



TAUNTON RIVER WATERSHED ALLIANCE

A VOICE FOR THE RIVER SINCE 1988

November 3, 2023

Purvi Patel
MEPA Office
100 Cambridge St., Suite 900
Boston, MA 02114
Via email: purvi.patel@mass.gov

Re: **EEA # 16558 Supplemental Draft Environmental Impact Report: Lakeshore Center Phase 4 Bridgewater, MA Dated September 15, 2023**

Submitted by: Claremont Companies

Dear Ms. Patel:

On behalf of the Taunton River Watershed Alliance (TRWA), the Wild and Scenic Taunton River Stewardship Council (TRSC) and our membership we would like to submit comments on EEA # 16558 Supplemental Draft Environmental Impact Report: Lakeshore Center Phase 4 Bridgewater, MA Dated September 15, 2023 submitted by Claremont Companies.

As noted in our prior comments this is the fourth phase of major development in a small headwaters sub-watershed which is already clearly showing adverse impact from previously completed phases and has exceeded its assimilative capacity. Location, size, assimilative capacity to absorb more pollution and previous development all matter. This is the reason MEPA exists so projects are evaluated in their entirety. Similarly, both the state and federal Clean Water Acts have provisions that go beyond technology standards like the state stormwater rules so that more stringent water quality-based limitations apply when a receiving water has exceeded its capacity to assimilate pollutants. When all assimilative capacity is used up, no additional discharge of pollutants is allowed.

We asked the applicant to show that the Lake Nippenicket sub-watershed and Raynham well's aquifer have capacity to assimilate the phosphorus, bacteria and toxics (metals, PFAS, organics) from the impervious surfaces of both the existing and proposed phases of development. Instead of answering our question, the consultant for the developer says that they will comply with state stormwater technology-based standards and stay 25 feet from bordering wetlands as if the site has unlimited capacity to accept pollution. This is not an adequate answer.

As requested in our initial comments on this project on June 14, 2022 and repeated in our letter of January 22, 2023 if the company wants to squeeze more development into this overdeveloped site they need to evaluate:

Our Mission: ...to protect and restore the watershed's natural resources for current and future generations.

Taunton River Watershed Alliance, at Sweets Knoll State Park, 1387 Somerset Ave., (Rt. 138), Dighton
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- 1) The environmental impact of the phases of development completed to date, the stormwater pollution load generated by the project's phases completed to date (particularly the phosphorus, bacteria and toxics (metals, PFAS, organics) load to the streams on site, Lake Nippenicket, Raynham well's aquifer and the Town River),
- 2) Stormwater volumes and pollutant loads generated by the development to date and projected to be generated from each proposed phase of new development,
- 3) Analysis/assessment of the current state of eutrophication of the streams on site, Lake Nippenicket and the Town River, along with an analysis of the remaining assimilative capacity (if any) of these waters to accept the additional loadings from the proposed phases.

Town River Dam Removal Increases the Need for a Correct Decision

The town of Bridgewater, the Commonwealth and many partners this fall completed an over 8-million-dollar dam removal on the Town River in Bridgewater which reconnected 10 miles (including tributaries) of unimpeded river access for diadromous fish, including river herring, American shad, American eel, and sea lamprey. The project opened 354 acres of river herring spawning and rearing habitat at Lake Nippenicket. The health of the Taunton River watershed and the resilience of the river to climate change depends on healthy tributary streams and headwaters like Lake Nippenicket and its sub-watershed. The water quality stakes in this sub-watershed are high and demand that the town, Commonwealth and EPA apply the precautionary principle by not allowing additional development until additional water quality studies and monitoring demonstrate that adequate assimilative capacity is available.

This dam removal project has been a prime example of the power of partnerships to address infrastructure and climate related problems. The Town of Bridgewater worked with the Massachusetts Division of Ecological Restoration (DER), The Nature Conservancy (TNC), and numerous local, state, and federal partners to plan and fund the dam removal and bridge replacement project on the Town River, at High Street, near the Lincoln Athletic Club, historic Stanley Iron Works Park (a public open space), and the Town's Roadways (Highway) Department. The project team raised over \$8 million in federal (**including BIL money**), state, local, regional, private, and foundation money over the six-plus-year course of the project.

This project involved seven (7) governmental agencies and seven (7) non-governmental agencies working in various capacities, ranging from funding support to direct participation, to affect this critical restoration. Government agencies participating included: the Towns of Bridgewater and West Bridgewater, DER, MA Division of Marine Fisheries (DMF), US Fish & Wildlife Service (USFWS), the NOAA Restoration Center, and the Old Colony Planning Council. Non-governmental agencies participating included: the Town River Fishery Committee, The Nature Conservancy (TNC), the Narragansett Bay Estuary Program, Save the Bay, the Taunton River Watershed Alliance (TRWA), the Taunton River Stewardship Council (TRSC, including SRPEDD as a member of the Stewardship Council), and the Advance Pollution Control Corporation (dam owner). The proposed additional phases of development on Lake Nippenicket jeopardize the benefits of this investment.

