



To: William Wallach, Department of Economic and Community Development  
From: Linda Brunza, Environmental Analyst  
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Date: 11/3/2023

Subject: Scoping Notice for Return to the Riverbend, Middletown

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The Department of Energy and Environmental Protection (DEEP) has received the Notice of Scoping for grant funding by the Department of Economic and Community Development (DECD) for remediation and redevelopment of land along the Connecticut River in downtown Middletown.

The following comments are submitted for your consideration. The first section contains information on DEEP's regulatory programs that may require permits for the project or programs, such as the Natural Diversity Database, that support the regulatory programs. There will be information linked to DEEP's website as well as contact information. The links and contact are there to help guide the applicant and sponsoring agency to determine if permits are required after the project moves closer to design and construction. These comments are meant to provide a high-level analysis of the area, since scoping notices tend to be at the beginning stages of a project with no set design plans. After the list of potential permits, there will be comments from various divisions that are meant for informational purposes and best management practices.

#### Permitting/ Regulatory Programs

Water Quality Permitting, U.S. Army Corps of Engineers and DEEP  
Contact: Julia Kendzierski, Environmental Analyst, Land and Water Resources Division. 860-424-3645 or [Julia.Kendzierski@ct.gov](mailto:Julia.Kendzierski@ct.gov).

The applicant has met with the Land and Water Resources Division in a pre-application meeting on October 16. If work will be conducted along the river below the ordinary high-water elevation, it will likely need the [Federal 404 Clean Water Act, Water Quality Permit](#) issued by the Army Corps of Engineers, and the State 401 permit issued by DEEP. A fact sheet regarding 401 Water Quality Certification is available on-line at: [401 Certification](#). Pre-application meetings with the Land and Water Resources Division are available to discuss design and permitting information as the project progresses. Any work above the Coastal Jurisdiction Line that will be receiving state funding may require Flood Management Certification from our office. Be advised that FEMA is currently conducting a flood map update for the CT River watershed. The draft maps will be available in November and will give an idea of if the base flood elevation is going up or if the floodplain area is expanding or shrinking. More information can be found on DEEP's website at [Flood Management Certification](#), which includes a link to the required application documents.

Stormwater and Dewatering Wastewaters from Construction Activities General Permit  
Contact: Bureau of Materials Management and Compliance Assurance, Permitting and Enforcement Division: [DEEP.stormwaterstaff@ct.gov](mailto:DEEP.stormwaterstaff@ct.gov)

The General Permit for [Stormwater and Dewatering Wastewaters from Construction Activities](#) may be applicable depending on the size of the disturbance regardless of phasing. The construction

stormwater general permit dictates separate compliance procedures for Locally Exempt projects (projects primarily conducted by government authorities) and Locally Approvable projects (projects primarily by private developers). This general permit applies to discharges of stormwater and dewatering wastewater from construction activities where the activity disturbs more than an acre. The requirements of the current general permit include registration to obtain permit coverage and development and implementation of a Stormwater Pollution Control Plan (SWPCP). The SWPCP contains requirements for the permittee to describe and manage their construction activity, including implementing erosion and sediment control measures as well as other control measures to reduce or eliminate the potential for the discharge of stormwater runoff pollutants (suspended solids and floatables such as oil and grease, trash, etc.) both during and after construction. A goal of 80 percent removal of the annual sediment load from the stormwater discharge shall be used in designing and installing post-construction stormwater management measures. Stormwater treatment systems must be designed to comply with the post-construction stormwater management performance requirements of the permit. These include post-construction performance standards requiring retention and/or infiltration of the runoff from the first inch of rain (the water quality volume or WQV) and incorporating control measures for runoff reduction and low impact development practices.

