



THE COMMONWEALTH OF MASSACHUSETTS
WATER RESOURCES COMMISSION
100 CAMBRIDGE STREET, BOSTON MA 02114

September 24, 2024

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

Re: MEPA File No. 12626 - Haverhill

Dear Secretary Tepper:

The Water Resources Commission (WRC) staff has reviewed the Notice of Project Change (NPC) for Haverhill Landfill Closure in the City of Haverhill.

As proposed, the Project involves activities within a 100-year floodplain as delineated on the current effective Flood Insurance Rate Map (FIRM) for Essex County dated July 3, 2012. In its role as the state coordinating agency for the National Flood Insurance Program (NFIP), I submit the following comments on behalf of the WRC.

WRC's Flood Hazard Management Program (FHMP), under agreement with the Federal Emergency Management Agency (FEMA), is the state coordinating agency for the NFIP. As such, the FHMP provides technical assistance to communities that participate in the NFIP related directly to the program and also related to floodplain management in general. Communities that participate in the NFIP are required by FEMA, as a condition of their participation, to regulate development within the 100-year floodplain in a manner that meets or exceeds the minimum standards established by FEMA, located at 44 CFR 60.3. Participating communities such as the City of Haverhill are required to adopt the NFIP requirements through locally enforceable measures. In Massachusetts, many of the requirements contained in 44 CFR 60.3 are enforced through existing state regulations such as the State Building Code (780 CMR) and Wetlands Protection Act regulations (310 CMR 10.00). Communities typically adopt the remainder of the requirements as part of a zoning ordinance or other locally enforceable measure. The City of Haverhill has a Zoning Ordinance which has been accepted by FEMA as meeting their requirements under the NFIP.

In our role as NFIP coordinator, the FHMP offers comments on the proposed Project's relationship to many of the above regulations and requirements. The FHMP does not administer any of these requirements and therefore does not provide official determinations as to compliance with them; rather, our comments are provided as an overview of the requirements and the documentation that the FHMP believes may be necessary to demonstrate compliance with these requirements.

The Project includes completing the mandated closure of the Haverhill Landfill Superfund Site. This NPC includes the redevelopment of the capped Northern Mound Portion of the Landfill into recreational fields and pathways to provide a public park adjacent to the Merrimack River. Based on information submitted

with the NPC, the project site is located within the 100-year floodplain on the current effective FIRM in a Zone AE with a regulatory floodway present along the Merrimack River. Because of its location in the 100-year floodplain, compliance with the requirements of several federal, state and local measures related to floodplain development are required.

The City of Haverhill's Floodplain Overlay District includes requirements for encroachments in watercourses that have a regulatory floodway delineated in Section 9.1.4, Floodway. This requirement prohibits any encroachment in the regulatory floodway that would result in any increase in flood levels during the occurrence of the 100-year flood. This requirement is also located in minimum NFIP standards found in 44 CFR 60.3(d), which prohibits any encroachments within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge. The NPC states that the landfill closure requires construction of a final cap that extends to the edge of both waterbodies. The proponent should be aware that if any work proposed as part of this project is in the regulatory floodway as mapped on the effective FIRM, that the proper analysis must be completed to ensure the above requirement is met. If any increases are expected in the published base flood elevations, then a Conditional Letter of Map Revision (CLOMR) must be submitted to FEMA prior to any encroachment occurring, as outlined in 44 CFR 65.12 (a).

Additionally, if it is determined that there will be a change in the published base flood elevations, 44 CFR 65.3 requires that communities notify FEMA within six months of changes in the base flood elevation by submitting technical or scientific data. This is in addition to the Notification of Watercourse Alteration located in Section 9.1.9 of Haverhill's Floodplain Overlay District as outlined below (note that the three addresses below have changed):

"In a riverine situation, any party proposing to alter or relocate a watercourse shall notify the following:

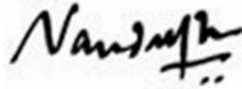
1. Adjacent communities of Merrimac, West Newbury, Groveland, Boxford, North Andover, and Methuen, Massachusetts and Salem, Atkinson, Plaistow, and Newton, New Hampshire;
2. NFIP State Coordinator - New Hampshire Office of Energy and Planning, Johnson Hall, 3rd Floor, 107 Pleasant Street, Concord, NH 03301;
3. NFIP State Coordinator - Massachusetts Department of Conservation and Recreation, 251 Causeway Street, Suite 600-700, Boston, MA 02114-2104; and
4. NFIP Program Specialist - Federal Emergency Management Agency, Region I, 99 High Street, 6th Floor, Boston, MA 02110.

The party shall provide the City of Haverhill Zoning Officer with proof of proper notifications in the form of a notarized affidavit."

Additionally, projects within the 100-year floodplain involving any federal action (e.g., permit, funding) must also comply with federal Executive Order 11988, Floodplain Management, as amended by Executive Orders 13690 and 14030. Executive Order 11988 requires an eight-step decision-making process which includes analysis of alternatives, avoiding impacts when possible, and minimizing impacts when avoidance is not possible. If this project requires submittal of any federal permits or has received funding from any federal agency, compliance with the eight-step decision-making process is necessary. Compliance with these orders will also require meeting the Federal Flood Risk Management Standard (FFRMS) which can involve design and construction to a higher standard, to be determined by the applicable federal agency.

The proponent should be aware that climate change can bring further impacts to the proposed development. Changes to the state's precipitation regime are ongoing with further predicted changes to the amount and timing of rainfall. This may increase the potential for flooding to properties located in the 100-year floodplain.

Thank you for the opportunity to comment on the NPC. If you have any questions regarding these comments, or to request additional information or coordination with the FHMP, please contact Katie Paight at katie.o.paight@mass.gov or 857-283-0583.

A handwritten signature in black ink, appearing to read "Vandana Rao", with a stylized flourish at the end.

Vandana Rao, PhD
Executive Director, MA Water Resources Commission

cc: Katie Paight, Department of Conservation and Recreation
Nadia Madden, Department of Conservation and Recreation
Eric Carlson, Department of Conservation and Recreation
Joy Duperrault, Department of Conservation and Recreation
Richard Osborn, Building Inspector, City of Haverhill
Robert E. Moore, Jr., Environmental Health technician, City of Haverhill