

# Department of Environmental Protection

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July 29, 2024

Massachusetts Department of Transportation Highway Division 10 Park Plaza, Room 7360 Boston, MA 02116 ATTN: Courtney Walker

RE: 401 WATER QUALITY CERTIFICATION BRP WW 10, Major Fill Project BRP WW 07, Major Dredge Project Bridge Replacements: I- 495 over Merrimack River and Route 110/113; Industrial Ave over I-495 Haverhill and Methuen, MA

401 WQC Filing Number: 24-WW10-0014-APP (Fill)/24-WW07-0006-APP (Dredge) USACE Application No. NAE-2023-01077 MassDOT File Number: 609466 U.S. Coast Guard File Number: NV1142

Dear Ms. Walker:

The Massachusetts Department of Environmental Protection (MassDEP) has reviewed your application for a Water Quality Certification (WQC), as referenced above; this application was deemed complete on July 5, 2024. In accordance with the provisions of MGL Ch. 21, §§26-53 and Section 401 of the Federal Clean Water Act as amended (33 U.S.C. §1251 et seq.), it has been determined there is reasonable assurance the proposed project will be conducted in a manner which will not violate applicable water quality standards (314 CMR 4.00) and other applicable requirements of state law.

The proposed project consists of replacement of the northbound (NB) and southbound (SB) bridges carrying Interstate 495 (I-495) over the Merrimack River and Merrimack Street (Route 113/Route 110), and replacement of two bridges carrying Industrial Avenue (Route 125 Connector) over I-495 (the Project). Unless otherwise specified, the bridges carrying I-495 are herein referred to as the mainline I-495 bridges. The Project also includes headwall reconstruction and relocation, stormwater infrastructure improvements, and wetland and stream replication and restoration. The Project purpose is to improve roadway safety by replacing the existing bridges which are stated as experiencing routine deterioration and nearing the end of their initial design life, as well as meet the current criteria for lane and shoulder widths.

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

### **Existing Conditions**

I-495 is an urban interstate generally aligned in a north/south orientation in the Project area, which carries three 12-foot-wide lanes in each direction. Both mainline I-495 bridges have a six-foot-wide outside shoulder and a four-foot-wide inside shoulder, for a total roadway width of approximately 46 feet. Beyond the bridges, I-495 has a 10 to 12-foot-wide outside shoulder and a three-foot-wide inside shoulder, for a total roadway width of approximately 49 to 51 feet. Both mainline I-495 bridges over the Merrimack River have 10 spans. The NB bridge length is 1,116 feet and the SB bridge length is 1,106 feet. Industrial Avenue is generally aligned in an east/west orientation over I-495 north of the mainline bridges. The crossing consists of two bridges that carry two 12-foot-wide travel lanes in each direction with negligible shoulders, and no sidewalks or bicycle accommodations.

The Merrimack River generally flows northwest under the bridges and is approximately 615 feet wide at the crossing. In addition to the Merrimack River, several Bordering Vegetated Wetlands (BVWs), Isolated Vegetated Wetlands (IVWs), and intermittent and perennial streams with Land Under Water (LUW) are present within the Project corridor. BVWs, IVWs, and LUW that will be impacted are identified below.

There are currently no Stormwater Control Measures (SCMs) or other measures for stormwater treatment anywhere within the Project area, and stormwater generally sheet flows off the roadways via country drainage. The Project will occur within Federal Emergency Management Agency (FEMA) 1% annual chance of flooding zone (Zone AE) and FEMA regulatory floodway associated with the Merrimack River, with a Base Flood Elevation between 28.0 and 28.3 feet NAVD88. The Project will also occur within Massachusetts Natural Heritage and Endangered Species Program (NHESP) Priority and Estimated Habitats of Rare Species.

### Project Description

The Project will occur along a 1.43-mile section of the I-495 corridor. Both mainline I-495 bridges will be replaced and approximately 7,300 linear feet of I-495 NB and SB will be reconstructed and repaved. The I-495 NB bridge will be shifted approximately 50 feet to the east and the I-495 SB bridge will be replaced in the same general alignment. The mainline I-495 bridges will have three 12-foot-wide travel lanes in both directions, 10-foot-wide outside shoulders, 18-foot-wide inside shoulders, and a two-foot-wide buffer to the bridge rail on each side. Beyond the bridges, I-495 will have the same travel lane and outside shoulder widths with four-foot-wide inside shoulders.

The existing mainline I-495 bridge piers will be removed to two feet below the mudline, and new piers will be constructed. To accommodate construction of the new piers, 33-foot-wide by 109-foot-long steel sheeting cofferdams will be installed in the Merrimack River. The cofferdams will extend 20 feet below the mudline and the interior will be dewatered and dredged to accommodate construction of the new piers. Temporary pile-supported trestles will be constructed over the Merrimack River between the existing bridges (center trestle) and to the east of the proposed NB bridge (east trestle) to facilitate demolition of the existing bridges and construction of the new bridges.

Replacement of the mainline I-495 bridges will occur in two phases. The first phase involves construction of the trestles, construction of the NB bridge to the east of the existing NB bridge, demolition of the existing SB bridge, then removal of the east trestle. To maintain continuous traffic, a

temporary I-495 SB crossover will be constructed in the median. The second phase involves construction of the SB bridge and demolition of the existing NB bridge, followed by removal of the center trestle.

Approximately 1,300 linear feet of Industrial Avenue will be reconstructed and repaved. The bridges carrying Industrial Avenue over I-495 will be replaced with a single bridge structure. The new bridge will have a single 12-foot-wide travel lane, eight-foot-wide buffered bike lanes, and six-foot-wide sidewalks in each direction. A median barrier will separate the lanes with two-foot-wide left shoulders and two-foot-wide offsets adjacent to the median barrier. The final bridge will be partially constructed to maintain continuous traffic, followed by demolition of the existing bridges and completion of the final bridge.

Four existing intermittent stream culvert ends will be reconstructed and/or relocated. The streams will be restored following construction and outfall scour protection will be installed as depicted on the approved plans. Stormwater infrastructure improvements and BVW, IVW, and LUW replication and restoration are described below.

