

TOWN OF LAKEVILLE MEETING POSTING & AGENDA

Town Clerk's Time Stamp
received & posted:

48-hr notice effective
when time stamped

Notice of every meeting of a local public body must be filed and time-stamped with the Town Clerk's Office at least 48 hours prior to such meeting (excluding Saturdays, Sundays and legal holidays) and posted thereafter in accordance with the provisions of the Open Meeting Law, MGL 30A §18-22 (Ch. 28-2009). Such notice shall contain a listing of topics the Chair reasonably anticipates will be discussed at the meeting.

Name of Board or Committee:	<u>Conservation Commission</u>
Date & Time of Meeting:	<u>October 10, 2023 @ 7pm</u>
Location of Meeting:	<u>Lakeville Council on Aging 1 Dear Crossing</u>
Clerk/Board Member posting notice:	<u>Lori Canedy</u>

Cancelled/Postponed to: _____ (circle one)

Clerk/Board Member Cancelling/Postponing: _____

A G E N D A

1. **Please ask if anyone is recording the meeting and announce that LakeCam is taping (if present).**
2. **310 Kenneth Welch Drive** - Notice of Intent - SE192-891 - Goddard Consulting - increase in parking and wetland replication. Continued from 9/26/23 meeting.
3. **9 Cross St** - Notice of Intent - SE192-902 new single-family dwelling, septic system, well, grading, lot clearing, utilities, driveway crossing, and replication area. Continued from 9/26/23 meeting.
4. **6 Beechtree Drive** - Notice of Intent - Outback Engineering - Septic upgrade.
5. **Nemasket River** - SE192-823 - Request for Extension of Order of Conditions for Nemasket River Weed Removal.
6. **Meeting Minutes** - June 13, 2023. Continued from 9/26/23 meeting.
7. **Conservation bylaw** - Continued discussion and possible vote.

Please be aware that this agenda is subject to change. If other issues requiring immediate attention of the Conservation Commission arise after the posting of this agenda, they may be addressed at this meeting.



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581
p: (508) 389-6300 | f: (508) 389-7890
MASS.GOV/MASSWILDLIFE

RECEIVED

September 29, 2023

SEP 29 2023

Roso Investment Realty Trust
5 Archers Way
Acushnet, Massachusetts 02743

Conservation Commission

Lakeville Conservation Commission
Town Hall
346 Bedford Street
Lakeville, MA 02347

RE: Applicant: Roso Investment Realty Trust
Project Location: 9 Cross Street
Project Description: Single Family Home
DEP Wetlands File No.: 192-0902

NHESP File No.: 23-8632

Heritage Hub Form ID: RC-65343

Dear Commissioners & Applicant:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") received a Notice of Intent with site plans (dated 7/5/23) in compliance with the rare wildlife species section of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.59). The Division also received the MESA Review Checklist and supporting documentation for review pursuant to the MA Endangered Species Act Regulations (321 CMR 10.18).

WETLANDS PROTECTION ACT (WPA)

Based on a review of the information that was provided and the information that is currently contained in our database, the Division has determined that this project, as currently proposed, **will not adversely affect** the actual Resource Area Habitat of state-protected rare wildlife species. Therefore, it is our opinion that this project meets the state-listed species performance standard for the issuance of an Order of Conditions.

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)

Based on a review of the information that was provided and the information that is currently contained in our database, the Division has determined that this project, as currently proposed, **will not result in a prohibited Take** of state-listed rare species. This determination is a final decision of the Division of Fisheries and Wildlife pursuant to 321 CMR 10.18. Any changes to the proposed project or any additional work beyond that shown on the site plans may require an additional filing with the Division pursuant to the MESA. This project may be subject to

MASSWILDLIFE

further review if no physical work is commenced within five years from the date of issuance of this determination, or if there is a change to the project.

Please note that this determination addresses only the matter of state-listed species and their habitats. If you have any questions regarding this letter please contact Emily Holt, Endangered Species Review Assistant, at Emily.Holt@mass.gov, (508) 389-6385.

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:



www.Outback-Eng.com

September 19, 2023

Lakeville Conservation Commission

346 Bedford Street
Lakeville, MA 02347

RE: Notice of Intent, 6 Beechtree Drive, Lakeville, MA
Assessors Map: 43 Block: 9 Lot: 10

Dear Commission Members,

On behalf of the applicant, JMJ Building Corp. C/O Frank Alizio, please find the following documents for the above reference filing of a NOI under the state's Wetlands Protection Act and its regulations at 310 CMR 10.00 et seq.:

- Seven (7) copies of the WPA Form 3 Notice of Intent with attachments.
- Two (2) full size and seven (7) 11x17 copies of accompanying plan "Tight Tank Design at 6 Beechtree Drive in Lakeville MA by Outback Engineering, Inc. dated 8/30/2023.
- Check in the amount of \$67.50 payable to the Town of Lakeville to cover the WPA filing fee.
- Check in the amount of \$100.00 payable to the Town of Lakeville to cover the local administrative fee.
- Check in the amount of \$75.00 payable to the Nemasket Week to cover the legal Ad fee.
- Site Access Consent Form.
- Sample Legal for Submittal to Nemasket Week

The applicant is proposing to upgrade the subsurface sewage disposal system at 6 Beechtree Drive so that it meets title V and local Board of Health regulations. A portion of the proposed tight tank and piping to the house are located within 100' of the Top of Bank of Long Pond. Approximately 2/3 of the property is located within an Estimated Habitat of Rare Wildlife as shown on the Natural Heritage and Endangered Species Program (NHESP) map that is included in the Notice of Intent. A small portion of the septic upgrade work is within the Habitat Boundary. According 321 CMR 10.14 (6), construction, repair, replacement or maintenance of septic systems, within existing paved areas and lawfully developed and maintained lawns or landscaped areas, provided there is no expansion of such existing paved, lawn and landscaped areas; are exempt from MESA review. Also, according to MassGIS website, the site is located within a designated Outstanding Resource Waters (ORW) area. A silt sock is proposed for erosion control and will also act as the limit of work on the project. Disturbed areas within the limit of work are proposed to be stabilized with loam and seed.

Should you have any questions or require additional information, please do not hesitate to contact me by phone 508-946-9231 or email gdrake@outback-eng.com. Thank you.

Sincerely,

OUTBACK ENGINEERING, INC.

A handwritten signature in dark ink, appearing to read "Gregory Drake", is written over a light blue horizontal line.

Gregory Drake, R.L.A.
Wetland Specialist

cc: Southeast Region, DEP
JMJ Building Corp.

NOTICE OF INTENT

6 Beechtree Drive
Lakeville MA
JMJ Building Corp.
C/O Frank Alizio

TABLE OF CONTENTS

Notice of Intent

Wetland Fee Transmittal Form

Figure 1: MassGIS USGS Topographic Map

Figure 2: MassGIS NHESP Map

Figure 3: FEMA Flood Map

Attachment A: Abutter List, Abutter Notification, Affidavit of Service



WPA Form 3 - Notice of Intent

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

MassDEP File Number

Document Transaction Number

Lakeville

City/Town

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



Note:
Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

A. General Information

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

6 Beechtree Drive	Lakeville	02347
a. Street Address	b. City/Town	c. Zip Code
Latitude and Longitude:	41.82309	70.94931
	d. Latitude	e. Longitude
43	Block: 9 Lot: 10	
f. Assessors Map/Plat Number	g. Parcel /Lot Number	

2. Applicant:

Frank	Alizio	
a. First Name	b. Last Name	
JMJ Building Corp.		
c. Organization		
65 Bayview Avenue		
d. Street Address		
Berkley	MA	02779
e. City/Town	f. State	g. Zip Code
	jmjbuildingcorp@yahoo.com	
h. Phone Number	i. Fax Number	j. Email Address

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

Collette	Ulven	
a. First Name	b. Last Name	
c. Organization		
6 Beechtree Drive		
d. Street Address		
Lakeville	MA	02347
e. City/Town	f. State	g. Zip Code
h. Phone Number	i. Fax Number	j. Email address

4. Representative (if any):

Gregory	Drake	
a. First Name	b. Last Name	
Outback Engineering Inc.		
c. Company		
165 East Grove Street		
d. Street Address		
Middleborough	MA	02346
e. City/Town	f. State	g. Zip Code
508-946-9231	gdrake@outback-eng.com	
h. Phone Number	i. Fax Number	j. Email address

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

\$110.00	\$67.50	\$42.50
a. Total Fee Paid	b. State Fee Paid	c. City/Town Fee Paid



WPA Form 3 – Notice of Intent

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

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Lakeville

City/Town

A. General Information (continued)

6. General Project Description:

The applicant is proposing to upgrade the subsurface sewage disposal system at 6 Beechtree Drive so that it meets title V and local Board of Health regulations. A portion of the proposed tight tank and piping to the house are located within 100' of the Top of Bank of Long Pond.

