

CONSERVATION COMMISSION DETAILED AGENDA

Date: May 11, 2023

Time: 6:00 pm



DECISIONS

I. WETLANDS DECISIONS

1. 55 Caron Road– RDA- Landscape Improvements

- Owner/Applicant: Denise Janci Representative: M. Thibeault, Landscape Evolution
- Request: Issue a DOA
- Documents Presented: n/a
- Project Summary: Project includes the removal of a concrete paver patio and installation of permeable patio.
- Staff Notes:
 - Project was continued to make revisions to better meet permitting standards.
 - Revised plan received. Project revised to include reduction in new pervious patio and increase plantings. Existing concrete patio also to be converted to pervious pavers.
 - Revised project provides walkway area to dock but keep the rest of the area vegetated.
- Staff Recommendation: Close the hearing and issue a DOA. Staff would recommend the following conditions:
 - Negative #3 with conditions:
 - Standard pre-work and sign off conditions.
 - No stockpiling.
 - EC install.
 - Positive #2b: no resource area approval
 - Positive #5 w/ conditions noted above.

2. Quacumquasit Pond– NOI- Alum Treatment of South Pond-DEP File #300-1158

- Owner/Applicant: Town of Sturbridge Representative: C. Nielsen. TRC Companies
- Request: Issue an Order of Conditions
- Documents Presented: Draft OOC conditions
- Jurisdiction:
 - Land Under Water
 - Limited Project Ecological Restoration
- Project Summary: Project includes the treatment of the Pond with aluminum sulfate to address the build-up of phosphorus in the sediment.
- Staff Notes:
 - Project was continued.
 - Awaiting final comments NHESP to see if Fisheries conditions must be added.
 - Draft permit attached.
- Staff Recommendations: Provided NHESP comments are received, staff recommend closing the public hearing and approving the project pursuant to the WPA and the SWB with the conditions noted in the draft.

3. 159 Walker Pond Road (Wells State Park) – NOI-Trail maintenance and accessibility upgrades-DEP File# 300-XXXX

- Owner: Commonwealth of Mass Applicant: E. Huffman, DCR Representative: Christen McDonough, SWCA Environmental
- Request: Issue an Order of Conditions
- Documents Presented: NHESP Permit Letter
- Jurisdiction: Buffer Zone
- Project Description: Project includes a trail maintenance within Buffer Zone and Riverfront Area.

Conservation Agent

Rebecca Gendreau

Administrative Assistant

Erin Carson

Conservation Commission Members

Ed Goodwin

Erik Gaspar

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Karsten Stueber

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- Staff Notes:
 - Project was continued to await DEP & NHESP Comments.
 - NHESP Comments received. See attached.
- Staff Recommendations: Provided DEP and NHESP comments are received, staff recommend closing the public hearing and approving the project pursuant to the WPA and the SWB with the following conditions:
 - Standard OOC conditions.
 - Include NHESP conditions noted in attached letter.
 - Approval for trail maintenance activities outlined in the O & M activities.

4. 374 Main Street– RDA- Commercial Site Improvements

- Owner/Applicant: Steve Vann Representative: Steven Riberdy
- Request: Issue DOA
- Documents Presented: n/a
- Project Summary: Modification to the existing drive-thru and replacing landscaping to the existing Burger King.
- Staff Notes:
 - Proof of legal ad and proof of abutter notifications received.
 - Modifications include changes the existing single drive thru lane to two lanes for better flow at the existing fast food restaurant. Landscaped islands will be incorporated into the parking lot which decrease impervious surfaces.
 - Some of the work is in the outer buffer zone and Riverfront Area.
 - See Page 3 of plans and Goodard letter for details. Work would be considered minor.
 - ECs proposed to protect catch basins and any stockpiling.
- Staff Recommendation: Close the hearing and issue a DOA:
 - Negative #3 with conditions:
 - Standard pre-work and sign off conditions.
 - EC install as outlined in application.
 - Positive #2b: no resource area approval
 - Positive #5 w/ conditions noted above.

