



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

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Secretary

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**Public Comments Received on Environmental Justice Public Involvement Plan (“EJ PIP”)
for the Brooke Charter School: 550 Morton Street
pursuant to the Wetlands Protection Act and Wetlands Regulations
DEP File #006-1931
August 5, 2025**

Pursuant to the Environmental Justice Policy of the Executive Office of Energy and Environmental Affairs (“EOEEA”), dated June, 2021,¹ and the MassDEP Environmental Justice Public Involvement Plan Guidance, dated December 2022, based on expression of significant public interest in this matter from members of the community, which includes an Environmental Justice Population,² MassDEP exercised its discretion to develop an Environmental Justice public involvement plan (“PIP”) prior to the issuance of the Superseding Order of Conditions (“SOC”) for a project that consists of the proposed construction of a new community artificial turf field with associated walkways, bathroom building, seating, storage area, driveway, utilities, landscaping, and stormwater management systems, to provide the public with an opportunity to participate and provide comment on the Brooke Charter School project as it underwent review pursuant to the Wetlands Protection Act, M.G.L. c. 131, § 40, and the regulations set out at 310 CMR 10.00 (the “Wetlands Regulations”). The Superseding Order of Conditions (“SOC”) was issued on July 10, 2024 and appealed by a ten resident group to the Office of Appeals and Dispute Resolution (“OADR”) on July 24, 2024. On December 31, 2024, MassDEP joined by Brooke Charter School (the “Applicant”), requested the OADR to place the current Adjudicatory Hearing proceedings on hold to allow MassDEP the opportunity to address work proposed within Bordering Land Subject to Flooding (“BLSF”) and its compliance with performance standards under 310 CMR 10.57(4). On January 10, 2025, OADR remanded the SOC to MassDEP-Northeast Regional Office (“NERO”) for the limited purpose of looking at the BLSF (the “Remand Order”). The Remand Order states in relevant part that the SOC is returned to

¹ EEA’s Environmental Justice Policy can be accessed in multiple languages at: [Environmental Justice Policy | Mass.gov](#).

² M.G.L. c. 30, § 62 defines Environmental Justice Population, and the Environmental Justice Screening and Mapping Tool shows that the census block in which this project is located is an Environmental Justice Population in accordance with that statutory definition. See EJ Screening and Mapping Tool at [EJScreen: Environmental Justice Screening and Mapping Tool | US EPA](#).

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

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MassDEP-NERO “specifically for the purpose of the Office considering the BLSF newly identified on the FEMA map relative to its issuance of a determination in accordance with the Massachusetts Wetlands Protection Act and the Wetlands Regulations.” Prior to the issuance of a revised SOC to reflect any potential impact(s) to BLSF and compliance with the Regulations at 310 CMR 10.57, MassDEP developed a second PIP pursuant to the Remand Order to provide for a public comment period for any interested parties to submit comments concerning those portions of the proposed project located within BLSF. Under this second PIP, MassDEP drafted and provided a project Fact Sheet that was translated in Spanish and Haitian Creole, and also established a project specific website, through which the agency provided all basic record documents, at <https://www.mass.gov/lists/brooke-charter-school>.

The public comment period for this second PIP concluded on June 2, 2025, and MassDEP-NERO received a total of 22 comment letters via email. MassDEP issued emails to each commenter, acknowledging receipt of their submitted comments.

All the 22 written comments were submitted by individuals who were not supportive of the project. These letters presented issues and concerns regarding BLSF as well as six additional environmental issues that go beyond the scope of the Remand Order: (1) artificial/plastic-based turf fields and related health risks including PFAS, (2) tree removal, (3) creation of a heat island, (4) loss of urban wildlife habitat, (5) concerns about greenhouse gas emissions, and (6) stormwater management. For comments received regarding these six (6) environmental issues please see MassDEP’s response to comments issued on July 10, 2024.

In this document, MassDEP summarizes all the public’s concerns regarding BLSF identified through public comments that were received and provides a response to these comments.

Comments regarding BLSF

Commenters raised concerns that the Applicant’s BLSF study from 2023 does not adequately address flooding risk shown in the revised FEMA map released in July 2024.

The Wetlands Regulations at 310 CMR 10.57(1) provide an applicable definition of a BLSF as “an area with low, flat topography adjacent to and inundated by flood waters rising from creeks, rivers, streams, ponds or lakes. It extends from the banks of these waterways and water bodies; where a bordering vegetated wetland occurs, it extends from said wetland.” Further, these regulations set the boundary of a BLSF. At 310 CMR 10.57(2)(a)3, they state,

The boundary of Bordering Land Subject to flooding is the estimated maximum lateral extent of flood water which will theoretically result from the statistical 100-year frequency storm. Said boundary shall be that determined by reference to the most recently available flood profile data prepared for the community within which the work is proposed under the National Flood Insurance Program (NFIP)... Said boundary, so

determined, shall be presumed accurate. This presumption is rebuttable and may be overcome only by credible evidence from a registered professional engineer or other professional competent in such matters.

The Wetland Regulations at 310 CMR 10.04 define a Special Flood Hazard Area as

the area of land in the flood plain that is subject to a 1% chance of flooding in any given year as determined by the best available information, including, but not limited to, the currently effective or preliminary Federal Emergency Management Agency (FEMA) Flood Insurance Study or Rate Map (except for any portion of a preliminary map that is the subject of an appeal to FEMA) for Land Subject to Coastal Storm Flowage, the Velocity Zone as defined in 310 CMR 10.04, and the Flood Insurance Study for Bordering Land Subject to Flooding as defined in 310 CMR 10.57.

The FEMA preliminary flood map was published on June 19, 2020, for the area that contains the project site. The Applicant's 2023 Flood Study utilized the FEMA preliminary flood map to evaluate the flooding within the area that contains the project site. This is the same FEMA preliminary flood map that became effective in July 2024.

Comments on Stormwater

Although not included as an issue to be reviewed under OADR's Remand Order, two comments received included questions concerning stormwater runoff from the proposed artificial turf field. The proposed revisions to the stormwater regulations, if promulgated as currently drafted, will classify artificial turf fields as impervious to align with NPDES MS4 requirements. However, presently, the Wetlands Regulations under which this project is being reviewed consider artificial turf fields as a pervious surface. Therefore, as the current applicable MassDEP Stormwater Handbook does not specify that artificial turf fields are impervious, MassDEP cannot require the Applicant to evaluate the field's stormwater runoff under Standards 3 and 4.

Comments on the Order of Resource Area Delineation (DEP File #006-1755)

On January 6, 2021, the Boston Conservation Commission issued an Order of Resource Area Delineation ("ORAD"). The ORAD was set to expire on January 6, 2024. However, on November 21, 2024, Governor Healey enacted a Permit Extension Act ("PEA") that extended the term of permits and approvals in effect or existence between January 1, 2023, and January 1, 2025. Therefore, the ORAD will not expire until January 6, 2026.

MassDEP also received comments regarding several action steps to be taken by MassDEP to address incomplete "Remand" steps taken to date, to comply with applicable regulations and OADR rulings and order. It is MassDEP's opinion that these comments as they relate to the process taken under this PIP, go beyond the scope of the Remand Order.