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 CMR 10.24(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:

Plymouth

a. County

48354

c. Book

b. Certificate # (if registered land)

24

d. Page Number

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

1. 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.
2. 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.



WPA Form 3 – Notice of Intent

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

MassDEP File Number _____

Document Transaction Number _____

Lakeville

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

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
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 _____ 3. cubic yards dredged _____	2. square feet _____

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
d. <input type="checkbox"/> Bordering Land Subject to Flooding	1. square feet _____ 3. cubic feet of flood storage lost _____	2. square feet _____ 4. cubic feet replaced _____
e. <input type="checkbox"/> Isolated Land Subject to Flooding	1. square feet _____ 2. cubic feet of flood storage lost _____	3. cubic feet replaced _____

- f. Riverfront Area
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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Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File Number _____

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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.

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

<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 _____



WPA Form 3 – Notice of Intent

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

MassDEP File Number _____

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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/PRI_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

September 2023
 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 <https://www.mass.gov/mass-endangered-species-act-mesa-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.



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

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

(c) MESA filing fee (fee information available at <https://www.mass.gov/how-to/how-to-file-for-a-mesa-project-review>).

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, <https://www.mass.gov/service-details/exemptions-from-review-for-projectsactivities-in-priority-habitat>; 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@mass.gov

Division of Marine Fisheries -
North Shore Office
Attn: Environmental Reviewer
30 Emerson Avenue
Gloucester, MA 01930
Email: dmf.envreview-north@mass.gov

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.

c. Is this an aquaculture project? d. Yes No

If yes, include a copy of the Division of Marine Fisheries Certification Letter (M.G.L. c. 130, § 57).



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

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Lakeville

City/Town

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

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

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 (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.
- 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.



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

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Lakeville

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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.

Tight Tank Design at 6 Beechtree Drive in Lakeville MA

a. Plan Title

Outback Engineering Inc.

Jason Youngquist

b. Prepared By

c. Signed and Stamped by

8-30-23

1"=10'

d. Final Revision Date

e. Scale

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.

E. Fees

1. Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

324481

2. Municipal Check Number

9-11-23

3. Check date

324484

4. State Check Number

9-11-23

5. Check date

Frank

6. Payor name on check: First Name

Alizio

7. Payor name on check: Last Name



WPA Form 3 – Notice of Intent

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

MassDEP File Number

Document Transaction Number

Lakeville
City/Town

F. 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 regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. 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.

Frank A. Negro *president JMT*

1. Signature of Applicant

9-12-2023

2. Date

Collette Averis

9/13/23

4. Date

3. Signature of Property Owner (if different)

9/20/23

6. Date

5. Signature of Representative (if any)

For Conservation Commission:

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

For MassDEP:

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a **copy** of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

Other:

If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
NOI Wetland Fee Transmittal Form
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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



A. Applicant Information

1. Location of Project:

6 Beechtree Drive
 a. Street Address
 324484
 c. Check number
 Lakeville
 b. City/Town
 \$42.50
 d. Fee amount

2. Applicant Mailing Address:

Frank
 a. First Name
 JMJ Building Corp.
 c. Organization
 65 Bayview Avenue
 d. Mailing Address
 Berkley
 e. City/Town
 MA
 f. State
 02779
 g. Zip Code
 jmjbuildingcorp@yahoo.com
 j. Email Address
 h. Phone Number
 i. Fax Number

3. Property Owner (if different):

Collette
 a. First Name
 Uiven
 b. Last Name
 c. Organization
 6 Beechtree Drive
 d. Mailing Address
 Lakeville
 e. City/Town
 MA
 f. State
 02347
 g. Zip Code
 h. Phone Number
 i. Fax Number
 j. Email Address

B. Fees

Fee should be calculated using the following process & worksheet. **Please see Instructions before filling out worksheet.**

Step 1/Type of Activity: Describe each type of activity that will occur in wetland resource area and buffer zone.

Step 2/Number of Activities: Identify the number of each type of activity.

Step 3/Individual Activity Fee: Identify each activity fee from the six project categories listed in the instructions.

Step 4/Subtotal Activity Fee: Multiply the number of activities (identified in Step 2) times the fee per category (identified in Step 3) to reach a subtotal fee amount. Note: If any of these activities are in a Riverfront Area in addition to another Resource Area or the Buffer Zone, the fee per activity should be multiplied by 1.5 and then added to the subtotal amount.

Step 5/Total Project Fee: Determine the total project fee by adding the subtotal amounts from Step 4.

Step 6/Fee Payments: To calculate the state share of the fee, divide the total fee in half and subtract \$12.50. To calculate the city/town share of the fee, divide the total fee in half and add \$12.50.

To calculate filing fees, refer to the category fee list and examples in the instructions for filling out WPA Form 3 (Notice of Intent).



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
NOI Wetland Fee Transmittal Form
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Fees (continued)

Step 1/Type of Activity	Step 2/Number of Activities	Step 3/Individual Activity Fee	Step 4/Subtotal Activity Fee
Category 1e	1	\$110.00	\$110.00

Step 5/Total Project Fee: \$110.00

Step 6/Fee Payments:

Total Project Fee:	<u>\$110.00</u>
State share of filing Fee:	<u>\$42.50</u>
City/Town share of filing Fee:	<u>\$67.50</u>
	a. Total Fee from Step 5
	b. 1/2 Total Fee less \$12.50
	c. 1/2 Total Fee plus \$12.50

C. Submittal Requirements

a.) Complete pages 1 and 2 and send with a check or money order for the state share of the fee, payable to the Commonwealth of Massachusetts.

Department of Environmental Protection
 Box 4062
 Boston, MA 02211

b.) **To the Conservation Commission:** Send the Notice of Intent or Abbreviated Notice of Intent; a copy of this form; and the city/town fee payment.

To MassDEP Regional Office (see Instructions): Send a copy of the Notice of Intent or Abbreviated Notice of Intent; a copy of this form; and a copy of the state fee payment. (E-filers of Notices of Intent may submit these electronically.)

BayCoast
BANK

508-678-7641
P.O. Box 1311, Fall River, MA 02722

Personal Money Order

324481

53-7223 / 2113

September 11, 2023

Pay to the
Order of:

TOWN OF LAKEVILLE

\$67.50

Sixty-Seven and 50/100*****

dollars

NOT VALID OVER \$1000.00 U.S. DOLLARS

Memo

Purchaser's Signature

⑈ 3 2448 1 ⑈ ⑆ 211372239 ⑆ 700 1944 26 ⑈

BayCoast
BANK

508-678-7641
P.O. Box 1311, Fall River, MA 02722

Personal Money Order

324482

53-7223 / 2113

September 11, 2023

Pay to the
Order of:

TOWN OF LAKEVILLE

\$75.00

Seventy-Five and 00/100*****

dollars

NOT VALID OVER \$1000.00 U.S. DOLLARS

Memo

Purchaser's Signature

⑈ 3 2448 2 ⑈ ⑆ 211372239 ⑆ 700 1944 26 ⑈

BayCoast
BANK

508-678-7641
P.O. Box 1311, Fall River, MA 02722

Personal Money Order

324484

53-7223 / 2113

September 11, 2023

to the
or of: COMMONWEALTH OF MASS.