5. 113 Brookfield Road –Notice of Intent –Site improvements including tree removal, drainage, and driveway expansion- DEP File #300-1159

- Owner/Applicant: Matthew & Abigail Hurton Representatives: G. Krevosky, EBT Environmental
- Request: Issue an OOC
- Documents Presented: n/a
- Jurisdiction: Buffer Zone
- Project Summary:
 - Installation of a French drain system around the garage, expansion of the driveway and the removal of 4 trees.
- Staff Notes:
 - Proof of legal ad and proof of abutter notifications received.
 - DEP File # issued w/ no comments.
 - Project is not within Priority or Estimated Habitat.
 - All work is located within a developed yard.
 - Newer property owner. Significant drainage issues with house foundation which they need to fix. Staff have been to property in past.
 - Site visit conducted.
 - Driveway expansion to widen and create turnaround for vehicles. No expansion proposed closer to the wetland. Driveway repair is needed and expansion is approx. 50 feet away.
 - Runoff to be picked up by the drainage system.
 - Removal of 4 trees. Arborist report included. Staff did not require small birch near the house to be included.
 - 5 Sweet Pepper Bushes and 3 Speckled Alders proposed along the wetland.
 - Drainage shown to exit at edge of wetlands. Noted as buffer zone only project – no direct impact. Drainage project is needed to address house drainage issues. Outlet discharge location limited by elevations. Outlet to be shifted over to provide a better setback to the wetland.

- Staff Recommendation: Provided project was revised to move outlet, staff recommend closing the public hearing and approving the project pursuant to the WPA and the SWB with the following conditions:
 - Standard OOC conditions.
 - Spoil piles, not to be reused, to be directly moved off site.
 - EC install: 9" wattle and protect any stockpiling if needed.
 - Stump of white ash adjacent to wetland not to be removed.
 - Replacement plantings to be installed at same time of project (before end of growing season of same year work is completed). Required to survive for one year. No pruning/landscape maintenance of shrubs.

6. 660 Main Street– RDA- Vernal Pool Study

- Owner/Applicant: Old Road Realty Representative: EBT Environmental
- Request: Issue a DOA
- Documents Presented: n/a
- Jurisdiction:
 - Sturbridge Wetland Bylaw Regs.: 365-5.6 Vernal Pools
- Project Summary: Project includes the study of two wetlands to demonstrate if the wetlands meet criteria as vernal pools.
- Staff Notes: Pools meet criteria for vernal pool certification. Representative to file with NHESP. Await filing with NHESP then issue determination.
- Staff Recommendation: Continue to next meeting, June 1, 2023, to allow NHESP filing for certification.

7. 215 Charlton Road –RDA – Shed within the existing parking lot

- Owner: Anthony Fantaroni, Colonial Motel Applicant: K. Doyle, Drake Petroleum
- Request: Issue a DOA
- Documents Presented: colored site plan
- Jurisdiction: Buffer Zone
- Project Summary
 - Project includes placing a shed 10' x 20' storage shed in parking lot.
- Staff Notes:
 - Proof of abutter notifications and proof of legal ad required to open hearing.
 - Project is not within Priority or Estimated Habitat.
 - All work is within 50 feet of the wetland & within the developed parking lot.
 - Local bylaw regulations prohibit new structures within 50 feet of wetlands unless they can meet waiver requirements. As shed will be within pavement, no vegetation removal is required, no earth disturbance is required, is not immediate adjacent to wetland and is in a parking lot that has stormwater control structures, staff see no concerns.
- Staff Recommendation: Close the hearing and issue a DOA:
 - Negative #3 with no conditions.
 - Positive #2b: no resource area approval.
 - Positive #5 w/ no conditions.

8. 68 Paradise Lane –NOI – Raze and rebuild of a lakefront home – DEP File #300-1155

- Owner/Applicant: Jeffery Buchanan Representatives: S. Morrison, EcoTec
- Request: Issue OOC.
- Documents Presented: n/a
- Jurisdiction: Buffer Zone & SWB Regs. 365-1.1E - H.; 365-1.2, 365-1.3
- Project Summary:
 - Project includes the raze and rebuild of the existing house. A permeable driveway, grading, stormwater improvements and corrective grading w/ wetland impacts are also included.
- Staff Notes:
 - Project continued to solicit additional and revised peer review proposals. Deadline for proposal submission was 5-10-23 to allow additional time.
 - Staff will provide proposals when received.

- Staff Recommendations: Review new proposals and select peer review. Continue hearing to allow for peer review. It would be advisable to continue this to the June 22, 2023 meeting to allow review to start and findings to be submitted as 2 weeks would not provide sufficient time for this to be completed before the next meeting.

