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MEMORANDUM

TO:	Judith Schmitz – DEP
FROM:	Alexandra Gaspar, Weston & Sampson
DATE:	December 15, 2023
SUBJECT:	Response to Comments DEP#204-0995

Dear Ms. Schmitz:

On behalf of the Littleton Electric Light and Water Department (LELWD), Weston & Sampson Engineers, Inc. is hereby responding to comments generated by the Department of Environmental Protection on November 27, 2023. The below attachments have been included:

Attachment A:	NHESP Letter
Attachment B:	Revised Plans

Comment 1: The Proponent should include existing and proposed treelines on the site plans and depict the location of Bordering Land Subject to Flooding(BLSF) based on surveyed elevations not GIS overlays, in all off-road areas where work is proposed.

Response 1: Please see attached revised plans that show existing and proposed treelines and the accurate location of BLSF.

Comment 2: Plans should be labelled to show the calculated areas of alteration to BLSF adjacent to Route 2, along the existing roadways, and within the vicinity of the well/access drive, as well as areas of alteration to Riverfront Area along the existing roadways and adjacent to Route 2.

Response 2: Please see attached revised plans that are labelled to show calculated areas of alteration.

Comment 3: The majority of this project does not qualify as redevelopment under 310 CMR 10.58(5), therefore the applicant must demonstrate how the project meets the performance standards for work in Riverfront Area found in 310 CMR 10.58(4).

Response 3: Below please find how this project adheres to the performance standards for work in the Riverfront area per 310 CMR 10.58(4)

The majority of this project does not qualify as redevelopment under 310 CMR 10.58(5), therefore the applicant must demonstrate how the project meets the performance standards for work in Riverfront Area found in 310 CMR 10.58(4).

(4) General Performance Standard. Where the presumption set forth in 310 CMR 10.58(3) is not overcome, the applicant shall prove by a preponderance of the evidence that there are no practicable and substantially equivalent economic alternatives to the proposed project with less adverse effects on the interests identified in M.G.L. c.131 § 40 and that the work, including proposed mitigation, will have no significant adverse impact on the riverfront area to protect the interests identified in M.G.L. c. 131 § 40. In the event that the presumption is partially overcome, the issuing authority shall make a written determination setting forth its grounds in the Order of Conditions and the partial rebuttal shall be taken into account in the application of 310 CMR 10.58 (4)(d)1.a. and c.; the issuing authority shall impose conditions in the Order that contribute to the protection of interests for which the riverfront area is significant.

(a) Protection of Other Resource Areas. The work shall meet the performance standards for all other resource areas within the riverfront area, as identified in 310 CMR 10.30 (Coastal Bank), 10.32 (Salt Marsh), 10.55 (Bordering Vegetated Wetland), and 10.57 (Land Subject to Flooding). When work in the riverfront area is also within the buffer zone to another resource area, the performance standards for the riverfront area shall contribute to the protection of the interests of M.G.L. c. 131, § 40 in lieu of any additional requirements that might otherwise be imposed on work in the buffer zone within the riverfront area.

The performance standards for land subject to flooding have been addressed as part of this narrative.

(b) Protection of Rare Species. No project may be permitted within the riverfront area which will have any adverse effect on specified habitat sites of rare wetland or upland, vertebrate or invertebrate species, as identified by the procedures established under 310 CMR 10.59 or 10.37, or which will have any adverse effect on vernal pool habitat certified prior to the filing of the Notice of Intent.

Communication with MassWildlife regarding compliance with the Massachusetts Endangered Species Act (MESA) is ongoing and will be resolved prior to commencement of work. The NHESP Tracking Number is 23-4202. The MESA decision letter has been attached to this Response to Comments document.

(c) Practicable and Substantially Equivalent Economic Alternatives. There must be no practicable and substantially equivalent economic alternative to the proposed project with less adverse effects on the interests identified in M.G.L. c. 131 § 40.

See Appendix B Alternative Analysis.

2. Scope of Alternatives. The scope of alternatives under consideration shall be commensurate with the type and size of the project. The issuing authority shall presume that alternatives beyond the scope described below are not practicable and therefore need not be considered. The issuing authority or another party may overcome the presumption by demonstrating the practicability of a wider range of alternatives, based on cost, and whether the cost is reasonable or prohibitive to the owner; existing technology; proposed use; and logistics in light of the overall project purpose.

