APPENDIX C

Carver Cotton Gin Dam Removal Section 106 of NHPA Documentation
MEMORANDUM OF AGREEMENT
AMONG THE
U.S. FISH AND WILDLIFE SERVICE,
THE MASSACHUSETTS HISTORICAL COMMISSION,
MASSACHUSETTS BOARD OF UNDERWATER ARCHAEOLOGICAL RESOURCES,
THE NATIONAL MARINE FISHERIES SERVICE,
AND
THE NATURE CONSERVANCY
FOR THE CARVER COTTON GIN DAM REMOVAL PROJECT
IN EAST BRIDGEWATER, MASSACHUSETTS

WHEREAS, The Nature Conservancy (TNC), the project proponent, is proposing the Carver Cotton Gin Dam Removal Project in East Bridgewater, Massachusetts, consisting of removal of the dam, installation of a stone riffle in the dam’s place, sediment disposal in the former mill headrace and tailrace, protection of the adjacent mill building foundation and retaining walls, and installation of scour protection underneath Massachusetts Route 106 Bridge immediately upstream of the dam, to restore a free-flowing riverine system for migratory and resident fish passage ("the undertaking") as shown on the plan attached as Exhibit 1; and

WHEREAS, the Department of the Interior will provide federal funding from the Disaster Relief Appropriations Act of 2014 to the undertaking and the U.S. Fish and Wildlife Service (USFWS) is providing staff time for the Project, thereby making the Project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108, and its implementing regulations, 36 CFR § 800; and

WHEREAS, the USFWS has determined the Area of Potential Effect (APE) to include an approximately 9-acre area encompassing the Carver Cotton Gin Company factory complex with associated landscape features spanning both sides of the Satucket River; and

WHEREAS, the USFWS has consulted with the Massachusetts Historical Commission (MHC) the office of the Massachusetts State Historic Preservation officer (SHPO) pursuant to applicable regulations found in 36 CFR Part 800 implementing Section 106 of the National Historic Preservation Act (54 U.S.C. 470f) and has provided documentation titled Phase I Cultural Resources Survey, Updated to 75 Percent Design, Carver Cotton Gin Dam Removal Project, East Bridgewater, Massachusetts required by 36 CFR § 800.11 and meeting the Secretary of Interior’s Standards and Guidance for the Implementation of the Federal Standards Entitled Archaeology and Historic Preservation; Secretary of the Interior’s Standards and Guidelines (48 FR 44742, September 29, 1983) 1999 rev. 2003; and

WHEREAS, the USFWS in consultation with the SHPO has determined the Carver Cotton Gin Factory complex (MHC #EBR.10), including the Carver Cotton Gin Company Dam property is eligible for listing in the National Register of Historic Places; and
WHEREAS, the USFWS has determined in consultation with the MHC in SHPO correspondence dated September 28, 2016 that the undertaking will have an adverse effect on the National Register-eligible Carver Cotton Gin Company Complex (MHC #EBR.10); and

WHEREAS, the USFWS has invited the Advisory Council on Historic Preservation (ACHP) to participate in the consultation process in correspondence dated March 24, 2017 and the ACHP has elected not to participate; and

WHEREAS, the USFWS has invited the U.S. Army Corps of Engineers (USACE) to participate in the consultation process in correspondence dated March 7, 2017 and the USACE has elected to participate in this consultation; and

WHEREAS, the National Marine Fisheries Service (NMFS) is providing funding for the undertaking and is a signatory of this Memorandum of Agreement (MOA); and

WHEREAS, the USFWS has solicited input from the Mashpee Wampanoag Indian Tribal Council (Tribe) to participate in this Section 106 Consultation process in correspondence dated September 15, 2016 and March 6, 2017, and the Tribe has elected to participate in this consultation; and

WHEREAS, the USFWS has solicited input from the Wampanoag Tribe of Gay Head (THPO) to participate in this Section 106 Consultation process in correspondence dated September 15, 2016 and March 6, 2017, and the Tribe has elected to participate in this consultation; and

WHEREAS, the USFWS has solicited input from the Narragansett Indian Tribe (THPO) to participate in this Section 106 Consultation process in correspondence dated September 15, 2016, and received no response; and

