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April 29, 2024

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
SINGLE ENVIRONMENTAL IMPACT REPORT

PROJECT NAME : Ipswich Mills Dam Removal
PROJECT MUNICIPALITY : Ipswich
PROJECT WATERSHED : Ipswich
EEA NUMBER : 16754
PROJECT PROPONENT : Town of Ipswich
DATE NOTICED IN MONITOR : March 8, 2024

Pursuant to the Massachusetts Environmental Policy Act (MEPA; M.G.L. c. 30, ss. 61-62L) and Section 11.08 of the MEPA regulations (301 CMR 11.00), I have reviewed the Single Environmental Impact Report (Single EIR) and hereby determine that it **adequately and properly** complies with MEPA and its implementing regulations.

As noted in the Certificate on the Expanded Environmental Notification Form (EENF), MEPA regulations (at 301 CMR 11.01(2)(b)4.) were amended, effective January 6, 2023, to allow for streamlined review of projects seeking to qualify in its entirety as an Ecological Restoration Project, but not including an Ecological Restoration Limited Project under 310 CMR 10.24(8) and 10.53(4). While this streamlined process was available here, the Proponent voluntarily opted to undergo MEPA review of the project to provide added transparency and allow for the public to comment on the proposal. While the Proponent filed a robust EENF with substantial information supporting the proposed treatment of the project as a full Ecological Restoration Project, I denied the request for a Waiver of the EIR requirement in light of concerns raised by commenters about the manner in which sediment released from the project site would be sampled and managed, so as to prevent the flow of potentially contaminated material into downstream areas. This filing has adequately addressed this public health concern, and the Proponent

indicates that a Sediment Management Plan was developed in consultation with regulatory agencies and has been approved. Accordingly, I am closing MEPA review so the project may proceed to subsequent permitting. Future process will allow for additional opportunities for public participation and input.

Project Description

As described in the Single EIR, the project consists of the full removal of the Ipswich Mills Dam. Major elements of the proposed project include the removal of the approximately 132-foot (ft) long, 10.5 ft high existing granite masonry spillway and its appurtenances including a portion of the fish viewing platform, a floating log boom, and the functional fish ladder that was installed in 1996. Riverbed restoration efforts will include regrading of coarse bed material including rock, boulders, and cobbles both upstream and downstream of the dam and construction of a continuous low-flow channel to promote fish passage during low-flow periods. The project also proposes to reinforce the abandoned fish ladder walls and pedestrian platform support piers downstream of the dam, and riverside retaining walls on both sides of the river upstream of the dam, as well as the installation of encapsulated soil lifts, riprap, and coir logs to stabilize and protect exposed soils and the riverside retaining walls from erosion and scour. In addition, the project proposes to retain the existing pedestrian bridge immediately downstream of the limit of work, as well as a 10-ft section of the existing viewing platform and abandoned fish ladder to protect the river-right wall.¹ Approximately 6,900 cubic yards (cy) of sediment within the dam impoundment is proposed to be allowed to migrate downstream naturally over time and restore sediment-deprived areas. Following construction, it is anticipated that the native seed bank will naturally restore wetland areas; however, monitoring will continue to occur on a regular basis to evaluate the establishment of native vegetation and identify new infestations of invasive species at the project site.

The project is being proposed by the dam owner, the Town of Ipswich (the Proponent), in partnership with the National Oceanic and Atmospheric Administration (NOAA), the Massachusetts Department of Fish and Game's (DFG) Division of Ecological Restoration (DER), the Ipswich River Watershed Association (IRWA), and others. The project was selected by DER as a "Priority Project" in a competitive review of solicited proposals, based on the breadth of its ecological benefits. In addition, it is anticipated that removal of the Ipswich Mills Dam would improve fish passage and habitat connectivity to approximately 186 miles of upstream mainstream river and tributary habitat.

According to the Single EIR, the primary goals of the project are to improve migratory fish passage and habitat; improve water quality; reduce flood hazards and increase resilience; eliminate ongoing maintenance, repair, and liability obligations; and provide recreational improvements by enabling water-based passage through the dam site.

Project Site

The project site is located at the head of tide on the Ipswich River in downtown Ipswich, approximately 3.7 miles upstream from the mouth of the Ipswich River at Ipswich Bay, and primarily consists of the Ipswich Mills Dam, its impoundment, and the immediate downstream area. The Ipswich River flows nearly 40 miles from its headwaters in Wilmington and North Andover to its mouth in Plum Island Sound, dropping approximately 115 ft in elevation along its course. Historical records show that a

¹ River-right and river-left refer to the direction when facing downstream.

dam has existed in the vicinity of the project site since 1637 with the most recent version of the dam being modified to its current design in 1908. The Ipswich Mills Dam is a granite masonry dam with a 132-ft long main spillway with a structural height of 10.5 ft (including a hydraulic height of six ft), which extends across most of the width of the Ipswich River. On the river-right end of the main spillway, a granite pier extends about 45 ft into the river and contains a three ft wide stop-log spillway; a 4.5 ft wide gated outlet; a functional fish ladder that was installed in 1996; and an older, abandoned fish ladder. The area of significant hydraulic influence is limited to the area between the dam and the railroad bridge crossing (approximately a mile and a half upstream of the dam), which is generally referred to as the impoundment with the channel immediately upstream of the dam referred to as the lower impoundment.

State and local wetland resource areas located within the project area include Bank, Bordering Vegetated Wetlands (BVW), Land Under Waterbodies and Waterways (LUWW), Fish Runs, Bordering Land Subject to Flooding (BLSF), and Riverfront Area (RA). According to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) (Panel No. 25009C0287G, effective July 16, 2014), the project site is located within a Zone AE and Regulatory Floodway. The project site is also located within tidelands of the Ipswich River subject to the jurisdiction of M.G.L. c. 91 and the Waterways Regulations at 310 CMR 9.00.

According to the Massachusetts Natural Heritage and Endangered Species Program (NHESP) Atlas (15th Edition), the site is not located within Estimated or Priority Habitats of Rare Species. The project is not located in an Area of Critical Environmental Concern (ACEC). In addition, the project site does not contain any structures listed in the State Register of Historic Places or the Massachusetts Historical Commission (MHC)'s Inventory of Historic and Archaeological Assets of the Commonwealth.

As shown in the EEA EJ Mapper, the project site is not located within one mile of any Environmental Justice (EJ) Populations.² Additionally, no languages were identified as being spoken by 5% or more of Limited English Proficiency ("LEP") residents within one mile of the project site.

Changes Since the EENF

Since the filing of the EENF, the Proponent has been working to advance the project's design, and to address comments and concerns raised by agencies and the public. The Single EIR describes the following updates:

- **Design Plan Updates** – The preliminary design plans have been updated to include the extent of the FEMA mapped floodplain, the boundaries of the historic districts adjacent to the project site, and the extent of all wetland resource areas.
- **Archaeological and Historic Resources Assessment** – The Proponent has engaged the Public Archaeology Laboratory, Inc. (PAL) to complete a reconnaissance-level archaeological and historic properties survey. The goal of the reconnaissance survey will be to identify and document historic and archaeological resources and archaeologically sensitive areas within a recommended project area of potential effect (APE), based on the design plans provided in the

² The EEA EJ Mapper is available at: <https://www.mass.gov/info-details/environmental-justice-populations-in-massachusetts>

Single EIR, and provide recommendations to further identify, evaluate, and consider feasible project alternatives to avoid, minimize, or mitigate any project related adverse effects to significant historic and archaeological resources. The survey report is expected to be completed in spring of 2024 and will be provided to MHC for its review.

- **Sediment Management Plan** – The Proponent has developed a due diligence report to evaluate potential threats to sediment quality based on current and historic land use in proximity to the project site, as well as a proposed Sediment Management Plan (SMP) which has been submitted and approved by Massachusetts Department of Environmental Protection (MassDEP) 401 Water Quality Certification (WQC) Program. The SMP identifies sediment sampling locations, details the analysis methodology, and describes the different sediment management options that could be undertaken based on the results of the analysis.

Environmental Impacts and Mitigation

Potential environmental impacts associated with the project include temporary and permanent impacts to wetland resources areas including Bank (490 lf temporary and 700 lf permanent), BVW (184,800 sf permanent), LUWW/Fish Runs (35,870 sf temporary and 184,000 sf permanent), BLSF (1,730 sf temporary and 352,100 sf permanent), and RA (4,100 sf temporary and 54,500 sf permanent). The project also proposes to actively dredge 440 cy of material (consisting of concrete, boulders, and cobbles); anticipates the passive release and downstream relocation of an additional 6,900 cy of sediment over time following the removal of the dam; and proposes to relocate existing boulders and cobbles within the current river channel to create a more optimized channel geometry, resulting in approximately 170 cy of fill over 3,560 sf.

Measures to avoid, minimize, and mitigate environmental impacts include the use of erosion and sedimentation controls during construction; installation of scour protection and reinforcement of river retaining walls; implementation of a post-construction vegetation monitoring plan; and restoration of disturbed areas following construction. The project is also anticipated to improve water quality; restore stream connectivity, and fish passage; and convert the former impoundment into riparian wetlands. Due to the nature of the project, permanent conversion of wetland resource areas is unavoidable; however, as noted below, the project is anticipated to qualify as an Ecological Restoration project (dam removal category) under wetlands regulations.

Jurisdiction and Permitting

This project is subject to MEPA review because it requires Agency Action and meets/exceeds the mandatory EIR threshold at 301 CMR 11.03(3)(a)(4) for the structural alteration of an existing dam that causes an Expansion of 20% or any decrease in impoundment Capacity. It also exceeds the ENF thresholds at 301 CMR 11.03(3)(b)(1)(b) for the alteration of 500 or more linear feet of bank along a fish run or inland bank and 301 CMR 11.03(3)(b)(1)(d) for the alteration of ½ or more acres of any other wetlands. Effective January 6, 2023, a project seeking to qualify in its entirety as an Ecological Restoration Project, but not including an Ecological Restoration Limited Project under 310 CMR 10.24(8) and 10.53(4), is not required to undergo MEPA review, provided the requirements of 301 CMR 11.01(2)(b)(4) are met. As noted, this project is anticipated to meet the definition of a (full) Ecological Restoration Project; however, the Proponent has voluntarily undertaken this EIR review to allow for additional public transparency and opportunities for public comment.

The project will require a WQC pursuant to the 401 Water Quality Certification Regulations (314 CMR 9.00) and a Chapter 91 (c.91) Permit and License from MassDEP. The project will also require a Chapter 253 Dam Safety Permit from the Massachusetts Department of Conservation and Recreation (DCR) Office of Dam Safety (ODS) and a Fishway Permit from the Massachusetts Division of Marine Fisheries (DMF). The project will apply for an Order of Conditions (OOC) as an Ecological Restoration Project (under the dam removal and/or fish passage category) from the Ipswich Conservation Commission; in the case of an appeal, a Superseding Order of Conditions from MassDEP will be required. In addition, the project will require a Public Benefit Determination (PBD) from the Secretary of the Executive Office of Energy and Environmental Affairs (EEA).