\$42.50

Forty-Two and 50/100*****

dollars

NOT VALID OVER \$1000.00 U.S. DOLLARS

VOID

[Signature]
Purchaser's Signature

⑈ 3 24484 ⑈ ⑆ 211372239 ⑆ 700194426 ⑈

Security features included. Details on back

BayCoast
BANK

508-678-7641
P.O. Box 1311, Fall River, MA 02722

Personal Money Order

324483

53-7223 / 2113

September 11, 2023

to the
or of: NE MASHKET WEEK

\$75.00

Seventy-Five and 00/100*****

dollars

NOT VALID OVER \$1000.00 U.S. DOLLARS

VOID

[Signature]
Purchaser's Signature

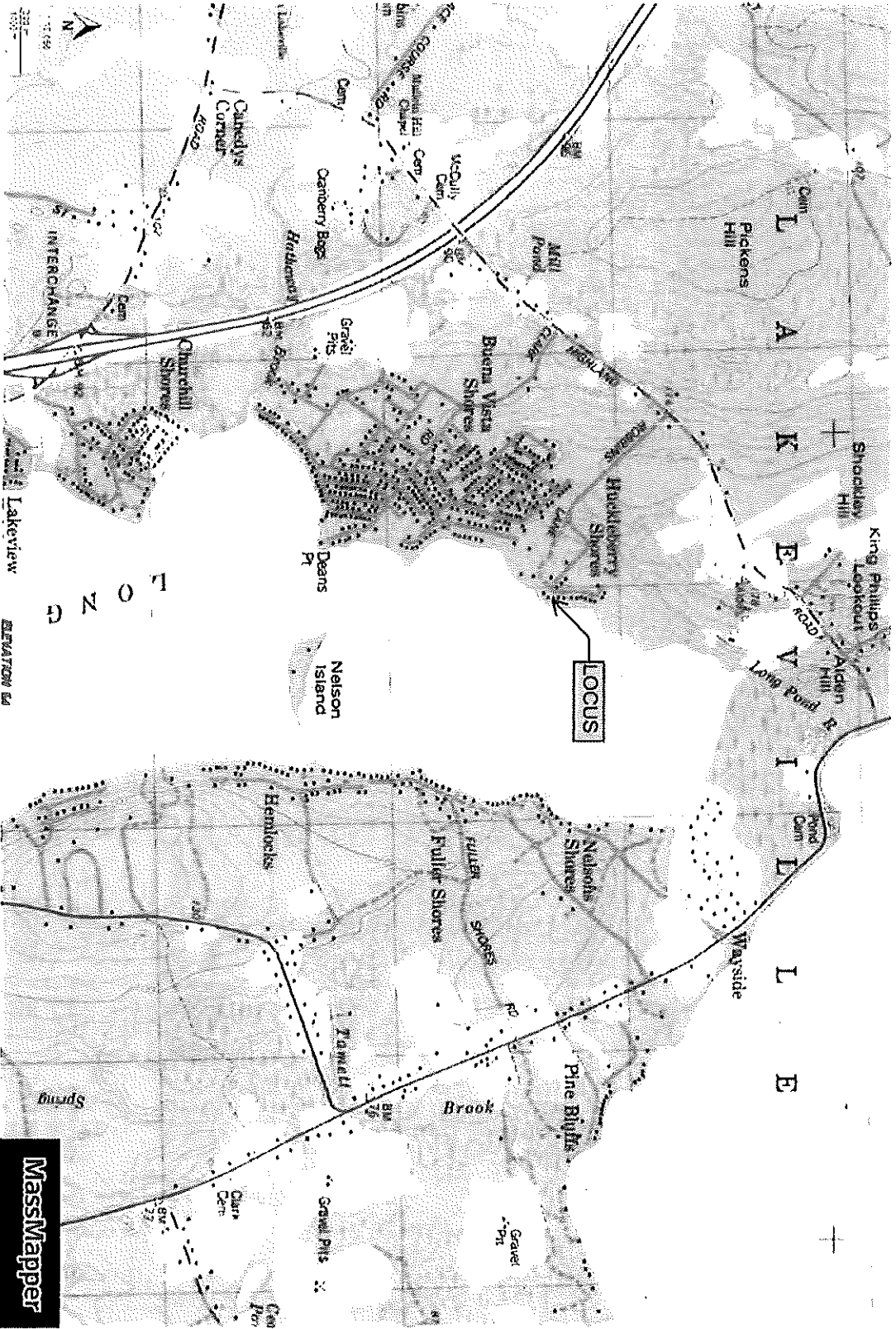
⑈ 3 24483 ⑈ ⑆ 211372239 ⑆ 700194426 ⑈

Security features included. Details on back

Figure 1

MassGIS USGS Topographic Map

USGS Map

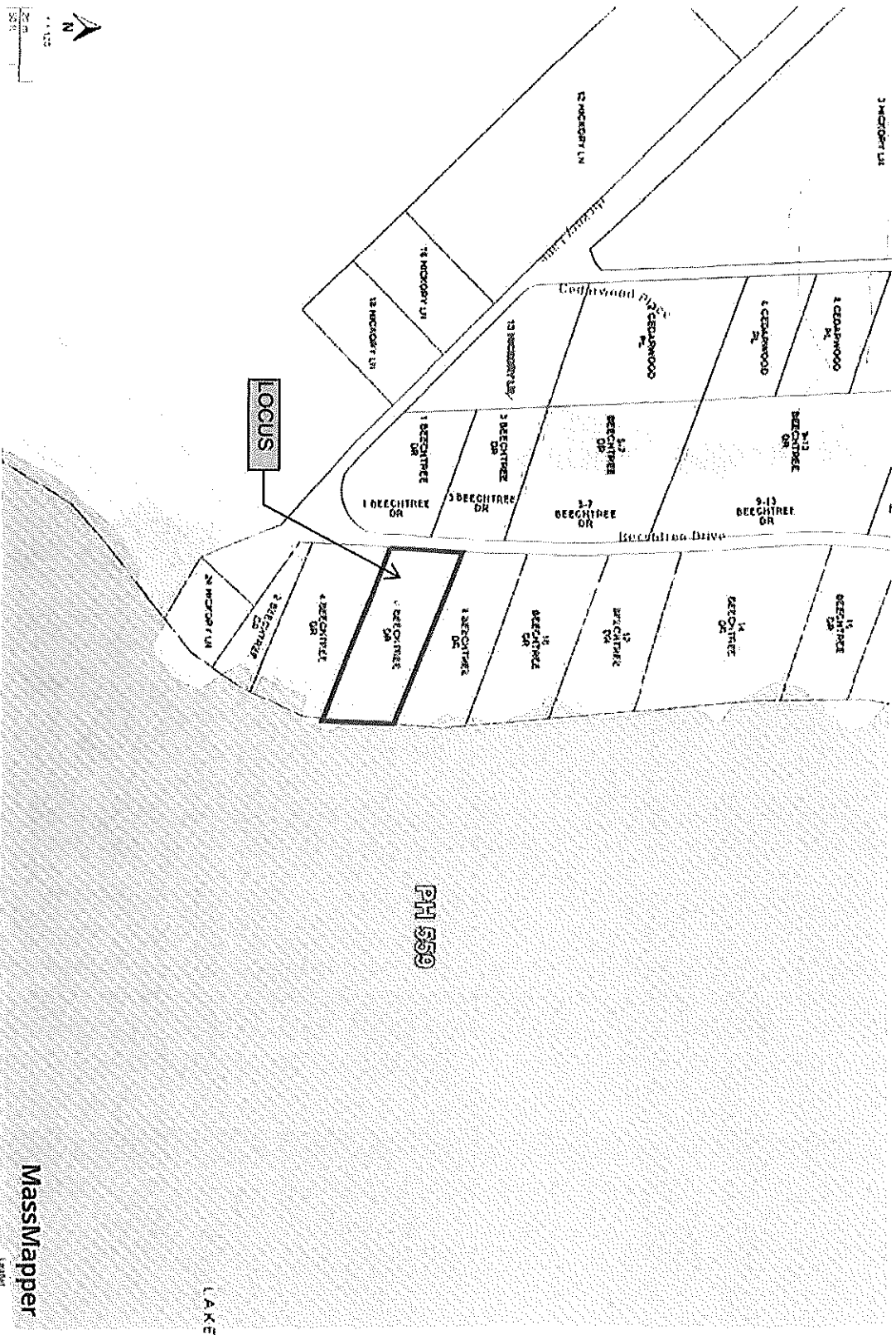


USGS Topographic Maps

Figure 2

MassGIS with NHESP Layers

NHESP Map



NHESP Priority Habitats of Rare Species

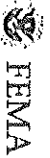
NHESP Estimated Habitats of Rare Wildlife