WHEREAS, the USFWS has consulted with the Massachusetts Board of Underwater Archaeological Resources (MBUAR) and invited the MBUAR to be a signatory of this MOA and MBUAR has accepted; and

WHEREAS, the USFWS has invited the East Bridgewater Historical Commission to participate in this Section 106 Consultation process and comment on this MOA and they have elected to participate in this consultation; and

NOW THEREFORE, the USFWS, the MHC, the MBUAR, the NMFS, and TNC agree that the Project undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties:

**Stipulations**

The USFWS and TNC shall ensure that the following measures are implemented:

I. **Documentation**
A. On behalf of the USFWS and TNC, a 36 CFR 61 qualified architectural/industrial historian will prepare archival historical and photographic documentation of resources contributing to the significance of the Carver Cotton Gin Company Complex (MHC #EBR.10) that will be directly impacted by the proposed undertaking: the Carver Cotton Gin Dam and river retaining walls, the Blacksmith Shop and Hardening Building, and the headrace and tailrace below and adjacent to the Blacksmith Shop and Hardening Building. Photographic documentation will occur prior to any construction-related activities or the removal of the dam spillway and will show the resources in their setting within the Carver Cotton Gin Company Complex; general views of the resources; and important architectural and engineering details. Additional post-construction photographs will be taken that show the appearance of the Carver Cotton Gin Company Complex resources (or their former locations). Photographic documentation shall consist of high-resolution digital photographs captured and printed according to the MHC Photographic Documentation Technical Requirements for Digital Images, keyed to an existing conditions project plan where applicable. Written recordation shall consist of narrative text describing the physical characteristics and history and development of the mill site based upon information included in current MHC Inventory Form (MHC #EBR.10) and any additional research conducted in the planning stages of the project. The narrative will be accompanied by copies of appropriate historical maps and photographs. All written recordation shall be printed on archival paper and all photographic and written documentation housed in an archival box.

B. An original archival copy of the documentation shall be provided to the Town of East Bridgewater, for curation by the East Bridgewater Historical Commission, or East Bridgewater Public Library and Historical Society. A copy of the transmittal documents to the Town of East Bridgewater and a non-archival paper copy of the archival documentation shall be submitted to the MHC.

II. Interpretation

A. The USFWS and TNC, with the assistance of a 36 CFR 61 qualified architectural/industrial historian, and in consultation with the MHC and the East Bridgewater Historical Commission, will prepare interpretive materials that disseminate information about the Carver Cotton Gin Dam and mill complex to the interested public. Draft interpretive text and plan and specifications showing the proposed design and location of a brass plaque or marker shall be submitted to the signatories and invited signatories for review and comment. The final interpretive text and plan shall take into account signatory and invited signatory comments on the draft text, design, and plan. The deadline for completing the interpretive materials shall be two (2) years from the date of execution of this MOA. This deadline may be extended if mutually agreeable between the USFWS and the MHC.
III. Archaeological Monitoring

A. The USFWS and TNC, with the assistance of a 36 CFR 61 qualified archaeologist, will monitor the removal of the dam and fish ladder structures and excavation of riverbed materials in the high sensitivity in-river work areas under archaeological field investigation permits issued by the Massachusetts State Archaeologist (950 CMR 70) and Massachusetts Board of Underwater Archaeological Resources (312 CMR 2). The monitoring effort will include the recordation of any buried remains of eighteenth and nineteenth century mill structures and legacy dams and Native American resources. Digital photographs and sketch/measured drawings will be taken or prepared by the archaeologist as safety considerations allow.

B. The USFWS and TNC will notify the Mashpee Wampanoag Tribe and Wampanoag Tribe of Gay Head at least fourteen (14) calendar days prior to the start of the construction and excavation of river sediments and dam. Cultural Resource Monitors from the Tribe will also be allowed access to the Project site to observe construction.

C. A technical report will be prepared by the archaeologist and submitted by USFWS to the MHC and MBUAR describing the results of the archaeological monitoring efforts that meets the state permitting standards of the MHC and MBUAR guidelines for archaeological investigations (950 CMR 70.14 and 312 CMR 2).