Comments not satisfactorily answered below:

1) Receiving Water Assimilative Capacity

The residents of the area report and have pictures of significant eutrophication (algae, weed growth, impaired transparency) in Lake Nippenicket. The Lake is listed on MassDEP's Clean Water Act Section 303(d) Impaired Waters List

for nuisance weed growth – macrophyte non-native aquatic plant *cabomba caroliniana* (fanwort). This is not surprising due to the low water depth and large surface area of the lake along with the significant development which has taken place in this small sub-watershed. We believe the available evidence shows the Lake has reached and indeed exceeded its assimilative capacity to absorb additional phosphorus and pollution from stormwater. The Supplemental DEIR presents no information on pollutant loading such as phosphorus, bacteria and toxic pollutants from the proposed project elements and no information on the assimilative capacity of the receiving waters and aquifer despite our requests.

No response to this comment provided.

2) Monitoring Program

In TRWA’s letter of June 14, 2022 we commented that the applicant should be required to conduct a monitoring program (2/month, April through October) of any streamflow to the Lake from the streams adjacent to its development and of the Town River at 2 locations between the Lake outlet and the Bridgewater wastewater treatment plant for total phosphorus, chlorophyll-a, blue green algae, nitrate-N, E. coli bacteria, temperature, pH, specific conductivity and chlorides.

A sampling program for Lake Nippenicket should be developed in consultation with the MassDEP Watershed Planning Program. Representative locations recommended by MassDEP such as near route 104, the Lake outlet, and several locations in the lake should be sampled 2 times per month for transparency (Secchi Disk), dissolved oxygen, total phosphorus, nitrate-N, chlorophyll-a, blue green algae, temperature, pH, and specific conductivity at depths and final locations recommended by MassDEP. The applicant should consult with the MassDEP Watershed Planning Program and obtain a Quality Assurance Project Plan (QAPP) approval for this monitoring program.

Each year a summary report with data interpretation and analysis should be submitted to the Town of Bridgewater, MassDEP Planning Program and placed on a website for citizen access. Monitoring is necessary to support evaluation of the impact of both existing and new development at this site as well as support quantification of the ability of this area to assimilate pollution and determine what refinements in pollution measures may be necessary.

The Draft EIR simply states “Comment noted. The Proponent will file a Notice of Intent with the Bridgewater Conservation Commission and comply with all requirements of the Order of Conditions once issued.” The adequacy of post project monitoring is critical to evaluating the environmental impact of this project. The Draft EIR should not be approved until a MassDEP approved monitoring plan is agreed to, and the proponent commits to include it in the stormwater O&M covenant recorded with the Plymouth Registry of Deeds.

No response to this comment provided.

3) Impact on Drinking Water

As mentioned above the project site is inside the Zone II aquifer for the Town of Raynham Center Water District’s drinking water wells. The Town’s Center Water District has recently found both coliform bacteria and PFAS levels in excess of state criteria in its raw water supply. This begs the question of how much additional development this small headwater aquifer can support. Property rights are not a license to pollute. Nor are they a grant of free reign to over develop a sensitive site. The proponent knew the area of the proposed development lies in the ACEC of the Hockomock Swamp as well as inside the Zone II aquifer for Town of Raynham drinking water wells when it purchased the land and

should realize that there is a limit to the development carrying capacity of the site. The developer needs to evaluate the impact of both its current and proposed development on the town of Raynham's major aquifer and primary drinking water wells before further development is allowed. The developer risks a lawsuit if found the source of contamination. The developer's insurers, bankers and stockholders should be advised of this potential liability.

No response to this comment provided.

4) Perennial vs Intermittent Streams

The maps submitted with the DEIR show three streams draining the western, central and eastern wetlands on site. The applicant has attached an August 1999 (23-year-old) evaluation to the DEIR which claims these streams are intermittent. Considering the amount of development and stormwater runoff from the site today recharging these wetlands, it is unlikely that these streams are intermittent currently even if they ever were decades ago. We believe these streams should be treated as perennial streams for water quality review and protection measure purposes because they flow directly to Lake Nippenicket across the street (Route 104) and do in fact carry year-round flow. Climate change and decades of development directing stormwater to adjacent wetlands have assured that even if these streams were intermittent decades ago, they flow permanently now.

No adequate response provided.

5) Area of Critical Environmental Concern (ACEC)