### **BVW and LUW Impacts**

In total, 13,857 square feet (sf) of permanent and 58,783 sf of temporary fill impacts are required within BVWs, IVW, and LUW to construct the Project, as described in Table 1. These impacts are required primarily to demolish the existing mainline I-495 bridge piers, construct the new piers, construct the temporary SB crossover, reconstruct and relocate headwalls, accommodate grading associated with the new SB alignment, and to restore temporarily impacted BVWs, IVW, and LUW. It should be noted there will be a net increase of LUW within the Merrimack River as the total number of bridge piers will be reduced from eight to six.

Wetland/LUW	Permanent Impact (sf)	Temporary Impact (sf)		
Wetland 1 (IVW)	0	554		
Wetland 2 (IVW)	0	3,289		
Wetland 3	2,055	1,820		
Wetland 4	0	15		
Wetland 5	0	7,640		
Wetland 9	490	1,358		
Wetland 10	973	1,549		
Wetland 12	0	9,867		
Wetland 16	21	298		
Wetland 17	0	93		
Wetland 20	1,040	8,865		
Total BVW/IVW Impacts	4,579	35,348		
Stream 4	0	8		
Stream 5	0	478		

### Table 1. BVW, IVW, and LUW Impacts

Wetland/LUW	Permanent Impact (sf)	Temporary Impact (sf)		
Stream 6 (Merrimack River)	8,010	22,513		
Stream 10	37	146		
Stream 11	76	111		
Stream 13	50	0		
Stream 15	1,025	78		
Stream 16	80	101		
Total LUW Impacts	9,278	23,435		
Total BVW, IVW, and LUW Impacts	13,857	58,783		

A total of 15,156 cubic yards (cy) of dredging within LUW is required to remove the existing piers and construct the new piers for the mainline I-495 bridges. Of this amount, 716 cy of sediment and 3,385 cy of concrete will be dredged to remove the existing piers, and 11,771 cy of sediment will be dredged to construct the new piers.

### Alternatives Analysis

A total of 19 alternatives were originally evaluated based on the criteria for bridge geometry, constructability, cost, right-of-way requirements, risk, and environmental effects. Of the 19 alternatives evaluated, three were deemed feasible and advanced for detailed evaluation as well as the no-build alternative. The no-build alternative was rejected as replacement of the bridges is required to avoid future structural fails requiring various repairs and eventual closure of the bridges.

Shifting both mainline I-495 bridges toward the median, as well as shifting both bridges to the east were rejected primarily due to greater permanent BVW, IVW, and LUW impacts than the selected alternative described herein. The temporary I-495 SB crossover allows for the SB bridge to be retained in its existing alignment and will result in less permanent BVW, IVW, and LUW impacts. A combination of retaining walls and the steepest side slopes practicable have been incorporated to further avoid and minimize impacts. Four-foot-wide inside shoulders on I-495 beyond the bridges rather than the required 10-foot-wide also allows for further impact avoidance and minimization.

### BVW Replication and Restoration

Permanent impacts to BVW will be mitigated by construction of four BVW replication areas in the median adjacent to Wetlands 3, 12, and 20 totaling 12,081 sf (2.6:1 ratio). Temporary BVW and IVW impacts will be restored in place. Two feet of wetland soil will be installed in the median replication and restoration areas and seeded with a native wetland seed mix. BVW restoration areas outside the median will be graded to pre-construction contours, tilled, and amended with compost prior to seeding with a native wetland seed mix. Approximately 60 percent of BVW replication and restoration areas will also be planted with native trees and shrubs. All BVW replication and restoration areas will be constructed under the supervision of a qualified Wetland Scientist.

### LUW Restoration and Replication

Following removal of the existing piers in the Merrimack River to two feet below the mudline, two feet of natural streambed material will be placed over the remaining pier footings. Temporary LUW impacts elsewhere will be restored in place with native streambed material under the supervision of a qualified Wetland Scientist.

### Stormwater Management Standards

The Project will increase impervious surface by 1.29 acres and qualifies as a redevelopment project as defined at 314 CMR 9.02. Through installation of 13 SCMs, the Project will fully meet Stormwater Management Standards 2 and 3 using the macro approach and will meet Standard 4 to the maximum extent practicable. Specifically, the Project incorporates three infiltration swales, two infiltration basins, two leaching basins, six grassed channels, and 105 deep sump catch basins. A complete evaluation concluded additional locations for SCMs are not practicable within the Project area. However, as conditioned herein, MassDOT is required to further evaluate the six grassed channels to determine if they can be designed as infiltration swales or other SCMs for additional water quality treatment in accordance with the Massachusetts Stormwater Management Standards and Volume 2, Chapter 2 of the Massachusetts Stormwater Handbook.

### Stream Crossing Standards

As the Merrimack River is tidal in the Project location and the existing and proposed bridges do not restrict tidal flow, the Project complies with 314 CMR 9.06(2)(b)5.

### Sediment Chemistry

Sediment sample analytical results were compared to the Reportable Concentration (RC) S-1 criteria of the Massachusetts Contingency Plan (MCP). Results of the sediment samples analyzed indicated there are no compounds that exceed the RC S-1 reporting criteria under the MCP. As stated in the application, due to the construction schedule and the possibility that dredged material may need to be amended to meet MassDOT fill requirements, proposed on-site reuse of dredged material will be limited. All dredge and disposal activities shall take place in accordance with Special Conditions #37 through #46.

### Invasive Species

Invasive species will be managed in accordance with an Invasive Plant Management Strategy (IPMS) to be approved by MassDEP.

### **Rare Species**

Portions of the Project are located within and adjacent to NHESP Priority and Estimated Habitats of Rare Species. One area generally coincides with the Merrimack River (PH 2154), and another extends along the west side of I-495 SB south of the mainline bridges (PH 2118). As consultation with NHESP is ongoing, no work shall occur within NHESP Priority and Estimated Habitats of Rare Species until NHESP consultation is complete in accordance with 314 CMR 9.06(2) and 314 CMR 9.07(1)(a), as conditioned herein.

The Project will also be subject to Time of Year (TOY) restrictions and other mitigation measures for diadromous fish species as prescribed by the Massachusetts Division of Marine Fisheries (DMF) and conditioned herein.

Based on a review of information provided by the applicant, MassDEP finds that this project complies with the standards described under 314 CMR 9.06 and 9.07. Public notice was provided in the Eagle Tribune on February 22, 2024, and in the MEPA Environmental Monitor on March 8, 2024. No comment letters were received during the public comment period.

