APPENDIX B

West Britannia Dam Removal
Memorandum of Agreement
Section 106 of the National Historic Preservation Act
MEMORANDUM OF AGREEMENT
AMONG THE
U.S. FISH AND WILDLIFE SERVICE,
THE MASSACHUSETTS HISTORICAL COMMISSION,
THE NATIONAL MARINE FISHERIES SERVICE
AND
THE NATURE CONSERVANCY
FOR THE WEST BRITTANIA DAM REMOVAL PROJECT
IN TAUNTON, MASSACHUSETTS

WHEREAS, The Nature Conservancy (TNC), on behalf of Acuity Management, Inc., the dam owner and project proponent, is proposing the West Britannia Dam Removal Project in Taunton, Massachusetts, consisting of removal of the dam and construction of a native cobble/gravel riffle at the dam site, to restore a free-flowing riverine system for migratory and resident fish passage ("the undertaking"); and

WHEREAS, the Department of the Interior will provide federal funding from the Disaster Relief Appropriations Act of 2013 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 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 Cultural Resources Review, West Britannia Dam Removal, Taunton, 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 MHC has determined that the undertaking will have an adverse effect on the National Register-eligible Reed and Barton Factory Complex (MHC #TAU.Q) that is listed in the National Register of Historic Places; and

WHEREAS, the Area of Potential Effect (APE) covered under this MOA conforms with the boundaries of the Reed and Barton Factory Complex (MHC #TAU.Q) with an expansion to include the West Britannia Dam structure and the adjacent downstream section of river; and
WHEREAS, the MHC has indicated that the inventory form for the dam and the technical cultural resources memorandum prepared by the Public Archaeology Laboratory (PAL), along with the project information submitted by the USFWS and the information in the MHC’s files for the Reed and Barton Complex, comprise sufficient documentation for the MHC; and

WHEREAS, the USFWS has invited the Advisory Council on Historic Preservation (ACHP) to participate in the Section 106 consultation process in correspondence dated May 18, 2017 and June 9, 2017, and the ACHP has elected not to participate; and

WHEREAS, the National Marine Fisheries Service (NMFS) is providing funding for the undertaking and is a signatory of this 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 April 13, 2017 and by phone on June 9, 2017, and the Tribe has elected not to participate; and

WHEREAS, the USFWS has solicited input from the Wampanoag Tribe of Gay Head (Tribe) to participate in this Section 106 consultation process in correspondence dated April 13, 2017 and by phone on June 9, 2017, and the Tribe did not respond to the request for consultation; and

WHEREAS, the USFWS has solicited input from the Narragansett Indian Tribe (Tribe) to participate in this Section 106 consultation process in correspondence dated April 13, 2017 and by phone on June 9, 2017, and the Tribe did not respond to the request for consultation; and

WHEREAS, the USFWS has invited the Taunton Historic District Commission to participate in this Section 106 consultation process in correspondence dated April 20, 2017 and they did not respond to the request for consultation; and

WHEREAS, the USFWS has invited the Old Colony Historical Society to participate in this Section 106 consultation process in correspondence dated April 20, 2017 and they did not respond to the request for consultation; and

NOW THEREFORE, the USFWS, the MHC, 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. Dam Demolition

   A. The USFWS shall notify the MHC in writing by mail of the date of demolition of the Reed and Barton Manufacturing Company Dam. The date of dam demolition will correspond to the completion of the construction phase of work.
II. Post Review Discoveries

A. The USFWS shall notify MHC 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 shall proceed pursuant to 36 CFR 800.13 and the USFWS and MHC shall apply the National Register criteria of eligibility (36 CFR 60).

