes or regulations. This includes, but is not limited to, conditions of the Order of Conditions.

If you have any questions regarding this decision, please contact Kyle Lally at kyle.lally@mass.gov.

Sincerely,



Jill Provencal
Section Chief
Wetlands Program – NERO



Kyle Lally
Section 401 Coordinator
401 Program – NERO

ecc: Newbury Conservation Commission, 12 Kent Way, Byfield, MA 01922
Joanne Purinton, PO Box 242, Byfield, MA 01922
Jill Griffiths, Gomez and Sullivan Engineers, DPC, 41 Liberty Hill Road, Bldg 1, PO Box 2179, Henniker, NH 03242
Derek Standish, MassDEP – Wetlands, 100 Cambridge Street, Suite 900, Boston, MA 02114
Susan You, MassDEP – Waterways, 100 Cambridge Street, Suite 900, Boston, MA 02114
Susie Bresney, Division of Ecological Restoration, 100 Cambridge Street, 6th Floor, Boston, MA 02114
Forest Schenck, Joseph Holbeche, and Ben Gahagan, Division of Marine Fisheries, 30 Emerson Avenue, Gloucester, MA 01930
Maninder Singh and Paul M. Maniccia, Department of the Army, New England District, Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751
Edward Reiner, EPA, 5 Post Office Square, Suite 100, Boston, MA 02109

NOTICE OF APPEAL RIGHTS

Certain persons shall have a right to request an adjudicatory hearing concerning Combined 401 WQCs 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 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 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 21 days from the date of issuance of this Combined 401 WQC.

Department of Environmental Protection
Case Administrator
Office of Appeals and Dispute Resolution
100 Cambridge Street, Suite 900
Boston, MA 02114

A copy of the request shall at the same time be sent by certified mail or hand delivery to the issuing office of the Wetlands Program at:

Department of Environmental Protection
Northeast Regional Office - Wetlands Program
150 Presidential Way
Woburn, MA 01801

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 Combined Permit Application 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 Combined 401 WQC, 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 Combined 401 WQC; 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 Conservation and Recreation (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.

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.



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD MA 01742-2751

May 1, 2025

Regulatory Division
File Number: NAE-2024-02370

Tracy Blais
Town of Newbury
12 Kent Way, Suite 101
Byfield, Massachusetts 01922
Email: administrator@townofnewbury.org

Dear Tracy Blais:

This letter is in regard to your preconstruction notification submitted to the U.S. Army Corps of Engineers (USACE) for the discharge of dredged or fill material into 10,980 square feet of area below the ordinary high water mark for the purposes of removing Larkin Pond Dam, which impounds an approximate 67,000 square foot area, removing a USGS weir gage, and installing scour protection associated with the I-95 highway crossing. Larkin Pond Dam is located adjacent to 38 Larkin Road, Newbury, MA 01922 at approximate site coordinates 42.749883, -70.942306 and I-95 improvements will take place over the Parker River, Newbury, MA 01922 at approximate site coordinates 42.752226, -70.944754. The work is shown on the enclosed plans titled "PARKER RIVER RESTORATION PROJECT," on 15 sheets, and dated "04/12/2024."

Specifically, the project involves the following activities, which will result in the discharge of dredged or fill material within waters of the United States:

- The dam removal will include the manual excavation of 286 cubic yards of sediment as well as the removal of a spillway and fish passage structure.
- The removal of the dam will mobilize approximately 1,000 cubic yards of sediment.
- The scour protection associated with I-95 improvements will take place approximately 1,000 square feet upstream of the Larking Pond Dam and involves the excavation of 573 cubic yards to construct a low flow channel.
- The scour protection improvements will include the installation of 1,721 cubic yards of new rounded riprap infilled with fines over the entire 9,880 square feet river corridor below the I-95 bridges. Cofferdams, bypass pipes, and water pumps will be installed to maintain dry conditions for the construction work.
- A USGS weir gage upstream of the I-95 bridges will be removed. The weir removal will involve excavation of 340 cubic yards of sediment, 12 cubic yards of concrete, and 22 cubic yards of stone masonry. Some of the excavated material will be used as fill to create a riffle over the span of 1,100 square feet of area.

Based on the information that you have provided, we verify that the activity is authorized under General Permit # 10 and # 24 of the June 2, 2023, federal permit known as the Massachusetts General Permits (GPs). The GPs are available at <https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/Massachusetts-General-Permit>.

Please review the enclosed GPs carefully, in particular the general conditions beginning on page 35, and ensure that you and all personnel performing work authorized by the GPs are fully aware of and comply with its terms and conditions. A copy of the GPs and this verification letter shall be available at the work site as required by General Condition 17. You must perform this work in compliance with the following special condition(s):

- 1) All construction shall be completed in accordance with the limits of construction and construction sequences detailed on the enclosed plan drawings, titled "PARKER RIVER RESTORATION PROJECT," on a total of 15 sheets and dated "04/12/2024". If you change the plans or construction methods for work within or adjacent to the Parker River, please contact us immediately to discuss modification of this authorization. The Corps of Engineers must approve any changes before you undertake them.
- 2) You must complete and return the enclosed Work Start Notification Form to this office at least two weeks before the anticipated start date. The form shall be emailed to Maninder Singh at Maninder.Singh@usace.army.mil and cenae-r@usace.army.mil; or mailed to Maninder Singh, Regulatory Division, U.S. Army Corps of Engineers, New England District, 696 Virginia Road, Concord, Massachusetts 01742-2751.
- 3) You must complete and return the enclosed Compliance Certification Form to this office within one month of the completion of work. The form shall be emailed to Maninder Singh at Maninder.Singh@usace.army.mil and cenae-r@usace.army.mil; or mailed to Maninder Singh, Regulatory Division, U.S. Army Corps of Engineers, New England District, 696 Virginia Road, Concord, Massachusetts 01742-2751.
- 4) Time of the Year (TOY) restriction will be applied from April 1 to June 15 of any year to all in-water work. No in-water work shall take place within the TOY period.
- 5) During in-water work between September 1 and November 15 of any given year, safe downstream fish passage shall be provided through any dewatered area via a bypass that is gravity-fed, 3' minimum diameter, smooth interior HDPE pipe with a maximum slope of no more than 1%, or other gravity-fed bypass system

approved by DMF.

- 6) Time of the Year (TOY) restriction will be applied from April 15th to September 30th of any year to all tree removal activities. No tree removal shall take place within the TOY period.

This authorization expires on June 1, 2028. You must commence or have under contract to commence the work authorized herein by June 1, 2028, and complete the work by June 1, 2029. If not, you must contact this office to determine the need for further authorization and we recommend you contact us *before* the work authorized herein expires. Please contact us immediately if you change the plans or construction methods for work within our jurisdiction as we must approve any changes before you undertake them. Performing work within our jurisdiction that is not specifically authorized by this determination or failing to comply with the special condition(s) provided above or all the terms and conditions of the GPs may subject you to the enforcement provisions of our regulations.

This authorization does not obviate the need to obtain other federal, state, or local authorizations required by law including any permits required from USGS to remove the USGS gage weir. Applicants are responsible for applying for and obtaining any other approvals.

Your project is located within, or may affect resources within, the coastal zone. The Massachusetts Office of Coastal Zone Management (CZM) has already determined that no further Federal Consistency Review is required.