Therefore, based on information currently in the record, MassDEP grants a WQC for this project subject to the following conditions to maintain water quality, to minimize impact on waters and wetlands, and to ensure compliance with appropriate state law. The Department further certifies in accordance with 314 CMR 9.00 that there is reasonable assurance the project or activity will be conducted in a manner which will not violate applicable water quality standards (314 CMR 4.00) and other applicable requirements of state law. Finally, the Department has determined that upon satisfying the conditions and mitigation requirements of this approval, the project provides a level of water quality necessary to protect existing uses and accordingly finds that the project to be implemented satisfies the Surface Water Quality Standards at 314 CMR 4.00. The WQC is for all federal permits and licenses, including the U.S. Coast Guard Bridge Permit, pursuant to 40 CFR Part 121.

Pursuant to 314 CMR 9.09(1)(d); 314 CMR 9.06(6)(a); 310 CMR 9.06(2); 314 CMR 9.07; 314 CMR 9.07(1); 314 CMR 9.09(7)(5)(c); 314 CMR 9.11; and 314 CMR 9.09(1)(e), the following Special Conditions are necessary to ensure that construction practices and stormwater controls are implemented in such a manner as to prevent degradation to wetlands and waters; ensure that practicable steps have been taken which will avoid and minimize impacts to wetlands and waters; minimize turbidity and sediment caused by construction activities; ensure that water quality is not degraded, and that biology of the waters are not negatively impacted by potential discharges; and/or maintain a record of the dredged material for reference and to ensure accountability in its transportation.

Those Special Conditions that require direct submittals to MassDEP for either review, or review and approval, are denoted by the following notation (Submittal) at the end of the condition and are summarized in Attachment A. In addition, those conditions with the (Submittal) designation shall be included in the Special Provisions and, as applicable, reviewed at the Pre-Construction Meeting.

- 1. All work shall be performed in accordance with the following documents and plans:
  - Application for Water Quality Certification. Prepared by BSC Group, Inc. on behalf of MassDOT, dated January 2024, with cover letter and attachments. 401 WQC Filing Number: 24-WW10-0014-APP (Fill)/24-WW07-0006-APP (Dredge).
  - Plans entitled: "Massachusetts Department of Transportation Highway Division Plan and Profile of I-495 Over Rte 110/113 & Merrimack River (Bridge No. H-12-040=M-17-030 (CGJ)) and Industrial Avenue over I-495 (Bridge No. H-12-056 (XXX)) in the Cities of Haverhill & Methuen, Essex County, BTC Submittal". Sheets 1 through 5; 40 through 145; 175 through 272; and 282 through 343. Prepared by MassDOT. Last revised July 2, 2024.

- MassDEP Administrative Completeness and Technical Deficiency Review. 401 WQC Transmittal No: 24-WW10-0014-APP (Fill)/24-WW07-0006-APP (Dredge). Dated March 13, 2024.
- MassDOT Responses to MassDEP Administrative Completeness and Technical Deficiency Review, with attachments. Prepared by VHB. Dated May 6, 2024.
- MassDEP Supplemental Administrative Completeness and Technical Deficiency Review.
  401 WQC Transmittal No: 24-WW10-0014-APP (Fill)/24-WW07-0006-APP (Dredge).
  Dated May 31, 2024.
- MassDOT Responses to Supplemental Administrative Completeness and Technical Deficiency Review via email, with attachments. "Re: 401 WQC Administrative Completeness and Technical Deficiency Review/Haverhill & Methuen 1495 NB & SB and Industrial Avenue Bridge Replacements." Received July 5, 2024.
- DMF Comments via email. "MA DMF Comment: NAE-2023-01077, MassDOT Highway Division, I-495 bridge replacement, Merrimack River, Haverhill and Methuen." Dated April 25, 2024.

### **Pre-Construction**

- 2. The permittee shall employ an Environmental Monitor (EM) to oversee all project activities with the potential to have an adverse impact on BVWs, IVWs, and LUW and to ensure compliance with this WQC and the Construction Period Pollution Prevention and Erosion and Sedimentation Control Plan (CP/PP) as required herein. The EM shall have a minimum of five years of professional experience with construction site CP/PP compliance. The EM shall complete the U.S. Environmental Protection Agency (EPA) Construction General Permit (CGP) Inspector Training, or other training that meets the CGP requirements, and provide proof of completion prior to the start of work. The name, contact information, and qualifications of the proposed EM shall be provided to MassDEP for approval prior to the Pre-Construction Meeting required in Condition 5. The name and contact information of the approved EM shall be provided to the Haverhill and Methuen Conservation Commissions prior to the start of work. (Submittal)
- 3. A qualified Wetland Scientist (WS) with a minimum of five years of relevant professional experience with wetland and stream replacement and restoration projects shall be employed to oversee all BVW, IVWs, and LUW replacement and restoration activities, including but not limited to grading, placement of substrate, seeding, vegetation plantings, and placement of wildlife habitat features. The name, contact information, and qualifications of the WS shall be provided to MassDEP for approval prior to the Pre-Construction Meeting required in Condition 5. The name and contact information of the approved WS shall be provided to the Haverhill and Methuen Conservation Commissions prior to the start of work. The EM may also be the WS if the qualifications are met. (Submittal)
- 4. Prior to the Pre-Construction Meeting required in Condition 5, the applicant shall provide MassDEP with the name and contact information of the Resident Engineer (RE) responsible for ensuring that all work complies with the conditions of this WQC. **(Submittal)**