The project will require the submittal of a Pre-Construction Notification (PCN) to the U.S. Army Corps of Engineers (ACOE) seeking authorization under the General Permits for Massachusetts in accordance with Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act.³ The project will also require a National Pollutant Discharge Elimination System (NPDES) Construction General Permit from the U.S. Environmental Protection Agency (EPA) and the execution of a Memorandum of Agreement (MOA) with the Massachusetts Historical Commission (MHC) acting as the State Historic Preservation Officer (SHPO) pursuant to Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended (36 CFR 800). In addition, the project may require Federal Consistency Review by the Massachusetts Office of Coastal Zone Management (CZM).

The project has received Financial Assistance in the amount of \$543,454 from Agencies (DER, the Massachusetts Environmental Trust, and the EEA Dam and Seawall Program) for design and permitting, and is seeking other forms of Financial Assistance for project implementation.⁴ Therefore, MEPA jurisdiction is broad in scope and extends to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment as defined in MEPA regulations.

Review of the Single EIR

The Single EIR included a project description, updated existing and proposed conditions plans, estimates of project-related impacts, a Sediment Management Plan (SMP), the scope for the reconnaissance-level archaeological and historic properties survey, and an identification of measures to avoid, minimize and mitigate environmental impacts. The Single EIR provided a response to comments on the EENF and draft Section 61 Findings.

I note that comment letters received from Agencies, including the Massachusetts Division of Marine Fisheries (DMF), support removal of the dam based on the potential for significant ecological benefits. In addition, comments provided by the Massachusetts Department of Conservation and Recreation (DCR) Office of Dam Safety (ODS) express support for the project which appears to be in the interest of public safety and successful completion will ensure compliance with dam safety regulations. However, some public comments, including from the Mill Pond Preservation Association, still identify concerns regarding the conversion of wetland resource areas; the removal of a structure with local historic and cultural significance; impacts to fisheries and water quality; and the reduction or

³ According to the EENF, the project will seek authorization under General Permit #10 for Massachusetts which covers Aquatic Habitat Restoration, Enhancement, and Establishment Activities.

⁴ The Single EIR states that the project has also received \$124,809 from NOAA for design and permitting efforts to date.

elimination of recreational opportunities within the former impoundment.⁵ As noted above, the EENF Scope was limited primarily to issues pertaining to sediment management, and the Single EIR included a response to comments received on the EENF. While I appreciate the input of surrounding communities for which the dam has long provided outdoor and recreational opportunities, MEPA regulations were recently amended to allow for expedited review of projects with ecological restoration benefits. I encourage commenters to continue to participate in remaining state and local permitting processes.

Wetlands and Fisheries

As noted above, wetland resource areas are located on and adjacent to the project site. According to the Single EIR, the project will result in the permanent alteration of 700 lf of Bank, 184,800 sf of BVW, 184,000 sf of LUWW/Fish Runs, 352,100 sf of BLSF, and 54,500 sf of RA. The project will also result in temporary impacts to 490 lf of Bank, 35,870 sf of LUWW/Fish Runs, 1,730 sf of BLSF, and 4,100 sf of RA. Permanent impacts will generally result from the restoration of free-flowing riverine conditions, thereby replacing existing the pond-like conditions within the lower impoundment with riparian BVW. Temporary impacts will generally result from dam removal activities, boulder and cobble relocation, and construction of a temporary access path. The project also proposes to actively dredge 440 cy of material (consisting of concrete, boulders, and cobbles) as a part of the dam and fishway removal and anticipates the passive release and downstream relocation of an additional 6,900 cy of sediment over time following the removal of the dam. In addition, the project will relocate existing boulders and cobbles within the current river channel to create a more optimized channel geometry, resulting in approximately 170 cy of fill over 3,560 sf.

As stated above, the Ipswich Conservation Commission (or MassDEP in the case of an appeal) will review the project for its consistency with the Wetlands Protection Act (WPA), the Wetland Regulations (310 CMR 10.00) and associated performance standards including local bylaws. The project will require an OOC as an Ecological Restoration Project (under the dam removal and/or fish passage category). Ecological Restoration Projects permitted by a Restoration Order of Conditions may result in the temporary or permanent loss of wetland resource areas and/or the conversion of one resource area to another when such loss and/or conversion is necessary to the achievement of the project's ecological restoration goals.

According to the Single EIR and comments provided by DMF, the Ipswich River, below the Ipswich Mills Dam, provides essential habitat for diadromous fish species including American eel (*Anguilla rostrata*), alewife (*Alosa pseudoharengus*), blueback herring (*Alosa aestivalis*), rainbow smelt (*Osmerus mordax*), white perch (*Morone americana*), and sea lamprey (*Petromyzon marinus*). The current Denil ladder at the Ipswich Mills Dam provides passage for alewife, blueback herring, and sea lamprey but excludes passage of other diadromous species. The Ipswich River also contains productive habitat for soft shell clam (*Mya arenaria*) with the nearest soft shell clam habitat, mapped by DMF, located approximately one mile downstream of the Ipswich Mills Dam in shellfish growing area N5.7, classified as "Prohibited." The nearest harvestable soft shell clam flats (Gould Creek Clam Flats) are located approximately one and a half miles downstream of the dam in shellfish growing area N5.0,

⁵ While comments from the Mill Pond Preservation Association also suggest that the dam provides habitat for endangered species, correspondence from the Natural Heritage and Endangered Species Program (NHESP) received on April 29, 2024 confirms that the project site is not within mapped rare species habit, and that a filing under the Massachusetts Endangered Species Act (MESA) will not be required for the project.

classified as “Conditionally Approved.” In accordance with the Scope, the Single EIR discussed whether there were any Outstanding Resource Waters (ORW) in proximity to the project site. Based on this assessment, the Single EIR states that the Designated Shellfish Growing Area (DSGA), which extends from just downstream of the Ipswich Mills Dam out to Ipswich Bay, would be considered an ORW which afford additional regulatory protections under the Wetlands Regulations and 401 WQC regulations.

As noted above, the project will require a Fishway Permit from DMF. Comments provided by DMF state that the proposed dam removal will improve diadromous fish connectivity in the Ipswich River by removing the head of tide dam on the river, thereby opening up the lower section of the river to all diadromous fish. Comments further state that removal of the Ipswich Mills Dam is a key component of cooperative efforts to improve diadromous fish habitat and passage throughout the watershed, including a nature like bypass at the next dam upriver and a new fishway on Howlett Brook, a tributary of the Ipswich River with large amounts of suitable habitat for river herring and American eel. Comments also state that in order to protect migrating and spawning diadromous fish present in the Ipswich River from temporary impacts from the project as proposed, a time-of-year (TOY) restriction on in-water, silt-producing work from March 1 to June 30 and September 1 to November 15 of any given year is recommended.

Sediment Management and Water Quality

In accordance with the Scope, the Proponent conducted a due diligence review of potential historical impacts to sediment quality within the impoundment and in upstream and downstream areas. The project area, including the mainstream of the Ipswich River and tributaries further upstream, has a long history of industrial land use for manufacturing, including former factories. A railroad line also traverses near the left bank, providing the potential for pesticides, herbicides, creosote, and metal contributions to sediments. Therefore, sediments have the potential to contain polychlorinated biphenyls (PCBs), metals, semi-volatile organic compounds (SVOCs), and volatile organic compounds (VOCs). According to the Single EIR, the Proponent consulted with MassDEP in January 2024 regarding the due diligence review and development of a sediment sampling plan. Following this consultation, the Proponent submitted a proposed sediment sampling plan to the MassDEP WQC program, which approved the plan in February 2024. The results of the sediment sampling will be provided to the MassDEP WQC program which will review the project for its consistency with the 401 WQC regulations (314 CMR 9.00)

According to the Single EIR, the proposed sediment sampling plan will evaluate sediments to be tested for Metals, SVOCs, Polycyclic Aromatic Hydrocarbons (PAHs), PCBs, VOCs, Extractable Petroleum Hydrocarbons (EPHs), Pesticides and Herbicides, Total Petroleum Hydrocarbons (TPH), and other physical characteristics. Sediment samples will be taken at 24 upstream locations where hydrologic and hydraulic (H&H) modeling indicates sediment will mobilize following removal of the dam and nine downstream locations where H&H modeling indicates mobilized sediment will settle onto the river bottom. The Single EIR states that although the preferred sediment management option is the complete passive release of sediment, additional options were included in the proposed SMP, and the appropriate sediment management option, including dredge and removal/disposal, will be chosen depending on the results of the sediment sampling. The sediment management options consist of the following:

- **Option 1: Complete Passive Release** – This option would consist of the complete passive release of 6,900 cy of sediment following removal of the dam, provided no significant contamination issues are identified during sediment sampling and analysis.
- **Option 2: Dredge and Reuse** – This option would consist of spot dredging areas with sediments unsuitable for passive release with upland reuse of the dredged material. Upland reuse options for that dredged material would be determined based on the observed concentrations of contaminants and reuse facility acceptance criteria. The remaining sediment would be assumed suitable for passive release and will be left to mobilize or stabilize in place.
- **Option 3: Dredge and Disposal** – This option would consist of spot dredging areas with sediments unsuitable for passive release with upland disposal of the dredged material. Upland disposal options for dredged sediment would be determined based on the concentrations of contaminants and receiving facility acceptance criteria. That portion of the dredged sediments not suitable for upland reuse would need to be shipped to an authorized receiving facility. All remaining, un-dredged sediment would be assumed suitable for passive release. and will be left to mobilize or stabilize in place.
- **Option 4: Reassess** – This option would consist of evaluating additional sediment management alternatives, in consultation with MassDEP, if sediment contamination issues are identified in sediment sampling and analysis that preclude all of the other sediment management options.

The Single EIR states that additional modeling was conducted to estimate the maximum potential volume and depth of settled sediment downstream of the dam location within the first year post-removal. Under the high (65% mobilization) scenario, 4,490 cy of impounded sediment is modeled to mobilize within the first year, of which 940 cy are coarse and 3,550 cy are fine. However, the Single EIR states that this is a conservative estimate, and more incremental accumulations will actually occur; the accumulations will then be distributed and spread further by tidal activity. The highest amount of sediment settling is anticipated to occur within the County Street Cove, located in downtown Ipswich, and downstream of the Cove towards the Atlantic Ocean. As noted above, should sediment sampling results indicate unreasonably high levels of contamination, the Proponent will work with MassDEP to reassess the sediment disposal options.