We continually strive to improve our customer service. To better serve you, we would appreciate your completing our Customer Service Survey located at <https://regulatory.ops.usace.army.mil/customer-service-survey>.

Please contact Maninder Singh of my staff at (978) 318-8967 or (978)-257-6884 or Maninder.Singh@usace.army.mil if you have any questions.

Sincerely,



Kara A. Hellige
Section Chief
Massachusetts Branch

Enclosures:

- 1) Project Plans
- 2) Work Start Notification
- 3) Compliance Certification

cc:

Jill Griffiths, Gomez and Sullivan, jgriffiths@gomezandsullivan.com
Brian Kelder, NOAA, Gloucester, MA, brian.kelder@noaa.gov
Jaime Masterson, USFWS, Nashua, NH, Jaime_Masterson@fws.gov
Ed Reiner, U.S. EPA, Region 1, Boston, MA, reiner.ed@epa.gov
Sean Duffey, Coastal Zone Management, Boston, MA, sean.duffey@mass.gov
Patrice Bordonaro, Coastal Zone Management, Boston, MA,
patrice.bordonaro@mass.gov
Kathryn Glenn, Coastal Zone Management, MA, kathryn.glenn@mass.gov
Forest Schenck, MA Division of Marine Fisheries, Gloucester, MA,
Forest.Schenck@mass.gov
Jill Provencal, DEP NERO, Wetland and Waterways, Wilmington, MA;
jill.provencal@state.ma.us
Kristin Divris, DEP NERO, Wetland and Waterways, Wilmington, MA;
Kristin.Divris@mass.gov
Philip Di Pietro, DEP NERO, Wetland and Waterways, Wilmington, MA;
philip.dipietro@mass.gov
Kyle Lally, MassDEP, Kyle.Lally@mass.gov
David Robinson, MA Board of Underwater Archaeological Resources (BUAR);
david.s.robinson@mass.gov
Newbury Conservation Commission, conscom@townofnewbury.org



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5A – Restoration Order of
Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 050-1442
 MassDEP File #

Newbury
 City/Town

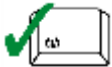
A. General Information

Please note:
 this form has
 been modified
 with added
 space to
 accommodate
 the Registry
 of Deeds
 Requirements

1. From: Newbury
 Conservation Commission
2. This issuance is for (check one):
- a. ☒ Restoration Order of Conditions b. ☐ Amended Restoration Order of Conditions

Important:
 When filling
 out forms on
 the
 computer,
 use only the
 tab key to
 move your
 cursor - do
 not use the
 return key.

3. To: Applicant:
- Tracy Blais
 a. First Name b. Last Name
- Town of Newbury
 c. Organization
- 12 Kent Way Suite 101
 d. Mailing Address
- Newbury MA 01922
 e. City/Town f. State g. Zip Code



4. Property Owner (if different from applicant):
- Joanne Purinton
 a. First Name b. Last Name
- (Owner of Parcels U14-0-1 and R19-0-33
 c. Organization
- PO Box 242
 d. Mailing Address
- Byfield MA 01922
 e. City/Town f. State g. Zip Code

5. Project Location:
- 0 Larkin Road/ 0 Main Street/ 36 Main
Street/ 12 Kent Way
R19 / U14
 c. Assessors Map/Plat Number
- Newbury
 b. City/Town
- R19-0-6 / U14-0-1 / R19-0-33 / U14-0-2A
 d. Parcel/Lot Number



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A. General Information (cont.)

Latitude and Longitude, if known: 42.749945 -70.942368
d. Latitude (in decimal) e. Longitude (in decimal)

Note: If the Ecological Restoration Project involves work on a stream crossing, baseline photo-points that capture longitudinal views of the crossing inlet, the crossing outlet and the upstream and downstream channel beds during low flow conditions. The latitude and longitude coordinates of the photo-points shall be included in the baseline data.

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

Essex South

a. County

b. Certificate Number (if registered land)

c. Book

d. Page

7. Dates: 1/13/2025 2/18/2025 2/20/2025
a. Date Ecological Restoration NOI Filed b. Date Public Hearing Closed c. Issuance Date

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

Parker River Restoration Project Preliminary Design Plans

a. Plan Title

Gomez and Sullivan Enigneers, DPC

To be Signed and Stamped after Final Design (MAO)

b. Prepared By

April 2024

Varies

d. Final Revision Date

e. Scale

All Documents available at: www.tinyurl.com/LarkinDamPublic

Varies

f. Additional Plan or Document Title

g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the Ecological Restoration Notice of Intent described in Section A and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a. ☒ Public Water Supply d. ☒ Flood Control g. ☐ Land Containing Shellfish
b. ☒ Private Water Supply e. ☐ Storm Damage Prevention h. ☒ Fisheries
c. ☐ Groundwater Supply f. ☒ Prevention of Pollution i. ☒ Wildlife Habitat



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B. Findings (cont.)

2. This Commission hereby finds the project, as proposed, is an Ecological Restoration Project for:

- ☒ Dam Removal
- ☐ Freshwater Stream Crossing Repair and Replacement
- ☐ Stream Daylighting
- ☐ Tidal Restoration
- ☐ Rare Species Habitat Restoration
- ☐ Restoring Fish Passageways

Approved subject to:

- ☒ The following conditions are required in accordance with the Ecological Restoration eligibility criteria 310 CMR 10.13 (1) through (7) and performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Ecological Restoration Notice of Intent for the project described in Section A. The General Conditions in Section C and Special Conditions checked in Section D are incorporated into this Restoration Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Ecological Restoration Notice of Intent, these conditions shall control.

Denied because:

- ☐ The proposed work does not meet the eligibility criteria in 310 CMR 10.13(1) through (7). Therefore, work on this project may not go forward unless and until a new Notice of Intent (WPA Form 3 or 3A) is submitted and a Final Order of Conditions (WPA Form 5 or 5A) has been issued. The Commission has determined that following the eligibility criteria have NOT been met.



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B. Findings (cont.)

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input checked="" type="checkbox"/> Bank	770 temp -600 perm	770 temp -600 perm	c. linear feet	d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	800 temp +67000 per	800 temp +67000 per	c. square feet	d. square feet
6. <input checked="" type="checkbox"/> Land Under Waterbodies and Waterways	17,000 temp -67000 per 1,730 e. c/y dredged	17,000 temp -67000 per 1,730 f. c/y dredged	c. square feet	d. square feet
7. <input checked="" type="checkbox"/> Bordering Land Subject to Flooding	700 temp +21000 per N/A	700 temp +21000 per	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input checked="" type="checkbox"/> Riverfront Area	20,000 temp -36000 perm	20,000 temp -36000 perm		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Note: No armoring of a Coastal Dune or Barrier Beach is permitted. Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment



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B. Findings (cont.)

14. ☐ Coastal Dunes
- | | | | |
|----------------|----------------|--|--|
| a. square feet | b. square feet | c. $\frac{\text{c/y}}{\text{nourishment}}$ | d. $\frac{\text{c/y}}{\text{nourishment}}$ |
|----------------|----------------|--|--|

Note: No armoring of a Coastal Dune or Barrier Beach is permitted.