Areas of Critical Environmental Concern ACECS

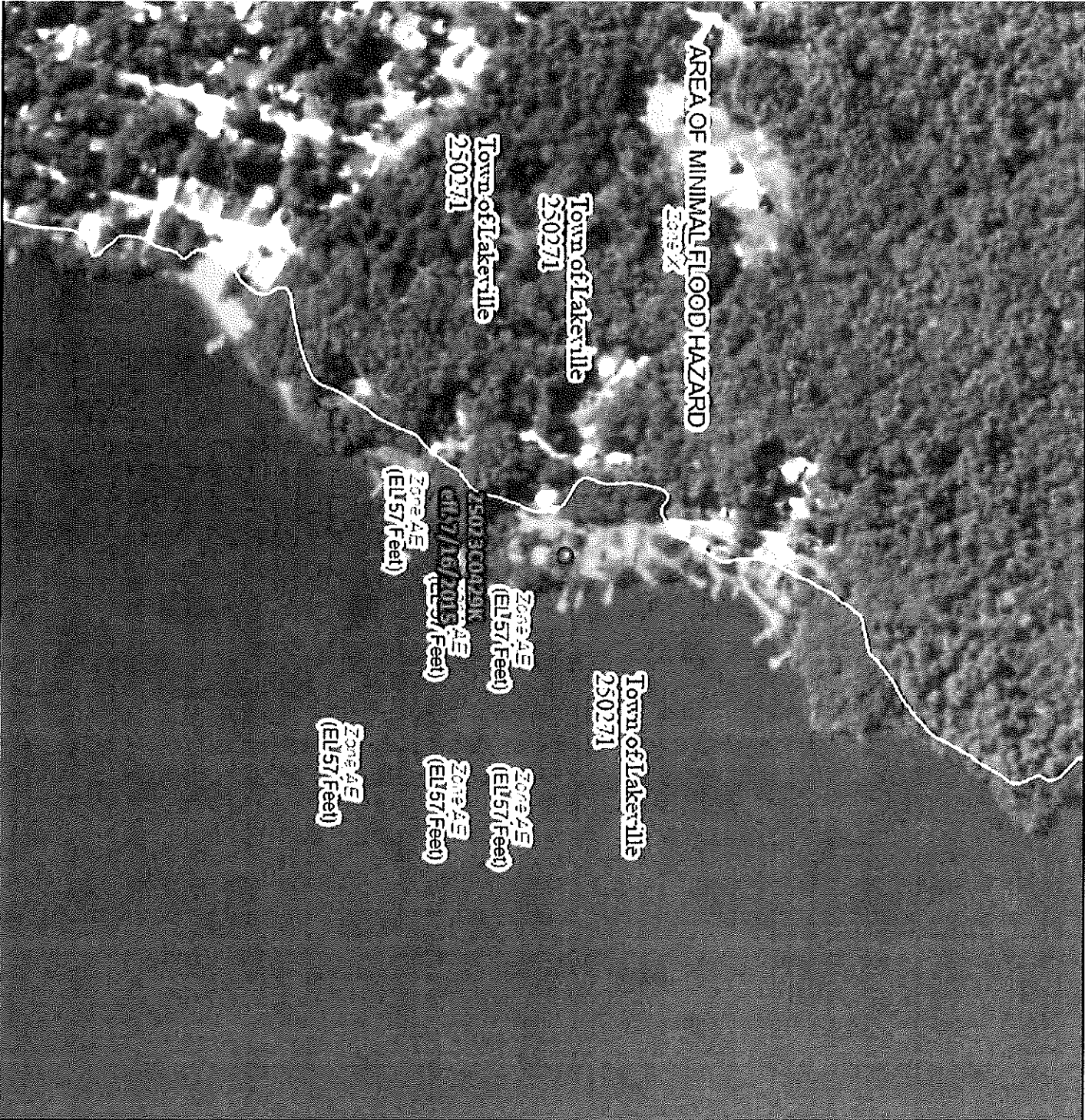
Property Tax Parcels

Figure 3

FEMA Flood Map



35°16'W, 41°49'36" N



Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS

- Without Base Flood Elevation (BFE)
Zone A, V, AE9
- With BFE or Depth Zone AE, AO, AH, VE, AP
- Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD

- 0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone
- Future Conditions 1% Annual Chance Flood Hazard Zone X
- Area with Reduced Flood Risk due to Levee. See Notes. Zone X
- Area with Flood Risk due to Levee Zone C

OTHER AREAS

- NO SCREEN Area of Minimal Flood Hazard Zone X
- Effective LOMRS
- Area of Undetermined Flood Hazard Zone
- GENERAL STRUCTURES
- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

OTHER FEATURES

- 202 Cross Sections with 1% Annual Chance
- 47.5 Water Surface Elevation
- 6 Coastal Transect
- 97 Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

MAP PANELS

- Digital Data Available
- No Digital Data Available
- Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 9/19/2023 at 3:39 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

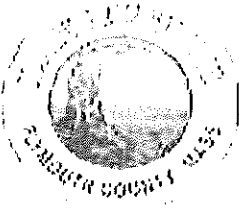
This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



70°56'35"W, 41°49'36"N

Attachment A

Abutter List, Abutter Notification, Affidavit of Service



Town of Lakeville
 Town Office Building
 346 Bedford Street
 Lakeville, MA 02347

ABUTTERS LIST REQUEST FORM

Today's Date:

9 / 7 / 23

Date Needed:

9 / 14 / 23

Department / Company Name:

OUTBACK ENGINEERING INC.

Contact Person:

GREGORY DRAKE

Contact Telephone:

508-946-9231

Contact Fax:

Parcel ID / Location Address:

043-009-011 / 6 BEECHTREE LANE

Book:

48354

Page:

24

Footage / Perimeter of Abutters List Request:

Conservation Commission (100')

Planning Board (500')

Zoning Board of Appeals (300')

Other _____

Certified List (First page \$10.00)

Non-Certified List (No Charge)

Notes:

Total Due: \$

Date Paid:

Date Completed:



100 feet Abutters List Report

Lakeville, MA
September 08, 2023

Subject Property:

Parcel Number: 043-009-010
CAMA Number: 043-009-010
Property Address: 6 BEECHTREE DR

Mailing Address: ULVEN COLLETTE
6 BEECHTREE DR
LAKEVILLE, MA 02347

Abutters:

Parcel Number: 043-006-010
CAMA Number: 043-006-010
Property Address: 2-6 MARK TWAIN DR

Mailing Address: FARRELL CHARLES A REALTY INC
3916 KINGSTON CT
FORT WORTH, TX 76109

Parcel Number: 043-008-001
CAMA Number: 043-008-001
Property Address: 1 BEECHTREE DR

Mailing Address: MCDERMOTT MELISSA A C/O DENZLER
MELISSA A
1 BEECH TREE DRIVE
LAKEVILLE, MA 02347

Parcel Number: 043-008-002
CAMA Number: 043-008-002
Property Address: 3 BEECHTREE DR

Mailing Address: MCDERMOTT MELISSA A C/O DENZLER
MELISSA A
1 BEECHTREE DR
LAKEVILLE, MA 02347

Parcel Number: 043-008-003
CAMA Number: 043-008-003
Property Address: 5-7 BEECHTREE DR

Mailing Address: NASHAWATY ALBERT E & DONNA M
NASHAWATY ALBERT E & DONNA M
8 BEECHTREE DR
LAKEVILLE, MA 02347

Parcel Number: 043-008-004
CAMA Number: 043-008-004
Property Address: 5-7 BEECHTREE DR

Mailing Address: NASHAWATY ALBERT E & DONNA M
NASHAWATY ALBERT E & DONNA M
8 BEECHTREE DR
LAKEVILLE, MA 02347

Parcel Number: 043-009-008
CAMA Number: 043-009-008
Property Address: 10 BEECHTREE DR

Mailing Address: WILLIAMS THEODORE JR
7A BEAVER DAM
CARVER, MA 02330

Parcel Number: 043-009-009
CAMA Number: 043-009-009
Property Address: 8 BEECHTREE DR

Mailing Address: NASHAWATY LAURA & MICHAEL &
DONNA
8 BEECHTREE DR
LAKEVILLE, MA 02347

Parcel Number: 043-009-011
CAMA Number: 043-009-011
Property Address: 4 BEECHTREE DR

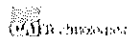
Mailing Address: REISSFELDER KEITH B & JENNIFER J
4 BEECHTREE DR
LAKEVILLE, MA 02347

Parcel Number: 043-009-012
CAMA Number: 043-009-012
Property Address: 2 BEECHTREE DR

Mailing Address: HUCKLEBERRY KNOLL HOMEOWNER'S
ASSOC TRST
13 ROBBINS LN
LAKEVILLE, MA 02347

Parcel Number: 043-009-013
CAMA Number: 043-009-013
Property Address: 24 HICKORY LN

Mailing Address: HARRISON GREGG F & MICHELLE A
44 KYLE JACOB RD
WESTPORT, MA 02790



www.cai-tech.com

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.