9. Lot 3, 20 Fiske Hill Road & 30 Main Street (Future Road named Berry Farm) – NOI-Construction of a 68 lot manufactured housing community-DEP File# 300-1156

- Owner: M. Sosik Applicant: Justin Stelmok Representative: B. Madden, LEC Environmental
- Request: Issue an Order of Conditions
- Documents Presented: n/a
- Jurisdiction: Buffer Zone (WPA & SWB) & Vernal Pool Habitat (Sturbridge Wetland Bylaw)
- Project Description: Construction of a manufactured home community with associated appurtenances.
 - Staff Notes:
 - Project continued.
 - Pare Engineering peer review memo (dated 5-2-23) received based on revised project.
 - Updated materials were provided electronically after end of business 5/3/23. All new information is available on the website but due to staff scheduling they was no review of this information prior to publishing this document.
 - Staff are waiting response from Town Counsel on land protection proposal.
 - Staff Recommendations: Board should review the memo and compile any questions which can be provided to Pare if necessary. Continue to next meeting June 1st.

10. SHLO SE of 248 Podunk Road– NOI – MA DOT Geotechnical Soil Borings – DEP File #300-1154

- Owner: MassDot District 3 & Town of Sturbridge Applicant: MA Electric Company Representatives: H. Graf BSC Group
- Request: Issue OOC.
- Documents Presented: n/a
- Jurisdiction: Buffer Zone
- Project Summary
 - Project includes exploratory geotechnical soil borings to plan for road maintenance and stormwater design along the unpaved section of Podunk Road. Project was continued.
- Staff Notes:
 - Written continuance to the June 1, 2023 meeting received. Site visit requested to be postponed.
- Staff Recommendations: Re-schedule site visit as requested (next date is May 24th) and continue hearing to June 1, 2023 as requested.

II. WETLAND DECISIONS

11. Senior Center SWB Application

- Applicant: Town of Sturbridge Representative: ICON Architecture
- Request: Issue approval under SWB
- Documents Presented: colored plans
- Jurisdiction: SWB Buffer Zone
- Project Description: Improvements to senior center property. Work within jurisdiction is limited.
 - Staff Notes: Buffer zone projected from wetlands located across Main Street. A stream is located across Arnold Rd., however, the site is outside of the buffer zone.
 - Work within jurisdiction includes plantings (trees, shrubs & herbaceous perennials), a new utility pole and improvements to an existing sitting area.
 - Staff Recommendations: Approve project w/ the following conditions: No soil stockpiling outside of limit of work, maintain erosion controls throughout work to prevent any turbid site runoff from entering the roadway drainage system which ultimately exits to wetlands.

12. 11 Putnam Road (FKA -Request for Certificate of Compliance –SCC File #21-14

- Owner/ Applicant: G. Lussier Builders
- Request: Issue a COC under the SWB
- Staff Notes: Site visit conducted, as-built received. In Substantial compliance.
- Staff Recommendations: Issue Complete CoC w/ perpetual conditions: 46-49.