The Single EIR states that a monitoring baseline, consisting of a descriptive survey to be completed following a visual reconnaissance of the upstream and downstream areas likely to be impacted by dam removal, will be established prior to project implementation. Channel and bank stability will also be documented and photographed at key locations. Following dam removal, the site will be monitored during the first two years with changes assessed against the documented baseline conditions. Sediment transport will be monitored at two to three stations, at known sediment accumulation areas, where repeat measurements can be taken. Measurements will be taken at a higher frequency during the first fall/winter following removal. As noted, sediment management options could be reassessed based on the results of sampling. Dewatered impoundment areas will be allowed to revegetate naturally from the seed bank in the sediment, as has been shown to be successful on other Massachusetts dam removal projects. During the revegetation period, project partners will monitor the site regularly and hand pull any observed invasive species as soon as possible before they can spread. Monitoring of these areas will occur for at least two years or until native vegetation has become established. I encourage the Proponent to develop the post-construction monitoring and invasive species management plan in accordance with project partners and regulatory agencies during permitting.

Comments provided by DMF state that the rate of downstream sediment settlement associated with the dam removal, as projected by the hydrologic and hydraulic modeling, is not sufficient to smother or bury downstream shellfish resources; therefore, comments concur that sediment transfer is unlikely to harm downstream resources. Comments also state that DMF will continue to monitor turbidity, fecal coliform, and contaminants within tidelands and shellfish resources downstream of the dam pre- and post-construction as part of ongoing monitoring programs.

Comments provided by the MassDEP Northeast Regional Office (NERO) maintain its recommendations provided on the EENF, namely, that the Proponent should consider planting native trees and shrubs, in lieu of relying solely on passive restoration of the newly created BVW; MassDEP indicates that proactive replanting will more quickly lead to full restoration of the former LUWW into a BVW. I encourage the Proponent to incorporate native plantings into the project design, in accordance with MassDEP's recommendations.

Waterways / Chapter 91

As noted above, the project site is located within tidelands of the Ipswich River, subject to the jurisdiction of M.G.L. c. 91 and the Waterways Regulations at 310 CMR 9.00. The project proposes the complete removal of the Ipswich Mills Dam and its associated appurtenances which will reestablish a more natural riverine watercourse. The project also proposes to actively dredge 440 cy of material; anticipates the passive release and downstream relocation of an additional 6,900 cy of sediment overtime; and proposes to relocate existing boulders and cobbles within the current river channel to create a more optimized channel geometry, resulting in approximately 170 cy of fill over 3,560 sf.

In accordance with the Scope, the Proponent researched and compiled documentation related to the history of modifications to the dam and the prior approval granted by the Massachusetts Department of Public Works (DPW) in 1973. At that time, modifications were proposed and completed by the previous dam owner GTE Sylvania, which consisted of the removal of a slide gate on the east and west sides of the dam and closure of the openings Sylvania (now EBSCO) building foundation walls, where water flowed through the west slide gates. Based on the analysis of the documentation obtained and in consultation with the MassDEP Waterways Regulation Program (WRP), it was determined that the 1973 authorization letter did not constitute a c.91 License or Permit. Further research did not identify any additional c.91 Licenses or Permits related to the dam, suggesting that the dam may be an unlicensed structure.

Comments provided by the MassDEP Waterways Regulation Program (WRP) state that while the removal of the dam and associated fill may be eligible for approval under 310 CMR 9.05(3)(m), the project also includes dredging and placement of fill and structures within flowed tidelands, requiring a c.91 dredge Permit and License, respectively. Comments also state that no substantive concerns were identified with the project based on the review of the Single EIR. However, comments recommend that the Proponent meet with MassDEP WRP prior to submitting a c.91 License application in order to ensure that the required components of an application, including licensing history and complete plans, are included at the outset to enable timely review of the application.

Public Benefit Determination (PBD)

Consistent with the provisions of *An Act Relative to Licensing Requirements for Certain Tidelands* (2007 Mass. Acts, c. 168, § 8) (the Act), as codified in M.G.L. c. 91, § 18B, I must conduct a Public Benefit Review for projects in tidelands that are required to file an EIR.

The legislation states the following regarding the PBD:

“In making said public benefit determination, the secretary shall consider the purpose and effect of the development; the impact on abutters and the surrounding community; enhancement to the property; benefits to the public trust rights in tidelands or other associated rights, including, but not limited to, benefits provided through previously obtained municipal permits; community activities on the development site; environmental protection and preservation; public health and safety; and the general welfare; provided further, that the secretary shall also consider the differences between tidelands, landlocked tidelands and great pond lands when assessing the public benefit and shall consider the practical impact of the public benefit on the development.”

The project is required to prepare a EIR because it meets/exceeds mandatory EIR thresholds. The Single EIR includes updated information regarding the public benefits associated with the project. As noted in the Single EIR, the project aims to restore natural riverine processes and ecological functions to the Ipswich River; restore the upstream floodplain and reduce upstream flood risk; improve water quality and downstream sediment transport which are considered to be crucial for maintaining the health of downstream salt marsh and shellfish beds; and enhance recreational opportunities by facilitating navigation past the former dam location under certain tidal conditions. The PBD regulations, at 301 CMR 13.04(1), include a presumption that water-dependent projects provide adequate public benefit. As noted above, the project will be required to obtain a c.91 License from MassDEP. Comments from the MassDEP on the Single EIR included a determination that the proposed activities would be classified as a water-dependent use project pursuant to the Waterways Regulations.⁶ For this reason and in consideration of the above benefits of the project, I find that the Single EIR has demonstrated that the project will have a public benefit in accordance with M.G.L. c. 91, § 18B and 301 CMR 13.00. Thus, this Single EIR Certificate shall serve as the PBD for this project.

Historic and Archaeological Resources

As noted above, the Proponent has engaged PAL to complete a reconnaissance-level archaeological and historic properties survey. The Proponent previously contracted with PAL in 2017 to develop a Cultural Resources Summary Report for the removal of the Ipswich Mills Dam to assist in the development of the Ipswich Mills Dam Removal Feasibility Study. According to the Single EIR, Ipswich Mills Dam is immediately adjacent to the Ipswich Mills Historic District (MHC #IPS.I), which was listed in the National Register of Historic Places (“the National Register”) and State Registers of Historic Places (“the State Register”) on July 9, 1996. The survey report is expected to be completed in spring of 2024 and will provide recommendations about the potential impacts that the project may have on historic properties, and ways to avoid, minimize, or mitigate any potential adverse effects that may be needed in accordance with federal and state regulations. The final report will be provided to MHC and

⁶ See email from by Daniel Padien (MassDEP WRP) to Nicholas Moreno (MEPA) dated April 25, 2024.

other potential consulting parties which may include Native American Tribes, the Ipswich Historical Commission, and the Massachusetts Board of Underwater Archaeological Resources.

The Single EIR states that NOAA, as the Lead Federal Agency (36 CFR 800.2(a)(2)) acting on behalf of all federal agencies to fulfill their collective responsibilities pursuant to Section 106 of the National Historic Preservation Act of 1966 (Section 106), will be required to identify, notify, and consult with potential consulting parties including Native American Tribes and local historical groups. The Section 106 consultation process is anticipated to result in a Memorandum of Agreement (MOA) between NOAA and the Massachusetts State Historic Preservation Officer (SHPO) that will specify measures to avoid, minimize, and/or mitigate any adverse effects. Potential mitigative measures could include the preparation of written and photographic documentation to form a permanent archival record of the affected properties, installation of interpretive signage, and archaeological monitoring and recordation during construction.⁷

Construction Period

According to the Single EIR, the project is expected to commence in 2026 and is anticipated to be completed in 2027. Construction activities will begin with the removal of the full vertical extent of the dam in vertical and horizontal increments to allow for gradual release of water from the impoundment. Dam removal will begin west of the active fishway near the center of the dam in order to ensure that flow stays concentrated in the middle of the river and does not lead to erosion during the dam removal process. The two edges of the dam will be sawcut to ensure continued stability of riverside retaining walls. Following complete removal of the dam, coarse bed material including rock and large boulders that have accumulated upstream and downstream of the existing dam will be regraded to form a more natural profile and support good fish passage conditions under a variety of flow conditions. In addition, encapsulated soil lifts will be installed in areas immediately adjacent to the dam to protect the riverside retaining walls from potentially increased river velocities in these areas during some flow conditions. Stone support will be installed on the toe of the slopes for the soil lifts in order to further protect them and the upgradient retaining walls against erosion.

All construction and demolition activities should be managed in accordance with applicable MassDEP's regulations regarding Air Pollution Control (310 CMR 7.01, 7.09-7.10), and Solid Waste Facilities (310 CMR 16.00 and 310 CMR 19.00, including the waste ban provision at 310 CMR 19.017). The project should include measures to reduce construction period impacts (e.g., noise, dust, odor, solid waste management) and emissions of air pollutants from equipment, including anti-idling measures in accordance with the Air Quality regulations (310 CMR 7.11). I encourage the Proponent to require that its contractors use construction equipment with engines manufactured to Tier 4 federal emission standards or select project contractors that have installed retrofit emissions control devices or vehicles that use alternative fuels to reduce emissions of volatile organic compounds (VOCs), carbon monoxide (CO) and particulate matter (PM) from diesel-powered equipment. Off-road vehicles are required to use ultra-low sulfur diesel fuel (ULSD). If oil and/or hazardous materials are found during construction, the Proponent should notify MassDEP in accordance with the Massachusetts Contingency Plan (310 CMR 40.00). All construction activities should be undertaken in compliance with the

⁷ See email from Neal Price (Horsely Witten) to Nicholas Moreno (MEPA) dated April 19, 2024.

conditions of all State and local permits. I encourage the Proponent to reuse or recycle construction and demolition (C&D) debris to the maximum extent.

Mitigation and Section 61 Findings

The Single EIR provides final mitigation commitments and draft Section 61 Findings for use by Participating Agencies, which are summarized below. The Section 61 Findings should be provided to Participating Agencies to assist in the permitting process and issuance of final Section 61 Findings.

Wetlands and Fisheries

- Comply with all standard conditions to be included in the Ecological Restoration Order of Conditions that will be issued by the Ipswich Conservation Commission (or MassDEP in the case of an appeal).
- Protect wetland resource areas from secondary impacts during construction through the implementation of erosion and sedimentation controls, incorporating BMPs.
- Utilize turbidity curtains to minimize the amount of sediments that mobilize downstream during construction.
- Install scour protection and reinforce the river retaining walls.
- Maintain continuous flow during construction to allow safe passage of aquatic species, including American eel, alewife, blueback herring, rainbow smelt, white perch, and sea lamprey.
- Adhere to the recommended time-of-year (TOY) restriction on in-water, silt-producing work from March 1 to June 30 and September 1 to November 15 of any given year.
- Implement a comprehensive post-construction monitoring and invasive species management program for at least two years following construction.
- Eliminate a barrier in the river thereby providing fish passage and enhancing recreational navigation.

Sediment Management and Water Quality

- Conduct sediment sampling at 24 upstream and nine downstream locations in accordance with the sampling plan approved by the MassDEP WQC program.
- Develop and implement a Sediment Management Plan (SMP) based on the results of the sediment sampling.
- Implement a post-construction sediment monitoring plan to document and compare sediment accumulation, and channel and bank stability to pre-construction baseline conditions.