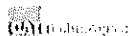
100 feet Abutters List Report

Lakeville, MA
September 08, 2023

Parcel Number: 048-001-027
CAMA Number: 048-001-027
Property Address: LONG POND

Mailing Address: TAUNTON CITY OF- WATER DEPARTM
90 INGELL ST
TAUNTON, MA 02780

MAILING ADDRESS: NEW DENISON WATER DEPT.
1 NEGAS WAY
EAST FREETOWN MA
02717

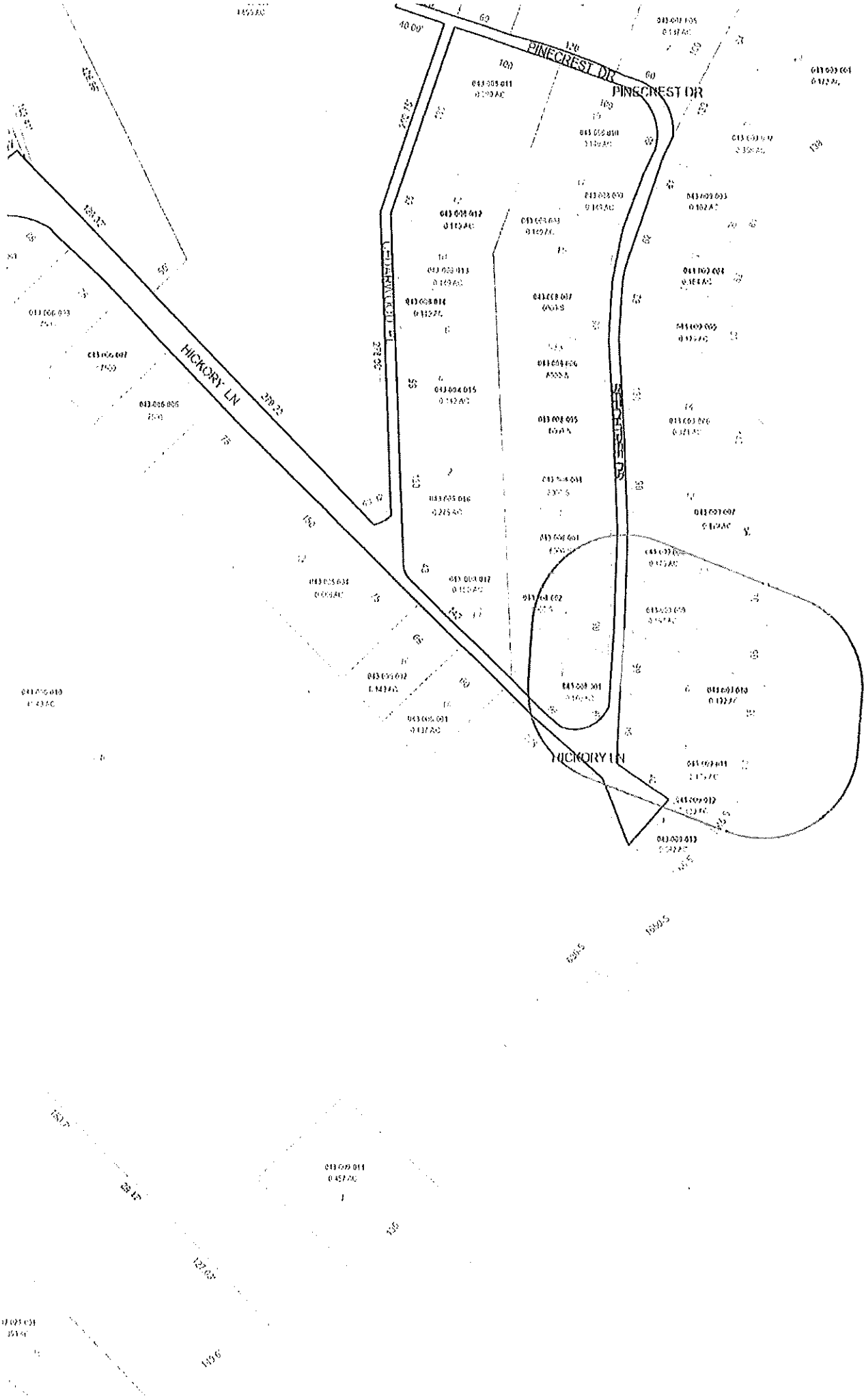


www.cai-tech.com

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9/8/2023

Page 2 of 2



Notification to Abutters Under the Massachusetts Wetlands Protection Act

In accordance with the second paragraph of Massachusetts General Laws Chapter 131, Section 40, you are hereby notified of the following.

- A. The name of the applicant is JMJ Building Corp. C/O Frank Alizio.
- B. Property is owned by Collette Ulven.
- C. The applicant has filed a Notice of Intent with the Conservation Commission for the municipality of Lakeville, Massachusetts seeking permission to remove, fill, dredge or alter an Area Subject to Protection Under the Wetlands Protection Act (General Laws Chapter 131, Section 40).
- D. The address of the lot where the activity is proposed is 6 Beechtree Drive.
- E. Assessors Map and Lot Number: Maps: 43 Block: 9 Lot: 10
- F. Please contact the Lakeville Conservation Commission at 508-946-8823 between the hours of 9:00 a.m. and 2:00 p.m. Monday through Thursday and 9:00 am and 12:00 pm Friday for information regarding the filing and to examine copies.
- G. Brief description of project: The applicant is proposing to upgrade the subsurface sewage disposal system at 6 Beechtree Drive so that it meets title V and local Board of Health regulations. A portion of the proposed tight tank and piping to the house are located within 100' of the Top of Bank of Long Pond.
- H. Copies of the Notice of Intent may be obtained from the applicant's representative, Outback Engineering, Inc., by calling 508-946-9231 between the hours of 8:30 a.m. and 4:30 p.m. Monday through Friday.
- I. Information regarding the date, time, and place of the public hearing may be obtained from the Lakeville Conservation Commission at 508-946-8823 between the hours of 9:00 a.m. and 2:00 p.m. Monday through Thursday and 9:00 am and 12:00 pm Friday.

NOTE: Notice of the public hearing, including its date, time, and place, will be published at least five (5) days in advance in the Nemasket Week.

NOTE: You may contact the Department of Environmental Protection Regional office at 508-946-2800 for more information.

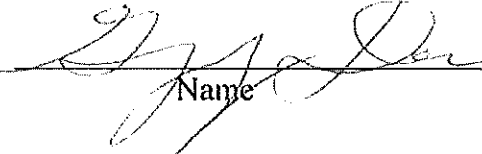
AFFIDAVIT OF SERVICE

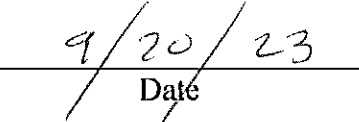
Under
Massachusetts Wetlands Protection Act M.G.L. c.131, §40

I, Gregory Drake, hereby certify under the pains and penalties of perjury that on or before September 26, 2023, I gave notification to abutters in compliance with Massachusetts Wetlands Protection Act M.G.L. c.131, §40 in connection with the following matter:

A Notice of Intent has been filed under Massachusetts Wetlands Protection Act M.G.L. c.131, §40, by the applicant, JMJ Building Corp. C/O Frank Alizio, who is proposing to upgrade the subsurface sewage disposal system at 6 Beechtree Drive so that it meets title V and local Board of Health regulations. A portion of the proposed tight tank and piping to the house are located within 100' of the Top of Bank of Long Pond.

The notification letter, a list of the abutters to whom it was given to and their addresses, are enclosed with this Affidavit of Service.


Name


Date

TIGHT TANK BOWTIE CALCULATION

APPROXIMATE DELTA = 1/2" (MINI RISK OF LEAK) PER
 TIGHT TANK (8-20)
 1. TIGHT TANK DELTA = 1/2" (MINI RISK OF LEAK) PER
 TIGHT TANK (8-20)
 2. TIGHT TANK DELTA = 1/2" (MINI RISK OF LEAK) PER
 TIGHT TANK (8-20)
 3. TIGHT TANK DELTA = 1/2" (MINI RISK OF LEAK) PER
 TIGHT TANK (8-20)
 4. TIGHT TANK DELTA = 1/2" (MINI RISK OF LEAK) PER
 TIGHT TANK (8-20)

