

March 19, 2024

Ms. Breeka Lí Goodlander, Agent
Town of Franklin Conservation Commission
355 East Central Street
Franklin, MA 02038

**Re: Beaver Pond Hydro-Raking
MassDEP File No. 159-XXXX
Notice of Intent Peer Review**

Dear Ms. Goodlander:

BETA Group, Inc. (BETA) has reviewed documents and plans for the Notice of Intent (NOI) seeking approval for proposed hydro-raking (the Project) within a portion of **Beaver Pond** in Franklin, Massachusetts. This letter is provided to present BETA's findings, comments, and recommendations.

BASIS OF REVIEW

The following supplemental documents were received by BETA and will form the basis of the review:

- Notice of Intent entitled ***Notice of Intent for Beaver Pond Hydro-Raking***; prepared by the Town of Franklin Department of Public Works, dated February 2024.
Attachments include:
 - Cover Letter
 - Local and State Filling Form
 - Environmental Monitor Public Notice
 - Request for Determination of Applicability dated March 2017
 - Abutter Notification Documents
 - Site Photographs.
- Plans (1 sheet) entitled ***Beaver Pond Hydro-Raking***; dated February 6, 2024; prepared by The Town of Franklin Department of Public Works; unstamped.

Review by BETA included the above items along with the following, as applicable:

- ***Massachusetts Wetlands Protection Act 310 CMR 10.00*** effective October 24, 2014
- ***Wetlands Protection Chapter 181 From the Code of the Town of Franklin***, dated August 20, 1997
- ***Conservation Commission Bylaws Chapter 271 From the Code of the Town of Franklin***, dated July 11, 2019
- ***Town of Franklin Conservation Commission Regulations***, dated October 3, 2019
- ***Town of Franklin Best Development Practices Guidebook***, dated September 2016

SITE AND PROJECT DESCRIPTION

The Site includes one (1) parcel located at 380 Beaver Street in Franklin, Massachusetts, further identified by the Franklin Assessor's Office as Assessor's Parcel 288-002-000-000. The Site is bounded to the north by the Beaver Pond Recreation Area and Beaver Street, to the south and east by undeveloped wetland/forest complexes, and to the west by Interstate-495. Existing improvements at the Site include a

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bituminous concrete parking area, a beach, and a designated swimming area. Topography at the Site is generally flat.

Resource Areas Subject to Protection under the Massachusetts Wetlands Protection Act (M.G.L. ch.131 s.40) and its implementing regulations at 310 CMR 10.00 (collectively “the Act”), as well as the Town of Franklin Wetlands Protection Bylaw (Chapter 181) and its associated regulations (collectively “the Bylaw”) are present at the Site and include:

- Inland Bank (to Pond);
- Land Under Water (LUW);
- Bordering Land Subject to Flooding (BLSF);
- and
- Buffer Zone.

There are no Outstanding Resource Waters (ORWs) or Areas of Critical Environmental Concern (ACEC) present, and the most recent Natural Heritage and Endangered Species Program (NHESP) mapping does not depict any Priority Habitat of Rare Species or Estimated Habitat of Rare Wildlife at the Site. There are no NHESP-mapped Certified or Potential Vernal Pools located within 100 feet of the Site. The Site is not located within Surface Water Protection Areas (Zone A, B, or C) or an Interim Wellhead Protections Areas. The entire Pond is located within a Zone II Wellhead Protection Area and portions of the Pond are located within a Zone I Wellhead Protection Area.

Natural Resource Conservation Service (NRCS) soil maps indicate the presence of various soil groups at the Site including Udorthents, sandy with a Hydrologic Soil Group (HSG) rating of A, and Hinckley loamy sand with a HSG rating of A.

Proposed work is associated with the removal of aquatic invasive species and include the following activities (collectively referred to as “the Project”):

- Launching the hydro-rake barge from the boat launch area at Chilson Park;
- Hydro-raking approximately 26,722 square feet of Land Under Water to remove invasive fanwort (*Cabomba caroliniana*) and other non-native aquatic plants;
- Stockpiling of vegetation;
- Disposing of materials off-site, preferably within 24 hours of Project completion;
- Surrounding materials that remain for more than 24-hours with compost filter tubes; and
- Completion of Site restoration/stabilization.

