

September 2, 2020

Town of Concord
Natural Resources Commission
141 Keyes Road
Concord, MA 01742

Re: Notice of Intent (NOI) for Lot 2A Keuka Road

1. Introduction

Goddard Consulting, LLC is pleased to submit this Notice of Intent (NOI) on behalf of the applicant, Steve Marsh, Westchester Company Inc, for the proposed single-family home on Lot 2A Keuka Road, Concord, MA (Map F09, Parcel 3837). This NOI is filed under the Town of Concord Wetlands Bylaw. A prior NOI was filed in 2015 and a Superseding Order of Conditions (SOC) was issued by Mass DEP under the WPA on 8/6/2020 (DEP File #137-1461).

Two full copies of the NOI application plus five reduced copies of the site plans and seven copies of the narrative are enclosed. The titles of all the documents enclosed are as follows:

- NOI (Modified Form 3) Application Form
- *Invasive Species Management Plan, Concord Keuka Road*, Goddard Consulting LLC, 11/19/2018
- *Extension Permit for Final Order of Resource Area Delineation, DEP file #137-1202*, August 29, 2018
- *USGS Site Locus*, Goddard Consulting, LLC. 09/26/18.
- *FEMA Flood Map*, Goddard Consulting, LLC. 10/02/18.
- *NHESP Rare Species and Aerial Map*, Goddard Consulting, LLC. 10/02/2018
- Certified Abutters Lists (original and one copy)
- Abutter Notification Notice
- Affidavit of Service
- Superseding Order of Conditions, MassDEP, 8/6/2020
- Two full size copies: *Notice of Intent Plan, Keuka Road*, Markey and Rubin Engineering, 2/26/2020
- Two full size copies: *Erosion and Sediment Control Plan, Keuka Road*, Markey and Rubin Engineering, 2/26/2020
- CD Digital Copy

2. Existing Conditions

The lot is an overgrown agricultural field with dense invasive species shrubs that include honeysuckle and European buckthorn. A Bordering Vegetated Wetland (BVW) is along the north side of the lot with wetland fingers to the east and west.

The wetland resource areas within the project site were delineated and are still under the Final Order of Resource Area Delineation (FORAD). The FORAD was originally issued by MassDEP on May 29, 2015. On August 29, 2018, DEP granted a 3-year extension to the FORAD (expires May 29, 2021)

According to the August 1, 2017 MA Natural Heritage Atlas, the site *is not* located within or in close proximity to mapped Priority Habitat of Rare Species and Estimated Habitat of Rare Wildlife. There are no NHESP Certified Vernal Pools or NHESP Potential Vernal Pools identified within the site. A FEMA flood map is attached.

3A. Project Approval Under WPA

The proposed project has been approved under a Superseding Order of Conditions issued on August 6, 2020 (DEP File #137-1461). This includes a small stormwater management system to ensure the project doesn't conflict with the Hosmer Meadows Project which had its own stormwater management system approved by DEP and the Concord Natural Resources Commission.

3B. Project Description

Westchester Company, Inc. proposes to construct a single-family home with garage, patio, driveway and associated grading on the Lot known as Lot 2A Keuka Road.

No wetland resource area impacts are proposed for the project, however portions of the project will take place within the 100-foot buffer zone and 50-foot buffer zones. The proposed development work is entirely outside the 25-foot No Disturbance Zone. No structure or artificial surface of any kind (including roof overhang) is proposed within the 50-foot No Build Buffer Zone (Per No Build Policy). Table 1 below provides a summary of disturbance within the buffer zone. Erosion control barriers will be installed at the limit of work to ensure no impacts occur to down-gradient resource areas.

Table 1: Summary of disturbance within the buffer zone

Structure	25' No Disturb	50' buffer	50-100' buffer
House	-	-	±2,741 sf
Porous patio	-	-	±152 sf
Garage	-	-	±829 sf
Driveway	-	-	±2,316 sf
Sidewalk	-	-	±445 sf
Lawn	-	±8,720 sf	±5,897 sf
Total disturbance	-	±8,720 sf	±12,380 sf
Proposed Mitigation	12,828 SF of Invasive Species Management with Plantings		

3C. Project Modifications from WPA approved work to comply with Bylaw.

The applicant has proposed as mitigation for work under the Bylaw in the 25-100 foot Buffer Zone to provide invasive species management to enhance the Buffer Zone. This includes 12,828 SF of invasive species removal and native plantings to enhance and naturalize the Buffer Zone that is currently choked with invasive species.

In addition to the mitigation, the project scope is smaller than proposed under the WPA and approved under the SOC for no disturbance is proposed for the water utility connection which is being re-routed to run

along the proposed driveway (See Figure 1). The final location can be confirmed and shown on the site plan prior to an issuance of an Order of Conditions. This re-routed location reduces Buffer Zone impacts in the 25-50 foot and 50-100 foot Buffer Zones. The water main is expected to be ended at the end of the Hosmer Meadow development with a fire hydrant.

The applicant is fully aware that an amendment to the SOC may be required by DEP and will accept any changes to the plan the Commission may request to comply with the Local Bylaw. As currently proposed, the project changes are both positive and beneficial to the Resource Areas on site by reducing the development area and providing invasive species management and plantings.

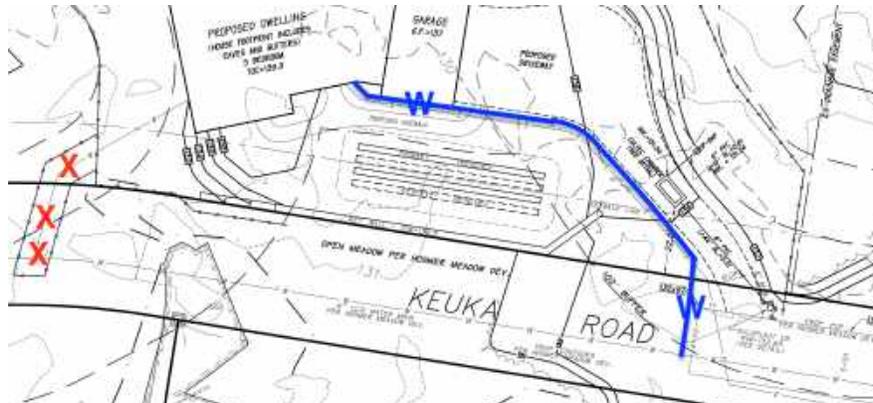


Figure 1: Re-routed water main with reduced Buffer Impacts

4. Compliance with WPA Performance Standards

The submitted project was approved under a Superseding Order of Conditions by the Massachusetts Department of Environmental protection (DEP File #137-1461). In this approval, the limit of work within the Buffer Zone had an area of +/-21,100 sq. ft. and was up to 25' from the wetland edge. No roof run-off or on-site driveway infiltration was proposed. The project does have a small infiltration system for the 142 square feet of pavement within the right-of-way of Kueka Road. This approval was stated as follows:

“Based on the record, information provided by the applicant, information gathered at the site visits and consideration of all issues raised through the appeal, it is MassDEP’s opinion that the project as currently proposed and conditions in the attached SOC is permissible and serves to protect the interest of the Wetlands Protection Act and Regulations.

The “*interest of the Wetlands Protection Act and Regulations*” are listed in 310 CMR 10.01(2) and checked in the SOC decision.

- *protection of public and private water supply*
- *protection of ground water supply*
- *flood control*
- *storm damage prevention*
- *prevention of pollution*
- *protection of fisheries*
- *protection of wildlife habitat*

* *protection of land containing shellfish was checked but not applicable to this project.*

MassDEP found that these interests were preserved under the proposed project and conditions of the SOC. Therefore, the presumption is that this application, as satisfied in the SOC, will also be satisfied with this proposed project. Therefore, in so far as the Concord Wetlands Protection Bylaw is more restrictive than the WPA, then this application demonstrates that the added measures will satisfy the Concord Wetlands Protection Bylaw standards.

5. Compliance with the Concord Wetlands Bylaw

The project proposes work only within Buffer Zone to Resource Areas, as such the NOI must be reviewed under Section 7.4.a. “Buffer Zone” of the Bylaw which states:

a. Buffer Zone In reviewing activities within the Buffer Zone, the Commission shall presume the Buffer Zone is important to the protection of other resource areas because activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat.

Further the Bylaw states in Section 7.4.e. “Setbacks”

e. Setbacks. The Commission shall presume that any activity or alteration within 25 feet of any freshwater wetlands, marshes, wet meadows, bogs, swamps, springs, banks, beaches, reservoirs, lakes, ponds, and lands under water bodies, intermittent streams, brooks and creeks, and perennial rivers and streams, has a significant individual or cumulative impact upon the resource area values protected by this Bylaw and shall be prohibited.

The proposed project has no development work within the 25-foot No Disturbed Buffer of any Resource Area. The only proposed activity within the Buffer Zone is Invasive Species Management to mitigate any potential impacts that the proposed development in the 25-100 foot Buffer Zone. The project proposes similar mitigation work in the 0-25 foot Buffer Zone as did other approved projects and meets the setback requirements and, more importantly, the Bylaw’s presumption of activities or alterations in the Buffer Zone.

Although no development is proposed within the 25-foot No Disturbed Buffer, the applicant has proposed to enhance this Buffer by removing invasive species and planting native plants

5.1 50-foot No New Structures Policy

No structure or artificial surface is proposed within the 50-foot No New Structures Policy.

5.2 Limited Disturbance Zone

The applicant is proposing the minimum disturbance within the 25-50 foot Buffer Zone except for grading to allow the driveway to be raised. This work is within the existing degraded Buffer Zone that is densely vegetated with invasive species. The proposed lawn will provide full stabilization of the proposed disturbance. The proposed house, garage and driveway are more than 50 feet from the wetlands with driveway access directly off the side of the Hosmer Meadows Development roadway.