15. ☐ Coastal Banks
- | | |
|----------------|----------------|
| a. linear feet | b. linear feet |
|----------------|----------------|
16. ☐ Rocky Intertidal Shores
- | | |
|----------------|----------------|
| a. square feet | b. square feet |
|----------------|----------------|
17. ☐ Salt Marshes
- | | | | |
|----------------|----------------|----------------|----------------|
| a. square feet | b. square feet | c. square feet | d. square feet |
|----------------|----------------|----------------|----------------|
18. ☐ Land Under Salt Ponds
- | | |
|----------------|----------------|
| a. square feet | b. square feet |
|----------------|----------------|

- | | | |
|--|--|--|
| | c. $\frac{\text{c/y}}{\text{dredged}}$ | d. $\frac{\text{c/y}}{\text{dredged}}$ |
|--|--|--|
19. ☐ Land Containing Shellfish
- | | | | |
|----------------|----------------|----------------|----------------|
| a. square feet | b. square feet | c. square feet | d. square feet |
|----------------|----------------|----------------|----------------|

20. ☒ Fish Runs
- Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above

$\frac{1,200}{\text{c/y dredged}}$	$\frac{1,200}{\text{c/y dredged}}$
------------------------------------	------------------------------------

21. ☐ Land Subject to Coastal Storm Flowage
- | | |
|----------------|----------------|
| a. square feet | b. square feet |
|----------------|----------------|

* If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here

22. ☐ Riverfront Area
- | | |
|-------------------|-------------------|
| a. total sq. feet | b. total sq. feet |
|-------------------|-------------------|
- Sq ft within 100 ft
- | | | | |
|----------------|----------------|----------------|----------------|
| c. square feet | d. square feet | e. square feet | f. square feet |
|----------------|----------------|----------------|----------------|
- Sq ft between 100-200 ft
- | | | | |
|----------------|----------------|----------------|----------------|
| g. square feet | h. square feet | i. square feet | j. square feet |
|----------------|----------------|----------------|----------------|

23. ☐ Restoration/Enhancement *:
- | | | |
|-----------------------|------------------------------|--|
| a. square feet of BVW | b. square feet of salt marsh | c. square feet of other wetland resource areas |
|-----------------------|------------------------------|--|

24. ☐ Stream Crossing(s):
- | | |
|-----------------------------------|---|
| a. number of new stream crossings | b. number of replacement stream crossings |
|-----------------------------------|---|



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C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Restoration Order of
2. The Restoration Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Restoration Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Restoration Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Restoration Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Restoration Order.
5. This Restoration Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Restoration Order.
6. If this Restoration Order constitutes an Amended Restoration Order of Conditions, this Amended Restoration Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Restoration Order will expire on 2/20/2028 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Restoration Order is not final until all administrative appeal periods from this Restoration Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Restoration Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Restoration Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Restoration Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Restoration Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

“Massachusetts Department of Environmental Protection” [or, “MassDEP”]

“File Number 050-1442 ”

11. Where the Department of Environmental Protection is requested to issue a Superseding Restoration Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Restoration Order at reasonable hours to evaluate compliance with the conditions stated in this Restoration Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Restoration Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Restoration Order and to any contractor or other person performing work conditioned by this Restoration Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Restoration Order.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

General Conditions for all Ecological Restoration Projects

19. The project shall be conducted in accordance with any preliminary written determination obtained from the Natural Heritage and Endangered Species Program as set forth in 310 CMR 10.11(2) and any time of year restrictions or other conditions recommended in writing by the Division of Marine Fisheries (for projects in coastal Resource Areas) and the Division of Fisheries and Wildlife (for projects in inland Resource Areas) as set forth in 310 CMR 10.11(3), (4) and (5).
20. The applicant shall implement the plan submitted with the Notice of Intent as approved by the Issuing Authority to prevent and control invasive species.
21. If the project involves the dredging of 100 cubic yards or more in a Resource Area or dredging of any amount in an Outstanding Resource Water, the dredging and Dredged Material management shall be performed in accordance with the Water Quality Certification submitted with the Notice of Intent.
22. If the project involves infrastructure, the owner shall operate and maintain the infrastructure in accordance with the operation and maintenance plan submitted with the Notice of Intent as approved by the Issuing Authority. Implementation of the operation and maintenance plan as approved by the Issuing Authority shall be a continuing condition that shall be set forth in the Certificate of Compliance.
23. The work associated with this Order (the "Project")
 - (1) ☐ is subject to the Massachusetts Stormwater Standards
 - (2) ☒ is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
 - i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
 - iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
 - v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:
- i.)* the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and
 - ii.)* the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Restoration Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.
- g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Restoration Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.



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D. Special Conditions for Ecological Restoration Projects

☒ **Dam Removal**

This project involves dam removal and the following special conditions shall apply in addition to the general conditions set forth in 310 CMR 10.14(1):

- a) An as-built plan and a written statement from a registered professional engineer or other environmental professional expert in ecological restoration certifying substantial compliance with the design plan and construction specifications approved in the Restoration Order of Conditions shall be submitted to the Issuing Authority within 90 days of completion of the dam removal.
- b) The applicant shall monitor the dam removal site during the first two years following completion of the dam removal. Said monitoring shall include a topographic survey of the longitudinal profile and stream cross-sections from downstream of the former dam through the upstream end of the former impoundment. The survey reference point shall comprise a permanent marker or recoverable survey point with known coordinates, such as a fixed point shown on the as-built plan, an existing bench mark, or a new benchmark. That marker should be identified or referenced on the plans and on the as-built plans. The applicant shall establish at least two photo-points for pre- and post-restoration monitoring at the dam removal site. At least one photo-point location shall be chosen to document a view of the dam pre-restoration and to document the same site after the dam is removed. A second location shall be chosen to document a view of the impoundment pre- and post-restoration. Photos shall be taken for two years after the dam removal is completed.
- c) The applicant shall submit a report detailing the results of this monitoring within six months of the completion of the two year post-construction monitoring period, or within 30 months after the dam removal is complete whichever is sooner. The report shall include a comparison of post-restoration survey data with pre-restoration survey data as illustrated by the photos taken during the monitoring period.

☐ **Freshwater Stream Crossing Repair and Replacement Projects**

The project involves one or more freshwater crossing repair or replacement and the following special conditions in addition to the general conditions apply:

- a) An as-built plan and/or a written statement from a registered professional engineer or other environmental professional expert in ecological restoration certifying substantial compliance with the design plans and construction specifications approved in the Restoration Order of Conditions shall be completed within 90 days of completion of construction. The as-built plan shall include the dimensions of the structure, the invert elevation of the upstream and downstream ends of the structure and the road or other surface elevation above the structure.



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D. Special Conditions for Ecological Restoration Projects (cont.)

- b) The applicant shall monitor the site by collecting sufficient data within 12 months after construction is complete to evaluate the effect of the structure. At a minimum, when a Certificate of Compliance is requested, the applicant shall provide post-construction photo-points that capture longitudinal views of the crossing inlet, the crossing outlet and the upstream and downstream channel beds during low flow conditions. The photo-points shall be located at the same geographic photo-point latitude and longitude coordinates as required in the Notice of Intent per 310 CMR 10.12(1)(n). The applicant shall submit a report to the Issuing Authority detailing the results of this monitoring within 18 months after construction is complete. The report shall include a comparison of the post-restoration data with pre-restoration data.