D. The report will be submitted to, and reviewed and approved by the MHC and MBUAR. The USFWS will consider all comments for incorporation into the final report. If comments are not received within 30 calendar days of submission, it will be assumed that the report is complete and acceptable to MHC and MBUAR.

E. Two bound original copies of the technical report describing the results of archaeological monitoring that incorporates MHC and MBUAR comments on the draft report, and a CD with the technical report abstract and bibliographic citation, shall be submitted to the MHC. MHC archaeological site form(s) for any identified archaeological resources shall be prepared and submitted to the MHC as necessary. Copies of the final technical report shall be provided by USFWS to the other signatories upon request.

IV. Post Review Discoveries

A. The USFWS and TNC shall notify MHC, MBUAR, and appropriate invited signatories and/or interested parties, if previously unidentified historic properties, including archaeological resources, are discovered during construction activities. Consultation among the signatories and invited signatories shall proceed pursuant to 36 CFR 800.13 and the USFWS, MHC, and MBUAR shall apply the National Register criteria of eligibility (36 CFR 60) and treat the resources consistent with
the Massachusetts Board of Underwater Archaeological Resources Policy Guidance for the Discovery of Unanticipated Archaeological Resources.

V. Dispute Resolution

A. Should any signatory to this Agreement object within thirty (30) days to any actions proposed or carried out pursuant to this MOA, the USFWS shall consult with the signatory to resolve the objection. If the USFWS determines that the objection cannot be resolved, the USFWS shall forward all documentation relevant to the dispute to the ACHP. Within thirty (30) days after receipt of all pertinent documentation, the ACHP will either:

1. Provide the USFWS with recommendations which the USFWS will take into account in reaching a final decision regarding the dispute; or

2. Notify the USFWS that it will comment pursuant to 36 CFR 800.6(b), and proceed to comment. Any recommendations or comment provided by the ACHP will be understood to pertain only to the subject of the dispute; the USFWS responsibility to carry out all actions under the MOA that are not subject of the dispute will remain unchanged.

B. If at any time during the implementation of the measures stipulated in this MOA, an objection should be raised by an interested member of the public or consulting parties, the USFWS will consult with the other parties to this MOA to determine the appropriate response.

VI. Duration

A. This MOA will expire if its terms are not carried out within three (3) years from the date of its execution. Prior to such time, the USFWS may consult with the other signatories to reconsider the terms of this MOA and amend it in accordance with Stipulation VIII below.

VII. Limitations and Assurances

A. This MOA is not a fiscal or fund obligating document and no funds are transferred hereunder. The USFWS will ensure Project partners gain best professional cost estimates for all activities proposed in this undertaking. The USFWS agrees not to proceed with the undertaking until the project partners have obtained adequate funding, based on best professional estimates, to fulfill the obligations under this MOA.

VIII. Amendments
A. This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

IX. Termination

A. If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other party in attempt to develop an amendment per the stipulation in Section VIII, above. If, within thirty (30) days (or another time period agreed to by both signatories), an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

B. In the event the MOA is terminated, the USFWS will either execute an MOA with signatories pursuant to 36 CFR 800.6 (c), or request a written response from the ACHP under 36 CFR 800.7 (a).

Execution of this MOA by the USFWS and MHC, and its subsequent filing with the ACHP, and implementation of its terms evidences that the USFWS has afforded the ACHP an opportunity to comment on the Carver Cotton Gin Dam Removal Project, and that USFWS has taken into account the effects of the undertaking on historic properties.
SIGNATORY PAGE


U.S. FISH AND WILDLIFE SERVICE

By: Paul Phifer, Assistant Regional Director, Regional Ecological Services Program

Date: 7/10/12
SIGNATORY PAGE

MEMORANDUM OF AGREEMENT
AMONG THE
U.S. FISH AND WILDLIFE SERVICE,
THE MASSACHUSETTS HISTORICAL COMMISSION,
MASSACHUSETTS BOARD OF UNDERWATER ARCHAEOLOGICAL RESOURCES,
THE NATIONAL MARINE FISHERIES SERVICE,
AND
THE NATURE CONSERVANCY
FOR THE CARVER COTTON GIN DAM REMOVAL PROJECT
IN EAST BRIDGEWATER, MASSACHUSETTS