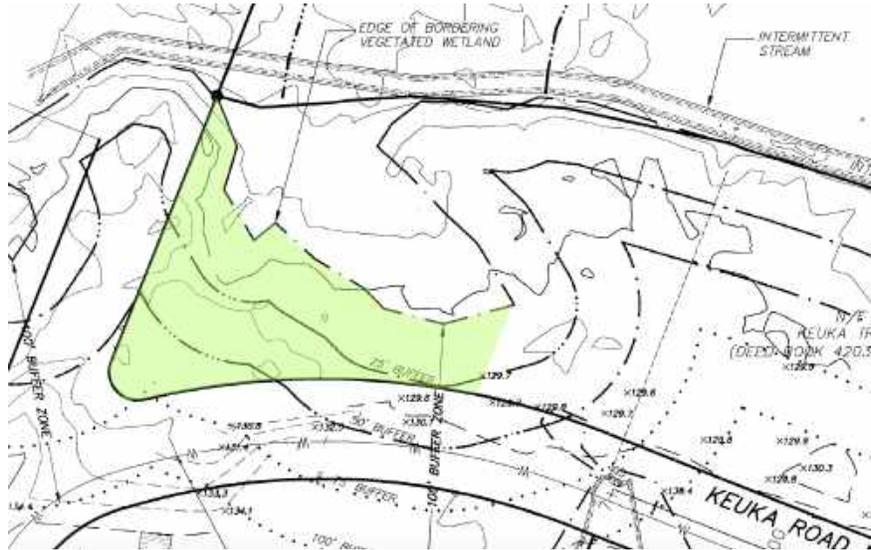


Figure 2: Preserved, undisturbed Buffer Zone, 7,740 SF

6. Compliance with the Concord Wetland Bylaw Regulations 25-foot No Disturb

The project complies with the Concord Wetland Bylaw Regulations, Section 2.1.2, which prohibits alterations within 25 feet of the Wetland Resource Areas. The applicant is seeking permission from Concord Natural Resources Commission to access the 25-foot Buffer Zone to perform invasive species removal (see attached ISMP)

Section 7.4.E (*Setbacks*) states the following:

The Commission shall presume that any activity or alteration within 25 feet of any freshwater wetlands, marshes, wet meadows, bogs, swamps, springs, banks, beaches, reservoirs, lakes, ponds, and lands under water bodies, intermittent streams, brooks and creeks, and perennial rivers and streams, has a significant individual or cumulative impact upon the resource area values protected by this Bylaw and shall be prohibited.

- i. This presumption may be overcome where applicant can clearly demonstrate with credible evidence the proposed activity or alteration would have no individual or cumulative impact upon any of the resource area values protected by this Bylaw in accordance with the Regulations hereunder. Alternatively, the Commission may waive the setback if it determines that an applicant satisfies the waiver requirements in §7.7.***

The applicant is requesting permission to access the 25-foot No Disturb zone for the proposed invasive species management (see attached ISMP plan) and will not have any negative impacts upon the resource areas and the 25-foot No Disturb. Invasive plants tend to quickly spread and outcompete native plants once introduced into an area. The removal of invasive species will benefit the native plant community allowing native plants to further reestablish within the Buffer Zone. Following invasive plant removal, management areas will be planted and seeded (see attached ISMP) to prevent erosion; wood debris and leaf litter will be spread along the area if not currently present.

Section §7.7. of the Town of Concord Wetland Bylaw (Waivers) states the following:

Waivers.

The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its Regulations, provided that:

- 1. the Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said Regulations;***

The applicant will need to access the 25-foot No Disturb Buffer Zone in order to manage invasive species within that area. There is no alternative that would allow the activity to proceed in compliance with the 25-foot No Disturb Buffer Zone.

- 2. avoidance, minimization and mitigation have been employed to the maximum extent feasible; and either***

With the exception of the mitigative invasive species removal, the proposed project have been designed to avoid work within the 25-foot No Disturb. The invasive species management efforts are being proposed as mitigation for the proposed work within the 50-foot and 100-foot buffer zone.

- 3. the project, considered in its entirety, would result in a net benefit of resource area values; or***

No structures or alterations associated with the proposed development will take place within the 25-foot No Disturb with the exception of the proposed mitigative invasion species management. Invasive species tend to have negative impacts by displacing and outcompeting native plant species, disrupt ecological process and alter habitat. The removal of invasive species within the 25-foot No Disturb will benefit the native plant community within the buffer zone resulting in a net benefit to the 25-foot No Disturb Buffer Zone and wetland resource areas.

- 4. the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.***

The protection of Wetland Resource Areas in the Town of Concord is of public interest. The removal of invasive species will have a positive impact on the native plant community improving conditions along the Buffer Zone which help protect the Wetland Resource Area.

7. Clarification on Previous OOC Denial under the Bylaw:

The following in italics are the Finds and Facts from the Denial OOC issued by the Concord Natural Resources Commission with responses in Bold.

- I. A Notice of Intent ("NOI") was filed on November 21, 2018, by Goddard Consulting, LLC, on behalf of Applicant Stephen Marsh of the Westchester Company, Inc. ("WCI"), for a single-family home with associated septic, garage, patio, and driveway at Lot 2A Keuka Road within the 100-foot Buffer Zone.***

This description of the project is correct.

- 2. The western end of Keuka Road at the intersection with Main Street (Route 62) currently provides frontage to one existing home (18 Keuka Road) via a variable-width driveway. The eastern end of Keuka Road is currently a paper street in a 4-lot subdivision for which the Commission issued an Order of Conditions on March 23, 2018 (DEP File No. 137-1419). The 4-lot subdivision also received a Definitive Subdivision Approval granted by the Planning Board and filed with the Town Clerk on February 14, 2018.*

The Planning Boards decision has no bearing on whether the lot can be accessed, nor does the Concord Wetlands Bylaw have jurisdiction property access rights. In addition, the land with the drainage easement was granted to the abutter for stormwater management and to increase the ability to expand the buildable lots.

- 3. Lot 2A fronts a portion of Keuka Road that is a paper street. The development of Lot 2A and the extension of the road thereto was not included in the Commission's approval or the Planning Board's subdivision decision.*

Work as part of the original or this NOI proposed any roadway extension. The Concord Wetlands Bylaw has no jurisdiction over property access rights. See Figures 1 and 2 below showing driveway access off approved roadway and within the grass shoulder.

- 4. The Planning Board's Definitive Subdivision Approval includes a condition that "Access from the improved roadway shall be limited to four lots until the Planning Board grants a Definitive Subdivision to extend the road and improve the stormwater drainage". This condition was initiated at the request of Sherrill Gould, owner of Lot 2A Keuka Road, as noted in the Planning Board minutes of February 13th, 2018.*

The decision and conditions by the Planning Board has no bearing on this projects review under the Concord Wetlands Protection Bylaw.

- 5. The subdivision plans approved under the Order of Conditions (and Definitive Subdivision Approval) include a note on Sheet 7 of 10 that "Access from the improved roadway shall be limited to four lots until the Planning Board grants a Definitive Subdivision to extend the road and improve the stormwater drainage".*

The decision of the Planning Board has no bearing on this project or the rights of the property owner for access. The subdivision of land was for a separate property owner (Keuka Road LLC). The drainage easement granted by Kueka Trust to the abutter doesn't prevent them from developing a legally existing house lot that complies with Concord Zoning regulations.

- 6. Proposed access for the single-family home at Lot 2A Keuka Road extends from*

the 4-lot subdivision roadway, within the 100-foot Buffer Zone, and introduces new impervious surface into an area specifically designed as a meadow in the Order of Conditions. The new impervious surface alters the stormwater modeling approved for the 4-lot subdivision.

The SOC by DEP found that work to access to the lot wasn't a factor to the interests of the WPA considering the only impervious surface added within the Kueka Road Right of Way is 142 square feet of driveway pavement within proposed lawn. DEP did request that stormwater management be provided for the driveway surface (142 SF) to ensure there subdivision stormwater modeling wasn't altered.

7. *The Order of Conditions for the 4-lot subdivision was appealed by two abutters and approved by Final Decision (OADR Docket No. WET-2018-13).*

Correct. Note the Final Decision only applies only to be disturbed area as part of the Hosmer Meadow project and the remaining part of Lot 2A has no bearing on that decision. The SOC affirms that DEP saw no conflict with the project.

8. *The Definitive Subdivision Approval was appealed to Land Court by abutters and has not yet been resolved by the Court.*

The appeal of the Hosmer Meadow subdivision has been resolved and the project has started construction.

9. *On December 19, 2018, the Commission opened and held a public hearing on the NOi for the proposed single-family home development at Lot 2A Keuka Road. At that hearing, the Commission requested that WCI withdraw the application until the appealed Definitive Subdivision Approval and the Order of Conditions were resolved. The Commission also requested that the applicant provide a legal opinion on the lot frontage.*

DEP's decision shows that the question of legal frontage had no bearing on the WPA or its regulations nor its review. The Concord Wetlands Bylaw doesn't have jurisdiction over questions related to zoning (i.e. frontage requirements, etc.) which are under the jurisdiction of the Concord Planning Board and Zoning Board of Appeals.

10. *On December 19, 2018, the Commission also requested information on the basement elevations and groundwater elevations, provisions for stormwater management, and compliance with the Commission's 50-foot No Build Zone policy. The applicant has not provided information on the basement and groundwater elevations or provisions for stormwater management.*

DEP found that no additional information was required with regards to work in the Buffer Zone or information on a basement, groundwater elevations. DEP did request Stormwater Management for the 142 SF of driveway access to ensure the Hosmer Meadow stormwater modeling wasn't altered.

11. *The hearing was continued at the Applicant's request on December 19, 2018, February 25, 2019, March 29, 2019, June 5, 2019, July 10, 2019, July 16, 2019, and August 19, 2019.*

Correct.

12. *In response to the Commission's request for a legal opinion on adequate lot frontage, WCI submitted correspondence dated May 9, 2019, between Sherrill Gould and Concord Building Commissioner Ray Matte dated April 22, 2019, in which Mr. Matte stated: "This approved Definitive Subdivision plan for four-lots would have to be redesigned, engineered, amended, and approved to allow for a fifth buildable lot".*

The question of whether the lot is buildable under the Concord Bylaws regulated by other town boards, is not applicable to compliance with the Concord Wetlands Bylaw.

13. *On June 5, 2019, the Commission reopened the public hearing and again advised WCI that the lot had no frontage. The Applicant requested that the Commission continue the hearing to allow the plan to be redesigned to remove structures from the 50-foot No Build Zone.*

The question of whether the lot is buildable under the Concord Bylaws regulated by other town boards, is not applicable to compliance with the Concord Wetlands Bylaw. The project proposes no work in the 50-foot No Build Zone policy.

14. *On July 10th, 2019, the Commission reopened the public hearing. The Commission noted that grading within the roadway right-of-way to accommodate the septic system would not be permitted by the Board of Health.*

The project plans show no grading for the septic system with the roadway right-of-way.

15. *On September 4th, 2019 the Commission reopened the public hearing and again advised the Applicant that the existing Order of Conditions for the 4-lot subdivision would need to be amended in order to allow for a fifth buildable lot, including stormwater management, or the Applicant could propose an alternate access from the western end of Keuka Road. The Applicant requested that the Commission close the hearing and deny the application. The Commission voted 4-0 to close the hearing and deny the application.*

The SOC from DEP affirms that no amendment to the Order of Conditions for the adjacent 4-lot subdivision was necessary. Lastly the proposed work is 100% within the lawn shoulder and not meadow area of the 4-lot subdivision. See the comparison of Figure 3 and Figure 4 which shows the Hosmer Roadway (gray), Proposed Meadow Area (green) Lot 2A access (Yellow). The access (yellow) is from the roadway side shoulder which is not within the "Proposed Meadow Area" per the Hosmer Meadow Subdivision plans.