- 5. A minimum of 21 days prior to the start of work, MassDOT shall contact MassDEP to schedule an onsite Pre-Construction Meeting to review the approved plans and terms and conditions of this WQC. The RE, the construction contractor, the EM, the WS, a representative from the MassDOT Environmental Section and/or the District Environmental Engineer shall attend the Pre-Construction Meeting.
- 6. MassDEP shall be copied on applicable submittals to the U.S. Army Corps of Engineers (USACE). These include but are not limited to: Self-Verification Notification Form (SVNF); Pre-Construction Notification (PCN); Work-Start Notification Form; Mitigation Work-Start Notification Form; and Compliance Certification Form. The Work-Start Notification Form shall be submitted at least 14 days before the anticipated start of work and the Compliance Certification Form shall be submitted within 30 days following the completion of the authorized work. (Submittal)
- 7. A CP/PP shall be developed and implemented as required by 314 CMR 9.06(6)(a)8. A minimum of 14 days prior to the start of work, MassDOT or its Contractor shall submit the CP/PP for review and approval. If the EPA CGP applies, the Stormwater Pollution Prevention Plan (SWPPP) may serve as the CP/PP, providing it includes the measures required to be in the CP/PP per these Special Conditions, in addition to the measures specifically required by the CGP. Any subsequent changes to the Final CP/PP (defined herein as including the construction period SWPPP if applicable) must be approved by MassDEP. (Submittal)
- 8. Training regarding erosion and sedimentation controls is required. The RE, CP/PP Inspector, and any other relevant personnel responsible for erosion and sedimentation controls shall complete the EPA CGP Inspector Training, or other training that meets the CGP requirements, as well as complete a comprehensive review of the Final CP/PP. Verification of proof of completion of the training shall be submitted to MassDEP prior to the start of work. **(Submittal)**
- 9. The CP/PP shall identify, but shall not be limited to, staging and laydown areas in relation to BVWs, IVWs, and LUW, proposed dewatering locations, proposed stockpile locations and their proximity to catch basins or other drainage conveyances that discharge to wetland resource areas, and the location of construction-period erosion and sedimentation controls.
- 10. A minimum of 14 days prior to the start of work, MassDOT or its Contractor shall submit a Water Management Plan for review and approval. The Plan shall include proposed methods to manage construction-period water including but not limited to dewatering methods and locations, specifications for any water bypass systems, and dredge and debris material dewatering prior to shipment off site, as applicable. The plan shall meet requirements of the CP/PP and be specific to the Project. Dewatering and water bypasses shall be conducted under the supervision of the EM and comply with the applicable conditions identified herein. (Submittal)
- 11. Prior to the start of work, approved erosion and sedimentation control measures shall be installed per the approved CP/PP and as applicable, the manufacturer specifications. Erosion and sedimentation control measures may consist of, but are not limited to, silt fence, staked straw bales, silt/turbidity curtains, compost filter tubes, etc.

- 12. Prior to the Pre-Construction Meeting, the boundaries of BVWs, IVWs, and LUW shall be re-flagged where they are within 50 feet of the limits of work. In the event BVWs, IVWs, and LUW boundaries overlap, the outermost boundary (i.e., closest to the proposed work) shall be flagged. All boundary markers, once in place, shall remain in place throughout construction until all disturbed surfaces have been permanently stabilized. Boundary markers shall be fully evaluated annually and refreshed where needed. Implementation of and compliance with this requirement shall be documented by the EM. All construction personnel shall be made aware of these markers.
- 13. A Flood Contingency Plan shall be submitted to MassDEP for review and approval that addresses areas that fall within the 1% annual chance of flooding zone within project limits. The Plan shall address the potential need for temporary relocation of construction and auxiliary equipment during flood events to designated upland locations above the Base Flood Elevation. The Plan shall be approved by MassDEP prior to any work within the 1% annual chance of flooding zone, including mobilization or storage of equipment and materials. (Submittal)
- 14. The applicant shall develop an Invasive Plant Management Strategy (IPMS) to be submitted to MassDEP for review and approval prior to the Pre-Construction Meeting. The IPMS shall be implemented as approved. **(Submittal)**
- 15. If needed, use of herbicides to control invasive species shall be implemented in accordance with the approved IPMS and with the following requirements:
  - a. Herbicides can only be applied by a Licensed Applicator;
  - b. Applicant must provide MassDEP Material Safety Data Sheets (MSDS) of the product being used and must also keep MSDS sheets on site;
  - c. Product registration in MA with Massachusetts Pesticide Product Registration Number must be confirmed with Massachusetts Department of Agricultural Resources Pesticide Division;
  - d. EPA Registration Number for the product must be identified;
  - e. Product label restricted use provisions must be followed; and
  - f. Applicant must contact MassDEP Division of Watershed Planning to determine if a BRP WM 04 herbicide permit is required.
- 16. A minimum of 21 days prior to the start of demolition work, a Demolition Plan shall be submitted for review and approval describing how the existing bridge will be demolished and what measures will be taken to assure that demo material is properly contained and does not enter the Merrimack River. **(Submittal)**
- 17. Consultation with NHESP shall be completed prior to any work within NHESP Priority and Estimated Habitats of Rare Species, in accordance with 314 CMR 9.06(2) and 314 CMR 9.07(1)(a). Proof of the completion of NHESP consultation shall be provided to MassDEP prior to the start of work. Any and all conditions imposed by NHESP on the Project shall be adhered to and are hereby incorporated by reference in this WQC. (Submittal)

18. Prior to the start of work, MassDOT or its Contractor shall provide revised stormwater calculations reflecting SCMs 6 through 11 as Grassed Channels, unless it can be demonstrated they will be designed as infiltration practices in accordance with the Massachusetts Stormwater Standards and Volume 2, Chapter 2 of the Massachusetts Stormwater Handbook. (Submittal)

### **Construction Period**

- 19. No more than **4,579 sf** of permanent and **35,348 sf** of temporary impacts to BVWs and IVWs shall occur. No more than **9,278 sf** of permanent and **23,435 sf** of temporary impacts to LUW shall occur. No more than **15,156 cy** of dredging in LUW shall occur. All work shall avoid unapproved impacts to BVWs, IVWs, and LUW.
- 20. The EM duties shall include, but are not limited to, oversight of installation and maintenance of erosion and sedimentation controls and SCMs, dewatering activities, cofferdam installation and removal, concrete washout containment, dust control, and hazardous or toxic material containment, as applicable. The EM shall only be responsible for the oversight of hazardous and toxic materials to the extent that the CP/PP requires. All erosion and sedimentation controls shall be inspected by the EM prior to the start of work in each area, and all dewatering methods and locations shall be inspected by the EM prior to use. The EM shall have the authority to require modifications to or additional erosion and sedimentation controls or dewatering controls as they deem necessary to comply with this WQC and the CP/PP.
- 21. CP/PP inspections shall occur at least once every seven calendar days and within 24 hours of a storm event that produces 0.5 inches or more of rain within a 24-hour period, or at a more stringent frequency if the CP/PP requires.
- 22. Pursuant to Section 9.1.2.I of the EPA CGP, copies of the CP/PP Inspection Reports and Corrective Action Logs shall be submitted to MassDEP within 14 days upon request.
- 23. The EM shall submit to MassDEP and the Haverhill and Methuen Conservation Commissions at least one report every two calendar weeks during active construction and once every month while work is shut down until the site achieves final stabilization. The permittee shall not participate in the preparation of any EM report. The report shall include:
  - a. Relevant weather information including storm event amounts and durations since the last inspection;
  - b. A general description of current and foreseeable construction activities;
  - c. The status and effectiveness of erosion and sedimentation controls, stormwater control measures, and dewatering methods;
  - d. Evidence of erosion, sedimentation, or improper material containment or spills;
  - e. A description of any unauthorized discharges to BVWs, IVWs, or LUW, and actions taken to immediately stop the discharge;
  - f. Recommendations to correct any deficiencies identified during the inspection;