Projects that are exempt from local permitting that disturb over one acre must submit a registration form and Stormwater Pollution Control Plan (SWPCP) to the Department at least 60 or 90 days, as identified in the permit, prior to the initiation of construction. Locally Approvable construction projects with a total disturbed area of one to five acres are not required to register with the Department provided the development plan has been approved by a municipal land use agency and adheres to local erosion and sediment control land use regulations and the CT Guidelines for Soil Erosion and Sediment Control. Locally Approvable construction projects with a total disturbed area of five or more acres must submit a registration form and SWPCP to the Department at least 60 days prior to the initiation of construction. Registrations shall include a certification by the Qualified Professional who designed the project and a certification by a Qualified Professional or regional Conservation District who reviewed the SWPCP and deemed it consistent with the requirements of the general permit. In addition to measures such as erosion and sediment controls and post-construction stormwater management, the SWPCP must include a schedule for plan implementation and routine inspections. For further information, contact the division at 860-424-3025 or [DEEP.StormwaterStaff@ct.gov](mailto:DEEP.StormwaterStaff@ct.gov). The construction stormwater general permit registrations must be filed electronically through DEEP's [ezFile Portal](#). Additional information can be found on-line at: [Construction Stormwater GP](#).

#### Natural Diversity Database

The Natural Diversity Database Review process was developed by DEEP to assist state agencies with the requirement that any activity authorized, funded, or performed by the state does not threaten the existence of endangered or threatened species. Applicants for state and local permits and grants may be required to consult with the NDDB as part of the application process.

Staff reviewed the project location and found that portions of it fall within Natural Diversity Database Areas, therefore the applicant must submit a Request for Natural Diversity Database State-listed Species Review. Applicants can submit their filings through a portal user account. Please review the [Instructions for Creating a New Account](#) located on the DEEP NDDB website.

#### Information/ Best Management Practices

#### Remediation Division

Contact: Meena Mortazavi, Environmental Analyst, Remediation Division. 860-424-3256, [Meena.Mortazavi@ct.gov](mailto:Meena.Mortazavi@ct.gov).

Of the properties listed, 22 and 44 River Road received a determination by staff that the sites were eligible for petroleum funding from the EPA on September 8, 2023. The site located at 225 River Road was accepted into the Brownfield Remediation and Revitalization Program (BRRP) on April 12, 2021 under the City of Middletown as the applicant. To date, DEEP has received a schedule stating that a city would submit a Completion of Investigation Form (COI) to DEEP by April 12, 2023. DEEP has not received such report. DEEP recommends that the city notify Meena Mortazavi by email when they plan to submit the COI, otherwise the Site is subject to an enforcement action under the BRRP for compliance (CGS 32-769).

Remediation has no record of 110 River Road enrolled in any cleanup program.

Fisheries Division

Contact: Bruce Williams, Senior Fisheries Biologist. 860-447-4317, [Bruce.Williams@ct.gov](mailto:Bruce.Williams@ct.gov).

There is an unprecedented opportunity for the DEEP Fisheries Division to provide insight and design information for recreational fishing access on these properties. Currently, Harbor Park has the best fishing access and should be preserved. Other potential fishing access points occur at three locations identified by the Fisheries Division staff.

In addition, there are concerns during construction for this area. The area with the greatest potential for impact is Sumner Brook. The brook has documented runs of the following diadromous (migratory) fish species: Alewife, American Eel, and Blueback Herring (state-listed species of special concern). The river also supports a diverse community of resident fish species. To protect diadromous fish in Sumner Brook during their spring spawning migration the Fisheries Division makes the following recommendations:

1. All unconfined in-water work should be prohibited from April 1 to June 30, inclusive. During this period, it is also important that the stream channel remains open and passable to fish.
2. Many species of diadromous fish migrate at night and bright artificial lights may interfere with their migration. During the spring migration period from April 1 to June 30, artificial lighting for construction related activities should not be directed on to the water surface.
3. Loud construction activities like jack hammering may also interfere with fish migrations and should be prohibited from sunset to sunrise from April 1 to June 30, inclusive. Loud construction noises are defined as those exceeding 90 decibels, as measured above the water's surface at the point closest to the source of the noise.

