

# Town of Franklin

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## Conservation Commission

**To:** Franklin Conservation Commission  
**From:** Breeka Li Goodlander, CWS, PWS, CERPIT  
**Re:** Conservation Agent Report  
**Date:** April 06, 0223



### 1.0 Public Hearings

#### 1.1 NOI – Spruce Pond Aquatic Management Program (NO DEP#)

***Recommendation: Continue for DEP# issuance and BETA peer review fee***

This public hearing is the first hearing for a Notice of Intent to apply aquatic herbicides at Spruce Pond. A similar NOI was historically approved by the Conservation Commission, but expired early last year. The Applicant conducted one unpermitted herbicidal treatment last fall. The Town requested the Applicant file a new NOI, including an after-the-fact filing component for the unpermitted herbicide application last fall. Project objectives include the aquatic herbicide treatment of variable watermilfoil, purple loosestrife, and other nuisance filamentous algae. The Project has been filed as an Ecological Restoration Limited Project under 310 CMR 10.53(4) (refer to the WPA regs).

Initial NOI deficiencies include:

- Ecological restoration goals under 310 CMR 10.12(1)(a) – these need to be quantified
- Event sequence required under 310 CMR 10.12(1)(c) – to the best extent practicable. This can mirror time of year restrictions required under 310 CMR 10.11(3)
- Work is proposed at a perennial stream crossing (Town-owned). Stream crossing information required under 310 CMR 10.12(1)(m) and (n). The Applicant has not contacted Derek Adams, DPW, for work surrounding the proposed culvert.
- Time of year restrictions required under 310 CMR 10.11(3)
- Alternatives Analysis to the chemicals used in the treatment (Agent to review/research further)

Recommend continuing for BETA review and DEP#.

#### 1.2 NOI – 25 Forge Parkway (NO DEP#)

***Applicant requested continuance***

This public hearing is the first hearing for a Notice of Intent at 25 Forge Parkway. The project proposes to construct at 16,000 square foot building addition, 17 additional parking spaces, and a paved contractor yard within the 100-foot Buffer Zone to BVW, specifically within the 25- to 100-foot Buffer Zone. Disturbance within the 25- to 50-foot Buffer Zone is limited to grading; disturbance within the 50- to 100-foot Buffer Zone

includes grading, paving, and the proposed building addition. Approximately 24.5% of the 50- to 100-foot Buffer Zone is proposed to be impervious.

The Agent conducted a site visit April 5 to review the delineation. The delineation is conservative in nature. Revised documentation dated April 4 yet to be reviewed by BETA and the Agent.

### **1.3 ANRAD – 1 Paddock Lane (NO DEP#)**

#### ***Applicant requested continuance***

This public hearing is the first hearing for an Abbreviated Notice of Intent (ANRAD) at 1 Paddock Lane. Onsite wetland resources identified include one BVW and one enclosed upland island. The Applicant is seeking confirmation of these resources.

BETA and Town to review the delineation and ANRAD further.

### **1.4 ANRAD – 121 Grove Street (CE159-1261)**

#### ***Recommendation: Continue to allow sufficient time to review revised documentation***

This public hearing is the first hearing for an Abbreviated Noticed of Resource Area Delineation (ANRAD) at 121 Grove Street. An ANRAD provides a procedure for an Applicant to confirm the delineation of resource areas onsite. Onsite wetland resources identified include two BVWs (6818 lf), one IVW (253 lf), and inland bank associated with three intermittent streams (4345 lf) (confirmed by StreamStats at prior hearings). The Applicant is also requesting that the Conservation Commission confirm that the three intermittent streams are classified as intermittent; that RFA does not exist at the Site; and that there are no other Resource Areas located at the Site beyond what has been identified in the ANRAD application.

On March 31, the Applicant, Agent, BETA, and voting Commissioners conducted a site visit to determine current/existing site conditions. Since then, revised information and reviews letters dated April 4 (Applicant) and April 5 (BETA) were submitted. Below are the existing outstanding deficiencies for the ANRAD submission, with BETA and Agent comments provided. Agent comments are in green. Please defer to the review letters for the document in its entirety.

**W1(d).** The off-site resource areas that may constrain the site are limited to the New England Power Company parcel, identified as Map 294, Lot 6, to the south of the subject property. These resource areas will be identified and/or approximated on any future permitting plans. The Applicant is amenable to a Special Condition of Fact-of Finding in the Order of Resource Area Delineation (ORAD) to note this.

**BETA2:** Comment W1 has been resolved with the exception of W1(d); this note is not included on the plans. BETA defers to the Commission on whether this should be added to the plans or if LE's recommendation for inclusion as a Finding of Fact is appropriate.

**Agent:** It was requested several hearings ago that the Applicant include these Resources on the plans so that the associated Buffer Zones that are on property (121 Grove Street) are shown.

**W4.** BETA observed groundwater seeps with observable flow interior of both the WFA-Series and WFB-Series BVWs...

**BETA2:** BETA maintains the position that these are defined channels within BVW subject to intermittent flow along a hydraulic gradient and are therefore regulated as intermittent streams. Flow was observed during the December 19 and 21, 2022 site visits and evidence of a defined channel was present, including scoured leaf litter and a slightly concave shape. Should the Commission concur with BETA's assessment of these intermittent streams, their presence could be noted as a Finding of Fact; however, the Banks were not delineated. Therefore, their boundaries could not be confirmed as part of the ANRAD process.