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A. General Information

1. Project Location (**Note:** electronic filers will click on button to locate project site):

<u>Keuka Road</u>	<u>Concord</u>	<u>01742</u>
a. Street Address	b. City/Town	c. Zip Code
<u>Latitude and Longitude:</u>	<u>42.53292</u>	<u>-71.399798</u>
	d. Latitude	e. Longitude
<u>F09</u>	<u>3837</u>	
f. Assessors Map/Plat Number	g. Parcel /Lot Number	

2. Applicant:

<u>Steve</u>	<u>Marsh</u>	
a. First Name	b. Last Name	
<u>Westchester Company Inc.</u>		
c. Organization		
<u>289 Great Road, Suite 304</u>		
d. Street Address		
<u>Acton</u>	<u>MA</u>	<u>01720</u>
e. City/Town	f. State	g. Zip Code
<u>(978) 771-8935</u>	<u>kingst435@comcast.net</u>	
h. Phone Number	i. Fax Number	j. Email Address

3. Property owner (required if different from applicant): Check if more than one owner

<u>Sherril</u>	<u>Gould</u>	
a. First Name	b. Last Name	
<u></u>		
c. Organization		
<u>PO Box 752</u>		
d. Street Address		
<u>Littleton</u>	<u>MA</u>	<u>01460</u>
e. City/Town	f. State	g. Zip Code
<u></u>	<u></u>	<u></u>
h. Phone Number	i. Fax Number	j. Email address

4. Representative (if any):

<u>Mark</u>	<u>Arnold</u>	
a. First Name	b. Last Name	
<u>Goddard Consulting, LLC</u>		
c. Company		
<u>291 Main Street, Suite #8</u>		
d. Street Address		
<u>Northborough</u>	<u>MA</u>	<u>01532</u>
e. City/Town	f. State	g. Zip Code
<u>(508) 393-3784</u>	<u>mark@goddardconsultingllc.com</u>	
h. Phone Number	i. Fax Number	j. Email address

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

<u>\$500</u>	<u>\$237.50</u>	<u>\$262.50</u>
a. Total Fee Paid	b. State Fee Paid	c. City/Town Fee Paid

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A. General Information (continued)

6. General Project Description:

Single family home, driveway, septic system and grading within Buffer Zone

7a. Project Type Checklist: (Limited Project Types see Section A. 7b.)

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Single Family Home | 2. <input type="checkbox"/> Residential Subdivision |
| 3. <input type="checkbox"/> Commercial/Industrial | 4. <input type="checkbox"/> Dock/Pier |
| 5. <input type="checkbox"/> Utilities | 6. <input type="checkbox"/> Coastal engineering Structure |
| 7. <input type="checkbox"/> Agriculture (e.g., cranberries, forestry) | 8. <input type="checkbox"/> Transportation |
| 9. <input type="checkbox"/> Other | |

7b. Is any portion of the proposed activity eligible to be treated as a limited project (including Ecological Restoration Limited Project) subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

1. Yes No If yes, describe which limited project applies to this project. (See 310 CMR 10.24 and 10.53 for a complete list and description of limited project types)

2. Limited Project Type

If the proposed activity is eligible to be treated as an Ecological Restoration Limited Project (310 CMR10.24(8), 310 CMR 10.53(4)), complete and attach Appendix A: Ecological Restoration Limited Project Checklist and Signed Certification.

8. Property recorded at the Registry of Deeds for:

Middlesex South

a. County

42034

c. Book

b. Certificate # (if registered land)

435

d. Page Number

B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

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B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
a. <input type="checkbox"/> Bank	1. linear feet	2. linear feet
b. <input type="checkbox"/> Bordering Vegetated Wetland	1. square feet	2. square feet
c. <input type="checkbox"/> Land Under Waterbodies and Waterways	1. square feet	2. square feet
	3. cubic yards dredged	

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
d. <input type="checkbox"/> Bordering Land Subject to Flooding	1. square feet	2. square feet
e. <input type="checkbox"/> Isolated Land Subject to Flooding	3. cubic feet of flood storage lost	4. cubic feet replaced
	1. square feet	
f. <input type="checkbox"/> Riverfront Area	2. cubic feet of flood storage lost	3. cubic feet replaced
	1. Name of Waterway (if available) - specify coastal or inland	

2. Width of Riverfront Area (check one):

- 25 ft. - Designated Densely Developed Areas only
- 100 ft. - New agricultural projects only
- 200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: _____ square feet

4. Proposed alteration of the Riverfront Area:

a. total square feet _____ b. square feet within 100 ft. _____ c. square feet between 100 ft. and 200 ft. _____

5. Has an alternatives analysis been done and is it attached to this NOI? Yes No

6. Was the lot where the activity is proposed created prior to August 1, 1996? Yes No

3. Coastal Resource Areas: (See 310 CMR 10.25-10.35)

Note: for coastal riverfront areas, please complete **Section B.2.f.** above.

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B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
a. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below	
b. <input type="checkbox"/> Land Under the Ocean	_____	
	1. square feet	

	2. cubic yards dredged	
c. <input type="checkbox"/> Barrier Beach	Indicate size under Coastal Beaches and/or Coastal Dunes below	
d. <input type="checkbox"/> Coastal Beaches	_____	_____
	1. square feet	2. cubic yards beach nourishment
e. <input type="checkbox"/> Coastal Dunes	_____	_____
	1. square feet	2. cubic yards dune nourishment

	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
f. <input type="checkbox"/> Coastal Banks	_____	
	1. linear feet	
g. <input type="checkbox"/> Rocky Intertidal Shores	_____	
	1. square feet	
h. <input type="checkbox"/> Salt Marshes	_____	_____
	1. square feet	2. sq ft restoration, rehab., creation
i. <input type="checkbox"/> Land Under Salt Ponds	_____	
	1. square feet	

	2. cubic yards dredged	
j. <input type="checkbox"/> Land Containing Shellfish	_____	
	1. square feet	
k. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above	

	1. cubic yards dredged	
l. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	_____	
	1. square feet	

4. Restoration/Enhancement
If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.2.b or B.3.h above, please enter the additional amount here.

_____	_____
a. square feet of BVW	b. square feet of Salt Marsh

5. Project Involves Stream Crossings

_____	_____
a. number of new stream crossings	b. number of replacement stream crossings

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C. Other Applicable Standards and Requirements

- This is a proposal for an Ecological Restoration Limited Project. Skip Section C and complete Appendix A: Ecological Restoration Limited Project Checklists – Required Actions (310 CMR 10.11).

Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

- 1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to http://maps.massgis.state.ma.us/PRJ_EST_HAB/viewer.htm.

a. Yes No **If yes, include proof of mailing or hand delivery of NOI to:**

**Natural Heritage and Endangered Species Program
 Division of Fisheries and Wildlife
 1 Rabbit Hill Road
 Westborough, MA 01581**

August 1, 2018
 b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.c, and include requested materials with this Notice of Intent (NOI); *OR* complete Section C.2.f, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

c. Submit Supplemental Information for Endangered Species Review*

- 1. Percentage/acreage of property to be altered:
 - (a) within wetland Resource Area _____ percentage/acreage
 - (b) outside Resource Area _____ percentage/acreage

2. Assessor’s Map or right-of-way plan of site

- 2. Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work **
 - (a) Project description (including description of impacts outside of wetland resource area & buffer zone)
 - (b) Photographs representative of the site

* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <http://www.mass.gov/eea/agencies/dfg/dfw/natural-heritage/regulatory-review/>). Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

** MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.

Town of Concord
Concord Natural Resources Commission
Form 3 – Notice of Intent
 Concord Wetlands Protection Bylaw and Regulations

Concord File Number
Document Transaction Number
Concord
City/Town

C. Other Applicable Standards and Requirements (cont'd)

(c) MESA filing fee (fee information available at http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/mesa/mesa_fee_schedule.htm). Make check payable to “Commonwealth of Massachusetts - NHESP” and **mail to NHESP** at above address

Projects altering 10 or more acres of land, also submit:

(d) Vegetation cover type map of site

(e) Project plans showing Priority & Estimated Habitat boundaries

(f) OR Check One of the Following

1. Project is exempt from MESA review. Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/mesa/mesa_exemptions.htm; the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

2. Separate MESA review ongoing. a. NHESP Tracking # _____ b. Date submitted to NHESP _____

3. Separate MESA review completed. Include copy of NHESP “no Take” determination or valid Conservation & Management Permit with approved plan.

3. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?

a. Not applicable – project is in inland resource area only b. Yes No

If yes, include proof of mailing, hand delivery, or electronic delivery of NOI to either:

South Shore - Cohasset to Rhode Island border, and the Cape & Islands:

North Shore - Hull to New Hampshire border:

Division of Marine Fisheries -
 Southeast Marine Fisheries Station
 Attn: Environmental Reviewer
 836 South Rodney French Blvd.
 New Bedford, MA 02744
 Email: DMF.EnvReview-South@state.ma.us

Division of Marine Fisheries -
 North Shore Office
 Attn: Environmental Reviewer
 30 Emerson Avenue
 Gloucester, MA 01930
 Email: DMF.EnvReview-North@state.ma.us

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP’s Boston Office. For coastal towns in the Southeast Region, please contact MassDEP’s Southeast Regional Office.

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C. Other Applicable Standards and Requirements (cont'd)

4. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?

- a. Yes No If yes, provide name of ACEC.

b. ACEC

5. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?

- a. Yes No

6. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?

- a. Yes No

7. Is this project subject to provisions of the MassDEP Stormwater Management Standards?

- a. Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:

1. Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)
2. A portion of the site constitutes redevelopment
3. Proprietary BMPs are included in the Stormwater Management System.

- b. No. Check why the project is exempt:

1. Single-family house
2. Emergency road repair
3. Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

D. Additional Information

- This is a proposal for an Ecological Restoration Limited Project. Skip Section D and complete Appendix A: Ecological Restoration Notice of Intent – Minimum Required Documents (310 CMR 10.12).

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

Online Users: Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

1. USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
2. Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.

Online Users:
 Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

Town of Concord
Concord Natural Resources Commission
Form 3 – Notice of Intent
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Concord File Number

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Concord
 City/Town

D. Additional Information (cont'd)

3. Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.

4. List the titles and dates for all plans and other materials submitted with this NOI.

Notice of Intent Plan, Keuka Road

a. Plan Title

Markey & Rubin Civil Engineering

Ian M. Rubin

b. Prepared By

c. Signed and Stamped by

2/26/2020

1"=20"

d. Final Revision Date

e. Scale

Erosion and Sediment Control Plan, Keuka Road

2/26/2020

f. Additional Plan or Document Title

g. Date

5. If there is more than one property owner, please attach a list of these property owners not listed on this form.
6. Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.
7. Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.
8. Attach NOI Wetland Fee Transmittal Form
9. Attach Stormwater Report, if needed.

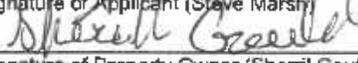
Town of Concord
Concord Natural Resources Commission
Form 3 – Notice of Intent
 Concord Wetlands Protection Bylaw and Regulations

Concord File Number
Document Transaction Number
Concord
City/Town

E. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands Bylaw and Regulations, Article 58 of the Town of Concord Bylaws.