Please see Appendix B for Alternative Analysis.

3. Evaluation of Alternatives. The applicant shall demonstrate that there are no practicable and substantially equivalent economic alternatives as defined in 310 CMR 10.58(4)(c)1., within the scope of alternatives as set forth in 310 CMR 10.58(4)(c)2., with less adverse effects on the interests identified in M.G.L. c. 131 § 40. The applicant shall submit information to describe sites and the work both for the proposed location and alternative site locations and configurations sufficient for a determination by the issuing authority under 310 CMR 10.58(4)(d). The level of detail of information shall be commensurate with the scope of the project and the practicability of alternatives. Where an applicant identifies an alternative which can be summarily demonstrated to be not practicable, an evaluation is not required. The purpose of evaluating project alternatives is to locate activities so that impacts to the riverfront area are avoided to the extent practicable. Projects within the scope of alternatives must be evaluated to determine whether any are practicable. As much of a project as feasible shall be sited outside the riverfront area. If siting of a project entirely outside the riverfront area is not practicable, the alternatives shall be evaluated to locate the project as far as possible from the river. The issuing authority shall not require alternatives which result in greater or substantially equivalent adverse impacts. If an alternative would result in no identifiable difference in impact, the issuing authority shall eliminate the alternative. If there would be no less adverse effects on the interests identified in M.G.L. c. 131, § 40, the proposed project rather than a practicable alternative shall be allowed, but the criteria in 310 CMR 10.58(4)(d) for determining no significant adverse impact must still be met. If there is a practicable and substantially equivalent economic alternative with less adverse effects, the proposed work shall be denied and the applicant may either withdraw the Notice of Intent or receive an Order of Conditions for the alternative, provided the applicant submitted sufficient information on the alternative in the Notice of Intent.

Please see Appendix B for Alternative Analysis.

(d) No Significant Adverse Impact. The work, including proposed mitigation measures, must have no significant adverse impact on the riverfront area to protect the interests identified in M.G.L. c. 131, § 40. 1. Within 200 foot riverfront areas, the issuing authority may allow the alteration of up to 5000 square feet or 10% of the riverfront area within the lot, whichever is greater, on a lot recorded on or before October 6, 1997 or lots recorded after October 6, 1997 subject to the restrictions of 310 CMR 10.58(4)(c)2.b.vi., or up to 10% of the riverfront area within a lot recorded after October 6, 1997, provided that:

a. At a minimum, a 100 foot wide area of undisturbed vegetation is provided. This area shall extend from mean annual high-water along the river unless another location would better protect the interests identified in M.G.L. c. 131 § 40. If there is not a 100 foot wide area of undisturbed vegetation within the riverfront area, existing vegetative cover shall be preserved or extended to the maximum extent feasible to approximate a 100 foot wide corridor of natural vegetation. Replication and compensatory storage required to meet other resource area performance standards are allowed within this area; structural stormwater management measures may be allowed only when there is no practicable alternative. Temporary impacts where necessary for installation of linear site-related utilities are allowed, provided the area is restored to its natural conditions. Proposed work which does not meet

the requirement of 310 CMR 10.58(4)(d)1.a. may be allowed only if an applicant demonstrates by a preponderance of evidence from a competent source that an area of undisturbed vegetation with an overall average width of 100 feet will provide equivalent protection of the riverfront area, or that a partial rebuttal of the presumptions of significance is sufficient to justify a lesser area of undisturbed vegetation;

Work will occur closer to the river than existing conditions. The proposed work involving horizontal directional drilling between the two access pits is trenchless technology and no permanent riverfront impact is anticipated from that portion of the work. The portions that are not occurring within degraded area will be temporary in nature, as directional drilling is being utilized for those portions of the work that are within undisturbed riverfront area.

b. Stormwater is managed according to standards established by the Department in its Stormwater Policy.

The MA Stormwater Standards are being met. Please see Appendix C for Stormwater Report.

c. Proposed work does not impair the capacity of the riverfront area to provide important wildlife habitat functions. Work shall not result in an impairment of the capacity to provide vernal pool habitat identified by evidence from a competent source, but not yet certified. For work within an undeveloped riverfront area which exceeds 5,000 square feet, the issuing authority may require a wildlife habitat evaluation study under 310 CMR 10.60.