☐ **Stream Daylighting**

The project involves stream daylighting and the following special conditions in addition to the general conditions apply:

- a) An as-built plan and a written statement from a registered professional engineer or other environmental professional expert in ecological restoration certifying substantial compliance with the design plan and construction specifications approved in the Restoration Order of Conditions shall be submitted to the Issuing Authority within 90 days of completion of the project. At a minimum, when a Certificate of Compliance is requested, the applicant shall provide post-construction photo-points that capture longitudinal views of the upstream and downstream channel beds of the daylighted reach during low flow conditions.
- b) The applicant shall conduct photo-point monitoring by establishing at least three photo-points for pre- and post-restoration monitoring at the stream daylighting site. One photo-point location shall be chosen to document the upstream end of the site and one photo-point location shall be chosen to document the downstream end of the site. A third photo-point shall be chosen to document conditions in the restored channel. Photos shall be taken during high flow and low (summer) flow of each year during the two years following completion of the project.
- c) Within 30 months after the completion of the project, the applicant shall submit a report describing the ecological changes observed at the project site during the two years following completion of the project, as illustrated by the photos.



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D. Special Conditions for Ecological Restoration Projects (cont.)

☐ **Tidal Restoration Projects**

The project involves restoration of tidal influence and the following special conditions in addition to the general conditions apply:

- a) If the project is a culvert or bridge replacement or repair project, an as-built plan and a written statement from a registered professional engineer or other environmental professional expert in ecological restoration certifying substantial compliance with the design plans and construction specifications approved in the Restoration Order of Conditions shall be submitted to the Issuing Authority within 90 days of completion of construction. The as-built plan shall include the dimensions of the structure, the invert elevation of the upstream and downstream ends of the structure and the road or other surface elevation above the structure.
- b) The applicant shall monitor pre- and post-construction tidal conditions upstream and downstream of the tidal restriction with water level readings measured at an interval no greater than every 10 minutes over a minimum of a one-week period that includes a spring tide. Pre- and post-construction water level readings shall be taken at approximately the same locations and shall be referenced to the same vertical elevation datum. The applicant shall prepare a report detailing the results of this monitoring within 12 months after construction is complete. The report shall include and compare pre- and post-construction tidal elevation monitoring data to assess attainment of the project's predicted post-restoration tidal conditions.

☐ **Rare Species Habitat Restoration**

The project is a Rare Species Habitat Restoration Project and in addition to the general conditions the following special conditions apply:

- a) An as-built plan and a written statement from a registered professional engineer or other environmental professional expert in ecological restoration certifying substantial compliance with the design plan, construction specifications, and the Habitat Management Plan submitted with the Notice of Intent as approved in the Restoration Order of Conditions shall be submitted to the Issuing Authority within 90 days of completion of the project.
- b) The applicant shall establish at least two photo-points for pre- and post-restoration monitoring at the project site. Photos shall be taken for two years after construction is complete. Within 30 months of completion of the project, the applicant shall submit to the Issuing Authority a report describing the ecological changes observed at the project site as illustrated by the photos.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5A – Restoration Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
050-1442
MassDEP File #

Newbury
City/Town

D. Special Conditions for Ecological Restoration Projects (cont.)

☐ **Fish Passageway Restoration**

The project involves the repair or replacement of a fish passageway and in addition to the general conditions the following special conditions:

- a) The property owner is responsible for maintaining and repairing the fishway in good condition so that it will support safe and efficient fish passage in accordance with an operation and maintenance plan approved by the Division of Marine Fisheries. This requirement is a continuing condition that shall be set forth in the Certificate of Compliance.
- b) a post-construction project summary using surveys, a narrative and photographs as needed, that confirm the fishway slope and entrance and exit elevations shall be submitted to and approved by the Division of Marine Fisheries, prior to submittal of a request for a Certificate of Compliance.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5A – Restoration Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
050-1442
MassDEP File #

Newbury
City/Town

E. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☐ Yes ☒ No
2. The Newbury hereby finds (check one that applies):
Conservation Commission
 - a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. ☐ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

1. Municipal Ordinance or Bylaw

2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5A – Restoration Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
050-1442
MassDEP File #

Newbury
City/Town

F. Signatures

This Restoration Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

2/20/2025

1. Date of Issuance

Please indicate the number of members who will sign this form.

4

This Restoration Order must be signed by a majority of the Conservation Commission.

2. Number of Signers

The Restoration Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office and the property owner, if different from applicant.

Signatures:

Robert Connors

Frank Wettenkamp

Woody Knight

Mick Brown

☒ by hand delivery on
2/20/2025 Town of Newbury
Date

☒ by certified mail, return receipt
requested, on
on 2/20/25 - 7022 2410 0001 5960 2849
Date

Pursuant to the vote taken by the Conservation Commission on February 18, 2025, the preceding signatures are made in accordance with M.G.L. c.110G and pursuant to said Commission's electronic signature authorization vote recorded on July 7, 2022 with the southern Essex Registry of Deeds, Book 41051 Page 204



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5A – Restoration Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
050-1442
MassDEP File #

Newbury
City/Town

G. Appeals

The applicant, the owner, any person aggrieved by this Restoration Order, any owner of land abutting the land subject to this Restoration Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Restoration Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Restoration Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Restoration Order of Conditions associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Restoration Order, or providing written information to the Department prior to issuance of a Superseding Restoration Order.

The request shall state clearly and concisely how the project permitted under the Restoration Order which is being appealed does or does not meet the eligibility criteria in 310 CMR 10.13(1) and the relevant provisions of 310 CMR 10.13(2) through (7). To the extent that the Restoration Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5A – Restoration Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
050-1442
MassDEP File #

Newbury
City/Town

H. Recording Information

Prior to commencement of work, this Restoration Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Restoration Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Restoration Order. In the case of registered land, this Restoration Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Restoration Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Newbury
Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Newbury
Conservation Commission

Please be advised that the Restoration Order of Conditions for the Project at:

Larkin Road Dam
Project Location

050-1442
MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

For

Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Restoration Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
Request for Departmental Action Fee
Transmittal Form

DEP File Number:

050-1442

Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. Request Information

1. Location of Project

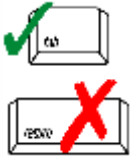
0 LarkinRd / 0 Main St / 36 Main St / 12 Kent
 Way

Newbury, 01922

c. Check number

d. Fee amount

Important:
 When filling
 out forms on
 the computer,
 use only the
 tab key to
 move your
 cursor - do
 not use the
 return key.



2. Person or party making request (if appropriate, name the citizen group's representative):

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

Tracy Blais

Name

12 Kent Way Suite 101

Mailing Address

Byfield

MA

01922

City/Town

State

Zip Code

978-465-0862

Phone Number

Fax Number (if applicable)

4. DEP File Number:

050-1442

B. Instructions

1. When the Departmental action request is for (check one):

- ☐ Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- ☐ Superseding Determination of Applicability – Fee: \$120
- ☐ Superseding Order of Resource Area Delineation – Fee: \$120



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

Request for Departmental Action Fee Transmittal Form

050-1442

Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Instructions (cont.)

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection
Box 4062
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/>).
4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.



The Commonwealth of Massachusetts

Division of Marine Fisheries

(617) 626-1520 | www.mass.gov/marinefisheries



MAURA T. HEALEY
Governor

KIMBERLEY DRISCOLL
Lt. Governor

REBECCA L. TEPPER
Secretary

THOMAS K. O'SHEA
Commissioner

DANIEL J. MCKIERNAN
Director

Fishway Construction Permit

Date: January 17, 2025

DRAFT

Permit # 04-24

Pursuant to M.G.L. Chapter 130 §1 and 19, and 322 CMR Sections 7.01 4(f) and 14(m), the Massachusetts Division of Marine Fisheries (DMF) grants the authority to the Town of Newbury, to remove the Larkin Dam and associated fishway, The project location of the Larkin Road Dam is documented as Larkin Road Dam on page 88 of the DMF Anadromous Fish Survey (TR-18, <https://www.mass.gov/doc/north-shore/download>).