**Agent:** The Agent was present at the December 21, 2022 site visit. The Agent and BETA are in agreement that the above referenced locations have a defined channel. Recommend including this as a Fact of Finding, noting that the Banks could not be confirmed. The Commission may request the Applicant to delineate these intermittent streams, however it is possible to continue on with the permitting process by including language in an ORAD that prior to any future work proposed within the presumed Buffer Zone to these intermittent streams and/or locale of the intermittent streams, a delineation of the streams occur at that time.

**W8.** The Applicant appears to have accurately identified the extent of wetland indicators from flags WFC-1 to WFC-3 and WFC-6 through WFC-11. However, BETA observed a continuation of wetland indicators beyond the northern extent of this Resource Area from flags WFC-4 through WFC-5 to the boundary of the WFA-Series BVW, connecting the WFC Series wetland to the WFA series BVW.

**BETA2:** Following the Site visit conducted on March 31, 2023, and a review of LE's response above, BETA offers the following remarks:

- Several additional soil test pits were hand-dug with Dutch-style augers by both BETA and LE during the March 31, 2023 Site visit. As previously noted in BETA's original comment, all soils assessed within the area in question exhibited properties consistent with the federal hydric soil indicator F6 (Redox Dark Surface). BETA is of the opinion that the soil profile noted by LE above is not consistent with what was observed in the field; the A-horizon was observed to be 10YR 3/1 in color; at least four (4) inches thick (in some cases, close to 10 inches thick); and at least 2 – 5% coverage of redoximorphic concentrations were observed throughout the entire A-horizon. While partially masked by organic matter, BETA is of the opinion that these redoximorphic concentrations constitute "distinct" or "prominent".

#### F6. – Redox Dark Surface

A layer that is at least 10 cm (4 inches) thick, starting at a depth  $\leq 20$  cm (8 inches) from the mineral soil surface, and has: a. Matrix value of 3 or less and chroma of 1 or less and 2 percent or more distinct or prominent redox concentrations occurring as soft masses or pore linings, or b. Matrix value of 3 or less and chroma of 2 or less and 5 percent or more distinct or prominent redox concentrations occurring as soft masses or pore linings.

User Notes: This is a very common indicator used to delineate wetland soils that have a dark surface layer. Redox concentrations in mineral soils with a high content of organic matter and a dark surface layer are commonly small and difficult to see. The organic matter masks some or all of the concentrations that may be present. Careful examination is required to see what are commonly brownish redox concentrations in the darkened materials. If the soil is saturated at the time of sampling, it may be necessary to let it dry at least to a moist condition for redox features to become visible. Soils that are wet because of ponding or have a shallow, perched layer of saturation may have any color below the dark surface. It is recommended that delineators evaluate the hydrologic source and examine and describe the layer below the dark colored surface layer when applying this indicator.

Distinct: Readily seen, but contrasting only moderately with the color to which compared

Prominent: Contrasts strongly in color. Color contrasts more contrasting than faint and distinct are prominent.

- Although a bright-chroma B-horizon underlies the A-horizon, there is no B-horizon matrix color requirement to meet this indicator. The F6 indicator is commonly encountered when saturated conditions are more prevalent within the upper extents of the soil profile (per the reference in Footnote 1). Rather, the B-horizon is simply considered for indications of anaerobic processes occurring within the A-horizon. Redoximorphic concentrations and organic streaking were observed in the B-horizon.

- Although intended to be a guidance document, the updated Massachusetts Handbook for Delineation of Bordering Vegetated Wetlands dated September 2022 and published March 2023 (the Updated Handbook) now includes federal soil indicators. When discussing indicator F6, the guidance notes that this can be a difficult indicator to assess; however, it does note the following: “Soils that are wet because of ponding or that have shallow perched water may have any color below the dark surface. This morphology has been observed in soils that have been compacted by tillage and other means.” The area in question is disturbed by ongoing mowing, is generally compacted, and has shallow refusal in the form of dense rock within 12 inches of the surface. As previously stated by BETA, and notwithstanding the questions raised by LE regarding the applicability of federal soil indicators to the delineation of BVW under the Act, 310 CMR 10.55(2)(c)2. notes that BVW can be delineated based on “hydric soil indicators”. BETA is of the opinion that using federal USDA hydric soil indicators (which are now incorporated into the Updated Handbook) is an appropriate application of best available scientific data to apply the regulatory definition of BVW.

Agent: Agreed with BETA and maintains the original position that the Wetland C series connects to the Wetland A series BVW.

The Commission may continue the hearing until April 20 to allow for sufficient time to digest and understand the materials presented. However, it is not recommended to continue the ANRAD hearings any further than April 20. If the Commission has had sufficient time to read the latest materials submitted, the Commission may vote to approve the ANRAD, with additional Facts-of Findings outlined above.

**2.0 General Business**

**2.1 Minor Buffer Zone Activities**

**2.2 Permit Modifications/Extensions**

**2.3 Certificates of Compliance**

**2.4 Violations**

**2.4.1 305 Union Street**

**2.5 Minutes**

**2.5.1 March 22, 2023**

**2.6 Discussion Items**

**Chair & Commission Comments – Converse and Conserve Workshop Recap, April 23  
DelCarte Event, Forest Stewardship Plans, Biodiversity Project Update, Beaver Deceiver  
Updates**