Historic and Archaeological Resources

- Complete the Section 106 consultation process and execute a Memorandum of Agreement (MOA) that details measures to be undertaken to avoid, minimize, or mitigate the adverse effects on historic and archaeological resources.
- Other potential mitigative measures may include the preparation of written and photographic documentation to form a permanent archival record of the affected properties, installation of interpretive signage, and archaeological monitoring and recordation during construction.

Climate Change

- Eliminate the existing impoundment which will allow floodwaters to rise and spread out uniformly within the newly created riparian zone.

- Dam removal is designed to ensure that the Ipswich River can convey the current 100-year (1% annual exceedance) flood at this location without creating an impoundment.

Construction Period

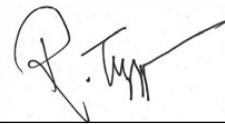
- Locate equipment and materials staging within the municipal parking lot located across S Main Street from the project site.
- Implement mitigation measures to prevent stormwater contamination including among others, use of erosion and sedimentation controls, catch basin inlet protection, and designated construction entrances.
- Limit fugitive dust emissions using industry-best practices, such as watering, sweeping, and wheel-washing.
- Recycling of excavated material to the extent feasible and proper disposal of materials that cannot be recycled.
- Reduce potential air emissions and noise from trucks and construction machinery through the use of emissions control devices, Ultra Low Sulfur Diesel, and minimizing idling.
- Schedule in-water work to occur during low flow stream conditions.

Conclusion

Based on a review of the Single EIR and in consultation with Agencies, I find that the Single EIR adequately and properly complies with MEPA and its implementing regulations. No further MEPA review is required, and the project may proceed to permitting. Participating Agencies should forward copies of the final Section 61 Findings to the MEPA Office for publication in accordance with 301 CMR 11.12.

April 29, 2024

Date



Rebecca L. Tepper

Comments received:

Comments submitted on the MEPA Public Comments Portal

- 4/16/2024 Anonymous
- 4/21/2024 Steven Calder
- 4/22/2024 Mill Pond Preservation Association

Comments submitted by email

- 4/20/2024 Denis Markiewicz
- 4/22/2024 Massachusetts Department of Environmental Protection (MassDEP) Northeast Regional Office (NERO)
- 4/22/2024 Massachusetts Department of Conservation and Recreation (DCR) Office of Dam Safety (ODS)
- 4/22/2024 Massachusetts Division of Marine Fisheries (DMF)

4/23/2024 Massachusetts Department of Environmental Protection (MassDEP) Waterways
Regulation Program (WRP)

RLT/NJM/njm

[Dashboard\(javascript:void\(0\);\)](#) > [View Comment\(javascript:void\(0\);\)](#)

View Comment


Comment Details

EEA #/MEPA ID 16754	First Name --	Address Line 1 --	Organization --
Comments Submit Date 4-16-2024	Last Name --	Address Line 2 --	Affiliation Description Individual
Certificate Action Date 4-22-2024	Phone --	State --	Status Opened
Reviewer Nicholas Moreno (617)699-4254, Nicholas.Moreno@mass.gov	Email --	Zip Code --	

Comment Title or Subject

Topic: Support Dam Removal

Comments



This comment is in support for removing the dam. Not only do dams create ecological damage, they are an enormous liability for small cities and towns with limited resources for maintenance, repairs, and reconstruction.

Attachments

Update Status

Status

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Further Comments on
Ipswich Mills Dam Removal Project

EEA No. 16754

Submitted to:

Massachusetts Environmental Policy Act Office

W. Denis Markiewicz

Ipswich, MA

April 20, 2024

To whom it may concern:

It is my understanding that further public input on EEA 16754 Ipswich Dam Removal Project are allowed following the release of the SEIR in March 2024. My comments are provided below.

I will state that after the MEPA input and the response to public questions, I am still against the removal of the Ipswich Mills Dam and in favor of preserving the dam as an historical monument.

I came into this not knowing the project review process, and still do not know the process. I submitted Public Comments fully expecting that on the basis of all the comments received, the state would conduct an independent review of the project. In the end it was quite surprising to see that the written responses to the public comments came from the project itself. There apparently was/is no independent state review of the project and all the issues that are raised and still unresolved. Excuse the language, but the whole process appears to be a fraud, a scam. The response to the concerns raised did not result in an independent review of the issues. Instead, the response was simply a restatement of the project position developed and promulgated all along. This includes all the misinformation, all the misrepresentations, all the falsehoods that have been stated to promote this project. What a shame. What a terrible statement about our way of conducting our civil affairs.

Sincerely,

W. Denis Markiewicz

Ipswich resident

Comments on the “Ipswich Mills Dam Removal, Single Environmental Impact Report, EEA No 16754,” dated March 14, 2024, prepared by Horsley Witten Group, Inc.

The Single Environmental Impact Report (SEIR) was submitted by Horsley Witten Group for the Town of Ipswich in response to the EENF Certificate dated October 16, 2023. The main issue according to the Scope of the EENF Certificate is to develop and submit a sediment sampling plan in the SEIR. After review of Section 5 Sediment Assessment and Management of the SEIR, I have the following comments:

1. In Subsection 5.1 the second paragraph should highlight Chromium as a contaminant of concern based on its historical use as a coolant in railroad engines. For many years Ipswich was the end of the line for the MBTA Commuter Rail. The MBTA operated a layover facility adjacent to Ipswich River by Hayward Street. At that same location at the river, there is an undocumented storm water discharge point. Therefore, the fueling (diesel fuel) and other maintenance activities should drive the contaminants to be sampled. An additional composite sample should be taken near (a little downstream) the old MBTA layover facility due to the aforementioned factors.

Additionally, a second composite sample should be taken near the Kimball Brook outfall because the brook travels through an industrial park that has at least one documented diesel release and the outfall abuts an old neighborhood dump.

2. Quality control (QC) samples for this sampling event have not been designated. Field QC samples collected for environmental monitoring of potential contamination should include equipment blanks, trip blanks, field blanks and field replicate samples due to the sensitivity of the analyses being performed. A statistically relevant number of replicate samples should be sent to another laboratory to confirm the results of the main laboratory being used.
3. In Section 5.2.1 Sampling Parameters, the Sediment Sampling Plan fails to include sampling for perfluoroalkyl and polyfluoroalkyl substances (PFAS). PFAS have been widely used since the 1940s. PFAS are stable in water and sediment and have a strong bond that resists degradation. PFAS have been nicknamed “forever chemicals.” PFAS have been shown to cause a litany of ailments including kidney and prostate cancer, fertility loss, and development disorders. This month (April 2024) EPA announced enforceable limits on PFAS in drinking water as a Maximum Contaminate Level. Although there are more than 12,000 PFAS chemicals, EPA sets limits on six indicator chemicals including PFOA, PFOS, PFNA, PFHxS, PFBS, and HFPO-DA. EPA has also developed sampling methods for other media. See <https://www.epa.gov/water-research/pfas-analytical-methods-development-and-sampling-research> and <https://www.epa.gov/water-research/pfas-methods-and-guidance-sampling-and-analyzing-water-and-other-environmental-media>. The sediment sampling plan should include sampling for PFAS.

Because of the historic industrial activities cited in Section 5.1 of the SEIR, PFAS may be present in the sediment. It should be important to assure that sediments being mobilized by the dam removal do not contain levels of PFAS that are harmful to the clam beds and downstream ecology. More importantly the human exposure from mobilized PFAS sediments need to be avoided including ingestion of clams and fish.

The EENF Certificate requires the proponent to describe how the project complies with the Public Benefit Determination (PBD) set out in 301 CMR 13.00. The proponent states that the project will restore the natural extent of freshwater tidal marsh. However, the dam is located near the crest of high tide and no tidal marsh will develop along the cement walls of the downtown buildings and parking lots that abut the river near the tidal zone. Additionally, the dropping of the river level will shrink the width of the river and destroy the current wetland that have developed over the past 400 years since the dam was built. During high tide the salt water will migrate only a few 100 feet at the most. The rest of the effected area, 1.2 miles will be a narrow flow with sections with little to no water during drought conditions.

The following public benefits are cited and should be reanalyzed and amended:

1. Purpose and effect of the development.

Proponent – States the Project is to restore the river to its natural state.

Opponents – After 400 years the natural state of this section of the river has developed extensive wetlands and a very diverse ecology. Proponents Feasibility Study (March 2019) points out the abundant wildlife in the Mill Pond (upstream impoundment from the dam to the Railroad Bridge) includes mammals (e.g. beaver, muskrat, river otter), birds (e.g. blue heron, wood duck, mallard duck, kingfisher, Canada goose, bald eagles), and reptiles (e.g. painted turtle, musk turtle, snapping turtle. Additionally, rare animal species such as the bridle shiner, piping plover, least tern, least bittern, golden-winged warbler, pied-billed grebe, Cooper’s hawk, northern harrier, salamanders (spotted, blue-spotted, marbled and four-toed), eastern pond mussel, box turtles (spotted, blandings and eastern), and a number of invertebrates.

2. Impact on abutters and surrounding community

Proponent – Upstream flood risk is expected to be reduced.

Opponents- The acres of wetland that will be destroyed by this project will limit water absorption potential by any wetlands. EPA states that “more wetlands mean less flooding.” (EPA843-F-06-001, May 2006). Future wetlands will be unlikely to develop. Just look further upstream beyond the railroad bridge and elsewhere upstream where a shallow river exists there are almost no wetlands along the sides. Fast currents along a steeper narrower river are not conducive to wetlands developing.

3. Enhancement to the property

Proponent – the enhancement of ecological services, flood plain restoration and the return of herring (fish).

Opponents – No one knows how the ecology will react to a lowering of the river level including the possible loss of river otters and other species. Additionally, without restoring the natural flow of the river by stopping water withdrawals by the Beverly and Salem water supply and others, we will never see the return a natural Ipswich River. No one knows if herring will return, especially since the species has not run for 400 years. Herring spawn in ponds but access from the ponds don’t exist during drought conditions making the return to the ocean very unlikely.

4. Benefits to public trust rights in tidelands or other associated rights

Proponents - Water quality will be improved and natural sediment transport will improve the downstream saltmarsh and shellfish beds.

Opponents - Flourishing saltmarsh and shellfish beds have been here in Ipswich for the past 400 years with the existence of the dam. There is no proof they will improve with the dam removal.

5. Community Activities on the development site

Proponents – Community signage and community activities will be enhanced. Canoeing and kayaking will be able to transport from tidal to fresh waters.

Opponents- Signage? Very natural. Activities already exist by the dam’s river walk bridge. As far as canoeing and kayaking, with the lowering of the river by dam removal especially from mid-July to the end of September, canoers and kayakers can expect to have to drag their water vehicles over rocks and shallow water similarly to what occurs above the Railroad bridge.

