

Section 8

Environmental Permitting Requirements

8.1 Anticipated Permits

Environmental permitting requirements for this project will include local, state, and federal regulatory coordination and permits. It is recommended that pre-application coordination with the Shrewsbury and the Worcester Conservation Commissions and other local, state, and federal environmental regulatory agencies be scheduled after completion of the Preliminary Design to ensure that all regulatory requirements are addressed and to facilitate the permit approval process.

Under the proposed revisions to the Massachusetts Wetlands Protection Act (310 CMR 10.00)(WPA), dam removal projects would qualify for a General Permit for Ecological Restoration provided they meet the eligibility criteria set forth in the regulations. A proposed revision to the 401 Water Quality Certification Regulations (314 CMR 9.03(8)) exempts an ecological restoration project eligible for a General Permit from the requirement to apply for a 401 Water Quality Certification (WQC), provided the project does not require an individual 404 permit from the U.S. Army Corps of Engineers. The Poor Farm Pond dam removal project is anticipated to require authorization under Category 2 of the General Permit from the Army Corps of Engineers, and as such would not require a 401 WQC if the proposed regulatory changes are implemented. Furthermore, if the project is authorized by a General Permit, it would be exempt from the environmental review process under the Massachusetts Environmental Policy Act (MEPA). It should be noted that although a 401 WQC would not be required under the General Permit, the 401 WQC program would need to approve a sediment management plan before the project could proceed.

Anticipated regulatory coordination, review, and permit requirements include the following:

- Notices of Intent – Shrewsbury and Worcester Conservation Commissions

The issuance of an Order of Conditions is required under the state WPA and its regulations for alterations of wetland resource areas and buffer zones by the local Conservation Commission. It appears that an Order of Conditions will be required from both the Shrewsbury and the Worcester Conservation Commissions. An Order of Conditions is required from the Shrewsbury Conservation Commission for direct alterations within the 100-foot Buffer Zone and the locally jurisdictional 15-foot and 30-foot Buffer Zones, and indirect alterations to the upstream impoundment. An Order of Conditions required from Worcester would be for indirect alterations within the 100-foot buffer zone.

- Clean Water Act (CWA) Section 404 Dredge and Fill Permit

The dam removal will require a CWA Section 404 permit, which is issued by the U.S. Army Corps of Engineers (the Corps), for discharge of dredged materials. In Massachusetts, the Corps has developed the General Permit (GP) to expedite their evaluation of permit applications and

to streamline the permitting process. There are two categories associated with the GP, Category 1 (for alterations less than 5,000 sf) and Category 2 (alterations between 5,000 square feet and up to 1 acre). Projects affecting more than 1 acre of wetlands/water bodies require issuance of an Individual Permit, which has more rigorous review requirements and a longer review period. The Corps, along with other federal resource agencies (U.S. Fish and Wildlife Service, National Marine Fisheries Service, EPA and the Massachusetts CZM Office), reviews this application and determines that either: 1) the project meets the criteria of the GP and can proceed with no changes and no additional Corps review is needed; 2) additional information is needed before making a permitting decision; or 3) the project does not meet the GP criteria and an Individual Permit is required.

- Chapter 253 Permit from Massachusetts Department of Conservation and Recreation (DCR) Office of Dam Safety (ODS)

Removal of an existing dam requires a permit from the Commissioner or authorization that a permit is not required.

- Coordination with Massachusetts Historical Commission for Compliance with Section 106 and Coordination with Shrewsbury Historical Commission

The Massachusetts Historical Commission (MHC) is the state agency that functions as the State Historic Preservation Officer (SHPO) in Massachusetts and identifies, evaluates, and protects the state's significant cultural resources under Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended (36 CFR 800), M.G.L. Chapter 9, Sections 26-27c (950 CMR 71) and/or MEPA (301 CMR 11). Copies of any state and federal permits required for the dam removal should be submitted to MHC and the Shrewsbury Historical Commission for review and comment.

- Beneficial Use Determination (BUD Permit) for re-use of the concrete demolitions debris (coordination with MassDEP during design development)

A BUD Permit is required if any of the demolition debris will be reused commercially, which is termed "beneficial use" of a solid waste by MassDEP. If MassDEP determines that the proposed use of solid waste is beneficial and will not harm public health or the environment, the material is reclassified as a secondary material and not as a solid waste.

It is anticipated that a Chapter 91 Waterways License/Permit would not be required; however, this should be confirmed with MassDEP during Preliminary Design. The Public Waterfront Act M.G.L. Chapter 91 and its regulations (310 CMR 9.00) has jurisdiction over any non-tidal navigable river or stream on which public funds have been expended for channel improvements and/or flood control. Poor Farm Brook and the unnamed tributary below the dam are not believed to be considered navigable waters.

8.2 Local Permitting Requirements

8.2.1 Conservation Commission

The Town of Shrewsbury does not have a wetlands protection by-law. The Conservation Commission has *Policy Requirements for Applicants* related to submittal requirements and a policy discouraging buildings closer than 30 feet to wetlands.

The City of Worcester has a Wetlands Protection Ordinance & Wetlands Protection Regulations, which in addition to regulating the resource areas and 100-foot Buffer Zone under the state WPA, also regulate activities within one hundred (100) feet of any existing or proposed inlet to any storm drain, catch basin, or other storm drain system component discharging to any lake, pond, river, stream, or wetland.

8.2.2 Shrewsbury Planning Department

Verbal inquiry was made with the Shrewsbury Town Planner Kristen D. Las on June 11, 2013. She is in favor of the project and has no specific issues or concerns with the project at this time.