13. 13 Putnam Road (FKA -Request for Certificate of Compliance –SCC File #21-13

- Owner/ Applicant: G. Lussier Builders
- Request: Issue a COC under the SWB

- Staff Notes: Site visit conducted, as-built received. In Substantial compliance.
 - Staff Recommendations: Issue Complete CoC w/ perpetual conditions: 46-49.
 - 14. 15 Putnam Road (FKA -Request for Certificate of Compliance –SCC File #21-15)**
 - Owner/ Applicant: G. Lussier Builders
 - Request: Issue a COC under the SWB
 - Staff Notes: Site visit conducted, as-built received. In Substantial compliance.
 - Staff Recommendations: Issue Complete CoC w/ perpetual conditions: 46-49.
 - 15. 1 Old Sturbridge Village Road-DEP File #300-780**
 - Owner/ Applicant: Town of Sturbridge-Trails
 - Request: Issue a COC.
 - Staff Notes: This is a historic permit which was never closed and has expired. Permit was for trail maintenance and bridge construction.
 - Staff Recommendations: Issue a complete CoC. No perpetual conditions noted.
 - 16. 46 Holland Road-DEP File #300-840**
 - Owner/ Applicant: Town of Sturbridge-Trails
 - Request: Issue a COC.
 - Staff Notes: This is a historic trail construction permit which was never closed and has expired.
 - Staff Recommendations: Issue a complete CoC. No perpetual conditions noted.
 - 17. 55 & 75 Farquhar & 61 River Road-Request for Certificate of Compliance –DEP File #300-1111**
 - Owner/ Applicant: Town of Sturbridge-Trails
 - Request: Issue a COC under the SWB
 - Staff Notes: GTT trail construction on 3 properties. Project was completed in 2022. Work completed and letter of substantial compliance received.
 - Staff Recommendations: Issue a complete CoC w/ perpetual conditions: 49-51.
 - 18. Riverlands GTT - Extension Request – DEP File #300-1061**
 - Owner/ Applicant: Town of Sturbridge-Trails
 - Request: Issue a 3-year extension
 - Staff Notes: request being made as all work has not been completed. An easement is required on the OSV land and due to COVID delays and TA changes this hasn't happened yet.
 - Staff Recommendations: Issue extension.
- III. ADMINISTRATIVE DECISIONS**
- 19. Minutes of the 4/20/2023 Meeting**
- IV. OLD BUSINESS**
- 20. Ongoing Violation Resolution Discussions**
- **71 Paradise Lane DEP File #300-929**
 - Staff Notes: Plan had been established to bring project into compliance which was to be executed last summer. Staff were not aware that work had been completed. Property owner had been requested to attend meeting. Staff have been informed that they are working with the engineer to redesign the drainage plan as there is a concern with a water line. Photos have been provided of shrub plantings. The amount and location will have to be field verified. A deadline must be implemented to finish this project and a CoC request filed. New plan was to be submitted for review of the drainage changes. Not received to date.
 - **71 Mashapaug Road**
 - Staff Notes:
 - Discussion had been continued as new information was received late. EcoTec, Inc Letter (dated 4-17-2023). Staff have reviewed the letter. Staff do not agree with the interpretation of the regulations.
 - Staff sought additional advisement. Work occurred within jurisdictional areas which was a violation. Ongoing use of jurisdictional areas is a violation. It has been advised that an Enforcement Order is warranted.
 - **110 Brookfield Road**
 - Staff Notes:
 - It was agreed upon that a NOI would be provided for the May 11, 2023 meeting for work which occurred on the property and any additional work proposed. This has not been provided and no other information has been provided. Property owner was advised that a filing would be required for work on this property in July 2022. In Sept. of 2022 it was observed that work was occurring on this property without conservation approval. Advised to file NOI then. No filing has been received. Work is in violation of the WPA and the SWB.
 - Staff recommend issuance of an Enforcement Order.
 - **23 Old Hamilton Road**

- It was agreed upon that restoration plan would be filed for discussion at the a NOI would be provided for the May 11, 2023 meeting for work which occurred on the property and any additional work proposed. This has not been provided and no other information has been provided. Staff first made aware of the violation in December and have been contacting the owner since then. Owner did come to one meeting and agreed to timeline. No action has been taken or additional information provided expressing need for more time.
- Staff recommend issuance of an Enforcement Order.
- **71 Brookfield Road**
 - Staff Notes: Work observed at property in early Spring. Staff issued cease and desist and made visit w/ Chair and 1 member. Plan/commitment to remove deposited tree stumps/debris from site to be received by property owner by 4/30/2023. This was required and agreed to do so by property owners. Staff have not received this to date (5/3/2023) and have reached out to owners via email w/ no reply.
 - Staff recommend issuance of an Enforcement Order unless plan is submitted before meeting.

V. ADMINISTRATIVE UPDATES

- Committee Updates: CPA, Trails, Open Space, and Lakes

VI. CORRESPONDENCE

VII. NEW BUSINESS

21. Agent's Report

22. Next Meeting-June 1, 2023 and Site Visit Schedule-May 24, 2023

Addendum to WPA Form 5**Town of Sturbridge, Quacumquasit Pond (South Pond); Order of Conditions DEP File # 300-1158****Massachusetts Department of Environmental Protection**

Bureau of Resource Protection - Wetlands

WPA Form 5- Order of Conditions

Massachusetts Wetlands Protection Act (M.G.L. C.131 S. 40)

*And***Code of the Town of Sturbridge Chapter 286 Sturbridge****Wetlands Protection Bylaw and its Implementing Regulations****(Chapter 365)**

Project Description: The Notice of Intent proposes the application of aluminum sulfate (alum) within Quacumquasit Pond (a.k.a. South Pond). An in-lake and watershed water quality monitoring program (as part of the commitment to Operations and Maintenance) will be developed by TRC under the EPA grant and will be conducted annually thereafter by lake association volunteers or hired experts to provide annual data and tracking of the water quality improvements and lake condition over time. The project is an Ecological Restoration Limited Project intended to restore habitat value and other wetland interests.