6. Environmental Protection and preservation

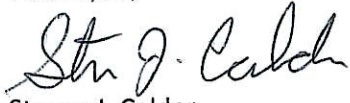
Proponents - See their mitigation findings.

Opponents – The current wetlands will become uplands with time due to the lack of water from the river from the dam removal project. Future generations will be looking to develop on these created uplands. This is not environmental protection nor preservation.

7. Public health and safety, and general welfare

Opponents – The dam, as it has existed for 400 years, is a historical fixture which generations of people having enjoyed for fishing, canoeing all summer long, skating some winters, and general beauty of the wetlands and natural species in abundance.

Thank you,

A handwritten signature in black ink that reads "Steven J. Calder". The signature is written in a cursive, flowing style.

Steven J. Calder,

Environmental Engineer and Attorney

15 Second Street

Ipswich, MA 01938

April 21, 2023



April 22, 2024

Secretary Rebecca L. Tepper
Executive Office of Energy and Environmental Affairs
MEPA Office, Attn: Nicholas Moreno
100 Cambridge Street, Suite 900
Boston, Massachusetts 02114

Re: EEA #16754 Ipswich Mills Dam Removal (Ipswich) SEIR

Dear Secretary Tepper:

The Department of Conservation and Recreation (“DCR”) Office of Dam Safety (“ODS”) has reviewed the Single Environmental Impact Report (“SEIR”) for the Ipswich Mills Dam Removal Project (the “Project”) located in Ipswich, submitted by the Horsley Witten Group, Inc. on behalf of the Town of Ipswich (the “Proponent” and “Dam Owner”).

From information presented in the SEIR, ODS understands the Project’s scope of work includes removal of the full vertical extent of the dam for most of the dam’s length. At each end of the dam, a short segment of the existing dam will be retained to maintain stability of the existing riverside retaining walls. To safeguard against erosion due to the potential for increased flow velocities under certain conditions, the riverside retaining walls in the vicinity of the dam will also be buttressed by encapsulated soil lifts supported by rip rap.

Ipswich Mills Dam, which is subject to ODS jurisdiction, is classified as a Low Hazard Potential¹ Dam in Fair condition. A dam is deemed to be of Low Hazard Potential where dam failure may cause minimal property damage to others. Loss of life is not expected. A Fair condition rating is assigned when significant operational and maintenance deficiencies exist, or potential deficiencies exist under unusual loading conditions that may realistically occur.

Based on review of currently available information, implementation of the Project will likely result in improvement over existing site conditions. This Project appears to be in the interest of public safety, and successful completion will ensure compliance with dam safety regulations.

This dam removal project will require a Chapter 253 dam safety permit. The permit application must be submitted to ODS for review. ODS staff will communicate with the Proponent’s design engineer as part of the permit process to ensure all required documentation is provided. After receipt of all required technical information demonstrating compliance with ODS regulations, a Chapter 253 Dam Safety Permit

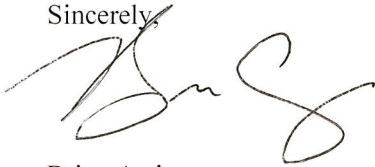
1. The two most recent Phase I Inspection reports (inspection dates: September 4, 2020 and October 20, 2009) incorrectly indicate Ipswich Mills Dam is categorized as a Significant Hazard Potential Dam.



will be prepared and issued by ODS. ODS is available to provide additional guidance through the permitting process.

DCR appreciates the opportunity to comment on this project. Please contact David Ouellette at (617)549-3553 or david.ouellette@mass.gov with any questions or to request additional information or coordination with ODS.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brian Arrigo', written in a cursive style.

Brian Arrigo
Commissioner

cc: Priscilla Geigis, Patrice Kish, Peter Mulcahy, Robert Lowell, Dam Safety File



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

April 22, 2024

Rebecca L. Tepper, Secretary
Executive Office of
Energy & Environmental Affairs
100 Cambridge Street
Boston MA, 02114

RE: Ipswich
Ipswich Mills Dam Removal Project
EEA # 16754

Attn: MEPA Unit

Dear Secretary Tepper:

The Massachusetts Department of Environmental Protection Northeast Regional Office (MassDEP-NERO) has reviewed the Single Environmental Impact Report (SEIR) for the proposed Ipswich Mills Dam Removal Project in Ipswich. MassDEP provides the following comments.

Wetlands

The proposed project includes the proposed removal of the Ipswich Mills Dam, a head-of-tide dam constructed circa 1908 on the Ipswich River in downtown Ipswich. The current dam, which was constructed in the same general location of dams dating back to 1637, is located approximately 3.7 miles above the mouth of the Ipswich River. MassDEP NERO previously reviewed and commented on the Expanded Environmental Notification Form (EENF) published in the August 23, 2023 Environmental Monitor. Construction elements include dam removal, bank stabilization, and channel regrading, as well as post removal monitoring.

Wetland impacts noted in the SEIR remain consistent with the EENF. As noted in comments on the EENF, this project qualifies for review under an Ecological Restoration Notice of Intent as both a dam removal project and a project to improve fish passage, per 310 CMR 10.13.

This information is available in alternate format. Please contact Melixza Esenyie at 617-626-1282.
TTY# MassRelay Service 1-800-439-2370
MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

Temporary Impacts to Resource Areas include approximately 35,870 sf for Land Under Water Bodies and Waterways (LUWW); 490 lf of Inland Bank; 35,870 sf of a Fish Run; 11,730 sf of Bordering Land Subject to Flooding (BLSF); and 4,100 sf of Riverfront Area.

Permanent Impacts to Resource Areas include approximately 184,800 sf of BVW; conversion of BVW to LUWW; 700 lf of Bank; 352,100 sf of BLSF and 54,500 sf of Riverfront Area.

MassDEP comments on the EENF noted that, contrary to the EENF narrative, Outstanding Resource Waters are present downstream of the dam, in the form of a designated Shellfish Growing Area. The SEIR response to public comments states, “The proponent amends its initial assessment to concur with MassDEP NERO.”

In addition, MassDEP comments on the EENF encouraged the proponent to consider planting native trees and shrubs, in lieu of relying solely on passive restoration of the newly created BVW. MassDEP maintains this recommendation in response to the SEIR, as it will more quickly lead to full restoration of former LUWW into a BVW.

The MassDEP appreciates the opportunity to comment on this proposed project. Please contact Kristin.Divris@mass.gov at (508) 887-0021 for further information on these issues. If you have any general questions regarding these comments, please contact me at John.D.Viola@mass.gov or at (857) 276-3161.

Sincerely,

This final document copy is being provided to you electronically by the Department of Environmental Protection. A signed copy of this document is on file at the DEP office listed on the letterhead.

John D. Viola
Deputy Regional Director

cc: Brona Simon, Massachusetts Historical Commission,
Eric Worrall, Kristin Divris, Jill Provencal, Alicia Geilen, MassDEP-NERO



The Commonwealth of Massachusetts Division of Marine Fisheries

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



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Governor

KIMBERLEY DRISCOLL
Lt. Governor

REBECCA L. TEPPER
Secretary

THOMAS K. O'SHEA
Commissioner

DANIEL J. MCKIERNAN
Director

April 22, 2024

Rebecca L. Tepper, Secretary
Massachusetts Executive Office of Energy and Environmental Affairs
ATTN: MEPA Office, Nicholas Moreno, MEPA Analyst
100 Cambridge Street, Suite 900
Boston, MA 02114
Via email: Nicholas.Moreno@mass.gov

Re: EEA No. 16754 - Ipswich Mills Dam Removal, Ipswich MA

Dear Secretary Tepper:

Thank you for the opportunity to comment on the Single Environmental Impact Report (SEIR) submitted by the Town of Ipswich for the Ipswich Mills Dam Removal project. The Massachusetts Division of Marine Fisheries (DMF) continues to support the removal of the Ipswich Mills Dam because it will substantially enhance the access and habitat for diadromous fish.

Below the Mills Dam, the Ipswich River currently provides essential habitat for diadromous fish species including American eel (*Anguilla rostrata*), alewife (*Alosa pseudoharengus*), blueback herring (*Alosa aestivalis*), rainbow smelt (*Osmerus mordax*), white perch (*Morone americana*), and sea lamprey (*Petromyzon marinus*). The current Denil ladder at the Mills Dam provides passage for alewife, blueback herring, and sea lamprey but excludes passage of other diadromous species. Rainbow smelt spawning habitat is located immediately downstream of the dam to the cove below the County Street bridge. The Ipswich River also contains productive habitat for soft shell clam (*Mya arenaria*). The nearest soft shell clam habitat is mapped by DMF approximately one mile downstream of the Mills Dam in shellfish growing area N5.7, classified as Prohibited. The nearest harvestable soft shell clam flats (Gould Creek Clam Flats) are located approximately one and a half miles downstream of the Mills Dam in shellfish growing area N5.0, classified as Conditionally Approved.

As an agency with management jurisdiction over many diadromous species, we have provided technical assistance on many projects in the region that have sought to enhance and restore habitat and passage for migratory fish. The proposed dam removal will improve diadromous fish connectivity in the Ipswich River by removing the head of tide dam on the river, thereby opening up the lower section of the river to all diadromous fish. Further, removal of the Ipswich Mills Dam is a key component of cooperative efforts to improve diadromous fish habitat and passage throughout the watershed, including a nature like bypass at the next dam upriver and a

new fishway on Howlett Brook, a tributary of the Ipswich River with large amounts of suitable habitat for river herring and American eel.

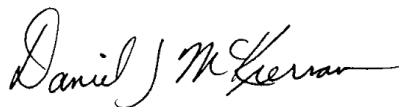
DMF is satisfied that the information provided in the SEIR is sufficient to assess potential impacts to marine fisheries resources at and adjacent to the project site.

To protect migrating and spawning diadromous fish present in the Ipswich River from temporary impacts from the project as proposed, DMF would likely recommend a time-of-year (TOY) restriction on in-water, silt-producing work from March 1 to June 30 and September 1 to November 15 of any given year [1]. DMF concurs with the proponent's plan to adhere to recommended TOYs as indicated in the SEIR.

The SEIR has satisfactorily addressed DMF's concerns regarding the impacts of projected sediment mobilization and hydrodynamic changes in association with the Mills Dam removal on downstream shellfish resources. Specifically, the rate of downstream sediment settlement associated with the Mills Dam removal as projected by the hydrologic and hydraulic modeling are not sufficient to smother or bury shellfish resources. DMF also concurs with the proposed pre- and post-construction sediment monitoring plan and sediment management alternatives as described in Section 5. Finally, DMF will continue to monitor turbidity, fecal coliform, and contaminants within tidelands and shellfish resources downstream of the dam pre- and post-construction as part of ongoing monitoring programs. In sum, the project incorporates a robust strategy to avoid and minimize potential impacts to downstream shellfish resources.