- g. Due dates to resolve corrective actions as specified in the CP/PP and WQC, and dates and descriptions of the resolutions as they are completed;
- h. Representative photos of current site conditions, erosion and sedimentation controls, stormwater control measures, and dewatering methods;
- i. Specific photos of any unauthorized discharges to BVWs, IVWs, or LUW, deficiencies or non-compliance requiring corrective actions, and corrective actions that have been undertaken; and
- j. Any other recommendations for site management to promote compliance with this WQC and the CP/PP.
- 24. The EM shall immediately report any unauthorized discharges to BVWs, IVWs, or LUW, or any other significant non-compliance with this WQC or the CP/PP to MassDEP, MassDOT, the RE, and the Haverhill and Methuen Conservation Commissions. The EM shall have stop-work authority in the event of significant non-compliance with this WQC and/or the CP/PP. The EM shall be authorized to respond to and communicate directly with MassDEP on all matters related to compliance with this WQC. MassDEP may make any requests directly to the EM and copy MassDOT, and MassDOT shall authorize the EM to fulfill such request in direct coordination with MassDEP.
- 25. Inspection and maintenance of erosion and sediment controls in active work areas shall also be the responsibility of both the Contractor and RE. The project team shall include an individual with at least three years of experience with construction period erosion and sedimentation controls. The RE shall be ultimately responsible for inspection and maintenance of site controls. The EM, RE, and/or contractor shall immediately notify MassDEP and the Haverhill and Methuen Conservation Commissions if any unauthorized discharges to BVWs, IVWs, or LUW occur.
- 26. Disturbed areas shall be stabilized immediately after activities have permanently ceased or will be temporarily inactive for 14 or more calendar days. The installation of stabilization measures shall be implemented as soon as practicable, but no later than 14 calendar days after stabilization has been initiated.
- 27. Work within LUW shall be conducted in low or no-flow conditions to the extent practicable. Notice shall be provided to MassDEP and the Haverhill and Methuen Conservation Commissions within 24 hours prior to the commencement of dewatering. Dewatering methods and location(s) shall be approved by the EM or RE prior to use, and shall be documented in the CP/PP. There shall be no discharge of untreated dewatered stormwater or groundwater to BVWs, IVWs, or LUW. Any discharges shall be visibly free of sediment.
- 28. Additional erosion and sedimentation control materials shall be stored on-site at all times for emergency and routine replacement. Materials shall be kept covered, dry, and accessible at all times. The RE and EM shall be responsible for anticipating the need for and installation of additional erosion and sedimentation controls and shall have the authority to require additional

erosion control measures to protect wetland resource areas beyond what is shown on the plans if field conditions or professional judgment dictate that additional protection is necessary.

- 29. The RE shall monitor the National Weather Service forecast for updates, and upon issuance of a flood watch for the 1% annual chance of flooding zone, shall implement the flood contingency plan referenced in Condition 13.
- 30. Any storm drains with potential to receive discharge from stockpiled materials or construction operations shall be managed to inhibit the inflow of sediment while not increasing the likelihood of roadway flooding during periods of precipitation. Stockpiles shall be located no less than 50 feet from BVWs, IVWs, LUW, catch basins, or other drainage conveyances that discharge to BVWs, IVWs, or LUW. The CP/PP shall specify measures to implement this. Filter fabric stretched under storm drain inlet grates are not acceptable for this purpose.
- 31. The contractor shall have designated washout areas for concrete equipment that will be comprised of impermeable material and sized to contain project concrete wastes and wash water. Concrete wash out areas shall be located no less than 50 feet from BVWs, IVWs, LUW, and catch basins or other drainage conveyances that discharge directly or indirectly to BVWs, IVWs, or LUW.
- 32. Refueling, washing, and cleaning of vehicles and other construction equipment shall not take place within 50 feet of BVWs, IVWs, or LUW and any wash water shall be contained such that it does not drain toward BVWs, IVWs, or LUW. MassDEP shall explicitly approve in writing any deviation to this condition for oversized stationary vehicles.
- 33. The contractor shall have spill containment kits on site. In the event of a release of fuels and/or oils, the local fire department and MassDEP shall be notified.
- 34. All TOY restrictions and turbidity and erosion and sedimentation controls described in the DMF email dated April 25, 2024, referenced herein, are hereby incorporated into this WQC.
- 35. Sheet piles shall be fully removed from wetland resource areas upon stabilization of the area as required. No portion of sheet piles shall remain unless approved by MassDEP in writing prior to installation. A request to leave sheet piles shall include, but not be limited to, demonstration that full removal of the sheet piles is not feasible or practicable, and an alternatives analysis demonstrating alternative methods to isolate the work area(s) are not feasible or practicable.
- 36. A temporary shielding system shall be in place beneath the bridge structure prior to removal and concrete excavation to prevent debris from falling into the water below. In the event that any debris accidentally enters the Merrimack River, it shall be immediately retrieved. Notice shall be provided to MassDEP if debris enters the river and that it has been removed with photodocumentation (if practicable) submitted by email.