SITE NOTES

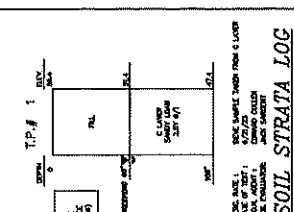
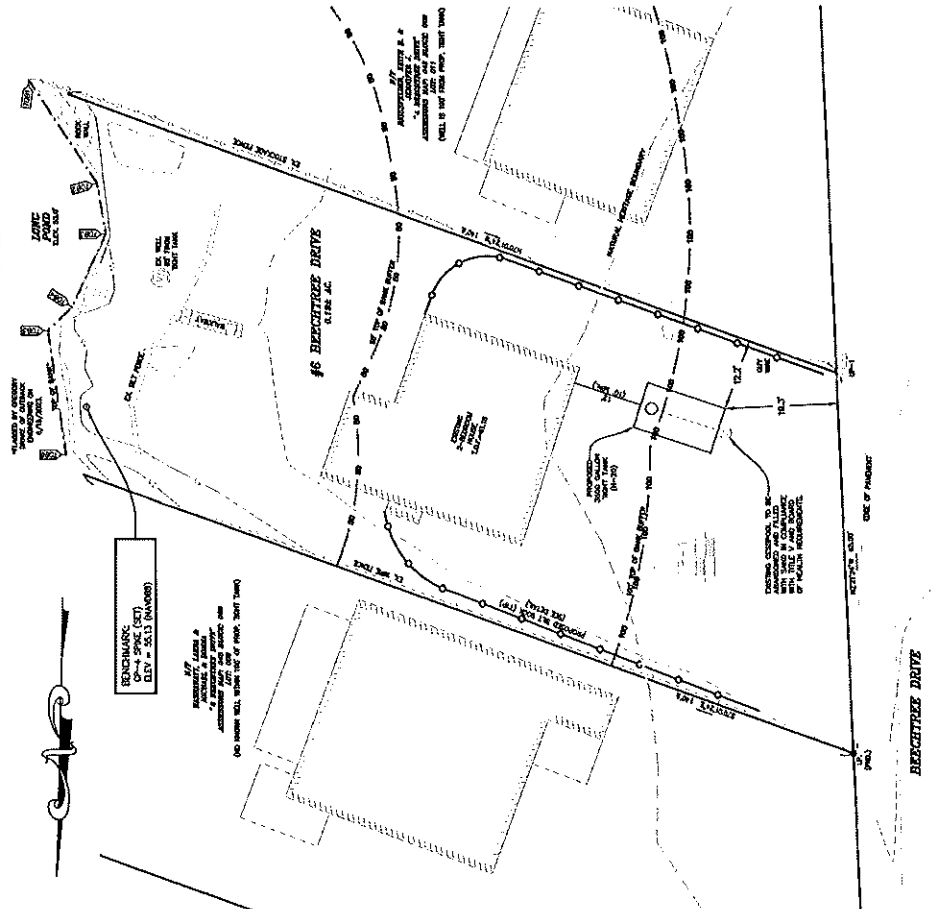
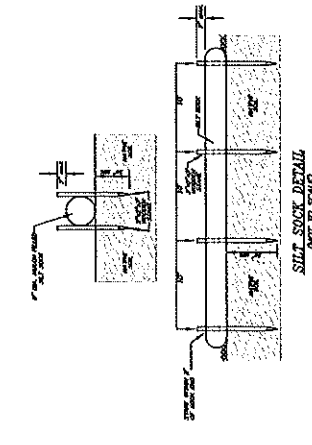
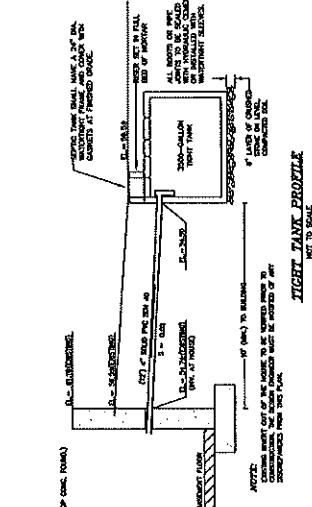
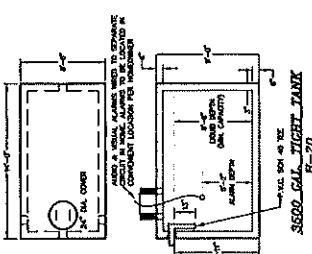
1. EXISTING SITE TO REMAIN.
2. EXISTING TANK TO REMAIN.
3. EXISTING TANK TO REMAIN.
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18. EXISTING TANK TO REMAIN.
19. EXISTING TANK TO REMAIN.
20. EXISTING TANK TO REMAIN.

TIGHT TANK OPERATION & MAINTENANCE PLAN

PER 200 CODE CHAPTER 24A
 1. TIGHT TANK OPERATION & MAINTENANCE PLAN
 2. TIGHT TANK OPERATION & MAINTENANCE PLAN
 3. TIGHT TANK OPERATION & MAINTENANCE PLAN
 4. TIGHT TANK OPERATION & MAINTENANCE PLAN
 5. TIGHT TANK OPERATION & MAINTENANCE PLAN
 6. TIGHT TANK OPERATION & MAINTENANCE PLAN
 7. TIGHT TANK OPERATION & MAINTENANCE PLAN
 8. TIGHT TANK OPERATION & MAINTENANCE PLAN
 9. TIGHT TANK OPERATION & MAINTENANCE PLAN
 10. TIGHT TANK OPERATION & MAINTENANCE PLAN
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 18. TIGHT TANK OPERATION & MAINTENANCE PLAN
 19. TIGHT TANK OPERATION & MAINTENANCE PLAN
 20. TIGHT TANK OPERATION & MAINTENANCE PLAN

LOCAL AGENCY APPROVED/REVIEWED

1. LOCAL AGENCY APPROVED/REVIEWED
 2. LOCAL AGENCY APPROVED/REVIEWED
 3. LOCAL AGENCY APPROVED/REVIEWED
 4. LOCAL AGENCY APPROVED/REVIEWED
 5. LOCAL AGENCY APPROVED/REVIEWED
 6. LOCAL AGENCY APPROVED/REVIEWED
 7. LOCAL AGENCY APPROVED/REVIEWED
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 10. LOCAL AGENCY APPROVED/REVIEWED
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 12. LOCAL AGENCY APPROVED/REVIEWED
 13. LOCAL AGENCY APPROVED/REVIEWED
 14. LOCAL AGENCY APPROVED/REVIEWED
 15. LOCAL AGENCY APPROVED/REVIEWED
 16. LOCAL AGENCY APPROVED/REVIEWED
 17. LOCAL AGENCY APPROVED/REVIEWED
 18. LOCAL AGENCY APPROVED/REVIEWED
 19. LOCAL AGENCY APPROVED/REVIEWED
 20. LOCAL AGENCY APPROVED/REVIEWED



REVISIONS	
NO.	DESCRIPTION
1	ISSUED FOR PERMITTING

APPLICANT:
 MA TRUCK COO
 600 TRUCK AVE
 & BAYVIEW AVE
 BOSTON, MA 02207

OWNER:
 CHESTER WMA
 400 STATE ST
 LAKEVILLE, MA 02447

TIGHT TANK DESIGN
 AT
 #6 BEECHTREE DRIVE
 (APPROXIMATE MAP - AS SHOWN - 8/10/10)
 IN
 LAKEVILLE
 MASSACHUSETTS

Outback Engineering
 Incorporated

145 EAST STREET STREET
 MIDDLEBOROUGH, MASS. 02246
 TEL: 1-(508) 846-8231
 www.outback-eng.com

DATE: MARCH 20, 2010
 DRAWN BY: JAY
 CHECKED BY: JAY
 SCALE: 1"=20'
 SHEET 1 OF 1

08-4108





DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581
p: (508) 389-6300 | f: (508) 389-7890
MASS.GOV/MASSWILDLIFE

RECEIVED

OCT 2 - 2023

MASSWILDLIFE

Conservation Commission

October 02, 2023

Frank Alizio
JMJ Building Corp.
65 Bayview Avenue
Berkley, Massachusetts 02779

Lakeville Conservation Commission
Town Hall
346 Bedford Street
Lakeville, MA 02347

RE: Applicant: Frank Alizio
 Project Location: 6 Beechtree Drive
 Project Description: Septic replacement
 DEP Wetlands File No.: -
 NHESP Tracking No.: 23-8705

Dear Commissioners & Applicant:

The applicant listed above has submitted a Notice of Intent with site plans (dated 8/30/23) to the Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division"), in compliance with the rare wildlife species section of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.59).

Wetlands Protection Act (WPA)

Based on a review of the information that was provided and the information that is currently contained in our database, the Division has determined that this project, as currently proposed, **will not adversely affect** the actual Resource Area Habitat of state-protected rare wildlife species. Therefore, it is our opinion that this project meets the state-listed species performance standard for the issuance of an Order of Conditions.

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)

Based on a review of the information that was provided, the Division has determined that this project, as currently proposed, appears to be exempt from MESA review pursuant to 321 CMR 10.14 which states: "[t]he following Projects and Activities shall be exempt from the requirements of 321 CMR 10.18 through 10.23..."

MASSWILDLIFE

(6) construction, repair, replacement or maintenance of septic systems, private sewage treatment facilities, utility lines, sewer lines, or residential water supply wells within existing paved areas and lawfully developed and maintained lawns or landscaped areas, provided there is no expansion of such existing paved, lawn and landscaped areas;

Any changes to the proposed project or any additional work beyond that provided may require a filing with the Division pursuant to the MESA regulations.

Please note that this determination addresses only the matter of state-listed species and their habitats. If you have any questions about this letter, please contact Emily Holt, Endangered Species Review Assistant, at Emily.Holt@mass.gov, (508) 389-6385.