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of Article 58. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

	8-21-20
1. Signature of Applicant (Steve Marsh)	2. Date
	8-21-20
3. Signature of Property Owner (Sherril Gould)	4. Date
 Mark Arnold	8/21/2020
5. Signature of Representative (Scott Goddard, Goddard Consulting LLC)	6. Date

November 19, 2018
Revised on 06/24/19

Concord Conservation Commission
141 Keyes Road
Concord, MA 01742

Invasive Species Management plan

Keuka Road
Concord, MA

Prepared for:
Westchester Company Inc

1.0 Introduction and Existing Conditions

Lot 2A Keuka Road, Concord MA, consists of a wooded vacant lot. Resource areas on site consists of a Bordering Vegetated Wetland (BVW) system, with an interior stream flowing within, located on the northern end of the property. This Invasive Species Management Plan (ISMP) is proposed as mitigation for the proposed development on lot 2A Keuka Road. The purpose of this Invasive Species Management Plan (ISMP) is to outline the procedures and management practices of invasive species removal within the management area with the primary goal of, to the greatest extent practicable, remove and prevent the establishment of the emerging invasive plant community within the area

2-Location of Management Zone

The proposed ISMP will manage the area found in the north section of lot 2A within the undisturbed buffer zone and wetland (figure 1) This area encompasses approximately ~12828 square feet, of buffer zone within the 25' no disturb. The restored areas shall be monitored to ensure invasive species don't become established within areas where lawn is not proposed within the limit of work.

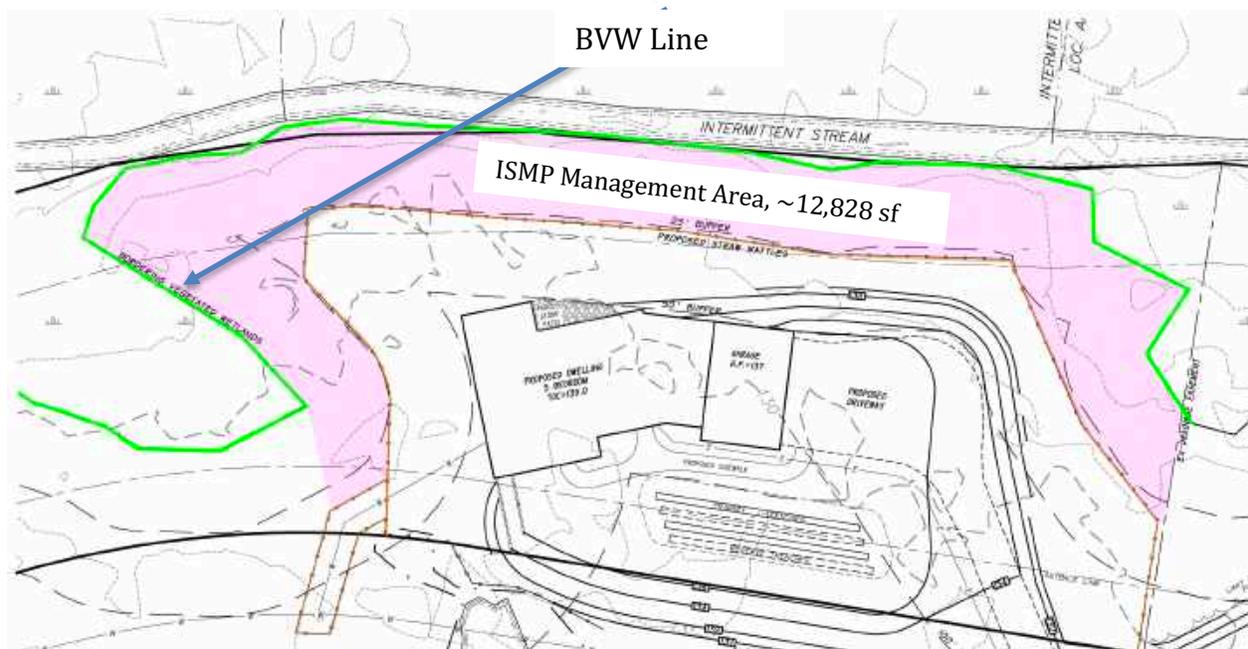


Figure 1: 25' No disturb buffer invasive species management area.

3.0 Goals of the Invasive Species Management Plan

The primary goal of this ISMP is to eradicate, to the greatest extent practicable, the invasive plant species within the ISMP area primarily through hand removal where practical with cut-stump chemical treatment for shrubs that can not be pulled by hand. Due to size of shrubs the area will transition into an native early successional shrub land as a result of this removal. In addition the planting of native shrubs to enhance the existing native shrubs will provide an enhancement to existing native species.

4.0 Methods of Invasive Species Management

Invasive species management will involve mechanical control methods and chemical control methods. The method chosen for a given vegetation management problem will attempt to achieve a long-term, low-maintenance invasive species management program through the encouragement of a stable native plant community. Mechanical methods of vegetation management includes: hand-cutting and hand-pulling invasive species. Removal of trees isn't proposed. The implementation of the ISMP by the Applicant shall commence upon the approval of the ISMP by the Conservation Commission and shall terminate on the three (3) year anniversary of ISMP work commencement. After the first year of major removal of invasive species the focus will shift to the removal and prevention of re-sprouting of mature invasive species by cut hand pulling or cutting new sprouts.

4.1 Removal Recommendations

Removal will be completed mostly by hand where practical with a track-mounted mini excavator or bob cat use only allowed within the buffer zone at the discretion of the ISMP monitoring wetland scientist. Access will only occur where damage to native woody species won't occur or be impacted by track-mounted equipment. All work within the wetland shall be done by hand were practical. Additional equipment may be staged within the proposed projects limit of work of proposed development if found to be necessary. Use of a winch to pull cut shrubs is allowable, but care will be required to prevent damage to native vegetation.

4.2-Specific Treatment Recommendations

The following are recommended as treatments within the Buffer Zone.

- a. Remove and cut shrubs.
- b. Cut-stump chemical treatment (throughout monitoring period, remove stem and treat rim of plant immediately with glyphosate [Cornerstone or Roundup)
 - a. A licensed herbicide applicator shall perform all chemical treatments (No treatments until 3-months after first invasive removal).
- c. Chemical treatment should occur between early summer and late in the growing season but prior to plant senescence, or following the manufacturer's instructions regarding the species of plant and its responsiveness. Treatment should occur before seed production.

4.3 Disturbed area recommendations.

If invasive species removal and foot traffic results in soil disturbance the use of seed mixes may be required to restore native ground cover. Seeding is only allowed by hand and will be applied at the rate listed by the producer (New England Wetland Plants Inc.). Planting will be completed by hand where practical after first removal of invasive species to show where native shrubs are lacking or sparse. Plantings installation is recommended between April 16 and May 31 or between September 16 and October 30 for best success. Shrubs listed below are a mixture of upland and wetland species to be placed within the wetland or Buffer Zone where they are best known to thrive.

- 1) New England Conservation Wildlife Mix.
 - a) For use in Buffer Zone
- 2) Native Shrub Plantings
 - a) Planting Quantity
 - i) 280* upland shrubs (25 s.f. per shrub)
 - ii) 70* Upland trees (100 s.f.), 5'+ height
 - b) Shrub plantings allowed include (18"+ height):
 - i) Sweet Pepperbush (*clethra alnifolia*), FAC
 - ii) Inkberry (*Ilex glabra*), FAC
 - iii) Alternate-Leaved Dogwood (*cornus alternifolia*), UPL
 - iv) New Jersey Tea, (*ceanothus americanus*), FACU
 - v) Witch Hazel (*hamamelis*), FACU
 - vi) Sweet Fern (*comptonia peregrine*), UPL
 - c) Tree plantings allowed include (5'+ height):
 - i) Red Maple (*acer rubrum*), FAC
 - ii) American Elm (*ulmus americana*), FAC
 - iii) Black Cherry (*prunus serotina*), FACU
 - iv) Northern Red Oak, (*quercus rubra*), UPL

*Planting quantities presume no native shrubs or trees exist within the Buffer Zone or Wetland areas of the ISMP. Planting quantities shall be reduced on a 1:1 ratio if native shrubs or trees are found within the ISMP when they correspond to the same height or taller than the planting size. Trees under 5' shall be counted as native shrubs.

5.0 ISMP management time

The management time frame will commence from the date the first invasive species removal work is completed. The annual monitoring report will review what was performed that year, what removal techniques were effective to reduce invasive plant species populations, and what removal techniques will be reused and which will be discarded for a more effective technique. The goal is that in 3 years, there will be a dominance of varied native plant species on site and the elimination of the invasive species dominance that currently exists within the ISMP area.

6.0 ISMP Monitor & Report

The ISMP will be supervised by wetland scientist, designated the "ISMP Monitor" to ensure the that methods outlined in the ISMP are followed and that best practices are used to minimize damage to native vegetation and soils. The ISMP Monitor will supervise all work within the ISMP area and provide direction and recommendations to crews completing the work. The ISMP Monitor will also dictate when the allowance of tred-mounted equipment is permissible. The ISMP Monitor will submit annual (November) reports to the Commission on the status of the ISMP, document the results of management efforts, including methods, and temporal changes in the cover percentage of invasive plant species to ensure that the current methods are effective and to provide suggestions for adaptive management actions. The report will also discuss percent cover and plantings/native vegetation health.

Please feel free to contact us if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Scott Goddard". The signature is written in a cursive, flowing style.

Scott Goddard,
Principal & PWS



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 7 – Extension Permit for Final Order of
Resource Area Delineation

DEP File Number:

137-1202
 Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. General Information

Important:
 When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



- Applicant:
Craig and Hope Beckman, Keuka Road LLC
 Name
653 Main Street
 Mailing Address
Concord MA 01742
 City/Town State Zip Code
- Property Owner (if different):
 Name _____
 Mailing Address _____
 City/Town State Zip Code

B. Authorization

The Final Order of Resource Area Delineation (or Extension Permit) issued to the applicant or property owner listed above on:

May 29, 2015
 Date

for work at:

Keuka Road F9 3838, 3842-2,
 Street Address Assessor's Map/Plat Number Parcel/Lot Number
3837, 3849
 Parcel/Lot Number

recorded at the Registry of Deeds for:

Middlesex South _____
 County Book Page

Certificate (if registered land)

is hereby extended until:

May 29, 2021
 Date

This date can be no more than 3 years from the expiration date of the Order of Conditions or the latest extension. Only unexpired Orders of Conditions or Extension may be extended.

Date the Order was last extended (if applicable): _____
 Date

Issued by:
DEP August 29, 2018
 Conservation Commission or DEP Date



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
**WPA Form 7 – Extension Permit for Final Order of
 Resource Area Delineation**

DEP File Number:

137-1202
 Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

This Order of Conditions Extension must be signed by the Section Chief or his designee and a copy sent to the applicant.