### Dredging

37. No later than 21 days prior to commencement of dredging activity, a Dredged Material Dewatering Plan shall be submitted to MassDEP for review and approval. At a minimum, the

Plan shall include but not be limited to the type of containment, method of dewatering (i.e. mechanical or by gravity), method of collecting the dewatered effluent and method of disposal. **(Submittal)** 

- 38. Best Management Practices (BMPs) shall be employed by the contractor to protect resource areas located adjacent to the proposed staging/temporary dredged material stockpiling and dewatering areas. Sediment stockpiles shall be constructed in accordance with the MassDEP approved project plans, stabilized, bottom-lined and securely covered with wind tear resistance tarpaulin, polyethylene sheeting or similar impermeable material at all times, and properly labeled. Stockpile covers shall be securely weighed down. Stockpiles shall also be secured to restrict access by the public and shall be set back at least 10 feet from temporary construction access roads or other areas and activities which could disturb the stockpiles and associated erosion controls. Inspection of the sediment containment and dewatering location and associated erosion controls shall be conducted daily and more frequently immediately before, during and after all precipitation and storm events. Any observed deficiency shall be corrected or repaired in a timely manner.
- 39. In the event of a precipitation or storm event, the site shall be secured beforehand in such a way as to protect resource areas and waters on site and downstream of the site, including covering of stockpiles of dredged material. Sediment stockpile areas shall be inspected immediately prior to, during and immediately after all precipitation and storm events. Any observed deficiency shall be corrected or repaired in a timely manner to prevent discharge from the stockpiled material. If stormwater runoff and erosion is observed from stockpiled dredged material, additional erosion and/or damage prevention controls measures shall be implemented.
- 40. Measures shall be in place to prevent turbid waters, due to dredging, demolition, or debris removal activities, from extending past the limits of work into the Merrimack River. These measures can be items such as turbidity curtains and/or sheet piles.
- 41. MassDEP shall be notified one week prior to the start of dredging so that staff may inspect the work for compliance throughout the project.
- 42. If visual turbidity escapes the controls in place, work shall stop immediately and MassDEP shall be notified within 24 hours. Work shall not resume until the issue is corrected and MassDEP to the satisfaction of MassDEP.
- 43. All turbidity controls shall be inspected daily by the RE. If any damage is observed the controls in place will be replaced or repaired immediately.
- 44. MassDEP shall be notified in writing of the name and location of the upland licensed facilities accepting the dredged material for disposal or reuse for review and approval. If the licensed facility is located out of state, documentation shall be provided to MassDEP that the dredged material disposal/reuse has been approved and will be accepted by the receiving State. The dredged material shall not be transported to the facility without concurrence of MassDEP.
- 45. A Bill-of-Lading (BOL) or a Material Shipping Record (MSR) shall be used to track the dredged material to the proposed intermediate (stockpiling /dewatering) facility. A fully executed copy

of the BOL or MSR shall be provided to MassDEP within 30 days of final shipment to the reused location or facility.

46. BMPs shall be implemented during transportation of the dredged material to the licensed receiving facility. At a minimum, when transported upon public roadways, all dredged material shall have no free liquid as determined by the Paint Filter Test or other suitably analogous methodology acceptable to MassDEP, and a tarpaulin or other means shall be used to cover the dredged material during transport.

### Wetland Mitigation

- 47. A minimum of 12,081 sf of wetland replication shall be completed in coordination with an approved WS. The WS shall oversee all BVW and IVW replication and restoration, including final grading, seeding, and planting. The WS shall confirm that constructed BVW and IVW replication and restoration areas have adequate soils and hydrology to promote wetland plant species prior to seeding and installation of plantings and shall recommend measures to amend soils and promote wetland hydrology as needed.
- 48. Planting and seeding shall not take place between November 15<sup>th</sup> and April 15<sup>th</sup>, except as allowed by MassDEP in writing. The WS shall inspect trees and shrubs to ensure they are healthy prior to planting. Trees and shrubs deemed unhealthy in the professional judgment of the WS shall be replaced. Plantings and seed mixes shall consist of native and non-invasive species. Species may be substituted at the recommendation of the WS, and review and approval by MassDEP.
- 49. At least 75% of the surface area of the BVW and IVW replication and restoration areas shall be vegetated with indigenous wetland plant species within two growing seasons, or the period required by the Section 404 permit, whichever is longer. Additionally, evidence of hydrology, including hydric soil formation shall be submitted at the same time. Annual monitoring reports shall be submitted by the WS no later than January 15<sup>th</sup> each year. Monitoring reports shall include an assessment based on the approved success criteria, representative photos, and recommended corrective actions as needed. **(Submittal)**
- 50. MassDEP reserves the right to determine the success or failure of the BVW and IVW replication and restoration areas, and reserves the right to require additional plantings, regrading, or other measures deemed necessary to promote success.

### **Stream Mitigation**

51. The WS shall oversee all LUW replication and restoration. Placement of streambed materials shall take place in no- or low-flow conditions. The Water Management Plan required in Condition 10 shall include measures to create no-flow conditions for this work such as a pump bypass system or other dewatering method, if needed. Placement of streambed materials during greater than low-flow conditions shall require a placement plan, with a narrative describing turbidity control measures, submitted to MassDEP for review and approval.

- 52. Water shall be slowly introduced back into the restored and dewatered LUW work areas as to not cause erosion and sedimentation. This work shall be overseen by the EM and/or WS.
- 53. MassDEP reserves the right to determine the success or failure of the LUW replication and restoration areas and reserves the right to require additional measures deemed necessary to promote success.

### **Post-Construction**

54. All temporary erosion and sedimentation controls shall be removed at the conclusion of work once the surrounding area has achieved final stabilization.

### **General Conditions**

- 55. Any proposed alterations, minor plan changes, or amendment requests, as well as any required submittals shall be sent by email for review and approval to <u>heidi.davis@mass.gov</u> and <u>ryan.hale@mass.gov</u>. (Submittal)
- 56. This WQC remains in effect for the same duration as the Section 404 permit that requires it.
- 57. No Special Condition set forth herein shall be construed or operate to prohibit MassDEP from taking enforcement against the MassDOT or its contractors for any failure to comply with the terms and requirements of this WQC.
- 58. No activity authorized by this WQC may begin prior to expiration of the 21-day appeal period, or until a final decision is issued by MassDEP in the event of an appeal.

Failure to comply with this Certification is grounds for enforcement, including civil and criminal penalties, under MGL Ch. 21 §42, MGL Ch. 21A §16, or other possible actions/penalties as authorized by the General Laws of the Commonwealth.

This Certification does not relieve the applicant of the obligation to comply with other appropriate state or federal statutes or regulations.

