



FEMA

FINDING OF NO SIGNIFICANT IMPACT

VERMONT RIVER CONSERVANCY
WHETSTONE BROOK FLOODPLAIN RESTORATION
WINDHAM COUNTY, BRATTLEBORO, VERMONT
VRC-DR-4330

INTRODUCTION

Vermont Emergency Management, the grant applicant, submitted to the Federal Emergency Management Agency (FEMA) a Hazard Mitigation Grant Program (HMGP) application on behalf of the Vermont River Conservancy, the grant subapplicant. The Hazard Mitigation Grant Program is authorized under Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 United States Code (U.S.C.) 5133 and provides financial assistance for state, local, and tribal governments and certain private nonprofit organizations to implement hazard mitigation measures that are cost effective and substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by the major disaster.

Under the Proposed Action, Vermont River Conservancy would remove an existing berm along Whetstone Brook, excavate fill to create two floodplain terraces, plant a riparian buffer along the Brook, construct two public recreation trails, restore an alluvial fan at the toe of a tributary and the restore a locally significant wetland. The purpose of the project is to restore the natural floodplain function, create additional flood storage and improve water quality within the Whetstone Brook watershed upstream of the Town of Brattleboro, to reduce localized erosion and inundation and flood damage to properties and public infrastructure adjacent to and downstream of the property. The project is needed to lessen flood risk to human health, improved property, and public infrastructure.

The Proposed Action (Alternative 2) includes the following components:

1. Remove approximately 2,000 linear feet of berm along the Whetstone Brook. Care would be taken to maintain mature trees growing at the base of the berm on the water side. Saplings would be saved to use in revegetation. Existing stone armoring located below ordinary high water would be left in place. The remaining stone would be used as grade control structures in the wetland restoration.
2. Create two floodplain terraces.
 - The lower floodplain, adjacent to the river channel, would be excavated to the level of a two-year flood. The upper floodplain, adjacent to and east of the lower floodplain, would be excavated to the level of a 10-year flood. Approximately 38,000 cubic yards of material would be removed from a total of six acres.
3. Plant a 100-foot-wide vegetated buffer (from river's edge) in the lower floodplain.
4. Construct two north/south public recreation trails.
 - One at the top of the slope between the lower and upper floodplains would be less formal and include side trails that run east/west to provide access to the river at three or four locations.
 - The other trail located between the upper floodplain and the restored wetland (see #6 below), would be a 6-foot wide gravel path built for Americans with Disabilities Act (ADA) compliant access to the site.

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5. Restore the alluvial fan at the toe of a tributary (133-acre drainage area) at the south end of the parcel.
 - Clean up debris and spread existing cobble.
6. Restore a locally significant wetland complex that would be protected by the floodplain restoration work.
 - Work with the adjacent landowners to remove trash and debris from the slope above the wetland and plant the slope.
 - Enhance a vernal pool with large wood.
 - Install grade control rock structures.
 - Remove a portion of a berm and wall to create a more natural path for water to flow; and
 - Construct sediment trap near the confluence of the two wetland areas.
7. Remove invasive species.
 - Remove Japanese knotweed and phragmites located in the floodplain restoration area.
8. Keep polycyclic aromatic hydrocarbon (PAH) contaminated soils on site.
 - Over excavate the south end of parcel to accommodate storage of designated urban soils.
 - Three acres of urban soil at the north end of the parcel would be relocated to south end of the parcel where it can remain on site per EPA and Vermont DEC standards
9. Creation of a parking area for five cars.
 - Retain the gravel access drive and parking area near the entrance using existing material
 - Vegetate around the parking area using native shrubs
 - Install a bike rack, and
 - Install a trash can and dog waste receptacle.
10. Utilities
 - Disconnect service and remove utility pole and meter in the middle of the property on riverbank
 - Lower manhole frame at north end near the river
 - Protect water and sewer line crossing the site, and
 - Maintain fire hydrant located near new parking area.

Besides the Proposed Action, seven alternative courses of action and the No Action alternative were considered and dismissed in the EA.

Alternative 3, Considered and Dismissed: This alternative would lower the floodplain 2 feet from the river to the fence line providing a 0.6 – 1.1-foot decrease in flood elevation. This alternative would provide a consistent cut and a smaller cut which would generate less material for disposal. This alternative would also limit the lateral extent of the cut to primarily open areas and avoid effects to non-riverine wetlands.

Alternative 4, Considered and Dismissed: This alternative would lower the floodplain 4 feet from the river to the fence line providing a 0.6 to 2.0-foot decrease in flood elevations. This alternative would still provide a consistent cut but a larger cut than the 2-foot option generating more material to dispose. This alternative would also limit the lateral extent of the cut to primarily open areas and avoid effects to non-riverine wetlands.