DMF has been involved for multiple years to help develop a better understanding of what the Ipswich Mills Dam Removal would provide for the Ipswich River and the diadromous fish under our jurisdiction. Addressing this barrier will help sustain and rebuild fish stocks and enhance the status of saltwater recreational fisheries in northern coastal Massachusetts. Thank you for considering our comments. Questions may be directed to Forest Schenck at forest.schenck@mass.gov.

Sincerely,



Daniel J. McKiernan
Director

DM/bg/fs/bc/wc/mc/sd

Cc.

N. Price, Horsley Witten Group, Inc
N. Shea, Ipswich River Watershed Association
P. Maniccia, USACE
P. Bordonaro, MA CZM

K. Shaw, NOAA Fisheries
B. Gahagan, DMF
B. Chase, DMF
W. Castonguay, DMF
M. Campbell, DMF

References:

[1] Evans, NT, KH Ford, BC Chase and JJ Sheppard (2011). Recommended Time of Year Restrictions (TOYs) for Coastal Alteration Projects to Protect Marine Fisheries Resources in Massachusetts. Technical Report DMF TR-47.

EEA No. 16754 – Ipswich Mills Dam Removal Project

COMMENTS OF MILL POND PRESERVATION ASSOCIATION¹

The Mill Pond Preservation Association (“MPPA”) hereby submits comments on behalf of its members and other residents and river recreationalists that would be adversely affected by the removal of the Ipswich Mills Dam (hereinafter referred to as the “Dam”). These Comments address both the Single Environmental Impact Report (“SEIR”), filed by the Project Proponent with MEPA on March 14, 2024, as well as the Certificate of the Secretary of the Executive Office of Environmental Affairs (“EOEA”), dated October 16, 2023.

As shown below, MPPA has raised numerous serious concerns with the Proponent’s Expanded Environmental Notification Form filed August 14, 2023, the related SEIR and the proposed Project. itself These concerns, and those of several other commenters, were almost entirely ignored in the Certificate and the decision that allowed a limited SEIR scope. To fully perform its administrative duty EOEA and MEPA must address those concerns individually and provide a reasoned decision if they reject the arguments regarding the inadequacy of the Project filings.

Additionally, the portion of the SEIR purporting to address individual comments to the Expanded Environmental Notification Form (“EENF”) filed with MEPA on August 14, 2023, as discussed at length below, is flawed and incomplete. In addition to failing to address critical issues, the SEIR’s responsive comments in numerous places are internally inconsistent. For just one example, the EENF and SEIR state that there is no downstream flooding impact, but their comments agree with comments that state such impacts do exist.

Significantly, at its core, the Dam Removal proposal proclaims benefits, the achievement of which is uncertain. Further, in several cases, the asserted benefits are unquantified or insignificant. At the same time, the proposal has totally failed to consider the absolutely certain and significant detrimental effects of dam removal. Stakeholders whose interests are represented by MPPA have at least until the fall of 2023² been afforded only the most cursory opportunity to be heard, so it is not surprising that there has been no consideration of the detrimental impacts of removal of the Dam, including elimination of the Mill Pond and associated wetlands. MPPA files these comments

¹ Mill Pond Preservation Association is an unincorporated group of environmentalists, fishermen, outdoor enthusiasts, paddlers, residents (new and multi-generational) of the area that would be adversely impacted by dam removal, citizens concerned with Ipswich history and river abutters whose water access, viewshed and property values will be adversely affected should the Town prevail in its proposal to remove the historic Ipswich Mills Dam. At the time of submission of these comments, the individual members are: Cheryl and Benjie Gorniewicz, Julie Martineau, Denis Markiewicz, Chris Cerino, Carl Gardner, Cynthia Brown, Kristen and Grahame Ledson, Diane Kelly and Steve Calder, Leigh and Bill Stewart, Cory and Cody Hulbert and Eric, Michael, Greg, and Mary Krathwohl.

² On September 19, 2023, the Select Board held a Special Meeting at which for this author’s best knowledge was the first time stakeholders other than the project proponents were allowed to present their views to the Select Board regarding the proposal to remove the Dam without time constraints. Virtually all other “public engagement sessions” have been project proponents describing the proposed project and the benefits that they hope will result.

to seek consideration of such detrimental impacts and to protect the interests of its members and indeed, of the existing healthy and thriving environment which is the Mill Pond upstream of the Dam.

1. No Waiver of Environmental Impact Report Filings Should Be Granted

In filing its EENF, the Town of Ipswich (the “Town”) also states that it will seek an Ecological Restoration Order of Conditions (“EROC”) under the Massachusetts Wetlands Protection Act and that in case of denial of such status and the accompanying exemption from MEPA permitting, it requests a waiver of the Mandatory Environmental Impact Report (“EIR”) filing. For reasons briefly noted below (and to be expanded upon once the request for the EROC is filed), the EROC should be denied. And MEPA should refuse to waive the EIR requirements that may better show the shortcomings of the Town’s proposal to remove the Dam and which will better allow for consideration of the concerns of MPPA members. To the extent that the October 16, 2023 Certificate ruled on these issues, its failure to consider the various issues raised previously by MPPA and other commenters must be remedied.

The Town acknowledges that the existing regulatory scheme in Massachusetts would require filing of a full EIR. (EENF page 2). The point of an EIR, of course, is to provide the Commonwealth a better basis upon which to assess whether a project will be beneficial or detrimental to the environment and interested stakeholders. The Town is wrong in its assertion that no benefits would result from going through a full EIR process and that it would be an undue hardship on the Town.

To the extent that the EIR process may allow for consideration of points of view other than those of advocates for removal of the Dam, that is a good thing, albeit one that until very recently has not occurred.³

As a final reason for waiver of the EIR requirement, the project proponents state that the project “has nearly a decade-long history of commitment to public outreach and feedback solicitation”. MPPA strongly disagrees. MPPA members, including the citizens who would be most adversely affected by dam removal, feel that they have been “in the dark” about what was happening with the dam removal proposal for the better part of the last 10 years. Though presentations have been made as stated in the EENF, there has been only the most minimal solicitation of feedback from citizens (i.e. 3 minute statements at a couple public meetings and a short answer survey). Thus, the EENF’s assertion of a commitment to solicitation of feedback (much less inclusion in consideration and exploration of relevant issues as was done in Exeter NH), at least from the residential river front abutters, is a huge exaggeration, and seriously misleading. Accordingly, to

³ See footnote 2 above. The point is that members of MPPA almost 2 years ago requested the Town Select Board to initiate a broad project review involving stakeholders like the town of Exeter NH did. MPPA members more recently have specifically requested the Select Board to allow for a presentation by such members. No specific response by the Town was made for many months until the lightly publicized September 19 meeting, despite the Town having met several times with representatives of the Dam removal advocates. As was recognized by the Town Finance Committee in late 2022, no sound decision should be made only on the assertions of advocates on behalf of a proposed action.

the extent that MEPA considers solicitation of feedback as a basis for waiver of the EIR requirement, the waiver must be denied.

The Town makes its entire proposal, virtually assuming environmental benefits, without showing the likelihood of achieving those benefits, while at the same time ignoring or denying any costs and detriments to the environment, and ignoring negative effects on residents and the general public, resulting from removal of the dam. Additionally, most of the non-environmental benefits asserted by the Town are marginal at best and in many ways significantly exaggerated. In any event the non-environmental “benefits” (to the extent there really are any benefits) are far outweighed by the very certain detriments of dam demolition. **Indeed, the dam demolition advocates have totally ignored the detriments that will result from any dam removal. As discussed in greater detail below, these detriments include the following: destruction of wetlands, significant adverse alteration of a 300 year old thriving ecosystem, elimination of the Mill Pond which is the preferred habitat for an endangered species of turtle [see below] that the removal advocates evidently missed, significant adverse effects on river abutters’ viewsheds and property values, significant reduction in recreational opportunities [e.g. probably 80% reduction in swimming and paddling opportunities and 100% elimination of upstream frozen river recreation such as skating and cross country skiing] and elimination of a very significant historical icon for the Town. At the very least, there must be an impartial decision by a well-informed administrative, judicial, or other public body that truly considers the likelihood of achieving the sought-after benefits and weighs the certain detriments against the (probability weighted) benefits.**

Also, the EENF suggests that the modest reduction in impoundment should not be the basis for requiring an EIR. However, these Comments and many others show that the reduction in the impoundment will eliminate the Mill Pond and will greatly affect nearby wetlands and river abutters. Thus, the reduction in impoundment is a very significant action with very significant impacts on many.

If purported environmental benefits are to be the basis for a waiver of the more robust EIR process, the Town must make a more complete and compelling showing of environmental benefits. Instead, its showing is conclusory at best and entirely general and non-site specific. With respect to some of its asserted benefits, the Town’s own presentation (both in the EENF and in other public statements) undercuts such assertions. For example, in the EENF Narrative, the Town asserts that removal of the Dam would result in an improvement in water quality. Yet, in the Climate Resilience Design Standards Tool Project Report (p.10 -- page 59 of the online pdf version of the filing) portion of the EENF, the Town vascillates, stating only that the project would “MAYBE” improve water quality. Nowhere does it specify any current problem with water quality or any specific improvement in any measurable metric.⁴

⁴ The September 28, 2023 Supplement to the EENF attempts to provide something more than vague generalizations about improved water quality by providing more verbiage without hard numbers. That filing asserts a benefit of reducing eutrophication without any showing of any existing eutrophication. Indeed, the EENF includes some data on dissolved oxygen measurements which show very little problem with the dam in place. Indeed, it would only be an issue when there was no flow over the dam or through a fishway and in that case of low water levels, without

Similarly, the Town makes much of the benefits to diadromous fish populations generally throughout the EENF and especially notably in the more recent publicity statements seeking to garner public support for the removal of the Dam. Yet the experts, whose reports are included in the EENF appendices, in prior public presentations, admitted that they “could not guarantee that the fish would return if the Dam was removed.” And that would be with extensive and repeated restockings of the river. That uncertainty is expectable because the breeding grounds of such fish have been destroyed and there is nothing showing how new breeding grounds are likely to be successful. Further, such restocking is not free. Even now, in the advocates’ full court press to gain public approval, the informational website – www.ipswichmills.com – referenced on the Town website, only states that fish typically return in other cases, without seeking to show that the situation for Ipswich is truly comparable to other locations whose success the advocates tout. Indeed, MPPA members understand that at least in a couple of the successful returns of such fish (Exeter NH and Plymouth MA) there were both huge numbers of fish seeking to get past the dam that was ultimately removed and there were established breeding grounds. But here there is no showing about the numbers of fish waiting at the foot of the dam in Ipswich compared to those other locations which supposedly provide support for the Town’s assertion. In fact, in the case of the dam removal project frequently cited by the Town and other dam removal advocates, Exeter New Hampshire, there is ample public record evidence that in Exeter, there were thousands upon thousands of fish waiting at the dam, unable to go upstream. In Ipswich, there are but a few.⁵ Perhaps the destruction of other upstream breeding grounds in the Ipswich River has forever discouraged the fish from returning. Perhaps the striped bass so plentiful in the waters at the mouth of the Ipswich River, as a fierce predator of the herring, have forever changed the patterns of the migratory fish. Whatever the cause, without some quantification of the numbers of fish that would return, or at least a scientifically shown high probability of their return, it is irresponsible to trade certain detrimental effects of dam removal (discussed below) for an aspirational goal that is uncertain to be achieved.