### NOTICE OF APPEAL RIGHTS

### a.) Appeal Rights and Time Limits

Certain persons shall have a right to request an adjudicatory hearing concerning certifications by MassDEP when an application is required: (a) the applicant or property owner; (b) any person aggrieved by the decision who has submitted written comments during the public comment period; (c) any ten (10) persons of the Commonwealth pursuant to M.G.L. c.30A where a group member has submitted written comments during the public comment period; or (d) any governmental body or private organization with a mandate to protect the environment which has submitted written comments during the public comment period. Any person aggrieved, any ten (10) persons of the Commonwealth, or a governmental body or private organization with a mandate to protect the environment may appeal without having submitted written comments during the public comment period only when the claim is based on new substantive issues arising from material changes to the scope or impact of the activity and not apparent at the time of public notice. To request an adjudicatory hearing pursuant to M.G.L. c.30A, § 10, a Notice of Claim must be made in writing, provided that the request is made by certified mail or hand delivery to MassDEP, with the appropriate filing fee specified within 310 CMR 4.10 along with a DEP Fee Transmittal Form within twenty-one (21) days from the date of issuance of this Certificate, and addressed to:

### Case Administrator Department of Environmental Protection 100 Cambridge Street, 9th Floor Boston, MA 02114

A copy of the request shall at the same time be sent by certified mail or hand delivery to the Department of Environmental Protection at:

Department of Environmental Protection Commissioner's Office 100 Cambridge Street, Suite 900 Boston, MA 02114

### b.) Contents of Hearing Request

A Notice of Claim for Adjudicatory Hearing shall comply with MassDEP's Rules for Adjudicatory Proceedings, 310 CMR 1.01(6), and shall contain the following information pursuant to 314 CMR 9.10(3):

- 3. the 401 Certification Transmittal Number;
- 4. the complete name of the applicant and address of the project;
- 5. the complete name, address, and fax and telephone numbers of the party filing the request, and, if represented by counsel or other representative, the name, fax and telephone numbers, and address of the attorney;
- 6. if claiming to be a party aggrieved, the specific facts that demonstrate that the party satisfies the definition of "aggrieved person" found at 314 CMR 9.02;
- 7. a clear and concise statement that an adjudicatory hearing is being requested;
- 8. a clear and concise statement of (1) the facts which are grounds for the proceedings, (2) the objections to this Certificate, including specifically the manner in which it is alleged to be inconsistent with the MassDEP's Water Quality Regulations, 314 CMR 9.00, and (3) the relief sought through the adjudicatory hearing, including specifically the changes desired in the final written Certification; and
- 9. a statement that a copy of the request has been sent by certified mail or hand delivery to the applicant, the owner (if different from the applicant), the conservation commission of the city or town where the activity will occur, the Department of Conservation and Recreation (when the certificate concerns projects in Areas of Critical Environmental Concern), the public or private water supplier where the project is located (when the certificate concerns projects in Outstanding Resource Waters), and any other entity with responsibility for the resource where the project is located.
- c.) Filing Fee and Address

The hearing request along with a DEP Fee Transmittal Form and a valid check or money order payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100) must be mailed to:

Commonwealth of Massachusetts Department of Environmental Protection Commonwealth Master Lockbox PO Box 4062 Boston, MA 02211

The request will be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver. The filing fee is not required if the appellant is a city or town (or municipal agency), county, or district of the Commonwealth of Massachusetts, or a municipal housing authority. MassDEP may waive the adjudicatory hearing filing fee pursuant to 310 CMR 4.06(2) for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file an affidavit setting forth the facts believed to support the claim of undue financial hardship together with the hearing request as provided above.

Should you have any questions relative to this permit, please contact myself or Ryan Hale at <u>heidi.davis@mass.gov</u> and <u>ryan.hale@mass.gov</u>.

Very truly yours,

Her M Dy

Heidi M. Davis Highway Unit Supervisor

Ecc: MassDEP NERO – Jill Provencal USACE – Dan Vasconcelos USCG – Jeffrey D. Stieb MassDOT – Melissa Lenker MassDOT – Kylie Abouzeid MassDOT – Robert Antico VHB – Tom Donald VHB – Daniel Cannata VHB – Matthew Bobkowski Haverhill Conservation Commission – Robert E. Moore, Jr., <u>conservation@cityofhaverhill.com</u> Methuen Conservation Commission – Joseph T. Giarrusso, Conservation Officer via Amy Priante-Walkowicz, Head Clerk, AWalkowicz@ci.methuen.ma.us

### ATTACHMENT A PRE-CONSTRUCTION SUBMITTAL CHECKLIST

### Bridge Replacements: I- 495 over Merrimack River and Route 110/113; Industrial Ave over I-495 Haverhill and Methuen, MA

### THIS CHECKLIST MUST BE COMPLETED PRIOR TO THE START OF WORK. NOTE THAT SOME CONDITIONS REQUIRE THAT INFORMATION BE SUBMITTED A SPECIFIC NUMBER OF DAYS PRIOR TO THE START OF WORK OR THE PRE-CONSTRUCTION MEETING.

Condition	Required Submittal	Due Date	Date Submitted	Date Approved			
PRE-CONSTRUCTION SUBMITTAL REQUIREMENTS							
2 and 3	Name, contact information, and qualifications	s Prior to Pre-Con-					
	of the EM and WS, including specific experi-	struction Meet-					
	ence and years to meet requirement	ing					
4	Name and contact information of the RE	Prior to Pre-Con-					
		struction Meet-					
		ing					
6	USACE Work-Start Notification Form	14 days prior to					
		work start					
7	СР/РР	14 days prior to					
		work start					
8	EM Verification of SWPPP Training	Prior to work					
		start					
10	Water Management Plan	14 days prior to					
		work start					
13	Flood Contingency Plan	Prior to any work					
		within 1% annual					
		chance of flood-					
		ing zone					
14	Invasive Plant Management Strategy	Prior to Pre-Con-					
		struction Meet-					
		ing					
16	Demolition Plan	21 days prior to					
		work start					
17	Completion of NHESP Consultation	Prior to work in					
		Priority and Esti-					
		mated Habitats					
18	Revised Stormwater Calculations	Prior to work					
		start					

# Massoner 重要 महत्वपूर्ण जग्मवरुराहर्व المعربة 重要 महत्वपूर्ण विक्रानियार किंद्र किंद किंद्र किंद किंद्र कि

# Communication for Non-English-Speaking Parties This document is important and should be translated immediately.

If you need this document translated, please contact MassDEP's Director of Environmental Justice at the telephone number listed below.