Alternative 5, Considered and Dismissed: This alternative would lower the floodplain to the 25-year flood level to toe of slope and provide a 0.5 to 0.7-foot decrease in flood elevations. This alternative would involve a smaller cut generating less material to dispose. This alternative could limit the future use of the back of the site but has less potential to impact non-riverine wetlands. This alternative would not provide any flood elevation reduction for floods less than the 25-year event.

Alternative 6, Considered and Dismissed: This alternative would construct a floodwall at the Art Center and protect existing buildings against flooding but would result in a potential reduction in flood storage area and may potentially increase flood elevations locally. Additional modeling refinement would be needed, but this alternative was dismissed because it would not provide the same level of flood storage as the Proposed Action.

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Alternative 7, Considered and Dismissed: This alternative would construct a flood bench at the Art Center. This would increase flood storage capacity upstream of the narrow Elliot St Bridge and would reduce the number of vulnerable properties but would require property acquisition. This alternative might reduce flood elevations and increase protection of Williams St, but additional modeling refinement would be needed to confirm. This alternative was dismissed because it wouldn't provide the same level of flood storage as the Proposed Action and would cost more because of the need for property acquisition.

Alternative 8, Considered and Dismissed: This alternative would lower the floodplain to the 2-year flood level and construct a flood bench at Art Center. This would remove the pinch point affecting flood elevations downstream of the Cersosimo floodplain lowering flood elevations 2.4 feet. This would likely move the pinch point downstream to the Elliot Street Bridge, but additional modeling would be needed to confirm the effects of this alternative.

Alternative 9, Considered and Dismissed: This alternative would lower the floodplain to the 2-year flood level and leave space for a park at the back of the floodplain. This alternative would locally decrease flood elevations 0.7 to 2.0 feet. This alternative would require a moderate cut generating more material to dispose of than some of the other alternatives and would limit the lateral extent of the cut to primarily open areas. This alternative would have less potential to impact non-riverine wetlands and space would remain at the back of the floodplain for future park use.

Under the No Action Alternative (Alternative 1), there would be no federal financial assistance provided, maintaining the status quo at the project site and downstream where flood waters would not be reconnected with the local floodplain. The adjacent Williams Street and downstream properties would remain at the same level of flood risk. The No Action alternative does not meet the purpose and need for the project.

ENVIRONMENTAL IMPACT EVALUATION

FEMA prepared the Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321–4347 (2000), as implemented by the regulations promulgated by the President's Council on Environmental Quality (40 C.F.R. §§ 1500–1508) and in accordance with FEMA Instruction 108-1-1, *Instruction on Implementation of the Environmental Planning and Historic Preservation Responsibilities and Program Requirements*, and DHS Instruction Manual 023-01-001-01 *Implementation of the National Environmental Policy Act*.

The Proposed Action, as described in the EA, would not result in any significant adverse impacts on the natural and human environment. The Proposed Action would have long-term beneficial effects on the following resources and socioeconomic issues: topography and soils, air quality, water quality, floodplains, vegetation, wildlife and fish, threatened and endangered species, historic standing structures, land use and planning, transportation, environmental justice, hazardous materials and public health. The Proposed Action would have a long-term adverse effect (moderate) to archaeological resources.

During the construction period, short-term (negligible to moderate) impacts are anticipated on topography and soils, air quality, water quality, floodplains, vegetation, wildlife and fish, spread of invasive species, threatened and endangered species, land use and planning, noise levels, transportation, environmental justice, public services and utilities, and hazardous materials and public health.

All potential impacts require grant conditions to avoid, minimize, and mitigate adverse effects. With the implementation of these conditions, none of the potential effects would be significant.

MITIGATION COMMITMENTS AND PROJECT CONDITIONS

Based on the results of the archaeological surveys completed for this project, FEMA determined that the project would adversely affect an National Register of Historic Places -eligible historic district and archaeological resources. A portion of earthen berm and concrete wall would be removed, altering the character defining features of an element

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that contributes to the overall significance of the industrial landscape and Site VT-WD-0372. The overlying fill deposits that currently overlay the project area would be removed, potentially exposing archaeological the resources associated with the historic use of the area, and making them vulnerable to future damage from flooding events. FEMA will support implementation of the following treatment measures to mitigate the potential Adverse Effect to these resources:

1. Public Interpretation - development of an educational interpretative panel explaining the precontact and industrial history and significance of the site to be located along the public recreation trail; and
2. Data Recovery Plan - prior to project implementation, FEMA will work with the Vermont Division for Historic Preservation (SHPO), the Vermont River Conservancy, and other interested parties to develop a monitoring and data recovery plan for any National Register of Historic Places eligible archaeological resources within the project area. All the requirements of that monitoring and data recovery plan will become conditions of the project.

