

dcr
Massachusetts



Request for Determination of Applicability

California Street Benches
Charles River Reservation, Newton, MA

June 2022

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Project Narrative

The Massachusetts Department of Conservation & Recreation (DCR) is proposing improvements to the Charles River Greenway near California Street in Newton. Specifically, DCR is proposing to install three additional Shurcliff benches, remove non-DCR-approved amenities (picnic tables and benches), and restore areas impacted by the installation and use of the unapproved amenities. The goals are to:

- To address/mitigate concerns about current public access creating unnecessary damage to the riparian corridor and its sensitive wetland resources.
- To provide accommodations that offer respite to trail travelers of all ages and abilities, and
- To maintain the corridor's unique sense of place by continuing to use existing bench styles. There are currently (3) Shurcliff benches along the Greenway entrance by the Thompson footbridge.

Site Description

Project activities are proposed along the edge of the Charles River Greenway near the 145 California Street entrance. The project area consists of a linear paved greenway located within the Charles River's riverfront area and floodplain. The greenway is vegetated along both edges with native and nonnative trees, shrubs, and forbs. The Charles River is located to the north of the project area. Project activities will be completed within the Riverfront Area, Bordering Land Subject to Flooding (BLSF-FEMA Floodplain), and the 100-foot buffer to Bank. Please refer to the project figures for additional information.

Project Description & Proposed work

DCR proposes to install three benches along the southern edge of the Charles River Greenway, just north of 145 California Street, and within DCR property. In addition, DCR will remove unauthorized seating accommodations installed by park users near the River's edge. After removal, DCR will restore the area with a native seed mix and fence it off until seed establishment. See project photos for additional details.

Work shall consist of the following:

- **Concrete Bench Pad Installation:** DCR's Recreation Facilities Paving contract will be used to hire a vendor to install two bench pads for the three benches. Concrete bench pads will be installed flush with the existing Greenway to provide full accessibility. Before pouring the concrete, the bench pad area is over excavated about one foot below grade and backfilled with 8 inches of gravel. Four inches of concrete are placed on top of the gravel. One pad will be 24 square feet (8'x 3') while the second pad will be 48 square feet (16'x3'). Two benches will be installed on this larger pad. As a result, bench pad installation will result in 72 square feet of impact to the Riverfront Area and 72 cubic feet of impact to BLSF. Excess soils will be removed off-site at the end of each workday for proper disposal.
- **Bench Installation:** Benches are surface mounted to each of the concrete pads.
- **Removal of tables and benches that have been placed along the riverbank by the public.** Benches and tables will be removed by hand and transported in dump trucks traveling along the paved Greenway.
- **Restoration:** DCR proposes to restore the area previously disturbed by the unauthorized benches and picnic tables by hand weeding, raking, and scarifying the soil and overseeding with a mix of white wood aster (*Eurybia divaricate*), Pennsylvania sedge (*Carex pensylvanica*), white goldenrod (*Solidago bicolor*) and partridge pea (*Chamaecrista fasciculata*). Any nonnative plantings that appear to have been

added to the area by park users will also be removed at this time.

Goose deterrent fencing will be installed around the restored area to allow it to germinate. Goose deterrent fencing specifications are provided in the Appendix.

- Proposed equipment:
 - Mini excavator
 - Skid steer or concrete buggy
 - Truck/dump truck

Best Management Practices and Impact Minimization

- Bench installation will be completed using the controlled concrete pour method.
- No concrete washout area is required.
- Materials will not be stored within the Project area on an overnight basis.
- Excess soils will be removed from the site at the end of the workday.
- All equipment shall travel on the existing paved Greenway. Equipment shall not be stored on-site on an overnight basis.

Resource Area Description

As previously noted, project activities will occur within the 200-foot RA, Bordering Land Subject to Flooding the 100-foot buffer zone to the bank. All resource areas and buffers are associated with the Charles River. Due to the limited scope of the project, resource areas were not field delineated. A desktop analysis of environmental constraints was performed using Massachusetts Geographic Information System (MassGIS) data layers, U.S. Geological Survey (USGS) StreamStats, and other publicly available data. This data was used in the preparation of this filing. Please refer to the attached figures for additional information.

Riverfront Area

As defined in 310 CMR 10.58 (2)(a), an RFA is “the area of land between a river's mean annual high water line and a parallel line measured horizontally. The [RFA] may include or overlap other resource areas or their buffer zones.” Mean annual high water line (MAHWL) is defined under 10.58 (2)(a)(2) as the line apparent “from visible markings or changes in the character of soils or vegetation due to the prolonged presence of water... Field indicators include changes in slope, changes in vegetation...”, etc. Based on a site review, DCR observed the MAHWL as concurrent with the first break in slope as the delineation of Bank, which was used to measure the extent of RFA within the project bounds. 10.58 (2)(a)3.a. indicates that the horizontal setback for RFA in Newton is 200 feet from the MAHWL (or Bank, as defined above).

The RFA along the project area consists mostly of a naturally vegetated 3- to 5-foot strip adjacent to the mean low water line that transitions into an actively used park area with grass, natural surface and paved trails, typical park infrastructure, and scattered trees. In addition, the Charles River Reservation (including the project area) was developed in 1910. As such, for purposes of the WPA and the River’s Protection Act, all of the RFA is considered altered and disturbed.

Anticipated Project Impacts

The entire project area is located within the 200-foot RA associated with the Charles River. However, impacts to the RA associated with accessible bench installation will be de minimis. In addition, DCR proposes to remove

unauthorized amenities and restore approximately 1000 square feet of RA with a native seed mix.

Due to the location of the existing Greenway, the width of DCR's parcel at this location, and the need for accessible seating accommodations, there are no practicable and substantially equivalent economic alternatives to the proposed project with less adverse effects on the interests of the Act. In addition, even though the project will occur within BLSF, the project will not result in any impacts on topography or change in flood storage.

Bordering Land Subject to Flooding (BLSF)

As defined in 310 CMR 10.57(2)(a), BLSF is "an area with low, flat topography adjacent to and inundated by floodwaters rising from creeks, rivers, streams, ponds or lakes. It extends from the banks of these waterways and water bodies; where a bordering vegetated wetland occurs, it extends from said wetland...The boundary of Bordering Land Subject to Flooding is the estimated maximum lateral extent of flood water which will theoretically result from the statistical 100-year frequency storm. Said boundary shall be that determined by reference to the most recently available flood profile data prepared for the community within which they work is proposed under the National Flood Insurance Program (NFIP, currently administered by the Federal Emergency Management Agency, successor to the U.S. Department of Housing and Urban Development). Said boundary, so determined, shall be presumed accurate."

The entire project will occur where Bordering Land Subject to Flooding overlaps with the Riverfront Area. The area is categorized by FEMA as "AE" flood zones. Although these areas are identified as the 100-year floodplain, it is unlikely that the area will flood at the projected 100-year frequency due to the active management of the dam.

Anticipated Project Impacts

DCR does not anticipate any loss of flood storage volume due to this project, nor will flows be restricted, since new bench pads will be installed flush to the ground. There are no areas significant to the protection of wildlife habitat (NHESP Estimated Habitats of Rare Wildlife) at the project site, nor do the existing asphalt walkways provide important wildlife habitat functions.

Conclusion

DCR respectfully requests the Newton Conservation Commission find this proposal adequately protective of the public interests identified in the WPA and issue a Negative Determination for the proposed Project as currently designed.