In TRWA's letter of June 14, 2022 we commented that "as far back as 1978, in a report titled Route 495 Areawide Approach to Growth, Part II, the Southeastern Regional Planning and Economic Development District (SRPEDD) identified the necessity to provide guaranteed protection of the Hockomock and Titicut Swamps, Lake Nippenicket, and the adjoining wetlands from the potential impacts of development (this document was in fact submitted with the original Hockomock Area of Critical Environmental Concern – ACEC - nomination in June of 1989). The area of the proposed development lies in the ACEC of the Hockomock Swamp as well as inside the Zone II aquifer for the Town of Raynham drinking water wells. It requires special protection, not the additional creation of up to 13 acres of impervious surface, some of which is on the additional parcel located on the north side of Pleasant Street where a restaurant and parking lot is proposed immediately adjacent to Lake Nippenicket. This is antithetic to an ACEC especially on a Lake and bordering wetlands which feed the Town River, a headwater of the Wild and Scenic Taunton River. This area should not be developed but instead be utilized as open space. The "no build alternative" is the best alternative in this case. Loss of pervious surfaces and vegetation does in fact create susceptibility to climate change in opposition to proponents' argument." The Draft EIR inappropriately dismisses this comment saying in effect that ACEC designation doesn't affect the proponent's ability to do whatever they want. It ignores the fact that this is the fourth phase of development in a sensitive area and that cumulative effects do matter. In evaluating whether this Draft EIR provides sufficient analysis of environmental impact, the MEPA Office must consider whether the applicant has properly considered the sensitivity of the project area and the area's assimilative ability to absorb additional impacts in light of the development that has already occurred. Until the Draft EIR provides this information it's incomplete.

The response to comments inappropriately dismisses this comment saying, "The ACEC Regulations do not prohibit development or override local regulations. The proposed Project complies with environmental regulations and will be reviewed at the local level. Please see Sections 1.2.1 and 1.5. 6491/Lakeshore Center Phase 4 10-81 Response to Comments Epsilon Associates, Inc." The response misses the point of the comment. The developer has been afforded ample freedom to not only develop, but over develop this sensitive site. TRWA and TRSC believe that all the evidence

available indicates that this site does not have sufficient pollution assimilative capacity for further Claremont Corporation expansion to comply with the law. In fact, climate change and storm patterns like we have seen this year and expect to worsen in future years compel the town, Commonwealth and EPA to forbid further expansion at this sensitive location.

The point is “enough is enough” for any water quality limited site. The fact that it is also an ACEC and the developer should have been well aware if its limitations make the Company’s response ridiculous. The town, Commonwealth and EPA need to put a hold on further development.

6) Restaurant Proposed on the Lake Nippenicket Shoreline

TRWA stated in our June 14,2022 comment letter that the restaurant project on Lake Nippenicket shoreline on the North side of 104 should be abandoned. The existing structures on this location should be removed and the land deeded to the Town of Bridgewater for a park or conservation land as mitigation for the harm from both the current development and adverse effects from the new proposed phases. This site, despite the fact that stormwater infiltration galleries are proposed, is one of the most damaging components of the Phase 4 development. Any stormwater infiltration design constructed will still require a bypass for large storm events like we have seen in this year. Landscaping such as lawns and shrubs will be fertilized. Trash and litter will find their way to the Lake. Residents have raised concerns about noise, light pollution and traffic. This portion of the project has generated a great deal of public concern.

There are ample options for a 179-seat restaurant on the South side of Route 104 adjacent to the already developed areas that would eliminate this environmental damage. There is no excuse for not following the least environmentally damaging alternative for this element of the project. The Draft EIR simply says the proponent chooses to develop a restaurant here missing the point of the comment. We think if the applicant wants to preserve any credibility with its neighbors it will follow our suggestion to make this land a park which will also enhance the value of its properties across the street.

Summary

ACECs as defined are “places that receive special recognition because of the quality, uniqueness, and significance of its natural and cultural resources”. Its designation by the Secretary of Energy and Environmental Affairs means that it should get increased scrutiny and environmental oversight and tighter state permitting by elevated performance standards and lower thresholds. Claremont Companies has received a lot of leeway already in the existing development of the property. The Supplemental Draft Environmental Impact Report reveals how substantial the development of their property has been. As pointed out above, when the company purchased the property it knew of the property’s sensitivity, limited pollution assimilative ability and limited developability.

All the evidence available indicates that this site has reached its full development potential. Lake Nippenicket and the Raynham Center Water District’s aquifer are over their capacity to absorb more pollution. The company has refused to even commit to monitoring Lake Nippenicket and the aquifer to determine what further measures are needed to mitigate the water quality harm from their already completed phases of development.

For the reasons stated above, the Taunton River Watershed Alliance, Inc. (TRWA), and the Wild & Scenic Taunton River Stewardship Council (TRSC) request that a MEPA approval not be granted and further expansion of this development be prohibited.

Sincerely,



Joseph Callahan
President, Taunton River Watershed Alliance

Donna Desrosiers

Co-Chair, Taunton River Stewardship Council (TRSC)¹

cc: via email to,

Rebecca L. Tepper, Secretary EOEEA
Ken Moraff, Director Water Division, EPA Region 1
Lealdon Langley, MassDEP
Julia Blatt, Massachusetts Rivers Alliance
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Topher Hamblett, Save The Bay
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Eric Moore, President Bridgewater Town Council
Brad McKinnon, Councilor at Large
Pat Neary, Lake Nippenicket Action Focus Team (LNAFT)

¹ The Taunton River Stewardship Council serves as the central coordinating body for implementing the Wild & Scenic Taunton River Stewardship Plan. Their purpose is to promote the long-term protection of the river. visit www.tauntonriver.org