The Vermont River Conservancy is responsible for obtaining all required federal, state, and local permits and clearances. While a good faith effort was made to identify all necessary permits in the EA, the following list may not include every approval or permit required for this project. Therefore, before, and no later than, submission of a project closeout package, Vermont River Conservancy must provide FEMA with copies of all required permits, or provide written documentation that an approval/permit is not required, from all pertinent regulatory agencies.

1. Before construction begins, the Vermont River Conservancy must obtain required Clean Water Act Section 404 and 401 permits from U.S. Army Corps of Engineers and Vermont Department of Environmental Conservation (DEC), respectively, and comply with all terms and conditions of the issued permits.
2. Before construction begins, the Vermont River Conservancy must obtain any required Clean Water Act Section 402 NPDES permits (e.g., Construction Stormwater Discharge Permit) from the Vermont Department of Environmental Consideration (DEC) and comply with all terms and conditions of the issued permit.
3. Before construction begins, the Vermont River Conservancy must obtain a required Vermont Stream Alteration Permit from the Vermont Department of Environmental Conservation (DEC), and comply with all terms and conditions of the issued permit, including, but not limited to an in-water-work Time of Year Restriction.
4. Before construction begins, the Vermont River Conservancy must obtain a required Vermont State Wetland Permit and comply with all terms and conditions of the issued permit, including, but not limited to, installing a 50-foot buffer around all Class II wetland areas
5. Before construction begins, the Vermont River Conservancy must obtain a local certificate ("No Rise Certificate") that demonstrates that the cumulative effect of the Proposed Action, when combined with all other existing and anticipated development, would not increase the water surface elevation of the base flood at any point within the community (44 C.F.R. 60.3 and 44 C.F.R. 9.11(d)(4)) and comply with all terms and conditions of the issued certificate.
6. Before construction begins, the Vermont River Conservancy must obtain approval from the local permitting official responsible for floodplain development to demonstrate that the Proposed Action is consistent with the criteria of the National Flood Insurance Program (44 CFR Part 59) or any more restrictive federal, state, or local floodplain management standards (44 C.F.R. 9.11(d)(6)), and comply with all terms and conditions of the issued permit.
7. Before construction begins, the Vermont River Conservancy must obtain a required Vermont Act 250 Permit and comply with all terms and conditions of the issued permit.
8. Vermont River Conservancy must comply with the required Local Zoning permit. Permit 2018-98 was issued on August 30, 2018.

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Additionally, FEMA would require the subapplicant to adhere to the following conditions during project implementation. Failure to comply with grant conditions may jeopardize federal funds.

1. Following construction of the Proposed Action, the Vermont River Conservancy must apply with FEMA for a Letter of [Flood] Map Revision in accordance with 44 C.F.R. 65.6.
2. Vermont River Conservancy, in cooperation with FEMA and the SHPO, must develop an educational interpretative plan that outlines the information to be included in the interpretive panel explaining the history and significance of the project location, the timeline for the panel's development including periods for review by consulting parties, the timeline for the fabrication and installation of the panel, and the location where the interpretive panel will be placed..
3. Before construction begins, the Vermont River Conservancy, in cooperation with FEMA, the SHPO and other interested parties, must develop a monitoring and data recovery plan for any NRHP eligible archaeological resources within the Area of Potential Effect. The monitoring and data recovery plan must be in place and implemented during all construction activities and all the requirements of the monitoring and data recovery plan will become conditions of the project.
4. In the event of the discovery of human remains, the Vermont River Conservancy and their contractor must immediately stop all work in the vicinity of the discovery and take reasonable measures to avoid or minimize harm to the finds. The Vermont River Conservancy and their contractor must secure all human remains discoveries and restrict access to discovery sites. The Vermont River Conservancy and their contractor must follow the provisions of applicable state laws. Violation of state law will jeopardize FEMA funding for this project. The Vermont River Conservancy must inform the Office of the Chief Medical Examiner, the State Archaeologist, Vermont Emergency Management and the FEMA Deputy Regional Environmental Officer Mary Shanks, 617-901-2204. FEMA will consult with the SHPO and Tribes, if remains are of tribal origin. Work in sensitive areas may not resume until consultation is completed and appropriate measures have been taken to ensure that the project is compliant with the National Historic Preservation Act.