Signature: Rachel Freed
 Rachel Freed, Deputy Regional Director, Bureau of Water Resources

C. Recording Confirmation

The applicant shall record this document in accordance with General Condition 8 of the Order of Conditions (see below), complete the form attached to this Extension Permit, have it stamped by the Registry of Deeds, and return it to the Department of Environmental Protection, Northeast Regional Office (see address on next page).

Note: General Condition 8 of the Order of Conditions requires the applicant, prior to commencement of work, to record the final Order (or in this case, the Extension Permit for the Order of Conditions) in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, it shall be noted in the Registry's Granter Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, it shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done.

Detach below and submit it to the Department of Environmental Protection prior to the expiration of the Order of Conditions subject to this Extension Permit.

To:

Department of Environmental Protection, Northeast Regional Office

Please be advised that the Extension Permit to the Order of Conditions for the project at:

Keuka Road, Concord
 Project Location

137-1202
 DEP File Number

has been recorded at the Registry of Deeds of:

Middlesex South
 County

for:

Property Owner

and has been noted in the chain of title of the affected property in accordance with General Condition 8 of the original Order of Conditions on:

Date

Book

Page

If recorded land the instrument number which identifies this transaction is:

Instrument Number

If registered land, the document number which identifies this transaction is:



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

**WPA Form 7 – Extension Permit for Final Order of
Resource Area Delineation**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

137-1202

Provided by DEP

Document Number

Signature of Applicant



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
DEP Regional Addresses
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Mail transmittal forms and DEP payments, payable to:
 Commonwealth of Massachusetts
 Department of Environmental Protection
 Box 4062
 Boston, MA 02211

DEP Western Region
 436 Dwight Street
 Suite 402
 Springfield, MA 01103
 Phone: 413-784-1100
 Fax: 413-784-1149

Adams Agawam Aford Amherst Ashfield Becket Belchertown Bernardston Blanford Brimfield Buckland Charlemont Cheshire Chester Chesterfield Chicopee Clarksburg	Colrain Conway Cummington Dalton Deerfield Easthampton East Longmeadow Egremont Erving Florida Gill Goshen Granby Granville Great Barrington Greenfield Hadley	Hampden Hancock Hatfield Hawley Heath Hinsdale Holland Holyoke Huntington Lanesborough Lee Lenox Leverett Leyden Longmeadow Ludlow Middlefield	Monroe Montague Monterey Montgomery Monson Mount Washington New Ashford New Marlborough New Salem North Adams Northampton Northfield Orange Otis Palmer Pelham Peru	Pittsfield Plainfield Richmond Rowe Russell Sandisfield Savoy Sheffield Shelburne Shutesbury Southampton South Hadley Southwick Stockbridge Sunderland Tolland	Tyringham Wales Ware Warwick Washington Wendell Westfield Westhampton West Springfield West Stockbridge Whately Wilbraham Williamsburg Williamstown Windsor Worthington
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DEP Central Region
 627 Main Street
 Worcester, MA 01605
 Phone: 508-792-7650
 Fax: 508-792-7621
 TDD: 508-767-2788

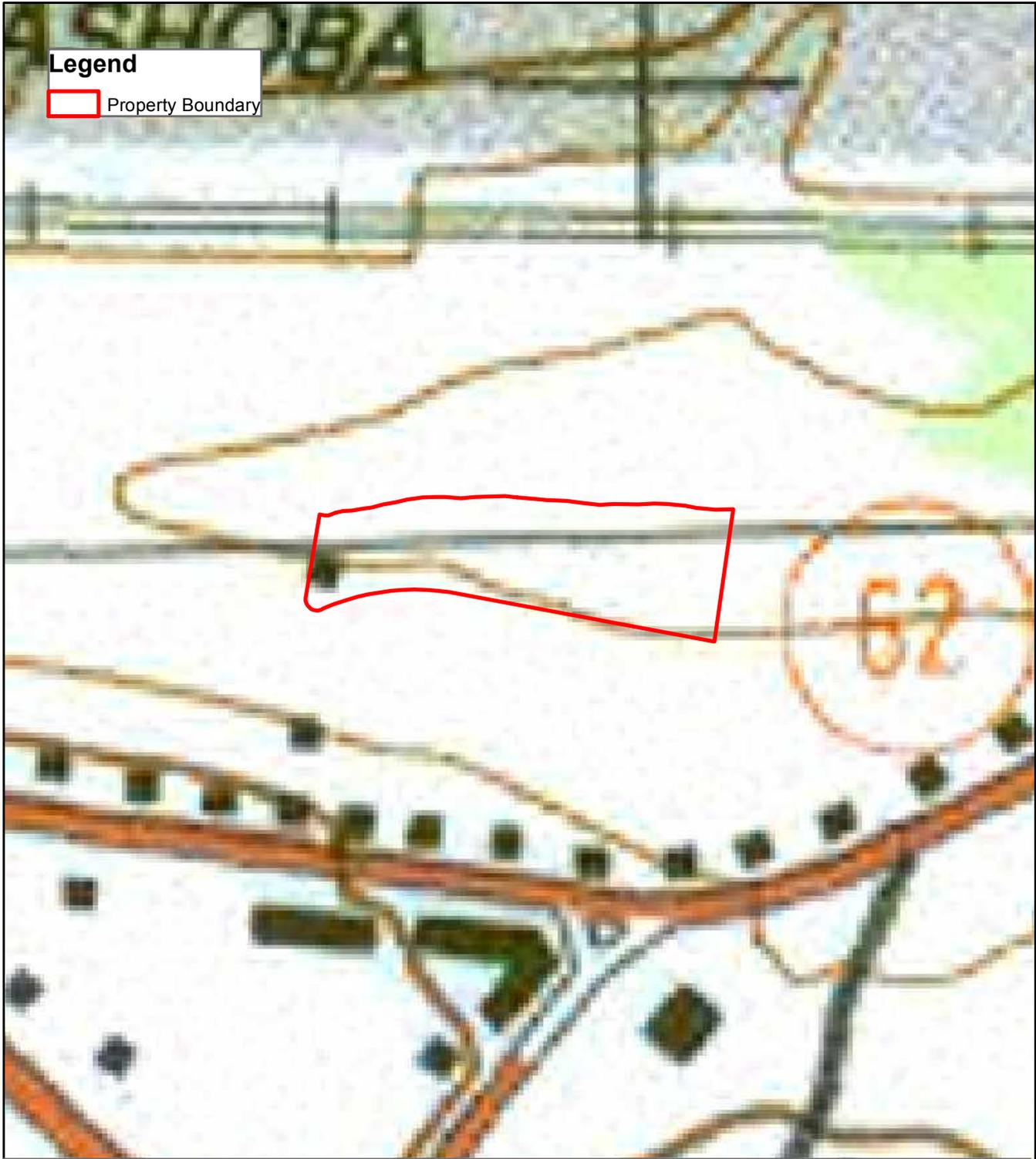
Acton Ashburnham Ashby Athol Auburn Ayer Barre Bellingham Berlin Blackstone Bolton Boxborough Boylston Brookfield	Charlton Clinton Douglas Dudley Dunstable East Brookfield Fitchburg Gardner Grafton Groton Harvard Haverhill Holden Hopedale	Hopkinton Hubbardston Hudson Holliston Lancaster Leicester Loomisler Lutzelton Lunenburg Marlborough Maynard Medway Mendon Milton	Millbury Millville New Braintree Northborough Northbridge North Brookfield Oakham Oxford Paxton Pepperell Petersham Phillipston Princeton Royalston	Fruitland Shirley Shrewsbury Southborough Southbridge Spencer Sterling Stow Sturbridge Sutton Templeton Townsend Tyngsborough Upton	Uxbridge Warren Webster Westborough West Boylston West Brookfield Westford Westminster Winchendon Worcester
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DEP Southeast Region
 20 Riverside Drive
 Lakeville, MA 02347
 Phone: 508-946-2700
 Fax: 508-947-6557
 TDD: 508-946-2795

Abington Acushnet Attleboro Avon Barnstable Berkley Bourne Brewster Bridgewater Brockton Carver Chatham Chilmark	Dartmouth Dennis Dighton Duxbury Eastham East Bridgewater Easton Edgartown Falmouth Fall River Falmouth Foxborough Franklin	Freetown Gay Head Gosnold Halifax Hanover Hanson Haverhill Kingston Lakeville Mansfield Marion Marshfield Marshpee	Mattapoisett Middleborough Nantucket New Bedford North Attleborough Norton Norwell Oak Bluffs Orleans Pembroke Plainville Plymouth Plympton	Provincetown Raynham Rahobath Rochester Rockland Sandwich Scituate Seekonk Sharon Somerset Stoughton Swansea Taunton	Tisbury Truro Wareham Wareham West Bridgewater Westport West Tisbury Whitman Wareham Yarmouth
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DEP Northeast Region
 1 Winter Street
 Boston, MA 02108
 Phone: 617-654-6500
 Fax: 617-556-1049
 TDD: 617-554-6868

Amesbury Andover Arlington Ashland Bedford Belmont Beverly Billerica Boston Buxford Braintree Brookline Burlington Cambridge Canton Carlsdale	Chelmsford Chelsea Consett Concord Danvers Dedham Dover Dracut Essex Essex Framingham Georgetown Gloucester Groveland Hamilton Haverhill	Hingham Holtbrook Hull Ipswich Lawrence Lexington Lincoln Lowell Lynn Lynnfield Malden Manchester-By-The-Sea Marblehead Medfield Medford Molrose	Merrimac Mathuan Middleton Millis Milton Nahant Natick Needham Newbury Newburyport Newton Norfolk North Andover North Reading Norwood Peabody	Quincy Randolph Reading Revere Rockport Rowley Salem Salisbury Saugus Sharborn Somerville Stonham Sudbury Swampscott Tewksbury Topsfield	Wakefield Walpole Waltham Waltham Wayland Wellesley Wenham West Newbury Weston Westwood Weymouth Wilmington Winchester Winthrop Woburn
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USGS Site Locus