South Pond is located within the Town of Sturbridge, East Brookfield and Brookfield. The project includes areas on Land Under Water Bodies in Sturbridge. Impacts to additional resource areas occur within East Brookfield and Brookfield. Separate OOCs will be issued for those towns. South Pond is mapped as Priority Habitat for State-Listed Species. However, it is not mapped as Estimated Habitats of Rare Wildlife (for Inland Wetlands), 310 CMR 10.59.

Resource Area Identification

The affected resource areas under the Massachusetts Wetlands Protection Act (M.G.L. Ch.131 §. 40) is Land Under Water Bodies and Waterways (310 CMR 10.56). The affected resource area under the Sturbridge Wetland Bylaw (Chapter 286) is Land Under Water Bodies (Sturbridge Wetland Regulations 365-5.3).

Findings under Massachusetts Wetlands Protection Act and Wetland Regulations: The Sturbridge Conservation Commission finds that the project can be conditioned to meet the performance standards set forth in the wetland regulations. See Special Conditions below.

Land Under Water Bodies and Waterways, 310 CMR 10.56(4): Portions of the proposed project occur on Land Under Water Bodies and Waterways. The Commission finds that the proposed work can be conditioned so it will not impair the water carrying capacity; will not impair ground and surface water quality; will not impair the capacity of said land to provide breeding habitat, escape cover and food for fisheries; and will not impair the capacity of said land to provide important wildlife habitat functions.

Findings under Sturbridge Wetland Bylaw and Wetland Regulations: The Sturbridge Conservation Commission finds that the project can be conditioned to comply with the Sturbridge Wetlands Protection Bylaw and Regulations. See Special Conditions below.

The Sturbridge Conservation Commission finds that mitigating measures have been proposed that will allow the project to be conditioned so that it contributes to the protection of the resource values identified in the Wetlands Bylaw. The project is an Ecological Restoration Project. The mitigating measures include water quality monitoring as indicated in the Notice of Intent. The Sturbridge Conservation Commission finds that *the project is necessary to accommodate an overriding public interest or that it is necessary to avoid a decision that so restricts the use of property that it constitutes an unconstitutional taking without compensation.*

Special Conditions under the Mass. Wetlands Protection Act and Wetlands Regulations and under the Sturbridge Wetland Bylaw and Wetlands Regulations:

The Sturbridge Conservation Commission hereby finds that the following additional conditions are necessary to comply with performance standards set forth in the Massachusetts Wetlands Protection Act and Wetland Regulations and the Sturbridge Wetland Bylaw.

The Conservation Commission orders that all work shall be performed in accordance with said additional conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of intent, the conditions shall control.

Special Conditions:

1. 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 MA DEP have been completed.
2. General Conditions # 8, 9, and 10 have been met (see pages 4 and 5).
3. This Order shall apply to any successors and assigns in interest or control and any other person engaging in activity on the property identified in the Notice of Intent.
4. The term "Applicant" as used in this Order of Conditions shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of Intent, supporting documents and this Order of Conditions. The Sturbridge Conservation Commission (herein "the Commission" or "SCC") shall be notified in writing within 30 days of all transfers of title of any portion of property that take place prior to the issuance of the Certificate of Compliance.
5. It is the responsibility of the applicant to complete any review required by all agencies with jurisdiction over the activity that is the subject of this Order, and to procure all required permits or approvals. This permit 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.
6. This document shall be included in all construction contracts, subcontracts, and specifications dealing with the work proposed and shall supersede any conflicting contract requirements. The Applicant shall assure that all contractors, subcontractor and other personnel performing the permitted work are fully aware of the permit's terms and conditions. Thereafter, the contractor will be held jointly liable for any violation of this Order resulting from failure to comply with its conditions. Nothing in this paragraph shall limit or restrict the liability of the Applicant for violations of this order.
7. Any person performing work on the activity that is the subject of this Order is individually responsible for understanding and complying with the requirements of this Order, the Act, 310 CMR 10.00 and the Sturbridge Wetland Bylaw and supporting Regulations.
8. In case of emergencies, problems, or the need to discuss site conditions with the Conservation Commission, please contact the Commission or its agent at (508) 347-2506.
9. A member of the Conservation Commission or its agent may enter and inspect the property and the activity that are the subjects of this Order at all reasonable times, with or without probable cause or prior notice, and until a Certificate of Compliance is issued, for the limited purpose of evaluating compliance with this Order. The Conservation Commission and the Conservation Agent have full powers to act in administering and enforcing this Order.
10. Violation of any condition may result in Enforcement Action.
11. Work shall be halted on the site if an Agent of the Sturbridge Conservation Commission (SCC) or DEP determines that any of the work is not in compliance with this Order of Conditions.
12. The SCC reserves the right to require additional conditions if deemed necessary to protect resource areas and interests as defined in MGL Chapter 131 Section 40 (310 CMR 10.00).
13. If any change is made in the above-described plan(s) which may or will alter an area subject to protection under the Wetlands Protection Act, 310 CMR 10.00 (and the Town Wetland Bylaw and Wetland Bylaw Regulations), the applicant shall inquire from this Commission or its agent, prior to implementing the change in the field, whether the change is significant enough to require the filing of a new Notice of Intent. Any errors in the plans or information submitted by the applicant shall be considered changes and the above procedures shall be followed.
14. This Order authorizes only the activity described on the approved plan(s) and approved documents referenced in this Order. Any other or additional activity in areas within the jurisdiction of the Commission will require separate review and approval by the Commission or its agent.