MASSACHUSETTS HISTORICAL COMMISSION

By: ____________________________________________
Brona Simon, Executive Director, State Historic Preservation Officer, State Archaeologist

Date: _______________
SIGNATORY PAGE

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IN EAST BRIDGEWATER, MASSACHUSETTS

MASSACHUSETTS BOARD OF UNDERWATER ARCHAEOLOGICAL RESOURCES

By: ____________________________________
Victor T. Mastone, Director

Date: ___________________
SIGNATORY PAGE

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THE NATURE CONSERVANCY
FOR THE CARVER COTTON GIN DAM REMOVAL PROJECT
IN EAST BRIDGEWATER, MASSACHUSETTS

NATIONAL MARINE FISHERIES SERVICE

By: ____________________________________
    Patricia Montanio, Director, Office of Habitat Conservation

Date: __________________________
SIGNATORY PAGE

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THE NATURE CONSERVANCY
FOR THE CARVER COTTON GIN DAM REMOVAL PROJECT
IN EAST BRIDGEWATER, MASSACHUSETTS

THE NATURE CONSERVANCY (INVITED SIGNATORY)

By: _________________________________

Date: ____________________________
SIGNATORY PAGE

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THE MASSACHUSETTS HISTORICAL COMMISSION,
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THE NATURE CONSERVANCY
FOR THE CARVER COTTON GIN DAM REMOVAL PROJECT
IN EAST BRIDGEWATER, MASSACHUSETTS

MASHPEE WAMPANOAG TRIBE (CONCURRING PARTY)

By: ________________________________ Date: __________________
Ramona Peters, Tribal Historic Preservation Officer
EXHIBIT 1

Plan of the Undertaking
EAST BRIDGEWATER, MA
COTTON GIN DAM REMOVAL

DIVISION OF ECOLOGICAL RESTORATION
MASSACHUSETTS DEPT. OF FISH & GAME
251 CAUSEWAY STREET
BOSTON, MA  02114

FINAL DRAWINGS - ISSUED FOR BID

DIG-SAFE
CONTRACTOR SHALL CALL DIG-SAFE CALL CENTER AT 1-888-344-7233 AT LEAST 72 HOURS PRIOR TO STARTING ANY EXCAVATION. SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS ARE NOT TO BE INCLUDED IN THE REQUIRED 72 HOUR NOTICE.

ANY ERRORS OR OMISSIONS SHALL BE REPORTED TO THE ENGINEER WITHOUT DELAY. THE COPYRIGHTS TO ALL DESIGNS AND DRAWINGS ARE THE PROPERTY OF GOMEZ AND SULLIVAN ENGINEERS, DPC. REPRODUCTION OR USE FOR ANY PURPOSE OTHER THAN THAT AUTHORIZED BY GOMEZ AND SULLIVAN, DPC IS FORBIDDEN.

PROJECT PARTNERS:
THE NATURE CONSERVANCY
MASSACHUSETTS DIVISION OF ECOLOGICAL RESTORATION
NOAA RESTORATION CENTER
US FISH AND WILDLIFE FOUNDATION
NATIONAL FISH AND WILDLIFE FOUNDATION
MASSACHUSETTS DAM AND SEAWALL REPAIR OR REMOVAL PROGRAM
ATLANTIC COASTAL FISH HABITAT PARTNERSHIP
TOWN OF EAST BRIDGEWATER
CONSTRUCTION OF WORK

1. PROJECT CONSISTS OF CONSTRUCTING A SCOUR COUNTERMEASURE AT THE ROUTE 106 BRIDGE OPENING, INSTALLATION OF WATER DIVERSION STRUCTURES, ROAD WidENING AND LOWERING, INSTALLATION OF ROADWAY AND EXCESS DEBRIS SHALL BE REMOVED.

2. SITE WILL BE KEPT WELL ORGANIZED, SIGNED, AND FREE OF WASTE MATERIALS, DEBRIS, AND SANITARY, WASTE DISPOSAL, AND EMPLOYEE FACILITIES SHALL BE PROVIDED BY CONTRACTOR.