Sincerely,



Everose Schlüter, Ph.D.
Assistant Director

cc:

Lori Canedy

From: SERO_NOI@MassMail.state.ma.us
Sent: Tuesday, October 3, 2023 2:05 PM
To: jmjbuildingcorp@yahoo.com; whitney.mcclees@mass.gov; gdrake@outback-eng.com
Cc: sero_noi@state.ma.us; Conservation; Lori Canedy; sero_noi@state.ma.us
Subject: MassDEP NOI File Number

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOUTHEAST REGIONAL OFFICE
20 RIVERSIDE DRIVE, LAKEVILLE, MA 02347 508-946-2700

Date: 10/03/2023 Municipality LAKEVILLE

RE: **NOTIFICATION OF WETLANDS PROTECTION ACT FILE NUMBER**

The Department of Environmental Protection has received a Notice of Intent filed in accordance with the Wetlands Protection Act (M.G.L. c. 131, §40):

Applicant JMJ BUILDING CORP.	Owner Address
Address 65 BAYVIEW AVENUE, BERKLEY MA	
Locus 6 BEECHTREE DRIVE, LAKEVILLE MA	

This project has been assigned the following file # : **SE 192-0903**

ISSUANCE OF A FILE NUMBER INDICATES ONLY COMPLETENESS OF SUBMITTAL, NOT APPROVAL OF APPLICATION

Although a file # is being issued, please note the following:

Regards,
for MassDEP,

(508)-946-2774
Whitney.McClees@mass.gov



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, §40

Provided by MassDEP:
 SE192-0823
 MassDEP File #
 eDEP Transaction #
 Lakeville
 City/Town

A. General Information

Please note:
 this form has
 been modified
 with added
 space to
 accommodate
 the Registry
 of Deeds
 Requirements

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



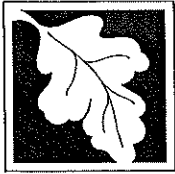
1. From: Lakeville
 Conservation Commission

2. This issuance is for (check one):
 a. Order of Conditions b. Amended Order of Conditions

3. To: Applicant:
 Ronald Burgess Sr.
 a. First Name b. Last Name
 Middleborough Lakeville Herring Com
 c. Organization
 10 Nickerson Ave
 d. Mailing Address
 Middleborough MA 02346
 e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):
 see attached
 a. First Name b. Last Name
 c. Organization
 d. Mailing Address
 e. City/Town f. State g. Zip Code

5. Project Location:
 Nemasket River Middleborough/Lakeville
 a. Street Address b. City/Town
 N/A
 c. Assessors Map/Plat Number d. Parcel/Lot Number
 Latitude and Longitude, if known: 41d51m57s 70d54m54s
 d. Latitude e. Longitude



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, §40

Provided by MassDEP:
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A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

N/A

a. County _____ b. Certificate Number (if registered land) _____

c. Book _____ d. Page _____

7. Dates: June 10, 2019 July 10, 2019 July 11, 2019
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance

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

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:

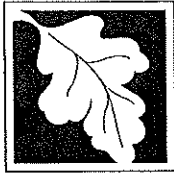
Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). 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 Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission 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.



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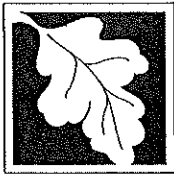
B. Findings (cont.)

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 the interests of the Act, 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.**
- 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 as per 310 CMR 10.05(6)(c).**
- 3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) _____ a. linear feet

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

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 checked="" 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	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	_____	_____	_____	_____
	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____	_____		
	a. square feet	b. square feet		
Cubic Feet Flood Storage	_____	_____	_____	_____
	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 ft within 100 ft	_____	_____	_____	_____
	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	_____	_____	_____	_____
	g. square feet	h. square feet	i. square feet	j. square feet



Massachusetts Department of Environmental Protection
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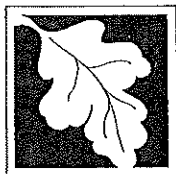
Provided by MassDEP:
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 Lakeville
 City/Town

B. Findings (cont.)

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

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. nourishment <u>cu yd</u>	d. nourishment <u>cu yd</u>
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. nourishment <u>cu yd</u>	d. nourishment <u>cu yd</u>
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <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			
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		
22. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



Massachusetts Department of Environmental Protection
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B. Findings (cont.)

* #23. 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.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

24. Stream Crossing(s):

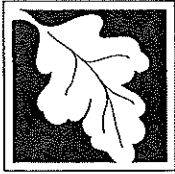
a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are 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.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
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. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the 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.



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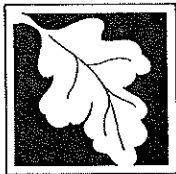
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C. General Conditions Under Massachusetts Wetlands Protection Act

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 Conservation Commission 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, "MassDEP"]
 "File Number SE192-0823 "
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 MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
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 Conservation Commission 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.



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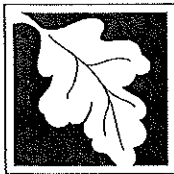
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City/Town

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

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 Conservation Commission.
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 Conservation Commission, 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.
19. The work associated with this Order (the "Project")
- (1) is subject to the Massachusetts Stormwater Standards
- (2) is NOT 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.
- 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;



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

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 18(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 BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

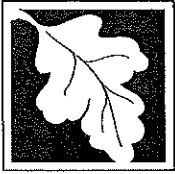
i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

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, 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 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(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.



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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.

Special Conditions (if you need more space for additional conditions, please attach a text document):

1. See attached letter date July 9, 2019 from Massachusetts Division of Fisheries & Wildlife, NHESP File No. 19-38522, Everose Schluter, Ph.D., Assistant Director;

2. See attached Standard Order of Conditions.

-
20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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 City/Town

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No
2. The _____ hereby finds (check one that applies):

- Conservation Commission
- a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw _____ 2. Citation _____

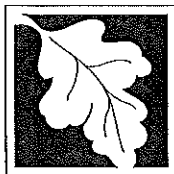
Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

1. Municipal Ordinance or Bylaw _____ 2. Citation _____

3. The Commission orders that all work shall be performed in accordance with the following 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.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

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

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E. Signatures

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

1. Date of Issuance

Please indicate the number of members who will sign this form.

This Order must be signed by a majority of the Conservation Commission.

2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

Robert J. Bouchard

Joseph Chompuhin

[Signature]

[Signature]

by hand delivery on

by certified mail, return receipt requested, on

Date

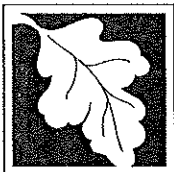
Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP

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

A. Request Information

1. Location of Project

a. Street Address

b. City/Town, Zip

c. Check number

d. Fee amount

2. Person or party making request (if appropriate, name the citizen group's representative):

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

4. DEP File Number:

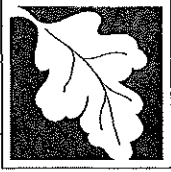
Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



B. Instructions

1. When the Departmental action request is for (check one):

- Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- Superseding Determination of Applicability – Fee: \$120
- Superseding Order of Resource Area Delineation – Fee: \$120



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
**Request for Departmental Action Fee
Transmittal Form**

DEP File Number:

Provided by DEP

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

B. Instructions (cont.)

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection
Box 4062
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/>).
4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Conditions

1. Authorization Duration: This authorization allows for a single harvesting event consisting of three (3) or more days in the first two weeks of August 2019. If harvesting does not occur in 2019, the single harvesting event may occur during the first two weeks of August of 2020, 2021, 2022, or 2023. This authorization does not preclude the review of additional uses of the Ecoharvester in the Nemasket River as described in the "Future Maintenance" section of the NOI Cover Letter.

To request review for additional harvesting during 2020, 2021, 2022, 2023, the Applicant shall submit an annual, written harvesting plan for Division review and approval. The plan shall include, at a minimum, a map of the proposed treatment and dewatering areas and a narrative explaining the timing and goals of the plan. Further, the plan should include any changes to the Turtle Protection Plan.

2. Turtle Protection Plan: A protection plan was submitted by the Applicant, to be led and overseen by John Crane. The Division has approved the protection plan (attached) with the following clarification: We note that in the "Additional Notes as provided by Elyse Tripp of Outback Engineering, Inc.", the siltation fencing used for dewatering will be lifted in one area oriented toward the river to allow escape of any small animals. Further, a row of straw bales can be added outside the fence near the gap to ensure adequate siltation interception at the Commission's discretion.

3. Collection Permit, possession of NRBC: A Massachusetts *Commercial* Scientific Collection Permit must be obtained from the Division of Fisheries & Wildlife in order for John Crane to handle state-listed species and lead the protection plan. This is a separate state permit from those issued for academic or other purpose and is required for this site. Conducting the work with other forms of state permits is not valid. https://www.mass.gov/files/documents/2018/07/13/App_CommercialSCP_form.pdf All observed turtles shall be photographed and, when possible, biometric information recorded sufficient to meet the reporting requirements of a Rare Animal Observation Form. All observation records should be submitted to the Division in compliance with the Scientific Collection Permit. Please confirm with the U.S. Fish and Wildlife Service that Crane's exiting permit will be sufficient for federal purposes and that no additional formal input on the protection plan is necessary. Please be in direct contact with the New England Field office to discuss permitting requirements. Ph: (603) 223-2541.