15. This permit expires three (3) years from the date of issuance. An extension may be granted. A request for an extension must be submitted at least one (1) month prior to the expiration date. Working without a valid permit can result in enforcement action taken by the SCC or MA DEP.
16. Applicant to provide any other requisite permits, approvals or authorizations, including but not limited to the license to apply chemicals issued by MA DEP, to the Commission prior to the commencement to work

Alum Treatment

17. The Conservation Commission shall be notified in writing at least 5 business days in advance of the alum treatment. At that time, the Conservation Commission shall also be informed in writing of how, when and where the public will be notified of the treatment.
18. Oversight of the alum application must be provided by a competent professional experienced with alum application.
19. Access for boats and vehicles involved in the alum application process shall be from the Department of Fish and Game boat ramp in the Town of Brookfield.
20. The proponent shall follow the guidelines outlined in the Phosphorus Precipitation and Inactivation section of the 2004 Eutrophication and Aquatic Plant Management in Massachusetts Final Generic Environmental Impact Report.
21. The alum application must be consistent with the submitted Narrative.
 - a. Alum Dose: The total project entails applying a total of up to 56,572 gallons of alum and up to 28,286 gallons of sodium aluminate to two application zones totaling 99 acres. The total area of treatment is noted as 233.88 acres due to the potential for alum migration within the water column. 30.3 acres will be treated in Sturbridge. The total treatment area in Sturbridge is noted as 68.58 acres due to the potential for alum migration within the water column.
 - Zone 1 (66-ac) will receive up to 28,928 gallons of alum and up to 14,464 gallons of sodium aluminate (55.2 g Al/m²).
 - Zone 2 (33-ac) will receive up to 27,644 gallons of alum and up to 13,822 gallons of sodium aluminate (105.5 g Al/m²).
 - b. Work Duration: It is anticipated that the application will take 5-8 days to complete. Lake pH, water temperature and weather conditions will control the speed of application.
 - c. Treated Water pH measurements: The alum will be treated with a ratio of aluminum sulfate to sodium aluminate (buffer) to ensure that pH shall remain within the normal range. pH must be tested prior to treatment and historic data must be reviewed to establish the baseline range.
 - d. Water Quality Monitoring: collection of water samples shall occur before, during, and after application in approximately 1 m depth increments to include an assessment of dissolved oxygen and temperature. Measurements of clarity, pH, alkalinity, total phosphorus, total nitrogen, and chlorophyll shall be made as a grab sample from the surface.
 - e. Monitoring of Conditions During Application: Monitoring of the pH during alum application shall include measurements near the treatment barge and far-field measurements throughout the water column. Visual assessments for stress indicators for pond biota shall be conducted concurrently. If fish population impacts are observed, the alum application shall be suspended and the cause determined prior to proceeding with further applications.
 - f. Regular Monitoring: Following the application, regular monitoring of water quality parameters detailed in d. above shall be conducted for two years (summer of 2024 and summer 2025).
 - g. Monitoring results shall be presented to the SCC by December following the alum application and after each subsequent year of monitoring.
22. In-lake and watershed water quality monitoring program. Applicant to submit the water quality test results of the post-treatment analysis (items f and g above) to the Commission for their files. Along with the test results, the applicant is to provide their analysis of the treatment results and whether the treatment has resulted in any degradation of water quality and/or other impacts.
23. Alum applications shall only occur at water temperatures greater than 40°F.
24. Additionally, in order to ensure adequate fish protection, the following conditions shall be applied to the proposed project: The Central District Office of the Division of Fisheries & Wildlife shall be notified 3 days prior to work in the pond. Daily, after each application, a visual inspection of the potential floe drift zone must be conducted by a competent professional to look for harm to fish. Inspections must visually cover the entire likely area of drift and take into consideration wind speed

and direction.