3. ALL APPLICABLE SOIL EROSION AND SEDIMENT CONTROL PRACTICES ARE TO BE INSTALLED PRIOR TO THE START OF WORK OR EQUIPMENT BY HIGH WAVE ACTION OR STORMS. AT ALL TIMES, THE CONTRACTOR SHALL HAVE THE MATERIALS AND EQUIPMENT TO COMPLETE INSTANTLY BACKFILL ALL EXCAVATIONS ALONG RETAINING WALLS.

4. CONTRACTOR SHALL TAKE PRECAUTIONS TO PREVENT DAMAGE TO WORK OR EQUIPMENT BY HIGH WAVE ACTION OR STORMS. AT ALL TIMES, THE CONTRACTOR SHALL HAVE THE MATERIALS AND EQUIPMENT TO COMPLETE INSTANTLY BACKFILL ALL EXCAVATIONS ALONG RETAINING WALLS.

5. WETLAND BOUNDARIES DELINEATED BY BRUCE GRIFFIN, CERTIFIED PROFESSIONAL WETLAND SCIENTIST, OF LANDWISE CONSULTANTS. REFER TO THE REPORT DATED AUGUST 13, 2016.

6. ROAD WIDTH: 14 FT (9 FT MINIMUM) FOR ONE-WAY TRAFFIC.


8. CONSTRUCT TEMPORARY STOCKPILE AREA. NOTE 2 IN PHASE III ABOVE.

9. IF DEEMED NECESSARY TO GAIN CONSTRUCTION ACCESS, EXCAVATE THE SOFT COAL PILE LOCATED ON THE PLANS. WATER COLLECTED BY THE SUMP PITS TO BE DISCHARGED DIRECTLY INTO THE DIVERSION CHANNEL.

10. DURING FLOODS THAT EQUAL OR EXCEED THE 1-YEAR STORM, FLOWS WILL BE ALLOWED TO PASS THROUGH BOTH OPENINGS IN THE ROUTE 106 BRIDGE. SUPER SACKS SHALL ONLY DEWATER THE INTERNAL RIFFLE CONSTRUCTION.

11. A SECOND LOCATION FOR POTENTIAL ACCESS TO THE RIVER BETWEEN THE EXISTING PEDESTRIAN BRIDGE AND THE NEW PEDESTRIAN ENTRANCE WILL BE CONSIDERED.


COTTON GIN DAM REMOVAL PROJECT

ROAD

DRAWN TO SCALE

ROADWAY AND EXCESS DEBRIS SHALL BE REMOVED.

PROPERTY LINES AND RIGHT OF WAYS DEPICTED ARE FROM PROPERTY LINE PLAN PREPARED BY CARTER WILDE, INC, DATED MARCH 2, 2009.

TRAFFIC MANAGEMENT PLAN

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PLYMOUTH STREET (ROUTE 106)

WHITMAN STREET (ROUTE 106)

PLYMOUTH STREET

300' MIN.

200' MIN.

BENNETT LANE

COTTON GIN DAM

REMOVAL PROJECT

41 Liberty Hill Road
PO Box 2179
Henniker, NH  03242

SCALE: 1" = 50'

TRAFFIC MANAGEMENT

PLAN

PROPOSED TEMPORARY CONSTRUCTION SIGN LOCATION

"SLOW DOWN CONSTRUCTION ENTRANCE AHEAD" (36" X 36")

"CONSTRUCTION ENTRANCE" (36" X 36")

RIGHT OF WAY BOUNDARY

NOTES:
1. POSTED SPEED IS 25MPH ON EACH ROAD SHOWN.
2. SIGN SUPPORTS SHALL BE CRASHWORTHY.
3. SIGNS SHOULD BE PROPERLY MAINTAINED FOR CLEANLINESS, VISIBILITY, AND CORRECT POSITIONING.
4. SIGNS THAT HAVE LOST SIGNIFICANT LEGIBILITY SHOULD BE PROMPTLY REPLACED.

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COTTON GIN DAM REMOVAL PROJECT

TRAFFIC MANAGEMENT PLAN