4. Effectiveness Observation: The Division of Marine Fisheries Diadromous Fish Leader, Brad Chase, or his assignee, has offered to be present during portions of the harvesting to determine if fry are utilizing the harvested channel for the first harvesting year. Please coordinate harvesting activities with Chase to ensure that he, or his assignee, can conduct effectiveness observations. The Division requests a brief report from Chase regarding the effectiveness of the efforts to inform review of any future requests. *NHESP No. 19-38522, Lakeville/Middleborough, page 3 of 3*

5. Compliance Report: Within thirty (30) days of the completion of Work, the Applicant shall file a brief written project report demonstrating compliance with the conditions herein.

6. WPA: When filing for any 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.



MASSWILDLIFE

DIVISION OF
FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581
p: (508) 389-6300 | f: (508) 389-7890
MASS.GOV/MASSWILDLIFE

July 9, 2019

RECEIVED

Town of Middleborough
10 Nickerson Avenue
Middleborough, MA 02346

JUL - 9 2019

Lakeville Conservation Commission
346 Bedford Street
Lakeville, MA 02347

Conservation Commission

Middleborough Conservation Commission
Town Hall Annex
20 Center Street
Middleborough, MA 02346

RE: Applicant: Town of Middleborough
Project Location: Nemasket River, in river between Vaughn St. northward halfway to Bridge St.
Project Description: Use of an Ecoharvester to remove vegetation in order to provide passage for shad fry during the out-migration
DEP Wetlands File No.: Middleborough 220-1406, Lakeville 192-0823
NHESP File No.: **19-38522**

Dear Commissioners & Applicant,

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") received a Notice of Intent (NOI) for an Ecological Restoration Limited Project in compliance with the rare wildlife species section of the Massachusetts Wetlands Protection Act Regulations (WPA; 310 CMR 10.58 (4)(b), 10.59). The Division also received the MESA Review Checklist and supporting documentation for review pursuant to the MA Endangered Species Act (M.G.L. c. 131A) and its implementing regulations (MESA; 321 CMR 10.18).

The Division has determined that the proposed project is located within the mapped *Priority and Estimated Habitat* of the Northern Red-bellied Cooter (*Pseudemys rubriventris pop.1*, "NRBC"), an Endangered turtle species. This species and their habitats are protected pursuant to the MESA and rare species provisions of the WPA. A fact sheet for this species can be found on our website, www.mass.gov/nhesp. The NRBC is also listed as Endangered pursuant to the federal Endangered Species Act of 1973 and regulations (16 USCA §§1531-1544, 50 CFR §§17 & 402) administered by the United States Fish & Wildlife Service.

The proposed project will use an 8' 6" wide, barge-mounted, pinch-pull style EcoHarvester to provide a clear passage zone for out-migrating alewife fry, which orient and move when sufficient flow is detected in the channel. The Ecoharvester will enter and exit the Nemasket River at the Old Bridge Street boat launch. Harvesting will last a minimum of three (3) days. Harvested materials will be moved from the Ecoharvester to the property owned by David Freitas (assessors 063-002-005K). The materials will be offloaded onto the existing concrete boat launch and will then be moved to the uplands within the property. A protection plan will be implemented to protect NRBC through visual sweeps in advance of the Ecoharvester, visual sweeps of harvested

MASSWILDLIFE

material on the conveyor, sifting of harvested material as it is stored for dewatering, and ensuring a gap in the dewatering containment area to allow escape of any NRBC missed in prior steps.

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.

MA WETLANDS PROTECTION ACT AND MA ENDANGERED SPECIES ACT

Based on a review of the information that was provided and the information contained in our database, the Division has determined 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) and 10.59) and must be conditioned in order to avoid a prohibited Take of state-listed species (321 CMR 10.18(2)(a)).** The project shall comply with the following conditions:

1. **Authorization Duration:** This authorization allows for a single harvesting event consisting of three (3) or more days in the first two weeks of August 2019. If harvesting does not occur in 2019, the single harvesting event may occur during the first two weeks of August of 2020, 2021, 2022, or 2023. This authorization does not preclude the review of additional uses of the Ecoharvester in the Nemasket River as described in the "Future Maintenance" section of the NOI Cover Letter.

To request review for additional harvesting during 2020, 2021, 2022, 2023, the Applicant shall submit an annual, written harvesting plan for Division review and approval. The plan shall include, at a minimum, a map of the proposed treatment and dewatering areas and a narrative explaining the timing and goals of the plan. Further, the plan should include any changes to the Turtle Protection Plan.

2. **Turtle Protection Plan:** A protection plan was submitted by the Applicant, to be led and overseen by John Crane. The Division has approved the protection plan (attached) with the following clarification: We note that in the "Additional Notes as provided by Elyse Tripp of Outback Engineering, Inc.", the siltation fencing used for dewatering will be lifted in one area oriented toward the river to allow escape of any small animals. Further, a row of straw bales can be added outside the fence near the gap to ensure adequate siltation interception at the Commission's discretion.
3. **Collection Permit, possession of NRBC:** A Massachusetts *Commercial* Scientific Collection Permit must be obtained from the Division of Fisheries & Wildlife in order for John Crane to handle state-listed species and lead the protection plan. This is a separate state permit from those issued for academic or other purpose and is required for this site. Conducting the work with other forms of state permits is not valid. https://www.mass.gov/files/documents/2018/07/13/App_CommercialSCP_form.pdf

All observed turtles shall be photographed and, when possible, biometric information recorded sufficient to meet the reporting requirements of a Rare Animal Observation Form. All observation records should be submitted to the Division in compliance with the Scientific Collection Permit.

Please confirm with the U.S. Fish and Wildlife Service that Crane's exiting permit will be sufficient for federal purposes and that no additional formal input on the protection plan is necessary. Please be in direct contact with the New England Field office to discuss permitting requirements. Ph: (603) 223-2541.

4. **Effectiveness Observation:** The Division of Marine Fisheries Diadromous Fish Leader, Brad Chase, or his assignee, has offered to be present during portions of the harvesting to determine if fry are utilizing the harvested channel for the first harvesting year. Please coordinate harvesting activities with Chase to ensure that he, or his assignee, can conduct effectiveness observations. The Division requests a brief report from Chase regarding the effectiveness of the efforts to inform review of any future requests.

5. **Compliance Report:** Within thirty (30) days of the completion of Work, the Applicant shall file a brief written project report demonstrating compliance with the conditions herein.
6. **WPA:** When filing for any 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.

Provided these conditions are included in any approving Orders of Conditions issued by the Conservation Commission, and the Applicant complies with all the above noted conditions, the project will not result in an adverse impact to the resource area habitats of state-listed wildlife species pursuant to the WPA and will not result in a prohibited Take pursuant to the MESA. A copy of the final WPA Order of Conditions shall be sent to the NHESP simultaneously with the applicant as stated in the Procedures section of the WPA (310 CMR 10.05(6)(e)).

This determination is a final decision of the Division of Fisheries and Wildlife pursuant to 321 CMR 10.18. Any changes to the proposed project or any additional work beyond that shown on the site plans may require an additional filing with the Division pursuant to the MESA. This project may be subject to further review if no physical work is commenced within five years from the date of issuance of this determination, or if there is a change to the project.

FISHERIES

The Southeast District Fisheries Manager has been aware for many years of fisheries and flow problems in the Nemasket River system and supports the efforts to improve management of this important fisheries resource. The Nemasket River has one of the most diverse warmwater fish populations in Southeastern Massachusetts and is one of the largest river herring runs in the state.

Please do not hesitate to contact Misty-Anne R. Marold, Senior Endangered Species Review Biologist, at (508) 389-6356 (misty-anne.marold@mass.gov) if you have any questions about this determination.

Sincerely,



Everose Schlüter, Ph.D.
Assistant Director

cc: Steve Hurley, MA DFW Southeastern District Office
Brad Chase, Division of Marine Fisheries
MA DEP Southeast Regional Office, Wetlands & Waterways
Eliese Dystra, US Fish & Wildlife Service
Elyse Tripp, Outback Engineering Inc.
Town of Lakeville
Jeanne C & David Freitas
Joseph F. Jr & Patricia Freitas

Attachment: "Cooter protection plan for the Nemasket River reclamation project for the Middleborough/Lakeville Herring Fisheries Commission" by John Crane