- a. If any fish kill is observed the Division must be notified immediately.
 - b. No work may proceed after a fish kill, until written permission is received by the Division.
25. If there are any inconsistencies between the Brookfield or East Brookfield Conservation Commission's Order of Conditions and the Sturbridge Conservation Commission's Order, the applicant shall appear before the Sturbridge Conservation Commission to discuss the inconsistencies and a proposed resolution.

Project Completion/Certificate of Compliance

26. On completion of the entire project, the applicant or representative shall submit a written request for a Certificate of Compliance on a WPA Form 8A or other form if required by the Conservation Commission at the time of request). It is further required that a written statement by an environmental consultant experienced with restoration activities in wetland environments be included. This form shall be accompanied by payment of a non-refundable fee to the Town of Sturbridge. Without a Certificate of Compliance which has been recorded (at the Registry of Deeds or Land Court, whichever applies), an encumbrance shall remain on the property, and your filing will not be closed.



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581

p: (508) 389-6300 | f: (508) 389-7890

MASS.GOV/MASSWILDLIFE

April 25, 2023

Ellen Huffman
Department of Conservation and Recreation
251 Causeway Street, Suite 600
Boston, MA 02114

Sturbridge Conservation Commission
308 Main Street
Sturbridge, MA 01566

RE: Applicant: Ellen Huffman, DCR
 Project Location: Wells State Park, 159 Walker Pond Road, Sturbridge
 Project Description: Mill Pond Trail Loop Maintenance and Accessibility Improvements

DEP Wetlands File No.: Not Assigned Yet
NHESP File No.: **23-0038 (17-37118)**

RE: Wetland determination pursuant to 310 CMR 10.58(4)(b) & 10.59; Notice that additional information is required to take further action on your application for MESA review under 321 CMR 10.18

Dear Commissioners & Applicant:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") received a Notice of Intent and plans entitled "Wells State Forest Trail Restoration Plan" prepared by SWCA (dated 3/15/2023, 10 Sheets, the "Plan") in compliance with the rare wildlife species section of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.58(4)(b) and 10.59). The Applicant proposes to improve the Mill Pond Trail Loop to meet Federal Service Trail Accessibility Standard Guidelines. Project activities include corridor widening for a wheelchair rest area, tread improvements (spot grading and resurfacing with stone), installation of a puncheon (wood tread surface) over an existing stream and wetland crossing (Stream 3), four new drain dips to improve drainage and signage upgrades (the "Project").

Based on the information provided, the Project is located within Priority and Estimated Habitat for the Wood Turtle (*Glyptemis insculpta*), state listed as Special Concern, and a Data Sensitive vertebrate species state-listed as Endangered. In addition, Project activities will occur within Priority Habitat for a Data Sensitive plant species state-listed as Endangered. State-listed species and their habitats are protected in accordance with the MESA and state-listed rare wetland wildlife habitat is protected pursuant to the rare wildlife provisions of the WPA. A data-sensitive species is one where information about the species is exempt from release (M.G.L. Chapter 66§17D).

MASSWILDLIFE

The purpose of the Division's review of the proposed project under the rare species section of the WPA regulations is to determine whether the project will have any adverse effects on the Resource Area Habitats of state-listed species. The purpose of the Division's review under the MESA regulations is to determine whether a Take of state-listed species will result from the proposed project.

WETLANDS PROTECTION ACT (WPA)

Based on the information provided and the information contained in our database, it is the opinion of the Division that this project, as currently proposed, **must be conditioned in order to avoid adverse effects** to the Resource Area Habitats of state-listed wildlife species (310 CMR 10.58(4)(b), 10.59). To avoid adverse effects to the Resource Area Habitats and to avoid a prohibited Take of state-listed species the following conditions must be implemented:

1. **Limit of Work/Project Scope:** All work shall conform to the Plan and materials submitted to the Division. The project scope explicitly excludes replacing the existing stream crossing structure that spans Stream 2 (S2). The replacement of this stream crossing was not reviewed as part of this filing. Any changes to the proposed project or any additional work or trail development beyond that shown on the Plans shall require additional review and written approval from the Division.
2. **Remove Sedimentation and Erosion Controls Measures:** Sediment and erosion controls shall be removed immediately upon site stabilization and, if necessary, approval of the Conservation Commission.
3. **Authorization Duration:** This authorization is valid for 5-years from the date of issuance. Work may be completed at any time during this 5-year period in compliance with the conditions herein.