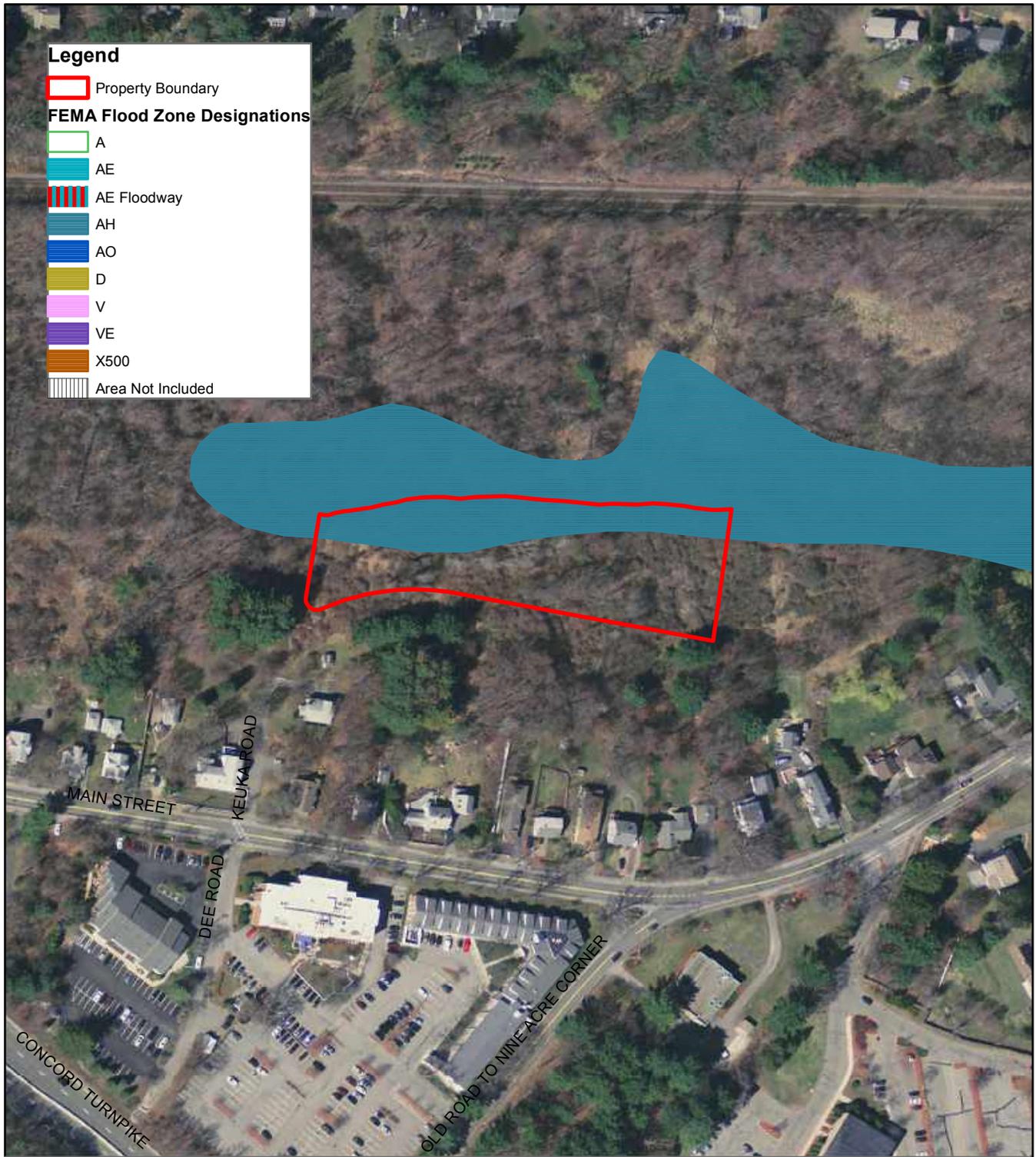
Keuka Road, Concord MA



0 100 200
Feet
1 inch = 200 feet
Date: 9/26/18

GIS Data Source: "Office of Geographic Information (MassGIS), Commonwealth of Massachusetts, MassIT"





Legend

- Property Boundary
- FEMA Flood Zone Designations**
- A
- AE
- AE Floodway
- AH
- AO
- D
- V
- VE
- X500
- Area Not Included

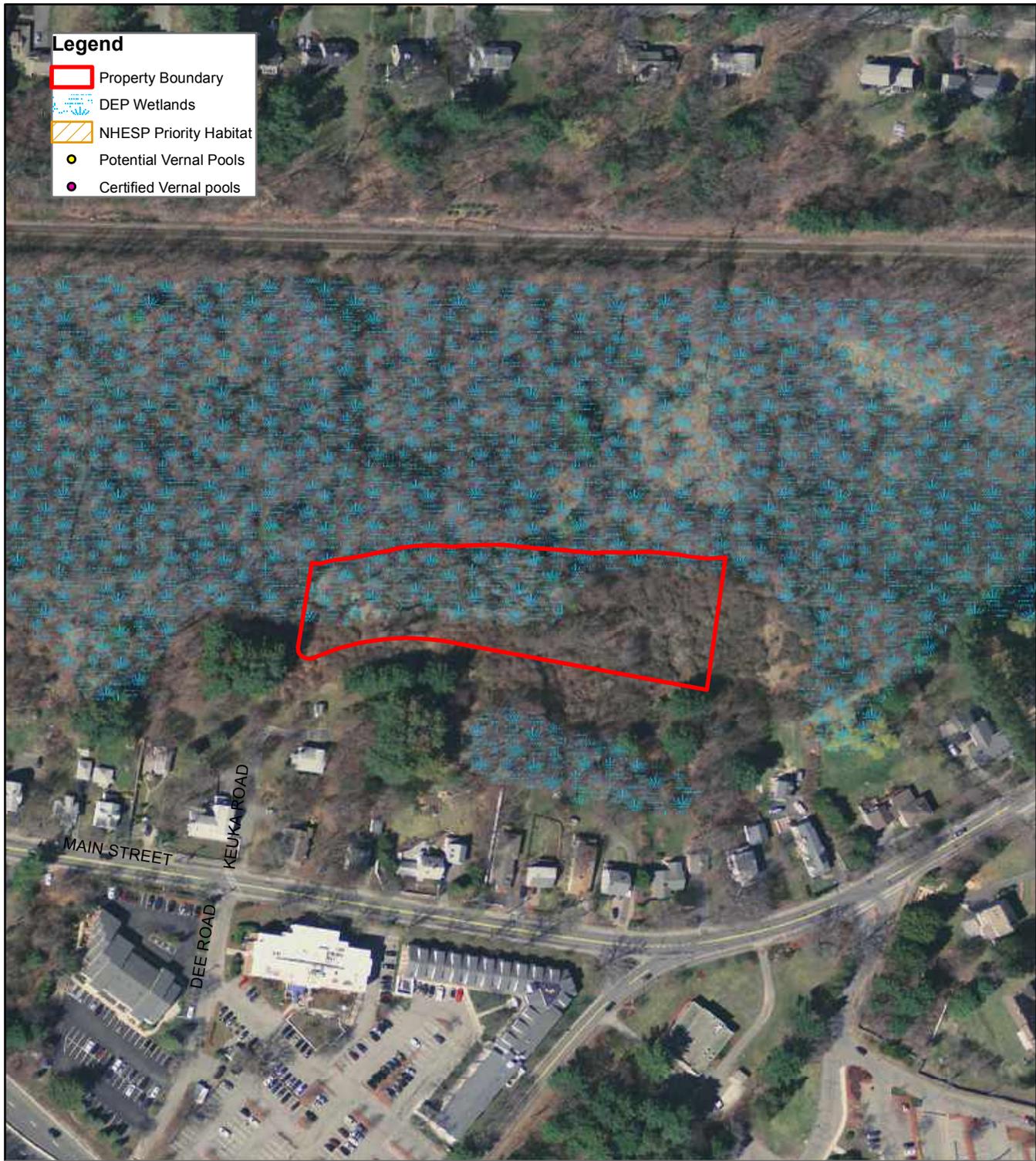
FEMA Flood MAP

Keuka Road, Concord MA

Feet
 1 inch = 200 feet
 Date: 10/2/18

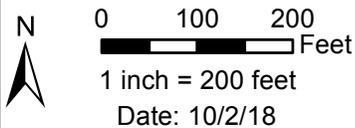
GIS Data Source: "Office of Geographic Information (MassGIS), Commonwealth of Massachusetts, MassIT"





NHESP Rare Species and Aerial Map

Keuka Road, Concord MA



GIS Data Source: "Office of Geographic Information (MassGIS), Commonwealth of Massachusetts, MassIT"





Town of Concord
Board of Assessors
P.O. Box 535
Concord, Massachusetts 01742-0535
Tel: (978) 318-3070
Fax: (978) 369-4760
Office Location – 24 Court Lane
www.concordma.gov

ABUTTERS LIST

PROPERTY : 2A Keuka Rd.
Concord, MA 01742

PARCEL: 3837

As per Massachusetts General Laws Chapter 131, Section 40 whereas the “abutters” included shall be:

Any person filing a notice of intention with a conservation commission shall at the same time give written notification thereof, by delivery in hand or certified mail, return receipt requested, to all abutters within one hundred feet of the property line of the land where the activity is proposed, at the mailing addresses shown on the most recent applicable tax list of the assessors, including, but not limited to, owners of land directly opposite said proposed activity on any public or private street or way, and in another municipality or across a body of water.

The Board of Assessors hereby certifies that the attached list contains the record owners as of January 1, 2020, and recorded on the current tax rolls. In addition, the Board certifies that the list includes owners, as per recorded deeds as received up to July 31, 2020.

Carolyn H. Dee
Sr. Administrative Assistant

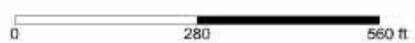
August 11, 2020

Abutters List for Parcel# 3837,
 2A Keuka Rd., using a distance of 100 Ft.:

Parcel#	Owner	Co-Owner	Mailing Address	City	State	Zip	Property Location
3825	KEUKA ROAD LLC		653 MAIN ST	CONCORD	MA	01742	38 KEUKA RD
3834	LYCZKOWSKI DAVID A	WINTERKORN ELISABETH B	800 MAIN ST	CONCORD	MA	01742	800 MAIN ST
3835	TOWN OF CONCORD		22 MONUMENT SQ	CONCORD	MA	01742	4B KEUKA RD
3836	TOWN OF CONCORD		22 MONUMENT SQ	CONCORD	MA	01742	7A KEUKA RD
3837	GOULD SHERRILL R	GOULD LAW OFFICES	PO BOX 752	LITTLETON	MA	01460	2A KEUKA RD
3838	KEUKA ROAD LLC		653 MAIN ST	CONCORD	MA	01742	41 KEUKA RD
3839	LOOMER RUTH A		18 KEUKA RD	CONCORD	MA	01742	18 KEUKA RD
3842-2	KEUKA ROAD LLC		653 MAIN ST	CONCORD	MA	01742	55 KEUKA RD
3849	KEUKA ROAD LLC		653 MAIN ST	CONCORD	MA	01742	4A KEUKA RD



- Town Boundary - State Su
- Landmarks
 - Community Center
 - Court House
 - Fire Station
 - Hospital
 - Library
 - Monument
 - Municipal Offices
 - Museum
 - National Park Service
 - Police Station
 - Post Office
 - School
 - Visitor Center
 - Address Numbers
- Tax Map Parcel Area Label
- Tax Map Parcel ID Labels
- Buildings (ft)
- Parcels FY21
- MBTA Commuter Rail Station
- MA Highways
 - Interstate
 - US Highway
 - Numbered Routes
- Railroad
- Streams
- Rivers & Ponds
- Street Centerlines
- Streets Area



Printed on 08/11/2020 at 03:09 PM

2A Keuka Rd.