# Español Spanish

Este documento es importante y debe ser traducido inmediatamente. Si necesita traducir este documento, póngase en contacto con el Director de Justicia Ambiental de MassDEP (MassDEP's Director of Environmental Justice) en el número de teléfono que figura más abajo.

# Português Portuguese

Este documento é importante e deve ser traduzido imediatamente. Se você precisar traduzir este documento, entre em contato com o Diretor de Justiça Ambiental do MassDEP no número de telefone listado abaixo.

# 繁體中文 Chinese Traditional

本文檔很重要,需要即刻進行翻譯。 如需對本文檔進行翻譯,請透過如下列示電話號 碼與 MassDEP 的環境司法總監聯絡。

# 简体中文 Chinese Simplified

*这份文件非常重要,需要立即翻译。* 如果您需要翻译这份文件,请通过下方电话与 MassDEP 环境司法主任联系。

# Ayisyen Kreyòl Haitian Creole

Dokiman sa a enpòtan epi yo ta dwe tradui l imedyatman. Si w bezwen tradui dokiman sa a, tanpri kontakte Direktè. Jistis Anviwònmantal MassDEP a nan nimewo telefòn ki endike anba a.

# Việt Vietnamese

Tài liệu này và quan trọng và phải được dịch ngay. Nếu quý vị cần bản dịch của tài liệu này, vui lòng liên hệ với Giám Đốc Phòng Công Lý Môi Trường của MassDEP theo số điện thoại được liệt kê bên dưới.

# ប្រទេសកម្ពុជា Khmer/Cambodian

ឯកសារនេះមានសារ:សំខាន់ ហើយកប្បីកួរត្រូវបានបកប្រែភ្លាមៗ។ ប្រសិនបើអ្នកត្រូវការអោយឯកសារនេះបកប្រែ សូមទាក់ទងនាយកផ្នែកយុត្តិធម៌បរិស្ថានរបស់ MassDEPតាមរយ:លេខទូរស័ព្ទដែលបានរាយដូចខា ងក្រោម។

# Kriolu Kabuverdianu Cape Verdean

Es dokumentu sta important i tenki ser tradusidu immediatamenti. Se nho ta presisa ke es dokumentu sta tradisidu, por favor kontata O Diretor di Justisia di Environman di DEP ku es numero di telifoni menxionadu di baixo.

Contact Deneen Simpson 857-406-0738 Massachusetts Department of Environmental Protection 100 Cambridge Street 9<sup>th</sup> Floor Boston, MA 02114 TTY# MassRelay Service 1-800-439-2370 • <u>https://www.mass.gov/environmental-justice</u> (Version revised 8.2.2023) 310 CMR 1.03(5)(a)

# Русский Russian

Это чрезвычайно важный документ, и он должен быть немедленно переведен. Если вам нужен перевод этого документа, обратитесь к директору Департамента экологического правосудия MassDEP (MassDEP's Director of Environmental Justice) по телефону, указанному ниже.

# Arabic العربية

هذه الوثيقة مهمة وتجب ترجمتها على الفور .

إذا كنت بحاجة إلى ترجمة هذه الوثيقة، فيرجى الاتصال بمدير. العدالة البيئية فيMassDEP على رقم الهاتف المذكور أدناه.

# 한국어 Korean

*이 문서는 중대하므로 즉시 번역되어야 합니다.* 본 문서 번역이 필요하신 경우, 매사추세츠 환경보호부의 "환경정의" 담당자 분께 문의하십시오. 전화번호는 아래와 같습니다.

# **հայերեն** Armenian

Այս փաստաթուղթը կարևոր է, և պետք է անհապաղ թարգմանել այն։ Եթե Ձեզ անհրաժեշտ է թարգմանել այս փաստաթուղթը, դիմեք Մասաչուսեթսի շրջակա միջավայրի պահպանության նախարարության (MassDEP) Բնապահպանական հարցերով արդարադատության ղեկավարին (Director of Environmental Justice)` ստորև նշված հեռախոսահամարով

# Farsi Persian فارسی

این نوشتار بسیار مهمی است و باید فوراً ترجمه شود. اگر نیاز به ترجمه این نوشتار دارید لطفاً با مدیر عدالت محیط زیستی MassDEP در شماره تلفن ذکر شده زیر تماس بگیرید.

# Français French

Ce document est important et doit être traduit immédiatement. Si vous avez besoin d'une traduction de ce document, veuillez contacter le directeur de la justice environnementale du MassDEP au numéro de téléphone indiqué cidessous.

# **Deutsch German**

Dieses Dokument ist wichtig und muss sofort übersetzt werden. Wenn Sie eine Übersetzung dieses Dokuments benötigen, wenden Sie sich bitte an MassDEP's Director of Environmental Justice (*Direktor für Umweltgerechtigkeit in Massachusetts*) unter der unten angegebenen Telefonnummer.

# Ελληνική Greek

Το έγγραφο αυτό είναι πολύ σημαντικό και πρέπει να μεταφραστεί αμέσωςιο. Αν χρειάζεστε μετάφραση του εγγράφου αυτού, παρακαλώ επικοινωνήστε με τον Διευθυντή του Τμήματος Περιβαλλοντικής Δικαιοσύνης της Μασαχουσέτης στον αριθμό τηλεφώνου που αναγράφεται παρακάτω

# Italiano Italian

Questo documento è importante e deve essere tradotto immediatamente. Se hai bisogno di tradurre questo documento, contatta il Direttore della Giustizia Ambientale di MassDEP al numero di telefono sotto indicato.

# Język Polski Polish

Ten dokument jest ważny i powinien zostać niezwłocznie przetłumaczony. Jeśli potrzebne jest tłumaczenie tego dokumentu, należy skontaktować się z dyrektorem ds. sprawiedliwości środowiskowej MassDEP pod numerem telefonu podanym poniżej.

# हिन्दी Hindi

यह दस्तावेज महत्वपूर्ण है और इसका अनुवाद तुरंत किया जाना चाहिए।. यदि आपको इस दस्तावेज का अनुवाद कराने की जरूरत है, तो कृपया नीचे दिए गए टेलीफोन नंबर पर MassDEP के पर्यावरणीय न्याय निदेशक से संपर्क करें।