Project Manager:

Town of Newbury

12 Kent Way, Suite 101
Byfield, MA 01922
Attn: Tracy Blais, Town Administrator
(978) 465-0862 ext. 301

Project Engineer:

Gomez and Sullivan Engineers, DPC

41 Liberty Hill Road Bldg 1 / PO Box 2179
Henniker, NH 03242
Attn: Jill Griffiths, PE
(716) 402-6777

Project Construction Contractor: TBD

Description of Work:

The Parker River is approximately 21 miles in length and draining about 82 square miles total, including tidal wetlands, into the Plum Island Sound. The drainage area is approximately 21 square miles at Larkin Dam, which is located approximately 1.4 miles upstream of the head of tide. Despite the numerous obstructions to passage, the river has managed to sustain a river herring population (alewife and blueback herring), with the occurrence of other diadromous fish species (sea lamprey, American eel, white perch, rainbow smelt and sea-run brook trout) documented by DMF at the tidal interface in the Parker River. Larkin Dam is an approximately 230-foot-long earthen and concrete dam that includes an approximately 38-foot-long, 5-foot-high concrete and stone spillway section; a 65-foot-long concrete-faced stone non-overflow section; a 127-foot-long earthen and concrete non-overflow section; a non-functioning intake section, including a raceway and buried penstock that previously led to a former mill building; a 140-foot-long concrete pool-and-weir fishway; and a 35-foot-long, 2- to 3-foot-high stone "fish weir" that spans the channel 30 feet downstream of the spillway.

Approximately 1,000 feet upstream of the dam, I-95 crosses the Parker River within the dam's impoundment. At the upstream end of the dam impoundment (about 180 feet upstream of the I-95 bridge) is an approximately 18-foot-wide, 2-foot-high, V-shaped, concrete low-head weir used by the USGS to

measure the streamflow on the Parker River (USGS Gage No. 01101000). The gage has been active since 1945 and is used to inform water withdrawal permits issued by the Massachusetts Department of Environmental Protection (DEP). The weir may be related to an early-nineteenth-century dam that served grist mill operations at the site.

The Town of Newbury is seeking to remove the Larkin Road Dam (Larkin Dam) on the Parker River in Essex County, Massachusetts. The three major elements of the project include 1) removal of the Larkin Dam, 2) installation of a scour countermeasure through the Interstate 95 (I-95) bridge located approximately 1,000 feet upstream of the dam to mitigate an existing scour condition, and 3) removal of an existing US Geological Survey (USGS) gage weir and channel stabilization approximately 180 feet upstream of the bridge to eliminate a potential post-dam removal fish passage barrier. DMF has been an active partner on the project, and staff have participated in the feasibility study, design, and permitting process.

Requirements:

Construction Time-of-Year. Dam removal implementation may be feasible during a range of flows in nearly any season. Construction of the project is tentatively scheduled for summer/fall of 2025 to take advantage of the low flow period. TOY requirements will be included in the final permit in coordination with other project permits and depending on the proposed construction schedule.

Water Control Plan. The contractor must prepare a water control plan to outline sediment containment methods and storm contingencies. This plan must be reviewed and approved by DMF.

Pre-Construction Meeting. The project construction contractor will invite DMF to a preconstruction meeting to discuss project details and schedule.

Project Changes. A copy of the permit must be in the possession of the contractor at the work site. Project changes prompted by on-site conditions or other reasons must be reviewed and approved by DMF (contact – Joe Holbeche, 978-231-3221).

As-Built Survey. An as-built survey is required and will be submitted to DMF within one year of the project completion date.

Staff Gauge. USGS Gage No. 01101000 (Parker River at Byfield) is located at the upstream end of the dam impoundment (about 180 feet upstream of the I-95 bridge) and has been active since 1945. As part of the project, the concrete weir at the gage site will be removed, and a new stage-discharge curve will be established by USGS. A surrogate gate will be established by DEP in the interim.

Fishway Operation and Maintenance Plan. Not applicable – no fishway structures proposed.

Monitoring. See proposed Environmental Pre- and Post-Construction Monitoring and Management Plan (NOI DEP# 109-1585).

Fish Passage Suitability. The owners of dams, mills, and fishways in Massachusetts are responsible to provide safe and efficient passage of sea-run fish (M.G.L. Chapter 130 §19). In removing a functional fishway and replacing it with a naturalized channel, this project carries the same responsibility. Any deficiencies in the constructed project that limit diadromous fish passage shall be corrected as soon as possible through consultations between the Town of Newbury and MA DMF

Daniel J. McKiernan, Director, DMF

Date: X XX, XXXX

Cc:

Mason Ferrick, Conservation Agent, Town of Newbury

Tracy Blais, Newbury Town Administrator

Robert Glenn, Greg Skomal, Ph.D., Brad Chase, and Joe Holbeche, MA DMF

ARCHAEOLOGICAL SITE AVOIDANCE AND PROTECTION PLAN

March 2025

Larkin Mill Dam Removal Project Newbury, Massachusetts

On behalf of the NOAA Restoration Center, this archaeological site avoidance and protection plan (ASAPP) has been developed for the Larkin Mill Dam Removal Project in Newbury, Massachusetts. The Town of Newbury (the Town), as the dam owner and project proponent, will disseminate the ASAPP to the responsible parties listed below and oversee its implementation by the Contractor. The Town will also ensure that a copy of the ASAPP is included in construction and bid documents and referenced on final construction plans. Copies of the ASAPP will be provided to the Massachusetts Historical Commission (MHC), the Massachusetts Board of Underwater Archaeological Resources (MBUAR), the Project Contractor, and Gomez and Sullivan Engineers (Project Engineer and Permitting Compliance).

The archaeological avoidance and protection areas contain the proposed construction access, staging, and sediment dewatering areas for the dam removal work off Larkin Road and the proposed construction access, staging, and sediment dewatering areas for the USGS weir replacement work from a commercial plaza at 12 Kent Way (Figure 1). In compliance with Section 106 of the National Historic Preservation Act (NHPA), these areas have been designated by the NOAA Restoration Center and MHC for the avoidance and protection of sensitive areas that could contain potentially significant archaeological resources. Specific avoidance and protection strategies are detailed below that will be implemented to ensure that the physical integrity of the sensitive areas is maintained throughout the Larkin Mill dam removal and USGS weir replacement construction phase of work.

In January 2025 PAL completed a cultural resources assessment update for the Project's area of potential effects (APE), which corresponds to the proposed limits of work shown on the preliminary design plans dated April 2024. PAL determined that the southern portion of the Project APE has the potential to contain buried resources including structural remains of the Larkin (snuff) mill complex that was present on the Larkin Road property from ca. 1734 until it was taken down by the Town for safety reasons in 2012. The northern portion of the Project APE contains a USGS gage station and its control weir installed by the US Government in 1945. Before this use, the property was part of a large estate belonging to Frank L. Ferguson, a local farmer. The Project APE contains a stone enclosure that may have functioned as an animal pen before the government acquired the property. Native American settlement in the Parker River drainage is also documented in the state's archaeological record. It is also considered possible that intact upland areas could contain remnants of pre-contact Native camp sites and fishing stations.