III. 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.

IV. 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 VI below.

V. 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.

VI. 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.

VII. 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 VI, above. If, within thirty (30) days (or another time period agreed to by all 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, the MHC, the NMFS, and TNC, 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 West Britannia Dam Removal Project, and that USFWS has taken into account the effects of the undertaking on historic properties.
MEMORANDUM OF AGREEMENT
AMONG THE
U.S. FISH AND WILDLIFE SERVICE,
THE MASSACHUSETTS HISTORICAL COMMISSION,
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AND
THE NATURE CONSERVANCY
FOR THE WEST BRITANNIA DAM REMOVAL PROJECT
IN TAUNTON, MASSACHUSETTS

U.S. FISH AND WILDLIFE SERVICE

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

Date: ____________________
SIGNATORY PAGE

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FOR THE WEST BRITANNIA DAM REMOVAL PROJECT
IN TAUNTON, MASSACHUSETTS

MASSACHUSETTS HISTORICAL COMMISSION

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

Date: ____________________________
SIGNATORY PAGE

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NATIONAL MARINE FISHERIES SERVICE

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

Date: __________________
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THE NATURE CONSERVANCY

By: ____________________________________

Date: ____________________
EXHIBIT 1

Plan of the Undertaking
November 12, 2015

LOCATION MAP
STATE OF MASSACHUSETTS

LOCATION MAP
STATE OF MASSACHUSETTS

WEST BRITANNIA DAM REMOVAL
DESIGN SUBMITTAL
TAUNTON, MA
November 12, 2015

SHEET INDEX
1. Cover & Sheet Index
2. Existing Conditions & Survey Control
3. Proposed Conditions Grading Plan
4. Proposed Conditions Treatment Plan
5. Construction Cross Sections
6. Fabric Encapsulated Soil Lift (FES) & Surface Fabric Treatment Typical Details
7. Fabric Encapsulated Soil Lift (FES) Typical Details
8. Proposed Conditions Planting Plan
9. Permitting Information Floorplan Plan View
10. Permitting Information Resource Area Impacts

DIG SAFE: STATE LAW REQUIRES AN PERSON PERFORMING EXCAVATION ON PRIVATE OR PUBLIC PROPERTY TO CALL DIG SAFE: 1-888-DIG-SAFE OR 8-1-1. ALL EXCAVATIONS SHALL BE ACCOMPLISHED IN ACCORDANCE WITH MASSACHUSETTS DIG SAFE LAW.

RESERVED FOR WA Dig Stamp
RESERVED FOR DESIGN ENGINEERS STAMP

The Nature Conservancy
West Britannia Dam Removal
Taunton, MA

COVER & SHEET INDEX
1 OF 10
NOTES:
1. CROSS-SECTIONS FACE DOWNSTREAM
2. PROPOSED CHANNEL BOTTOM WIDTH: 30’ TYPICAL (GRADING ADJUSTS AS NEEDED FOR WEST CHANNEL, F.D.W.S.)
3. BANK SLOPE TO EXISTING GROUND: 2:1 TYPICAL

*RESERVED FOR DESIGN ENGINEER'S STAMP*
STAKES THROUGH BOTTOM FABRIC LAYER DOWNSTREAM FABRIC LAYER LAPS UNDER TYPICAL DETAIL FABRIC JOINING

FLOW NOT TO SCALE

B B'

SECTION A - A' FABRIC FOLD NOT TO SCALE

FABRIC FOLD

STAKE THROUGH BOTTOM FABRIC LAYER STAKES THROUGH BOTH FABRIC LAYERS DOWNSTREAM FABRIC LAYER LAPS UNDER

UPSTREAM FABRIC LAYER LAPS OVER MIN. 3 FT INNER FABRIC TO BE BUTTED TOGETHER

LEG WIDTH 0.6" TAPERED TO POINT STAPLE

THICKNESS 0.4" WOODEN STAKE AND STAPLES FABRICATING DETAIL

2 X 4 STUD CUT TO 18" LONG

NOT TO SCALE

FABRIC FOLD WOVEN COIR FABRIC WRAP WOVEN (OUTER) COIR FABRIC NON-WOVEN (INNER) COIR FABRIC NATIVE SEED MIX FILL OR NATIVE SOIL WOODEN STAKES ON 3 FT CENTERS TOE DETAIL BIODEGRADABLE FABRICS AND STAKES