Communication with MassWildlife regarding compliance with the Massachusetts Endangered Species Act (MESA) is ongoing and will be resolved prior to commencement of work. However, work is in the road, which is not habitat area, so we do not anticipate a "take" of habitat.

d. Proposed work shall not impair groundwater or surface water quality by incorporating erosion and sedimentation controls and other measures to attenuate nonpoint source pollution. The calculation of square footage of alteration shall exclude areas of replication or compensatory flood storage required to meet performance standards for other resource areas, or any area of restoration within the riverfront area. The calculation also shall exclude areas used for structural stormwater management measures, provided there is no practicable alternative to siting these structures within the riverfront area and provided a wildlife corridor is maintained (e.g. detention basins shall not be fenced).

A new well is proposed. Erosion and sedimentation controls will be used for the duration of the project.

Comment 4: The Proponent should describe how areas of temporary alteration to wetland resource areas and Buffer Zone within off-road portions of the Project will be restored, the anticipated long-term

vegetated characteristics of the easement, easement maintenance requirements, and proposed invasive species control measures.

Areas of temporary alteration will be restored with loam and seed or a native seed mix, as appropriate.

Personnel trained in the U.S. Army Corps of Engineers Wetland Delineation Manual will identify any invasive species on site, with monitoring occurring for two growing seasons following construction. During each monitoring effort, the wetland scientist will look for the presence of non-native species at the restored wetland resource area and buffer zone within the limit of work. The more common invasive species include:

- Purple loosestrife (Lythrum salicaria)
- Japanese knotweed (Fallopia japonica)
- Common reed (Phragmites communis)

The wetland scientist will document any and all invasive species found, as well as the overall health of the re-seeded area. At any time during the monitoring period, if 10% of invasive species or more are found within any monitoring area, work will be conducted to remove all invasive species from the entire restored area, in the manner as described below.

If invasive species are found at the restored site, all plant material including root mass, stolons, and rhizomes will be removed to prevent re-sprouting from occurring. This will occur using hand tools. The vegetation will be placed inside plastic bags, so seeds do not spread to any non-impacted areas. Removal operations will be overseen by a trained Wetlands Scientist.

Comment 5: Given the close proximity of the proposed well/parking area/access drive to Bordering Vegetated Wetlands, as well as the location of this work within a Critical Area (Zone II and new Zone I), the applicant should provide stormwater management measures to ensure that runoff from proposed impervious surfaces within Sub catchment A1 will meet the Massachusetts Stormwater Standards (particularly Standards 1, 4, and 6). There are no provisions for "de Minimis" work contained in the Stormwater Standards that allow for the discharge of untreated stormwater runoff. If roofs are proposed above any of the areas at the Well Site, plans should reflect that the roofs will be composed of non-metal material. The proposed location of plowed snow within the vicinity of the well should be designated on the site plans.

Response 5: The stormwater management design has been revised to include an infiltration trench at the head of the access road, nearby the proposed well building. The trench was designed to capture and treat the water quality volume associated with 1-inch of runoff for all impervious areas subject to vehicular traffic and the required recharge volume for all impervious areas draining to the practice. There will be no untreated discharges to the wetland resource area. Additionally, snow storage areas have been identified on the revised plan set. The proposed building will have a metal roof with a powder-coat finish. Special provisions for stormwater BMPs related to metal roofing in the MA Stormwater Handbook are only applicable for galvanized or copper roofing, neither of which are applicable.

Comment 6: The applicant should demonstrate that there is adequate separation between the bottom of the infiltration basin and mean annual high groundwater. Locations of proposed erosion controls must be clearly depicted on the site plans.

Response 6: A Frimpter analysis was conducted to estimate the probable high groundwater elevation beneath the infiltration practice. The Frimpter method entails using statistical analysis of long-term groundwater measurements from a network of established groundwater observation wells located within similar geologic and topographic settings to establish probable high groundwater elevations. Generally, the Frimpter method is more conservative and predicts higher groundwater elevations than what is present on the site. Stormwater test pits will be conducted at all proposed infiltration practices prior to the start of construction to confirm all groundwater assumptions made in the proposed design.

Comment 7: A response from the Natural Heritage and Endangered Species Program should be received prior to the closing of the hearing and issuance of an Order of Conditions for this project.

Response 7: Please see attached letter from NHESP.