The following archaeological avoidance and protection measures will be implemented prior to any heavy machinery access or equipment staging and laydown activities and will provide protection of the ground surface and sensitive archaeological strata from deep tire rutting and other compression impacts during the construction phase of the project.

1. The Public Archaeology Laboratory, Inc. (PAL), as the project's archaeological consultant, will coordinate with the Town, the Contractor, and the Engineer-Permitting Compliance team to ensure that the correct archaeological avoidance and protection boundaries are surveyed on final construction plans, delineated in the field, and labeled with appropriate signage, prior to the start of the contractor's equipment mobilization, as follows:
 - a. The project construction plans, contract documents, and specifications will contain the terms of this ASAPP, and will identify the individual(s) responsible for implementing its terms.
 - b. The Contractor and PAL will ensure that the location of the sensitive areas' avoidance and protection boundaries are accurately and precisely shown on the project construction plans and in any related project contract documents and specifications.
 - c. Prior to commencing the construction work, the Contractor with PAL's assistance will stake the archaeological avoidance and protection area boundaries for access roads and staging areas.
 - d. The final construction plans showing the archaeological avoidance and protection areas will be submitted to the NOAA Restoration Center and the Town for review and dissemination prior to the start of the contractor's equipment mobilization.
 - e. Suitable language will be included in contract and construction documents to prevent inadvertent impacts within the archaeological avoidance and protection areas.
2. Vegetation Clearing and Tree Removal
 - a. PAL archaeologists will monitor the Town's vegetation clearing and tree removal within and adjacent to the archaeological protection areas.
 - b. All vegetation clearing and tree and brush removal in the protection areas in advance of the temporary road and staging area construction will be limited to flush cuts with no stumping or grubbing of root systems below the ground surface.
 - c. This work will be done using hand equipment only. No heavy equipment access or hand or mechanized grubbing of roots will be permitted inside the archaeological protection areas.
3. Temporary Protective Fencing and Signage
 - a. Prior to any construction equipment mobilization to the sensitive work areas, the Town's Contractor with PAL's assistance will place a temporary, high-visibility protective fence (e.g., snow fence or orange plastic fencing) that will follow the construction access, staging, and sediment dewatering areas within the staked

boundaries of the archaeological avoidance and protection areas. The protective fencing along the boundaries of the contractor access, staging, and sediment dewatering areas will be posted with “Sensitive Resource Area – No Access Permitted Beyond the Fence Line” signs (see Figure 1).

- b. The Town will be responsible for informing construction personnel and contractors verbally and in writing that the fenced areas are “No Ground Disturbance” areas. The Town and its construction personnel and contractors will maintain the fencing and signs for the duration of the work.
- c. PAL will inspect the locations of the protective fencing prior to the start of construction work on the access roads, staging areas, and sediment dewatering areas.
- d. The boundaries of the archaeological site avoidance and protection areas will be clearly labeled “Sensitive Resource Area – No Ground Disturbance” on the Final Construction Permit Plans (see Figure 1).
- e. Following the completion of the dam removal and weir replacement construction work and any other contractor work that involves access to/from the work areas along the Parker River, the contractor will remove the temporary protective fencing and signs.

4. Filter Fabric and Stone and Gravel Layer

- a. Access to the fenced archaeological avoidance and protection areas for contractor access, staging, and sediment dewatering will be allowed once filter fabric and a gravel layer have been installed on the ground surface, as follows.
- b. The Town’s contractor will install filter fabric and at least 12 inches of stone and gravel mix on the ground surface within the fenced archaeological site protection areas. PAL will monitor the installation of filter fabric and stone and gravel layer to ensure that there are no inadvertent ground disturbances during this work.

In the area of the stone enclosure in the USGS weir replacement staging area, the depth of stone and gravel layer will be sufficient to reach the top of the stones so as to protect them from inadvertent disturbances during the construction access and work. No stones will be moved from their existing locations unless prior approval is obtained from the Town, NOAA, and the MHC.

- c. The filter fabric and stone and gravel layer placed in the construction access, staging, and sediment dewatering areas will remain in place for the duration of the Project construction activities at both the dam removal and weir replacement work areas.

- d. Following the completion of all construction activities, the PAL archaeologist will monitor the Contractor's removal of the stone and gravel layer and underlying filter fabric to ensure that there will not be and have not been any inadvertent ground disturbances to sensitive belowground soils.
5. The Town with the assistance of the Project Engineer and PAL, will inspect and monitor the sensitive areas as delineated by the high-visibility fencing and the protective filter fabric and stone and gravel layer, during the construction phase of work to ensure that the avoidance and protection controls are being properly maintained and observed by the contractor.
6. No unauthorized artifact collecting or archaeological investigation will be permitted within or outside the fenced avoidance and protection areas or in any other portion of the construction project work areas of Town property, other than for which the Massachusetts State Archaeologist has issued an archaeological field investigation permit (950 CMR 70) to PAL for the construction monitoring assistance.
7. Any contractor work other than access, staging, and sediment dewatering activities proposed within the fenced avoidance and protection areas will require submission to and written approval from the Town after the NOAA Restoration Center and the MHC have the opportunity to review and comment on the proposed activities within the fenced protection areas.
8. In the event of an unanticipated and potentially significant discovery including human remains during any construction activities, the contractor will immediately stop all work at and in the vicinity of the discovery and take reasonable measures to avoid or minimize harm to the finds. The Town and the contractor will secure all discoveries and restrict access to discovery sites, with the assistance of the PAL archaeologist. The Town and the contractor will follow the provisions of applicable state laws, including Massachusetts General Laws Chapter 38, section 6 (Discovery of skeletal remains likely to be Native American); Chapter 9, sections 26A (State archaeologist; duties; reservation of lands from sale; cooperation of governmental agencies) & 27C (Projects; notice; adverse effect; review); and Chapter 7, section 38A (Skeletal remains; preservation; excavation; analysis), or any amendments or supplanting laws and regulations.

If the discovery consists of human remains, the Town will inform the Office of the Chief Medical Examiner (Dr. Mindy Hull, 617-267-6767), the State Archaeologist (Brona Simon, 617-727-8470), and NOAA (Brian Kelder, 978-675-5993). The NOAA Restoration Center will consult with the SHPO/MHC and Tribes including the Massachusetts Commission on Indian Affairs, if remains are of tribal origin. Work in sensitive areas may not resume until consultation is completed and appropriate measures have been taken to ensure that the project is in compliance with the NHPA.

NOAA, as the lead federal agency under Section 106 of the NHPA, is responsible for ensuring that the above stipulations for archaeological avoidance and protection measures are carried out by the Project construction personnel and contractors.



Figure 1. Final project plan depicting the archaeological avoidance and protection areas, no ground disturbances, where fencing, signage, filter fabric, and stone and gravel layer will be placed to protect potential cultural deposits during the construction phase of work, Larkin Mill Dam Removal Project, Newbury, MA.