To the extent that that flood reduction is an environmental benefit, the assertion of dam removal reducing flood impacts is at the least greatly overstated. The Town specifically states that there is NO flood reduction benefit downstream of the dam because the dam is a run of the river dam. It states that removal of the dam will create a new (and MPPA asserts artificial and unnatural) flood plain that will absorb some flood waters. While that is true, it is just the area that is now underwater which is entirely within existing river banks. Further, once the river level increases up to that non-flooding level, the impact of increased river volumes will be the same as it is now. Water levels to that extent pose no flood risk. In fact, because of the long existence of the Mill Pond, most development is behind the reach of even significant floods. EENF Attachment C2 (online copy p 41) which shows no structures within the flooding area. So yes, in lower level flooding

the dam there would be minimal water in the current Mill Pond area which in the view of MPPA is a far worse situation. See Second Comments of Chris Cerino filed 10/08/2023.

⁵ It seems ironic to MPPA that removal advocates cite the small number of fish at the Ipswich dam in support of the request for removal. Indeed, such small numbers of fish at the foot of the dam now suggests that successful return of such fish after removal of the dam is not very likely at all. At the least, there are significant questions (who pays for restockings, how much restocking and how long must such restocking occur) that must be answered before destroying the dam proceeds.

circumstances, the flood waters will first fill the areas emptied by dam removal, but at any significant flood levels, the flood plain created by dam removal will have been filled and the benefits will be immaterial. Note that at the current levels, well short of flood conditions, the water goes over the dam. In a future flood, the water will be going over the dam as well – just in greater volumes⁶.

The other benefits asserted by the Town (liability, cost and recreational) are not environmental benefits and are insignificant or non-existent, as discussed further below. Indeed, some of those effects are actually detriments and are addressed below, as we understand that the determination of need for an EIR will not rest on such considerations.

On the other hand, the environmental detriments are at the least significant enough to merit a more complete review. As described at length in the Comments filed by Denis Markiewicz, there are admitted significant impacts on, if not reductions in the amounts of, the magnificent wetlands in, around and above the Mill Pond just upstream of the dam. Indeed, the EENF itself states that 184,800 square feet of wetlands will be altered. EENF p. 2. This appears to be currently land under water, but even more significant is the magnificent wetlands that are described in the Comments of Denis Markiewicz. Those wetlands begin about .3 mile upstream of the dam and continue at least to the railroad bridge. The EENF does not seem to address those wetlands and the impact on those wetlands, but as Mr. Markiewicz notes, the earlier studies state that such wetlands will be subject to lower water levels and thereby converted to some other form of habitat. What could be lost from the reduced water levels is not addressed in the EENF. It would be irresponsible to assume that that impact on those wetlands is not negative and is not significant. The Secretary should therefore require an EIR. 301 CMR 11.03 (2) (B) 1. d.

Further, these comments below show that there are endangered species that thrive in the Mill Pond environment. The project proponents state that no endangered species will be affected. Section 2.C. below shows that is not the case. For that reason alone, an EIR should be required. 301 CMR 11.03 (2) (B). Further, given the vociferous opposition by most⁷ town residents that live on or near the river, the conversion of submerged areas in their back yard into tidal mudflats is a significant environmental detriment. Further, the clear negative impact on the access of riverfront abutters to the natural resource that is the river, is by definition an “environmental burden” under the MEPA regulations. 301 CMR 11.02. Again, this is another reason for at least full consideration of all impacts through filing of an EIR and balancing of benefits and detriments.

Perhaps through the EIR process, all interested parties, regardless of their predisposition would be able to see if the likelihood and significance of benefits resulting from removal of the Dam, would truly outweigh the detriments of removal of the Dam. As to the asserted undue hardship on the Town, it is far from clear that any Town funds would have to be expended. Indeed,

⁶ The Town cannot have it both ways: if it is truly a “modest reduction in impoundment” as the Town asserts in support of its waiver request, then it stretches credulity to assert that dam removal will have significant flood reduction benefits.

⁷ Some riverfront residents have expressed their support, but to MPPA’s best knowledge, those removal advocates were downstream of the dam or so far upstream as to suffer no material impact from dam removal and the significant reductions of water levels.

there have been very significant grants that are funding the permitting process and in fact are supporting the extensive efforts to convince the residents of Ipswich that removal of the Dam is a good thing. To the extent that the EIR process requires a bit more time – that is entirely appropriate given that such a significant and permanent decision should be made upon a full consideration of all factors and impacts and not merely on the assertions of dam removal advocates. To be clear -- there will be no restoration of the Mill Pond after the fact, should the asserted benefits of the removal of the Dam prove to be less than promised, or heaven forbid insignificant or non-existent.

For all these reasons the Town's request for a waiver of the EIR filing requirement is without merit and must be rejected. An EIR would help address some of these issues that have to date been addressed only in a conclusory manner or in an end result driven fashion. In the absence of a judicial approach where assumptions and assertions can be tested by discovery and cross examination and potential rebuttal by experts not under the direction and supervision of dam removal advocates, the best approach would be to establish some neutral third party to conduct and administer future studies and reports.

2. The SEIR, like the EENF is Incomplete, Insufficient and in some cases Incorrect

A. General Project Description --Mitigation Measures

The SEIR's assertion that the project is positive and beneficial is sadly lacking in specifics and ignores many detriments that would result from dam removal. Therefore, MPPA seeks here to detail the detriments of dam removal and point out questions that the SEIR has not addressed sufficiently.

As to mitigation measures, because of the serious impact on river abutters, mitigation measures must be added to any approvable project. Specifically, river abutters now have unconstrained, convenient access to the water at all times of the day from their own dry land property. The Town admits that this will change. The river level will be reduced by about 5.6 feet – at mean high water (EENF Attachment C 4⁸). Note that this water level reduction is an estimate by dam removal advocates that has not been tested by a neutral party. MPPA members have observed that the distance between the top of the dam and the base, at least sometimes, exceeds 5.6 feet, so MPPA questions that assertion. Indeed, the form states that the height of the dam is 8.8 feet. EENF p. 2 (web page 9). Whether the river level of the Mill Pond is reduced 5.6 feet or more, river abutters will have to cross muddy, mucky wetlands for varying distances, depending on the steepness of the river bank above and below current water levels. In many cases, there are sharp rocks that will impede such access and in some cases there are dumped items that will now be visible and potentially impeding access and which must be removed by the Town at the cost of the Town, as part of the Project. Also, because the Project would impede river abutters' access, there must be some mitigation measures employed. Should the dam be removed, MPPA at this point suggests granite steps and walking path to the low water point for every river abutter that requests such. Simply put, it is unfair and possibly illegal to place the costs/detriment of dam demolition –i.e. the resultant reduction in water level and creation of mudflats in river abutters' backyards – only on the few people so impacted. Any proposal must specify the cost of mitigation and what the source of funds would be for such mitigation.

Also, contrary to assertions by the Town, the distancing of the river from river abutters' living space and the creation of new mudflats (euphemistically labelled "tidal wetlands"), where previously there was open water and the concomitant adverse affect on river abutters' viewsheds, water access etc. all has a negative impact on property values. Should the Town make reasonable offers to mitigate such impacts (though the adverse impact on viewshed would remain) through a fair re-valuation process, it may avoid significant expense of numerous tax abatement requests and potential appeals. Interestingly, the dam advocates previously asserted on the website to which the Town directs people seeking information on dam removal (the "FAQ Website") that dam removal has even improved property values. Yes, one out of a couple dozen studies cited did make that conclusion, but it was for the wholly dissimilar situation of the Kennebec River, where the

⁸ These Comments refer back to the EENF because of the failure of the Certificate and the SEIR to address the referenced concerns.

properties closer to that river had lower valuations for reasons not explored by the study⁹. Not only is that the opposite situation from what is the case in Ipswich where the riverfront properties uniformly have higher valuations than non-riverfront properties, but in the case of the Kennebec the reasons for such a change in valuations, had it been investigated, might well have been a reduced risk (or perceived reduced risk) of flooding **damage** – a situation that evidence shows is not the case in Ipswich. Here there is no increased risk of flooding damage upstream or downstream due to dam preservation. See, EENF Attachment C2 which shows no structures within the flooding area. Many of the other studies cited on the FAQ Website concerning the impact of lowering water levels of waterfront properties, concluded on a rigorous basis that there was a negative impact on property values ranging from small, but material, to very significant.¹⁰ Those impacts, which might well be uncovered in tax abatement litigation, should be quantified and weighed before any decision to demolish the dam proceeds. Indeed, these Commenters understand that the Town of Howland Maine decided against removal of the dam in that Town out of concerns about the loss of real estate tax revenues due to necessarily reduced property values resulting from distancing of shoreline due to dam removal.

Not only is the likelihood of reduced property values a problem for the Town coffers in terms of tax revenues and tax abatement litigation costs, it is a potentially very significant and inequitable problem for individual riverfront property owners. To MPPA's best knowledge, there has not been a single property owner abutting the Mill Pond that has spoken in support of dam removal. And of course, there have been many speaking against dam removal. That in itself is compelling evidence that people do not want to live (and therefore pay current market prices) along side of mudflats. The resulting property value implications on an individual basis could be extremely serious. For example, a recent purchaser of riverfront property on the Mill Pond (River Court, Peatfield and 1st through 6th Streets) might have important reasons to move (besides not wanting to live with their diminished access and viewsheds) or to refinance. Diminished property values could seriously hinder such a citizen's ability to refinance to access funds for important medical or family reasons or to move for such reasons.

B. General Project Description –Alternatives

The Town has not conducted any meaningful studies of alternatives to the proposed demolition and removal of the historic dam. In the EENF, the Town simply references an unsupported assertion made by the dam removal advocate in a 10 year old study. That assertion was that the fish ladder here and indeed any fish ladder any time and any where does not work. That is of course untrue as there are many very effective fish ladders both in Massachusetts and in other parts of the country. Indeed, at the September 19, 2023 Special Meeting of the Select Board citizens described some very successful fish ladders in western Massachusetts (e.g. Mr. Purington's citation of the herring festival) and a recent letter to the editor of the Ipswich Local News contains

⁹ Likely the reason was that the Kennebec in that area had industrial or sewer pollution that made riverfront property less desirable.