PUBLIC AND AGENCY INVOLVEMENT

To solicit input on the project and its potential impacts, FEMA distributed an EA scoping document to the following entities on November 24, 2020:

- U.S. Army Corps of Engineers, New England District
- U.S. Department of Housing and Urban Development, Region 1 Environmental Office
- U.S. EPA, Region 1
- U.S. Fish and Wildlife Service, New England Field Office
- U.S. Natural Resources Conservation Service
- Vermont Emergency Management
- Vermont Fish and Wildlife
- Vermont National Flood Insurance Program (NFIP), Department of Environmental Conservation
- Vermont Rivers Program, Department of Environmental Conservation
- Vermont State Historic Preservation Office
- Vermont Wetlands Program, Department of Environmental Conservation

Following the distribution of the scoping checklist, FEMA received comments from the following agencies:

- Natural Resource Conservation Service regarding required consultation under the Farmland Policy Protection Act;
- U.S. Army Corps of Engineers regarding the requirement for a Clean Water Act Section 404 permit;
- U.S. Fish and Wildlife Service regarding their availability for technical assistance and consultation under the Endangered Species Act; and

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- Vermont Department of Fish and Wildlife regarding required consultation for northern long-eared bat under the Endangered Species Act.

FEMA made the draft EA available to agencies and the public for a review and comment for a period of 15 days from December 21, 2021 through January 5, 2022. Public notice of the draft EA's availability for review was published in the Brattleboro Reformer and the Vermont River Conservancy's website at: <https://vermontriverconservancy.org/public-notice>. Public Notice for availability of the Draft EA was also sent via email to Timothy Timmerman, EPA Region 1; Mr. Rich Holshush, the local representative of the Abenaki Tribe and Mr. Jason Cooper, owner of several of the apartment buildings adjacent to the project site. The Draft EA was made available electronically for public comment and was able to be viewed and downloaded at: <https://vermontriverconservancy.org/public-notice> (direct link at https://vermontriverconservancy.org/wp-content/uploads/Sawdust-Alley-Draft-EA_508_2021.12.02-1.pdf) and [Region 1 - Environmental Documents and Public Notices | FEMA.gov](#). The Draft EA was made available in hard copy at the Brattleboro Planning Department, Brattleboro Municipal Center, 230 Main Street, Suite 202, Brattleboro, VT 05301.

Three comments were received:

- Jenna Etra commented on December 21, 2021. Her comment was one of general support and she inquired about how she could be involved in the project. Specifically, if there were opportunities for tending plants and encouraging native species & ecosystem health. FEMA thanked Ms. Etra for her comment on December 21, 2021 and provided her with the Vermont River Conservancy's contact information to inquire about opportunities to be in involved.
- Tom Mosakowski commented on December 29, 2021. His comment was one of general support with two suggestions: 1. Mr. Mosakowski suggested that the project make access from the other public streets to the southern end of the site parcel, and he provided a drawing for consideration. 2. He suggested that the project broaden/substitute the plant list towards other natives, nearly-natives, and non-invasive non-natives that would give visitors an enhanced experience by moving through an edible landscape, or an arboretum-like landscape. FEMA thanked Mr. Mosakowski for his comments on December 30, 2021 and provided him with the Vermont River Conservancy's contact information to further discuss his ideas.
- Jaimie Scanlon and Morris Kimura commented on January 4, 2022. They are adjacent property owners and expressed concern about increased public activity at the project property to include squatters, trespass, litter, etc. The comment also includes a request to repair the "heavy-duty metal fence along the interior edge of the field that separates the field from the wooded area", and a request for "assurances from FEMA, the VRC, and the town of Brattleboro that this will be taken into account and measures taken to avoid escalation of this situation". FEMA thanked J. Scanlon and M. Kimura for their comments on January 6, 2022 and provided them with both the Vermont River Conservancy's and Town of Brattleboro's point of contact information. Steve Libby from the Vermont River Conservancy intends to make contact to address their comments and further discuss their concerns.

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Based upon conditions and information contained in the PDMC grant application and the EA, and in accordance with the FEMA Instruction 108-1-1, *Instruction on Implementation of the Environmental Planning and Historic Preservation Responsibilities and Program Requirements*; the DHS Instruction Manual 023-1-1; CEQ regulations in Title 40 C.F.R., Parts 1500-1508 National Environmental Policy Act Implementing Regulations; Executive Orders (EOs) addressing floodplains (EO 11988), wetlands (EO 11990), and environmental justice (EO 12898); and the Vermont River Conservancy's anticipated adherence to the prescribed standard and special conditions, FEMA has determined that the Proposed Action would not have significant impacts on the quality of the natural and human environment. As a result of this FONSI, an environmental impact statement will not be prepared and the project, as described in the grant application and the EA with the conditions listed above, may proceed.

FEMA APPROVAL AUTHORITY:

ERIC B KUNS Digitally signed by ERIC B KUNS
Date: 2022.01.11 15:29:59 -05'00'

Eric Kuns, FEMA Region 1 Senior Environmental Protection Specialist

HAZARD MITIGATION PROGRAM ENDORSEMENT:

RICHARD H VERVILLE Digitally signed by RICHARD H VERVILLE
Date: 2022.01.12 13:14:51 -05'00'

Richard Verville, FEMA Region 1 Hazard Mitigation Branch Chief