Notification to Abutters Under the Concord Wetlands Bylaw

In accordance with
Article 43 of the 2009 Annual Town Meeting, you are hereby notified of the following:

Applicant's Name: Steve Marsh, Westchester Company Inc.

The applicant has filed a Notice of Intent with the Conservation Commission for the municipality of Concord seeking permission to remove, fill, dredge, or alter an area subject to protection under the _____ the Concord Wetlands Bylaw.

Address where activity is proposed: Lot 2A Kueka Road

Brief description of proposed project: Construction of single family home with associated Driveway, septic, grading and patio

The Notice of Intent and project plans may be viewed on the Natural Resources Commission's webpage under Current Meeting Documents at <https://concordma.gov/2254/Current-Meeting-Documents>. You may also email nr@concordma.gov for more information or to obtain copies of the Notice of Intent.

A public hearing will be held on 9/16/2020 or later. Due to the COVID-19 pandemic, all meetings will be conducted virtually. Information on how to participate via Zoom will be provided on the agenda at <https://concordma.gov/AgendaCenter/Natural-Resources-Commission-25>.

Notice of this public hearing will also be published at least five (5) days in advance of the meeting in the Concord Journal and posted at the Town House not less than forty-eight (48) hours in advance of the meeting.

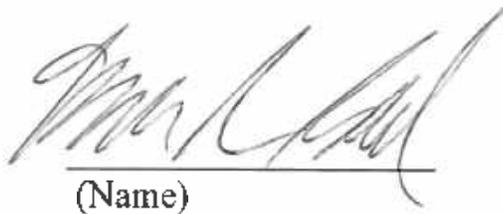
AFFIDAVIT OF SERVICE

Under the Concord Wetlands Protection Bylaw.

I, Mark Arnold hereby certify under the pains and penalties of perjury that on 9/2/2020 I gave notification to abutters in Compliance with the Concord Wetlands Protection Bylaw in connection with the following matter:

An Notice of Intent was filed under the Concord Wetlands Protection Bylaw by Stephen Marsh with the Concord Natural Resources Commission on _____ for the property located at Lot 2A Keuka Road, Concord, MA (Map F09, Parcel 3837).

The form of the notification, and the list of abutters to whom it was given, and their addresses, are attached to this Affidavit of Service.


(Name)

9/2/2020
(Date)



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Northeast Regional Office • 205B Lowell Street, Wilmington MA 01887 • 978-694-3200

Charles D. Baker
Governor

Kathleen A. Theoharides
Secretary

Karyn E. Polito
Lieutenant Governor

Martin Suuberg
Commissioner

August 6, 2020

Stephan Marsh
Westchester Company, Inc
360 Mass Ave, Suite 200
Acton, MA 01720

RE: WETLANDS/CONCORD
DEP FILE# 137-1461
Lot 2A Keuka Road
Superseding Order of Conditions

Dear Mr. Marsh:

Following an in-depth review of the file referenced above, and in accordance with Massachusetts General Laws, Chapter 131, Section 40, the Northeast Regional Office of the Massachusetts Department of Environmental Protection, Wetlands Program (MassDEP), is issuing the enclosed Superseding Order of Conditions (SOC) allowing the project based upon: 1) information and plans submitted; 2) information gathered during the site inspection; and 3) reasons MassDEP has deemed necessary to protect the statutory interests identified in the Wetlands Protection Act (WPA).

The project proposal is for the construction of a single-family house, garage, driveway, Title 5 system and a stormwater management system on Lot 2A.

MassDEP's review of the file and site inspection confirms that the project site contains the following resource areas subject to protection under the WPA: Bordering Vegetated Wetlands (BVW) and Bank of an intermittent stream. There are no direct impacts proposed to these resource areas.

As background for this appeal, Lot 2A is adjacent to a four-lot subdivision (DEP file # 137-1419) that was approved by the Concord Natural Resources Commission (CNRC), appealed by two abutters and approved by a SOC dated September 11, 2018. That approval was also appealed and upheld in a final adjudicatory decision dated June 18, 2019 (OADR Docket No. WET-2018-013). Lot 2A was included in the filing for the subdivision but was not part of the four-lot subdivision approved by the CNRC. Lot 2A currently has a different owner than the four-lot subdivision.

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

On September 20, 2019, the CNRC issued an Order of Conditions (OOC) for DEP File #137-1461 denying the project for lack of information. It was the opinion of the CNRC that you failed to obtain or file for all permits that are obtainable at the time of the Notice of Intent filing pursuant to 310 CMR 10.05(4)(e), specifically, amendment of the prior SOC (DEP File #137-1419) to allow Lot 2A to be developed. The CNRC also cited lack of information for ground water elevation, basement elevation and stormwater management.

You filed an appeal on October 3, 2019 based on your opinion that the owner of Lot 2A currently seeking a SOC (DEP File #137-1461) cannot amend an OOC (DEP File #137-1419) that was issued to a different applicant and owner. You also state that the ground water elevation and basement elevation was provided to the CNRC prior to its decision and that a single-family house is exempt from the Stormwater Standards.

A site visit was held by MassDEP on November 19, 2019 and was attended by you and your consultants and members of the CNRC. The project site is a densely vegetated undeveloped area occupying a portion of lot 2A. Topography at the site is gently sloping to the north where the property is bordered by an intermittent stream and BVW. South of the project site is the meadow restoration area approved in the SOC for DEP File #137-1419. A non-jurisdictional isolated wetland is located just south of this area.

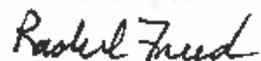
After considering the information submitted for this appeal, MassDEP determined that the applicant is not required to file an amendment to the subdivision SOC (DEP File #137-1419) in order to construct a single-family house on Lot 2A. Under the WPA (310 CMR 10.05 (4)(e)), an applicant is only required to obtain or apply for all obtainable permits, variances, and approvals required by local by-law with respect to the proposed activity. It is MassDEP's opinion that the requirement by the CNRC for the applicant to amend a prior SOC under the WPA is not applicable to this requirement.

MassDEP stipulated, however, that the applicant must prevent stormwater from the development of Lot 2A from flowing onto the paved portion of Keuka Road. In response, the applicant submitted a revised plan dated February 6, 2020 to relocate the proposed driveway to avoid the meadow restoration area and ensure that there will be no hydrologic change to the adjacent subdivision. The proposed stormwater management practices (BMP) consist of a catch basin at the end of the proposed driveway that discharges to a subsurface infiltration system and a six-inch asphalt berm to direct run-off to the catch basin preventing discharge to Keuka Road. At the request of MassDEP, an Operations and Maintenance plan for the stormwater BMPs, dated June 1, 2020, was submitted by the applicant for use by the future homeowner.

Based on the record, information provided by the applicant, information gathered at the site visit and consideration of all issues raised through the appeal, it is MassDEP's opinion that the project as currently proposed and conditioned in the attached SOC is permissible and serves to protect the interest of the Wetlands Protection Act and Regulations. Please be advised that the MassDEP reserves the right, should there be further proceedings in this matter, to raise additional issues and present further evidence as may be appropriate.

If you have any questions concerning this Superseding Order, please contact Gary Bogue at 978-694-3372 or gary.bogue@mass.gov.

Sincerely,



Rachel Freed, Deputy Regional Director
Bureau of Water Resources, NERO

cc: Concord Natural Resources Commission, 141 Keyes Road, Concord, MA 01742
Goddard Consulting, 291 Main Street, Suite 8, Northborough, MA



WPA Form 5 – Superseding Order of Conditions
Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands Program
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File #

137-1461

A. General Information

1. From: Department of Environmental Protection
Issuing Authority
2. This issuance is for (check one): a. Superseding Order of Conditions
b. Amended Superseding Order of Conditions
3. To: Applicant:
- | | | |
|--|------------------------------|-----------------------------|
| <u>Stephan</u>
a. First Name | <u>Marsh</u>
b. Last Name | |
| <u>Westchester Company Inc.</u>
c. Organization | | |
| <u>360 Mass Avenue, Suite 200</u>
d. Mailing Address Line 1 | | |
| <u>Acton</u>
e. City/Town | <u>MA</u>
f. State | <u>01720</u>
g. Zip Code |
4. Property Owner (if different from applicant):
- | | | |
|---|------------------------------|-----------------------------|
| <u>Sherril</u>
a. First Name | <u>Gould</u>
b. Last Name | |
| <u>PO Box 752</u>
c. Organization | | |
| <u>Littleton</u>
d. Mailing Address Line 1 | | |
| <u>Littleton</u>
e. City/Town | <u>MA</u>
f. State | <u>01460</u>
g. Zip Code |
5. Project Location:
- | | |
|---|-------------------------------------|
| <u>Keuka Road-Lot 2A</u>
a. Street Address | <u>Concord</u>
b. City/Town |
| <u>F09</u>
c. Assessors Map/Plat Number | <u>3837</u>
d. Parcel/Lot Number |
- Latitude and Longitude, if known: e. Latitude _____ f. Latitude _____

A. General Information (cont'd)

6. Property recorded at the Registry of Deeds (attach additional information if more than one parcel):
- | | |
|--|---|
| <u>Southern Middlesex</u>
a. County | <u>435</u>
b. Certificate (if registered land) |
| <u>42034</u>
c. Book | <u>435</u>
d. Page |
7. Dates: a. 11/21/2018 Date NOI Filed b. _____ Date of Site Visit c. 9/20/2019 Date of Issuance of Local Order



WPA Form 5 – Superseding Order of Conditions
Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands Program
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File #

137-1461

8. Final Approved Plans and Other Documents (attach additional plans or document references):

See Special Conditions

a. Plan Title

b. Prepared By

c. Signed and Stamped By

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act - Following the review of the above-referenced Notice of Intent and based on the information provided in this application, the Department finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act. Check all that apply:

- a. Public Water Supply b. Land Containing Shellfish c. Prevention of Pollution
d. Private Water Supply e. Fisheries f. Protection of Wildlife Habitat
g. Groundwater Supply h. Storm Damage Prevention i. Flood Control

2. This Department hereby finds the project, as proposed, is (check one):

Approved subject to:

- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. The Department orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

B. Findings (cont'd)

Denied because:

- b. the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect these interests, and a final Order of Conditions is issued. A description of the performance standards which the proposed work cannot meet is attached to this Order.



WPA Form 5 – Superseding Order of Conditions
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MassDEP File #

137-1461

- c. the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order.**

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and wetland boundary (if available) 35
a. linear feet

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding Cubic Feet Flood Storage	a. square feet	b. square feet	c. square feet	d. square feet
	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding Cubic Feet Flood Storage	a. square feet	b. square feet		
	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront area	a. total sq. feet	b. total sq. feet		
Sq feet within 100 feet	c. square feet	d. square feet	e. square feet	f. square feet
Sq feet between 100-200 feet	g. square feet	h. square feet	i. square feet	j. square feet

B. Findings (cont'd)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

10. Designated Port Areas - Indicate size under Land Under the Ocean, below

Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
---------------------	----------------------	----------------------	-----------------------



C. General Conditions Under Massachusetts Wetlands Protection Act

(only applicable to approved projects)

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Superseding Order of Conditions, this Amended Superseding Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Superseding Order will expire on _____ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Department on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" (or, "MA DEP")

"File Number 137-1461"



C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before DEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Department of Environmental Protection.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Department in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Department.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Department, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. **The work associated with this Order (the "Project") is (1) is not (2) subject to the Massachusetts Stormwater Standards. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:**
 - a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.