The Connecticut River has some of the largest and most diverse runs of diadromous fish in New England. Those species include alewife, American eel, American shad, blueback herring (state-listed species of special concern), sea lamprey, striped bass, white perch, Atlantic sturgeon (federally listed), and short nose sturgeon (federally listed). Depending on the nature of any in-water work in the Connecticut River, additional restrictions may be warranted. Fisheries will want to review this project again, once more detailed plans are available. As a reminder, if any federal funds are used for this project, then a NOAA Essential Fish Habitat Review will also be required. Also due to the presence of federally endangered sturgeon a federal ESA review will also be required.

Watersheds Program, Water Planning and Management

Contact: Emma Coffey, Analyst, Water Planning and Management Division. 860-424-3344 or [Emma.Coffey@ct.gov](mailto:Emma.Coffey@ct.gov).

The Return to the Riverbend project proposes to redevelop property along a segment of the Connecticut River in Middletown. The Connecticut River is impaired for recreation and fish consumption due to elevated bacteria levels. The Connecticut River Total Maximum Daily Load does not address this particular segment, however it lies between two other impaired segments and should be considered when planning development around this water resource (<https://portal.ct.gov/>

</media/DEEP/water/tmdl/CTFinalTMDL/connecticutriver4000>). Remediation and redevelopment of the land should be properly managed as not to impact water resources.

This location along the Connecticut River is historically prone to flooding during high rainfall events. The design plans for this proposed redevelopment should consider resiliency to climate change throughout.

DEEP supports the use of green space throughout this project to encourage infiltration of stormwater runoff. The proposed restoration of the existing wetland and the pollinator garden could also serve as a natural space for infiltration of stormwater runoff. DEEP encourages incorporating living shorelines and riparian buffers where possible.

#### Solid Waste Disposal

Demolition waste that is not contaminated with asbestos, PCBs, or other materials that require special handling is subject to Connecticut's [solid waste statutes and regulations](#), and must be reused, recycled, or disposed of accordingly. Construction and demolition debris should be segregated on-site and reused or recycled to the greatest extent possible. Waste management plans for construction, renovation or demolition projects are encouraged to help meet the State's reuse and recycling goals. Connecticut's [Comprehensive Materials Management Strategy](#) outlines a goal of 60% recovery rate for municipal solid waste by the year 2024. Part of this effort includes increasing the amount of construction and demolition materials recovered for reuse and recycling in Connecticut. It is recommended that contracts be awarded only to those companies who present a sufficiently detailed construction/demolition waste management plan for reuse/recycling. Additional information concerning construction and demolition material management and waste management plans can be found on the DEEP's [C&D Material Management](#) and [C&D Waste Management Plan](#) web pages.

One way that certain types of construction and demolition waste can be reused is as clean fill. Clean fill is defined in section 22a-209-1 of the Regulations of Connecticut State Agencies (RCSA) and includes only natural soil, rock, brick, ceramics, concrete, and asphalt paving fragments. Clean fill can be used on site or at appropriate off-site locations. Clean fill does not include uncured asphalt, demolition waste containing other than brick or rubble, contaminated demolition wastes (e.g., contaminated with oil or lead paint), tree stumps, or any kind of contaminated soils. Land-clearing debris and waste other than clean fill resulting from demolition activities is considered bulky waste, also defined in section 22a-209-1 of the RCSA. Bulky waste is classified as special waste and must be disposed of at a permitted landfill or other solid waste processing facility pursuant to section 22a-208c of the Connecticut General Statutes and section 22a-209-2 of the RCSA. A fact sheet regarding disposal of special wastes and the authorization application form may be obtained at: [Special Waste Fact Sheet](#).

