

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
100 CAMBRIDGE STREET, BOSTON, MA 02114 617-292-5500

THE OFFICE OF APPEALS AND DISPUTE RESOLUTION

March 9, 2023

**In the Matter of
Town of Braintree**

**OADR Docket No. 2021-017
DEP Transmittal Nos.
X286859 & X287404
Braintree**

RECOMMENDED FINAL DECISION

Arnold Meadows, LLC (“Petitioner”) filed this appeal to challenge the 401 Water Quality Certification (“WQC”) issued on June 9, 2021 by the Boston Office of the Massachusetts Department of Environmental Protection (“MassDEP”) to the Applicant, Town of Braintree, for its dam removal, dredging, and excavation project proposed for the Monatiquot River, Hollingsworth Pond, and Armstrong Dam in Braintree. The WQC was issued pursuant to Section 401 of the Federal Clean Water Act, 33 USC § 1251, G.L. 21 §§ 26-53, and 314 CMR 9.00. Following many months of settlement negotiations, the Parties submitted a Settlement Agreement, a proposed Final 401 Combined WQC, and a Joint Motion for Approval of the Settlement Agreement. The Parties have agreed to changes to the proposed project and additional conditions for the WQC. To resolve the appeal, the Applicant and the Petitioner agreed on changes to the management of sediment in Hollingsworth Pond. MassDEP reviewed the revised proposed project and determined that in accordance with applicable provisions of the Federal Clean Water Act, 33 USC § 1251, G.L. 21 §§ 26-53, and 314 CMR 9.00, there is reasonable assurance that the project or

activity will be conducted in a manner that will not violate applicable water quality standards in 314 CMR 4.00 and other applicable requirements of state law.

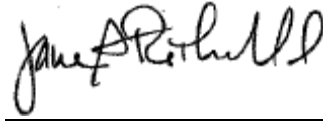
The proposed changes in the scope of the project include two modifications, as follows. First, 1,500 cubic yards of sediment originally slated to be relocated on-site will be disposed of at an approved off-site location, along with 3,000 cubic yards of sediment always designated for off-site disposal. Second, an additional 2,300 cubic yards of sediment will be dredged and removed from Hollingsworth Pond, removing additional sediment containing polycyclic aromatic hydrocarbon (“PAH”) compounds without increasing the area of impact. The Massachusetts Environmental Policy Act (“MEPA”) office found this change to be “insignificant” and MassDEP found that the revised project, as conditioned, will meet applicable requirements as set forth in the proposed Final WQC. The WQC was revised to: (1) describe the revised project; (2) remove from Condition 4 reference to two letters relating to notification requirements under M.G.L. c. 21E and the Massachusetts Contingency Plan (“MCP”), 310 CMR 40.000; and (3) reference in Condition 4 to revised documents submitted by the Applicant providing specifications for the revised project, including a final design plan, a Sediment Management Plan revised to June 24, 2022, and a Post Construction Sediment/Soil Monitoring and Management Plan.

The parties assert that settlement of this appeal without costly and protracted litigation is in the best interests of the citizens of the Commonwealth and the Parties, and that the Settlement Agreement is the most appropriate means of resolving the appeal. They agree to waive whatever rights they have to further administrative review before MassDEP and not to appeal the Final Decision to any court.

310 CMR 1.01(8)(c) requires the MassDEP Commissioner to approve, modify or reject a proposed settlement agreement in an administrative appeal based upon whether the settlement agreement is consistent with law and other factors appropriately considered in the exercise of agency regulatory discretion. After reviewing the Administrative Record of this appeal, I recommend that the

Acting Commissioner issue a Final Decision approving the Settlement Agreement and the Proposed WQC. I make this recommendation because the Settlement Agreement and Proposed WQC are consistent with or proper under the governing environmental statutes and regulations and serve the public interest.

Date: 3/9/2023

A handwritten signature in black ink, appearing to read "Jane A. Rothchild", written over a horizontal line.

Jane A Rothchild
Presiding Officer

SERVICE LIST

In The Matter Of:

Town of Braintree

Docket No. 2021-017

File Nos. 008-0685 and 008-0686
Braintree, MA

Representative

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