C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
 - iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
 - v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 19(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMPs Operation and Maintenance Plan ("O&M Plan") and certifying the following: i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, and acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.
-



C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Brief Project Description: Construction of a single-family house, garage, driveway, Title 5 system and a stormwater management system.

Special Conditions (See attached sheet(s) for additional Special Conditions numbered 20 through 37.

D. Findings Under Municipal Wetlands Bylaw or Ordinance

To the extent that the Order is based on a municipal bylaw or ordinance, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no jurisdiction to supersede the local by-law order.



WPA Form 5 – Superseding Order of Conditions
Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands Program
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File #

137-1461

E. Issuance

This Order is valid for three years from the date of issuance, unless otherwise specified as a special condition pursuant to General Conditions 4 or 6.

Issued by: **Department of Environmental Protection:**

Signature:

Rachel Freed

Rachel Freed, Deputy Regional Director

This Order is issued to the applicant as follows:

by Hand delivery on:

by certified mail on:

Date

Date

August 16, 2020

F. Recording Information

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on Page 10 of this form shall be submitted to the Department.



G. Appeal Rights and Time Limits

The applicant, the landowner, any person aggrieved by the Superseding Order, Determination or other Reviewable Decision as defined at 310 CMR 10.04, who previously participated in the proceedings leading to this Reviewable Decision, the conservation commission, or any ten (10) residents of the city or town where the land is located if at least one resident was previously a participant in the permit proceeding, are hereby notified of their right to appeal this Reviewable Decision pursuant to M.G.L. c.30A, § 10, provided the request is made by certified mail or hand delivery to the Department, along with the appropriate filing fee and a MassDEP Fee Transmittal Form within ten (10) business days of the date of issuance of this Superseding Order or Determination, and addressed to:

Case Administrator
Office of Appeals and Dispute Resolution
Department of Environmental Protection
One Winter Street, 2nd Floor
Boston, MA 02108

A copy of the request (hereinafter also referred to as Appeal Notice) shall at the same time be sent by certified mail or hand delivery to the Conservation Commission, the applicant, the person that requested the Superseding Order or Determination, and the issuing office of the MassDEP at:

MassDEP – NERO
Wetlands Program
205B Lowell Street
Wilmington, MA 01887

In the event that a ten resident group requested the Superseding Order or Determination, the Appeal Notice shall be served on the designated representative of the ten resident group, whose name and contact information is included in this Reviewable Decision (when relevant).

Contents of Appeal Notice

An Appeal Notice shall comply with the Department's Rules for Adjudicatory Proceedings, 310 CMR 1.01(6) and 310 CMR 10.05(7)(j), and shall contain the following information:

- (a) the MassDEP Wetlands File Number, name of the applicant, landowner if different from applicant, and address of the project;
- (b) the complete name, mailing address, email address, and fax and telephone numbers of the party filing the Appeal Notice; if represented by consultant or counsel, the name, fax and telephone numbers, email address, and mailing address of the representative; if a ten residents group, the same information for the group's designated representative;
- (c) if the Appeal Notice is filed by a ten (10) resident group, then a demonstration of participation by at least one resident in the previous proceedings that led to this Reviewable Decision;
- (d) if the Appeal Notice is filed by an aggrieved person, then a demonstration of participation in the previous proceeding that led to this Reviewable Decision and sufficient written facts to demonstrate status as a person aggrieved;
- (e) the names, telephone and fax numbers, email addresses, and mailing addresses of all other interested parties, if known;



WPA Form 5 – Superseding Order of Conditions
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MassDEP File #

137-1461

- (f) a clear and concise statement of the alleged errors contained in the Department's decision and how each alleged error is inconsistent with 310 CMR 10.00 and does not contribute to the protection of the interests identified in the Wetlands Protection Act, M.G.L. c. 131, § 40, including reference to the statutory or regulatory provisions that the party filing the Appeal Notice alleges has been violated by the Department's Decision, and the relief sought, including any specific desired changes to the Department's decision;
- (g) a copy of the Department's Reviewable Decision that is being appealed and a copy of the underlying Conservation Commission decision if the Reviewable Decision affirms the Conservation Commission decision;
- (h) a statement that a copy of the request has been sent by certified mail or hand delivery to the applicant and the conservation commission; and
- (i) if asserting a matter that is Major and Complex, as defined at 310 CMR 10.04(1), a statement requesting that the Presiding Officer make a designation of Major and Complex, with specific reasons supporting the request.

Filing Fee and Address

A copy of the Appeal Notice along with a MassDEP Fee Transmittal Form and a valid check or money order payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100) must be mailed to:

Commonwealth of Massachusetts
Department of Environmental Protection
Commonwealth Master Lockbox
P.O. Box 4062
Boston, Massachusetts 02211

The request will be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver. The filing fee is not required if the appellant is a city or town (or municipal agency), county, district of the Commonwealth of Massachusetts, or a municipal housing authority. The Department may waive the adjudicatory hearing filing fee pursuant to 310 CMR 4.06(2) for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file an affidavit setting forth the facts believed to support the claim of undue financial hardship together with the hearing request as provided above.

SUPERSEDING ORDER OF CONDITIONS
DEP File #137-1461
Special Conditions

20. All work shall conform with the following plans, reports and Special Conditions:

Plans entitled, "Notice of Intent Plan Keuka Road," Two sheets, dated 9/18/2018, last revised 2/6/2020, prepared by Markey & Rubin Inc., signed and stamped by Ian M. Rubin, P.E.

Stormwater Drainage Report, Keuka Road, Parcel 3837, prepared by Markey & Rubin Inc., dated 2/6/2020, signed and stamped by Ian M. Rubin, PE.

Stormwater Operations & Maintenance Plan for Keuka Road, Parcel 3837, prepared by Markey & Rubin Inc., dated 6/1/2020, signed and stamped by Ian M. Rubin, PE.

21. No work shall commence on-site until all appeal periods have elapsed and this Superseding Order of Conditions has been recorded with the Registry of Deeds and MassDEP has been formally notified via the form provided at the end of this Order.

22. A copy of this Superseding Order shall be included in all construction contracts and shall supersede any conflicting requirements.

23. Any proposed or executed change in the plans approved under this Superseding Order shall require the applicant to file a new Notice of Intent with the Conservation Commission or to inquire of the MassDEP in writing whether the change is substantial enough to require a new filing. A copy shall be sent at the same time to the Conservation Commission.

24. Prior to any earth-moving activities or clearing of vegetation, filter fabric fencing shall be installed upgradient of all resource areas along the limit of activity between areas to be disturbed and all downgradient wetlands, as shown on the referenced plan. These erosion controls shall indicate the limit of disturbance. There shall be no activity beyond the erosion control barrier.

25. Prior to any construction, the applicant shall hold a preconstruction meeting at which time erosion controls will be inspected and the proposed construction sequence will be reviewed. At the time of this meeting, limit of work staking shall be in place. The applicant will notify both MassDEP and the Conservation Commission of the time and date of this meeting at least one week prior to the meeting date.

26. An Environmental Monitor (EM) shall be designated and identified to MassDEP and the Commission, and will be responsible for ensuring that erosion controls on the site are correctly installed and functional during the construction period until the site is stabilized. The EM shall be accessible to MassDEP and the Commission during off-work hours in case of emergencies. The applicant shall provide the name and contact information of the EM to MassDEP and the Commission prior to the start of work.

27. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means.

28. Excess soil, rock and debris excavated or generated during the course of this project shall be removed from the site and disposed of in a legal manner. Records as to the destination of all materials, including excess fill and loam, to be removed from the site shall be kept on file and shall be provided to the MassDEP and the Commission upon request.
29. During construction, storing, servicing or cleaning of equipment, including but not limited to fueling, adding or applying lubricants or hydraulic fluids, or washing/rinsing of trucks or equipment, shall be performed outside of the 100-foot buffer zone.
30. During work on this project there shall be no intentional discharge of pollutants or release of any oil or hazardous material, including sediments contaminated by any such discharge or release, into any jurisdictional area. The Contractor shall take all reasonable precautions to prevent the discharge of pollutants or the release of oil or hazardous material by ignorance, negligence, accident or vandalism. Any release of oil or hazardous material that is a reportable quantity pursuant to the MCP, accidental or otherwise, including sediments, shall be reported in accordance with the MCP and to MassDEP's Wetlands Program, MassDEP's Bureau of Waste Site Cleanup (BWSC), the Concord Fire Department and the Conservation Commission.
31. In areas where dewatering becomes necessary, all discharge water shall be pumped into a sediment trap constructed in a proper upland area or through a series of filter pipes or shall be treated by other methods acceptable to MassDEP and the Conservation Commission in order to remove all suspended sediments within the water and thereby prevent siltation of nearby water courses and vegetated wetlands. MassDEP and the Conservation Commission shall be notified in advance as to what method will be employed on site. In no way shall silty water ever be discharged into any wetland resource areas by the contractor or any other subcontractor involved in the project.
32. Tree and brush removal shall be conducted in a manner which shall minimize tree and brush cutting and prevent impacts to jurisdictional areas to the maximum extent practicable. Cut vegetation shall not be disposed of within jurisdictional areas.
33. Proposed shrubs shall be planted upon completion of the construction of the new deck. Any shrubs that have not survived by the second growing season shall be replaced.
34. The construction site shall be completely cleaned, cleared of construction equipment and debris and permanently stabilized after the completion of the work and prior to the Contractor leaving the site.
35. The estimated seasonal high groundwater elevation shall be field confirmed to ensure that the two-foot separation between the bottom of the infiltration system and the groundwater elevation shall be met. The field data shall be sent to the conservation commission and MassDEP for review and approval prior to construction of the system.
- 36. The approved stormwater operation and maintenance plan shall be recorded as an ongoing condition on the deed of the future homeowner. This condition shall remain in effect in perpetuity and shall be recorded as such on the Certificate of Compliance.**

37. Upon completion of the project, the applicant shall request a Certificate of Compliance from MassDEP with a copy to the conservation commission and shall submit the following information with the request:

a) A written statement by a professional engineer or land surveyor registered in the Commonwealth of Massachusetts certifying compliance with the approved plans referenced above and this Superseding Order of Conditions and setting forth deviations, if any exist.

b) An as-built site plan prepared by a registered land surveyor or registered professional engineer showing the location of the house, patio, garage, driveway, Title 5 system, Stormwater system, retaining wall, landscaping, elevations and associated grading, Keuka Road, limit of work line, and the limits of all wetland areas.