#### Special Waste

If abatement is required for asbestos containing materials (ACM), these materials are regulated as a "special waste" in Connecticut and may not be disposed of with regular construction and demolition waste. Instead, these materials may only be disposed of at facilities that are specifically authorized to accept ACM. Although the disposal of asbestos-containing material is typically arranged for by the licensed asbestos abatement contractor, project proponents should ensure that the contractor disposes of all such materials at properly licensed facilities. For further information, contact the Waste Engineering & Enforcement Division at 860-424-3023. A fact sheet regarding disposal of special wastes and the authorization application form may be obtained at: [Special Waste Fact Sheet](#).

Demolition debris may also include materials that contain polychlorinated biphenyls (PCBs). Such materials can include transformers, capacitors, fluorescent light ballast and other oil-containing equipment, and in certain building materials (i.e., paint, roofing, flooring, insulation, etc.). EPA has learned that caulk containing potentially harmful polychlorinated biphenyls (PCBs) was used around

windows, door frames, masonry columns and other masonry building materials in many buildings starting in 1929 with increased popularity in the 1950s through the 1970s, including schools, large scale apartment complexes and public buildings. In general, these types of buildings built after 1978 do not contain PCBs in caulk. In 2009, EPA announced new guidance about managing PCBs in caulk and tools to help minimize possible exposure. The guidance can be found at: [PCBs in Caulk](#). Where schools or other buildings were constructed or renovated prior to 1978, EPA and DEEP recommend that PCB-containing caulk removal be scheduled during planned renovations, repairs (when replacing windows, doors, roofs, ventilation, etc.) and demolition projects, whenever possible. However, the continued use of such PCB materials is prohibited and, where it is identified, it must be addressed. EPA recommends testing caulk that is going to be removed as the first step to determine what protections are needed during removal. Where testing confirms the presence of PCBs, it is critically important to ensure that they are not released to air during replacement or repair of caulk in affected buildings. Many such PCB removal projects will need to include sampling of the substrate and soil, as well as require plans to be approved by EPA in coordination with DEEP. Further information concerning the DEEP PCB Program can be found on-line at: [DEEP PCB Program](#).

#### Aquifer Protection

Staff from DEEP reviewed the location of this project and found that it is not in an aquifer protection area and has no comments on the proposed project.

#### Air Management

DEEP Bureau of Air Management typically recommends the use of newer off-road construction equipment that meets the latest EPA or California Air Resources Board (CARB) standards. If newer equipment cannot be used, equipment with the best available controls on diesel emissions including retrofitting with diesel oxidation catalysts or particulate filters in addition to the use of ultra-low sulfur fuel would be the second choice that can be effective in reducing exhaust emissions. The use of newer equipment that meets EPA standards would obviate the need for retrofits.

DEEP also recommends the use of newer on-road vehicles that meet either the latest EPA or California Air Resources Board (CARB) standards for construction projects. These on-road vehicles include dump trucks, fuel delivery trucks and other vehicles typically found at construction sites. On-road vehicles older than the 2007-model year typically should be retrofitted with diesel oxidation catalysts or diesel particulate filters for projects. Again, the use of newer vehicles that meet EPA standards would eliminate the need for retrofits.

Additionally, Section 22a-174-18(b)(3)(C) of the Regulations of Connecticut State Agencies (RCSA) limits the idling of mobile sources to 3 minutes. This regulation applies to most vehicles such as trucks and other diesel engine-powered vehicles commonly used on construction sites. Adhering to the regulation will reduce unnecessary idling at truck staging zones, delivery or truck dumping areas and further reduce on-road and construction equipment emissions. Use of posted signs indicating the three-minute idling limit is recommended. It should be noted that only DEEP can enforce Section 22a-174-18(b)(3)(C) of the RCSA. Therefore, it is recommended that the project sponsor include language similar to the anti-idling regulations in the contract specifications for construction to allow them to enforce idling restrictions at the project site without the involvement of DEEP.

Thank you for the opportunity to review this project. These comments are based on the reviews provided by relevant staff and offices within DEEP during the designated comment period. They may not represent all applicable programs within DEEP. Feel free to contact me if you have any questions concerning these comments.

cc: Eric Hammerling