GENERAL NOTES ON SECURING COIR FABRIC

1. SECURE THE OUTER FABRIC (WOVEN, WHERE APPLICABLE), WITH A WOODEN STAKE THROUGH THE FABRIC ON 3 FT CENTERS (SEE DETAIL VIEWS 1 - 3). NOTE: THE HOLES FOR STAKES SHALL NOT BE PRECUT. ALLOW THE STAKE TO BREAK THE MINIMUM NUMBER OF STRANDS AS IT IS BEING DRIVEN IN. DRIVE STAKES SO THAT 2" TO 3" OF THE TOP OF THE STAKE IS LEFT EXPOSED.

2. OUTER FABRIC ENDS SHALL BE JOINED BY LAPPING THE UPSTREAM PIECE OF FABRIC OVER THE DOWNSTREAM PIECE AS SHOWN IN DETAILS 1-3. OVERLAPS SHALL BE A MINIMUM OF 3 FT. INNER FABRIC ENDS SHALL BE BUTTED TOGETHER, NOT OVERLAPPED. OVERLAPS SHALL BE STAGGERED FROM LIFT TO LIFT BY A MINIMUM OF 15 FT.

3. STAKING SPACING IS DEFINED IN SPECIFICATIONS FOR FES LIFT AND SURFACE FABRIC.
GENERAL INSTRUCTIONS FOR FABRIC ENCAPSULATED LIFTS

1. BANKS MAY BE CONSTRUCTED IN EITHER AN UPSTREAM OR DOWNSTREAM DIRECTION, AS LONG AS THE FABRIC IS OVERLAPPED IN THE PROPER DIRECTION.

2. PLACE A SERIES OF THREE OR MORE FORMS ON THE GROUND SO THAT THE FORMS FOLLOW THE PROPOSED STREAM BANK ALIGNMENT. BUTT THE ENDS OF THE FORMS TIGHTLY TOGETHER.


6. APPLY NATIVE SEED MIX TO TOP OF FILL FROM THE FRONT OF THE LIFT TO 3 FT BACK FROM FRONT OF THE LIFT (FIG C).

7. FOLD THE LOOSE ENDS OF THE TWO COIR FABRIC LAYERS BACK OVER THE COMPACTED FILL MATERIAL AND STRETCH TIGHTLY TO REMOVE WRINKLES (FIG D). SECURE WITH WOODEN STAKES 1 PER 3 L.F. ALONG THE BACK EDGE AND INTO UNDISTURBED SOIL.

8. REMOVE THE FORMS FROM THE FRONT OF THE COMPLETED LIFTS (FIG. 2).

9. WHERE THE TOP OF THE LIFT MEETS THE GROUND SURFACE, EXCAVATE A KEY TRENCH 1.5 FEET WIDE AND 1 FOOT DEEP ALONG THE EDGE OF THE OUTER FABRIC LAYER, PARALLEL TO THE FORMS. SEED ENTIRE AREA OF TOP LIFT. SECURE FABRIC IN THE KEY TRENCH WITH WOODEN STAKES, 3 FT O.C.

10. BACKFILL THE KEY TRENCH WITH TOPSOIL AND CONTINUE TO APPLY TOPSOIL TO SMOOTHLY MERGE WITH EXISTING CONTOURS. APPLY NATIVE SEED MIX TO KEY TRENCH AREA.

11. SUPPLEMENT LIFT STAKING WITH ADDITIONAL WOODEN STAPLES ON 18" CENTERS EXCEPT WHERE WOODEN STAKES HAVE ALREADY BEEN PLACED.

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PLANTING NOTE:
ALL NON-PAVED DISTURBED AREAS TO BE SEED W/ NATIVE
SEED MIX AND COVER DROP AND PLANTED W/ NATIVE TREES AND
SHRUBS ACCORDING TO THE SPECIFICATIONS.