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

May 9, 2025

Town of Newbury, Tracy Blais, Town Administrator &
Massachusetts Department of Transportation, Highway Division, Paul Stedman, District 4 Highway Director
c/o Jill Griffiths, Gomez and Sullivan Engineers
41 Liberty Hill Rd, Bldg #1 P.O. Box 2179
Henniker, NH 03242

Re: Chapter 91 Administrative Authorization - Application No. 24-WW01-0146-APP; Administrative Demolition Approval, 0 Off Main Street (Parcel ID U14-0-1), 36 Main Street (Parcel ID R19-0-33), and 0 Larkin Road (Parcel ID R19-0-6), Flowed Tidelands of the Parker River, Newbury, Essex County

Dear Ms. Blais & Mr. Stedman:

The Department of Environmental Protection Waterways Regulation Program (the "Department") has reviewed the referenced Chapter 91 Application by the Town of Newbury and Massachusetts Department of Transportation, Highway Division (the "Applicant"), seeking the Department's approval to remove unlicensed structures including the USGS gage weir, the Larkin Dam spillway, abutments and retaining walls, and a fish weir.

The Department's review of licensing and cartographic databases did not identify any authorization for the structures proposed to be removed. Pursuant to 310 CMR 9.05(3)(m), the Department may authorize the removal of unlicensed fill and structures to facilitate a water-dependent use without a license or permit for projects that comply with certain criteria as stipulated in the regulations at 310 CMR 9.05(3). The Department has determined that the removal of the structures listed above and as depicted on the plans (attached) does not require the filing of an application for a Chapter 91 Waterways License or Permit. Furthermore, the Department finds that removal of these existing unauthorized structures will facilitate water-dependent uses, namely improving stream connectivity, navigability and wildlife habitat. Therefore, this letter serves as the Department's written approval to conduct the demolition activities listed above.

All other applicable local, State, and Federal approvals that may be required for the activities described herein are required to be obtained prior to the start of any work. Please contact dep.waterways@mass.gov if there are any questions.

Sincerely,

Daniel J. Padien
Program Chief
Waterways Regulation Program

cc: Town of Newbury Conservation Commission

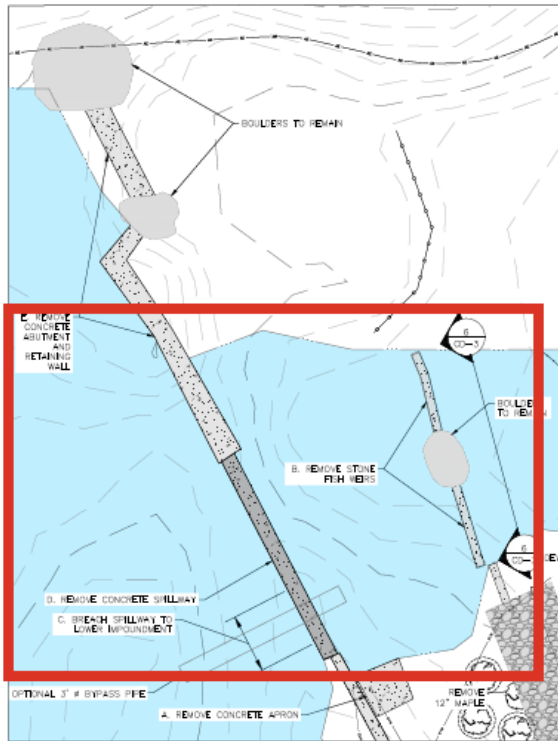
This information is available in alternate format. Please contact MassDEP at 617-292-5500.

TTY# MassRelay Service 1-800-439-2370

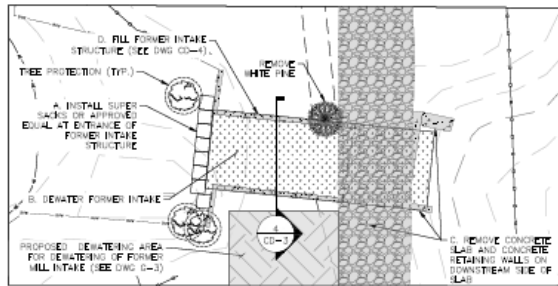
MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

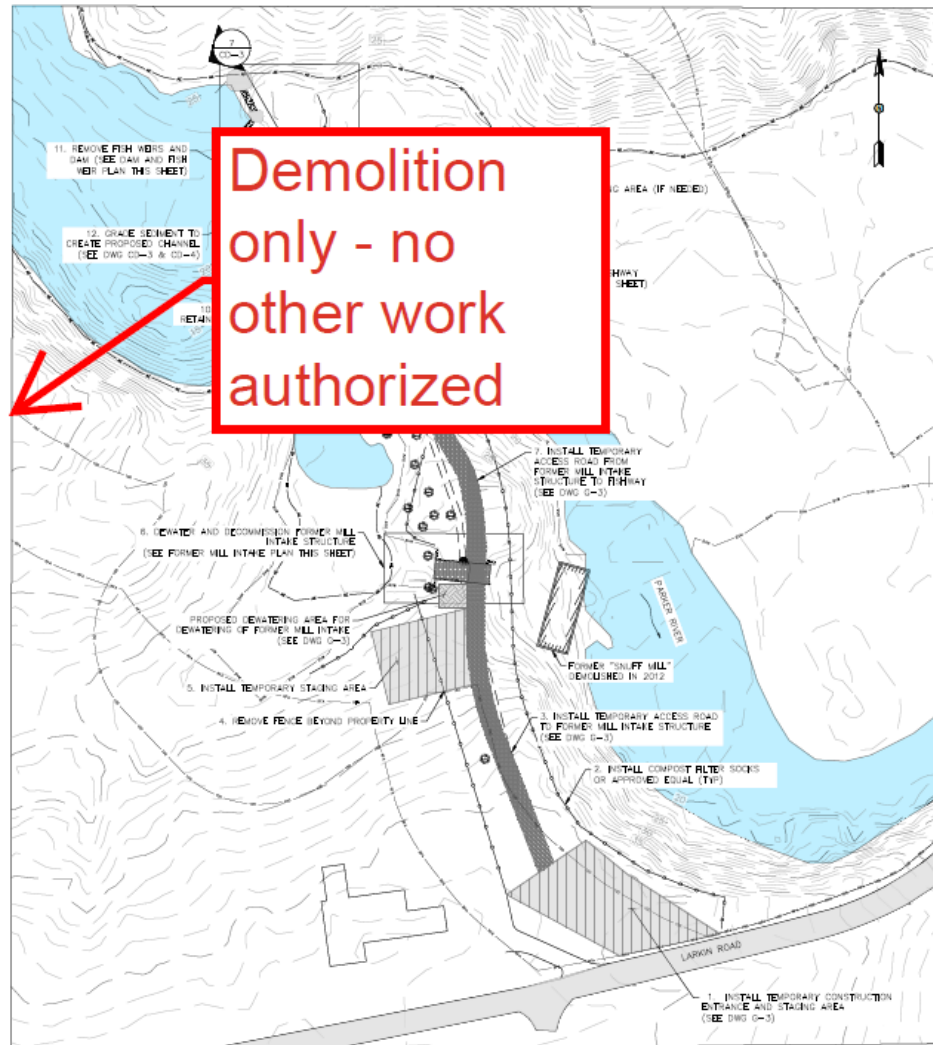
Demolition only - no other work authorized