¹⁰ Unfortunately, it is such an approach to presentation of information on potential dam removal that has MPPA very concerned. Other citizens may not have the interest or inclination to look behind the assertions of benefits to see that at least in some cases, the reality "behind the curtain" is not at all what it appears to be in the statements of environmental and other benefits.

several citations to reports of successful fish ladders on the Mystic River, and at the Damariscotta and Bristol Mills. Also, in Washington state and elsewhere fish ladders/fishways allow for both electricity production and a thriving salmon industry. The EENF gave no consideration to more recent developments in fishways or to other alternatives such as sloped/ridged cascades that would allow for fish migration and retention of some water in the current Mill Pond in case of low water when there is no fish migration. The conclusory assertion from 10 year old study that such an approach would be too expensive is a wholly insufficient basis to suggest that there is no compromise possible where the dam can remain, and fish proponents can also try their luck at reintroduction of the herring and shad.¹¹

The Town's September 28, 2023 supplemental filing (the "Supplement") attempts to address such deficiencies, but again is conclusory and inadequate. That supplement seemingly mixes 10 year old conclusions with current advocacy positions, so it is difficult (especially with the abbreviated time for review and analysis) to ascertain what consideration has been made currently. Nevertheless, MPPA notes that the supplement states that the alternative of partial dam removal with a natural fishway achieves most of the Town's goals, but to a lesser degree than full dam removal. The supplement ultimately discards that alternative with the statement that project opponents would probably oppose such an alternative anyway. Perhaps if the project proponents actually sat down and worked on a collaborative basis with MPPA¹² and others who have been reviewing and analyzing the situation and possibilities, a middle ground solution could be found and agreed upon. Indeed, more than one person has publicly suggested that there could be a compromise solution. However, MPPA has seen no evidence to date that removal advocates would be willing to actually work with concerned citizens and seek a middle ground. The alternative of no dam removal but with installation of a natural fishway is rejected out of hand by the Supplement, purportedly because funds would not be available and the Town does not control sufficient real estate. MPPA disagrees. As discussed in greater detail by the Comments of Carl Gardner, filed on or about October 9, 2023, it appears that such an alternative could be feasible – perhaps a portion of the Mill Pond which is currently under water could be used. In any case, some real consideration and analysis must be conducted before the making the conclusion that nothing can be done other than full removal.¹³

With a full consideration of all the costs and consideration of the plentiful grant monies available, it may well be that such a middle ground approach would be a reasonable alternative to

¹¹ It is clear that reintroduction of herring and shad is the primary benefit sought. However, there are many who question the likelihood that such reintroduction can be achieved. The bald assertion that reintroduction has worked in other places is a wholly inadequate given the certain detriments that result from dam removal. MPPA does not have the fishcount data that removal advocates have gathered to date in the efforts to stock upstream possible new spawning grounds so MPPA cannot comment on the viability, but there really must be more evidence of likely success before consideration of such the drastic and permanent action of dam removal is taken.

¹² Again, MPPA notes the process used in Exeter New Hampshire (so often cited by dam removal advocates). Had such a collaborative, inclusive process been employed in Ipswich, MPPA would not have to raise the questions in this document.

¹³ Again, MPPA strongly recommends that such consideration of alternatives be done on a collaborative open basis which will facilitate buy-in by those, like MPPA, that have made serious study of the river condition, the studies to date and the full range of certain impacts of dam removal.

the drastic demolition proposal that would leave no portion of the dam.¹⁴ Indeed, the comments filed to MEPA by Chris Cerino provide a good start on what should be a thorough alternatives analysis.

C. Rare Species

Here again the EENF ignores, overlooked, or simply missed facts known to the people that actually live along the Mill Pond area of the river. Specifically, the Mill Pond that the proposed dam removal will destroy is home to at least one endangered species – the red-bellied cooter turtle. According to state websites this turtle does best in an environment exactly as now exists above the dam – ponded water. Attached to these comments are pictures of a red bellied cooter on site at the shore of the existing Mill Pond. See Attachment 1. Ryan Zabelski, whose father, James Zabelski, lives near the Mill Pond took these pictures. The presence of a red bellied cooter in the Mill Pond in itself shows the need for a neutral party’s study of the effects of the proposed dam removal and destruction of the current and centuries old habitats, as proposed by the Town. Whether or not the Mill Pond has been included in rare species maps is not the point – we have hard evidence of an endangered species living in the Mill Pond. There must be a thorough consideration of the potential impact on that endangered turtle of dam demolition. Indeed, discovery of an endangered species by local residents suggests that any prior studies of this issue were flawed, incomplete, or just a rush to the desired conclusion that demolition of the dam is a good thing.

D. Historic Resources

To the credit of its authors, the EENF does admit that the dam “abuts the Ipswich Mills Survey Area”. However, the EENF proceeds to treat historical implications of dam demotion as a non-issue. This area is a Federal designated historic district. **The EENF essentially ignores the historic importance of the dam. This is simply wrong. Such an approach essentially ignores the very essence of the history of the Town. Without the dam, there would be no Ipswich Mills, no Ipswich Mills Historic District and the Town as we know it would be very different. To demolish this central historic icon not only offends the sensibilities of many Town residents, but it undercuts the very principles of historic preservation. And for the will-o-the-wisp benefit of increasing a couple fish species, this is a travesty.**

E. Wetlands

See page 4 above. Lower river levels will permanently alter significant wetland resources and the project proponent does not address this in the EENF. This is yet another reason the EROC and EIR waiver must be denied.

F. Water Resources

¹⁴ Amazingly, the Town proposes not only to demolish the dam, but to regrade and remove rocks, gravel, etc. that were not part of the dam in an amount that depending on weight would fill about 40 dump trucks. EENF page 10; EENF Narrative online copy pp 77-78. MPPA asks: what could be further from an “ecological restoration.” The affected residents certainly do not want the artificial dredging of the bottom of the river that serves no purpose and can hardly be characterized as restoring a natural state.

Although the Mill Pond and indeed the River generally is not a drinking water resource for the Town of Ipswich, due to excessive upstream withdrawals, it has been stated that the excessive upstream withdrawals will soon be mitigated by virtue of those communities moving to use of other water resources. Such a change could allow for Ipswich to make some use of this resource. To the extent that the dam is removed, the possibility of taking advantage of the water saved by the dam would be lost. Certainly, additional water sources could be helpful in cases of droughts such as in 2022.

G. Solid and Hazardous Waste

Page 4 of the EENF states that disposal of solid waste will be up to the contractor. The project proponent should be open and transparent about how much solid waste will be generated and what will be done with it. To do anything less is the anti-thesis of the great environmental benefit that this project is being marketed as. To the extent that there is any solid or hazardous waste, simply moving it from an undisturbed location to some other place is certainly not consistent with an environmentally beneficial project and may be environmentally detrimental. Presumably, an EIR would provide sufficient information on this question for stakeholders to determine the best approach, rather than leaving it to a contractor.

H. Consistency with Land Use

Page 6 of the EENF states that the proposed project “will not impact adjacent lands”. Perhaps the river abutters joining these comments are not adjoining the dam location, but they are “very near” to the dam location and they most definitely are affected by removal of the dam as described throughout these comments. That impact will be significant and adverse in terms of river access and esthetics. MPPA asserts that the total lack of consideration of these impacts in the EENF merits its rejection. In any event, an EIR and a full and fair weighing of actual, known and quantified benefits and detriments is necessary before the drastic action of dam demolition proceeds.

CONCLUSION

While some MPPA members have the very real and personal concern about what dam demolition would mean for their viewsheds and river access, they and the many MPPA members who do not live directly on the Mill Pond have very serious concerns about impacts of dam removal on the Mill Pond’s beautiful, centuries old environment and ecosystem and the flora and fauna that constitutes that ecosystem. MPPA believes that a full and fair review is necessary to determine whether the asserted benefits (especially when weighted for likelihood of achieving them) outweigh the unquestionable detriments. Perhaps preparation of an EIR and a collaborative approach seeking results that are truly best for all stakeholders can yield some consensus, but MPPA asserts that nothing short of that will achieve consensus. Indeed, scientific studies are peer reviewed before being accepted as gospel. And in the context of law and society, we all accept that differing viewpoints be considered. It is to these ends that MPPA asserts that an EIR is necessary and that a fair and full consideration of all detriments be weighed and likelihood of asserted benefits be quantified.

MPPA appreciates the consideration of this submission and hopes that it will lead to a determination of what is best for Ipswich and the environment.

Respectfully submitted,

MILL POND PRESERVATION ASSOCIATION

October 10, 2023

ATTACHMENT 1



Red Cooter Photo
2.pdf



Red Cooter Photo
6.pdf



Red Cooter Photo
1.pdf



Red Cooter Photo
5.pdf



Red Cooter Photo
4.pdf



Red Cooter Photo
3.pdf



Department of Environmental Protection

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Lieutenant Governor

Rebecca L. Tepper
Secretary

Bonnie Heiple
Commissioner

Memorandum

To: Nicholas Moreno, Environmental Analyst, MEPA

From: Alice Doyle, Waterways Regulation Program, MassDEP

cc: Daniel J. Padien, Program Chief, Waterways Regulation Program, MassDEP

Re: Comments from the Chapter 91 Waterways Regulation Program
EEA #16754 – Single Environmental Impact Report
Ipswich Mills Dam Removal, Ipswich River, Ipswich, Essex County

Date: April 23, 2024

The Department of Environmental Protection Waterways Regulation Program (the “Department”) has reviewed the Single Environmental Impact Report (SEIR) #16754 submitted by Horsley Witten Group, Inc. on behalf of the Town of Ipswich (the “Proponent”) for removal of the Ipswich Mills Dam and appurtenant structures (the “project site”). The dam consists of a 132-foot wide main spillway constructed of granite block and concrete, a log boom, and two fish ladders. The project includes dam removal, bank stabilization, and channel regrading.

Chapter 91 Jurisdiction

The project is located within tidelands of the Ipswich River, subject to jurisdiction pursuant to M.G.L. Chapter 91 and 310 CMR 9.00 (c.91). While the removal of the dam and associated fill may be eligible for approval under 310 CMR 9.05(3)(m), the project also includes dredging and placement of fill and structures within flowed tidelands, requiring a c.91 dredge permit and license, which the EENF and SEIR acknowledge.

Regulatory Review

The Department’s comment on the EENF included a request for the Proponent to include several elements in the license application that were not part of the EENF. These include a list of previously issued legislative and/or regulatory approvals, identification of any work within jurisdiction located on private property, and plan details including existing and historic high and

low water marks, proposed dredge and fill areas, and any new structures within jurisdiction (for bank stabilization, etc.).

As with the Department’s review of the EENF, no substantive concerns were identified with the SEIR. The Department recommends that the Proponent meet with the Department prior to submitting a c.91 license application in order to ensure that the required components of an application, including licensing history and complete plans, are included at the outset to enable timely review of the application.

If you have any questions regarding the Department’s comments, please contact Alice Doyle at alice.doyle@mass.gov.