Notice, Wetlands Protection Act (WPA) filing(s): When filing for any Notice of Intent, Request for Determination of Applicability or associated renewal, extension, or amendment of the WPA Orders of Conditions the Applicant shall contact the Division for written response regarding impacts to Resource Area habitat of state-listed wildlife. A renewal, extension or amendment of any Order of Conditions or other permit under the MA Wetland Protection Act does not renew, extend or amend this MESA authorization.

Provided these conditions are included in any final approving Orders of Conditions, the project will not result in an adverse impact to the Resource Area Habitats of state-listed wildlife species. We ask that the Conservation Commission send a copy of the final Order of Conditions, approving or denying the project, to the Division simultaneously with the Applicant.

Please note that this determination addresses only the matter of rare wildlife habitat and does not pertain to other wildlife habitat issues that may be pertinent to the proposed project.

MASSACHUSETTS ENDANGERED SPECIES ACT (MESA)

The MESA is administered by the Division and prohibits the Take of state-listed species. The Take of state-listed species is defined as “in reference to animals...harm...kill...disrupt the nesting, breeding, feeding or migratory activity...and in reference to plants...collect, pick, kill, transplant, cut or process...Disruption of nesting, breeding, feeding, or migratory activity may result from, but is not limited to, the modification, degradation, or destruction of Habitat” of state-listed species (321 CMR 10.02).

The Division has reviewed the materials submitted with your application and has determined that additional information is required in order for the Division to complete its review pursuant to 321 CMR 10.18, as specified below:

1. **Conduct Botanical Surveys for the Data Sensitive Plant Species.** The Division-approved biologist should be in direct contact with the Division to obtain the name of the data-sensitive species.
 - a. Surveys must be conducted by a qualified botanist within project areas that overlap with suitable habitat and areas within 30 feet of such project area, using methodologies consistent with the State-listed Species Habitat Assessment And Survey Guidelines: Plants (dated March 2016), see <https://www.mass.gov/doc/state-listed-species-habitat-assessment-and-survey-guidelines-plants/download>
 - b. The Division requires pre-approval of the botanist prior to conducting surveys. Please submit a copy of the botanist’s resume/curriculum vitae to the Division for review and approval.
 - c. The approved botanist shall submit to the Division a timetable and survey protocol for written approval prior to initiation of fieldwork. The survey protocol shall list the specific taxonomic characteristics for definitive identification as well as the characteristics of similar or easily confused species.
 - d. After completion of the botanical surveys, the botanist shall submit their observations to the Division in a report as described in the State-listed Species Habitat Assessment And Survey Guidelines: Plants.

2. **Identify Stockpile/Construction Access, Plans:** Plans need to be updated to show the location and extent of proposed stockpile areas, temporary/construction areas, and any on-site sources for materials (e.g., stone, rock, vegetation, wood, etc.). Please incorporate this information in the Project Plan.

3. **Construction Methodology:** Please describe the construction methodology to be implemented as part of the Project including the type of equipment to be used to complete the work, access routes, and whether *any* material will be harvested on-site.

The Division recommends that the Applicant contact our office with any questions regarding the information requested above. After receiving the requested information, the Division will continue our review of the proposed project for compliance with the MESA. The survey information will be used by the Division to determine if a Take of state-listed species will result from the proposed project. No work or other activities related to your filing may be conducted anywhere on the project site until the Division completes its review.

No work or other activities related to your filing may be conducted anywhere on the project site until the Division completes its review. If you have decided to withdraw your application for review under 321 CMR 10.18, please notify the Division of that decision in writing so that we can close out our review file for this project.

If you have any questions regarding this letter please contact Alexandra Echandi, Endangered Species Review Biologist at alexandra.echandi@mass.gov or 508-389-6354.

Sincerely,

A handwritten signature in black ink, reading "Everose Schlüter". The signature is written in a cursive, flowing style.

Everose Schlüter, Ph.D.
Assistant Director

Cc. MassDEP CERO
Christin McDonough, SWCA, cmcdonough@swca.com
Priscilla Geigis, DCR
Paul Jahnige, DCR