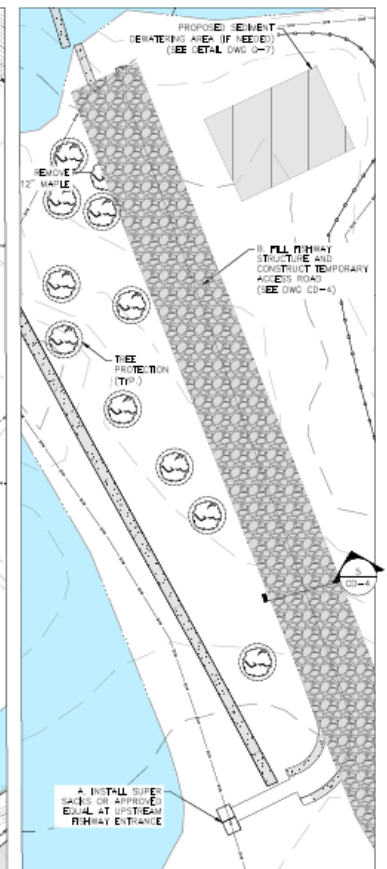
DAM AND FISH WEIR PLAN
SCALE: 1"=10'



FORMER MILL INTAKE PLAN
SCALE: 1"=10'



LARKIN ROAD DAM SITE PLAN
SCALE: 1"=40'



FISHWAY PLAN
SCALE: 1"=10'

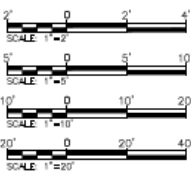
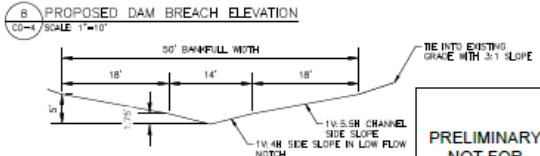
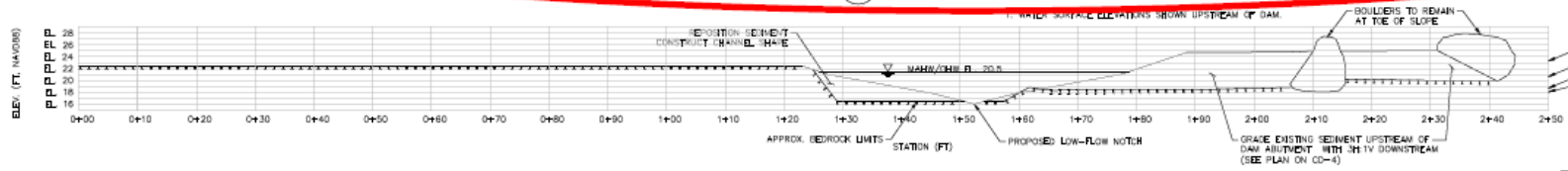
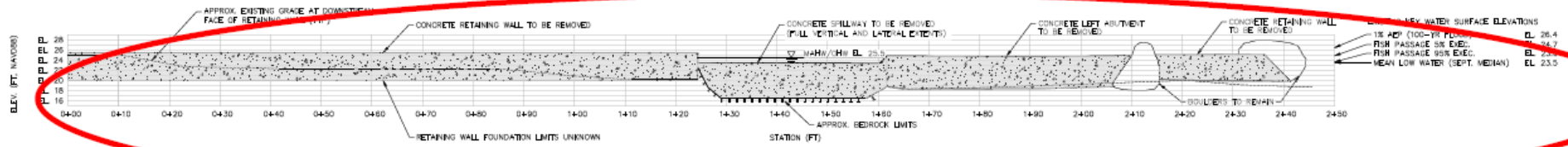
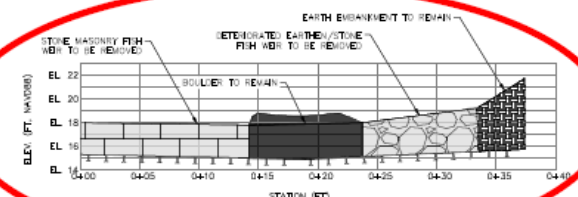
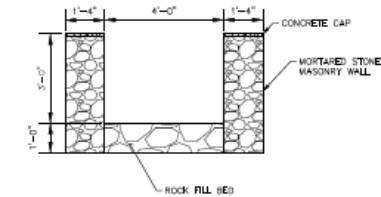
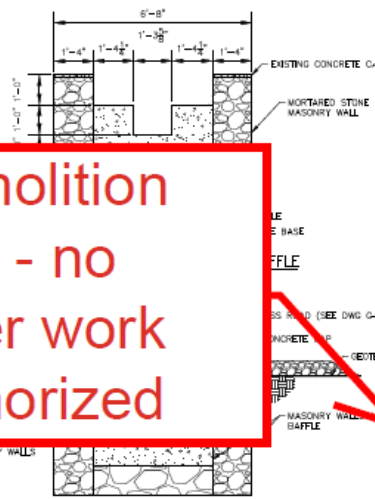
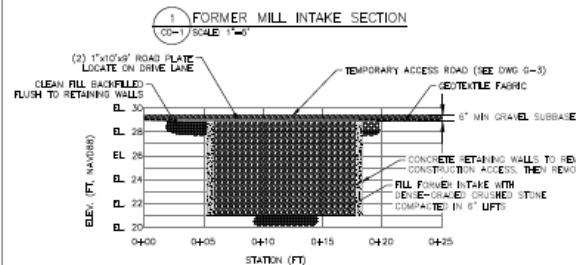
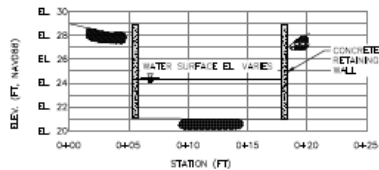
LEGEND

- BANK/MEAN ANNUAL HIGH WATER (MAHW)/ORDINARY HIGH WATER (OHW)
- BORDERING VEGETATED WETLAND (BVM)
- 100' BUFFER
- RIVERFRONT AREA
- FENCE
- APPROXIMATE EXTENTS OF WATER SURFACE

- CONIFEROUS TREE
- ⊙ DECIDUOUS TREE

PRELIMINARY
NOT FOR
CONSTRUCTION

PARKER RIVER RESTORATION PROJECT			
LARKIN ROAD DAM REMOVAL ACCESS AND REMOVAL PLAN			
Town of Haverhill 12 Kent Way Haverhill, MA 01822		Gomez and Sullivan Engineers, D.P.C. 41 Liberty Hill Road PO Box 2178 Haverhill, MA 02442	
DATE	DESCRIPTIONS	BY	APP
DRAWN BY: MAG			
CHECKED BY: JWG			
APPROVED BY:			
PROJECT NO.	02430	DATE: 03/07/2025	SCALE: AS NOTED
		DRAWING: CD-2	



Demolition
only - no
other work
authorized

PRELIMINARY
NOT FOR
CONSTRUCTION

DATE	DESCRIPTIONS	BY	APP
	DRAWN BY: MAO		
	CHECKED BY: JWG		
	APPROVED BY:		
PROJECT NO.	02430	DATE: 02/07/2025	

PARKER RIVER RESTORATION PROJECT	
LARKIN ROAD DAM REMOVAL EXISTING & PROPOSED ELEVATIONS, PROFILES & SECTIONS	
Town of Newbury 12 Hart Way Dorset, MA 01922	Gomez and Sullivan Engineers, D.P.C. 41 Liberty Hill Road PO Box 2719 Gardner, MA 02242
SCALE: AS NOTED	DRAWING: CD-3