Proposed work will result in impacts to LUW, including raking of 26,722 square feet of LUW within Beaver Pond. The Project was filed as an Ecological Restoration Limited Project under provisions at 310 CMR 10.53(5) for the removal of aquatic nuisance vegetation to impede pond eutrophication; a WPA Form 3 Appendix A was provided, and notification was published in the Environmental Monitor as required.

ADMINISTRATIVE AND PLAN COMMENTS

The plan set (as identified above) is missing information and requires additional information for clarity.

Table 1. NOI Plan

NOI Plan Requirements	Yes	No
Scale of 40'=1" or larger	✓	
North Arrow (with reference)	✓	

Topographic contours (2' intervals)	✓	
Existing Conditions Topography (with source and date of survey)		✓ (See Comment A3.a.)
Proposed Topography	✓	
Existing and Proposed Vegetation	✓	
Existing Structures and Improvements	✓	
Resource Areas and Buffer Zones labeled	✓	
Location of Erosion Controls	✓	
Details of Proposed Structures	✓	
Construction Sequence and Schedule	✓	
Registered PLS Stamp (Existing Condition Plans Only)		✓ (See Comment A3.b.)
Assessors' Reference		✓ (See Comment A3.c.)
Abutting Property Assessors' Reference		✓ (See Comment A3.d.)
Survey Benchmark	✓	
Accurate Plan Scale	✓	

PLAN AND GENERAL COMMENTS

- A1. MassDEP has not issued a file number as of this writing.
- A2. The plan should be revised to include a note stating the source(s) and date(s) of the wetland delineation.
- A3. The following elements are missing from the provided plans:
 - a. The source and date of the topography on the plans should be stated (Bylaw Regulations Section 7.18.1.4).
 - b. The Plans should be stamped by a Professional Land Surveyor registered in the state of Massachusetts. BETA defers to the Commission on this requirement given the nature/scope of the Project.
 - c. An Assessors Reference for the parcel of land on which the Project will occur should be provided on the plans.
 - d. The abutting properties Assessors' Reference should be provided on the plans.

WETLAND RESOURCE AREAS AND REGULATORY REVIEW

BETA has conducted a regulatory review of the submitted documents and plans, focusing on compliance with Resource Area definitions and Performance Standards set forth in the Act and Bylaw.

The NOI application generally requires the submission of additional materials to meet all submission requirements of the Act and Bylaw. The Applicant should clarify the volume of dredging that will occur as a result of the Project, and whether that volume triggers the requirement to obtain an individual 401 Water Quality Certification. In addition, further details are required for the narrative and proposed best management practices in order to meet the requirements of the Bylaw. At this time, the Applicant has not provided the Conservation Commission with sufficient information to describe the Site, the work, and the effect of the work on the interests identified in the Bylaw.

RESOURCE AREA BOUNDARY COMMENTS

Portions of the boundary of Bank associated with Beaver Pond were previously confirmed by a Request for Determination of Applicability (RDA) for the “Beaver Pond Recreation Area Field Renovation Project” in March of 2017, including flags D1 OHW through D15 OHW.

An onsite review by BETA of delineated Resource Areas was not requested for this Project. The flags depicted on the plan do not encompass the entire limits of the proposed hydro-raking; however, the Applicant has noted that no Bank impacts will occur as part of the Project. Hydro-raking equipment will enter Beaver Pond via the existing boat ramp. BETA defers to the Commission on whether further delineation is warranted.

In addition, BLSF appears to be depicted via overlay rather than by surveyed elevation. Should the Commission accept this method of depicting BLSF, it is recommended that a finding be included within the Order of Conditions stating that the boundary of BLSF is not approved.

CONSTRUCTION COMMENTS

- W1. If stockpiles are left onsite for more than 24-hours, the location of the stockpiles should be moved outside of the 25-foot Buffer Zone and BLSF. A secondary stockpile location should be identified on the plans.
- W2. The Applicant should clarify how material will get from the pond to the stockpile area, as it appears that equipment will be required to transport it given the distance from the Pond Bank.
- W3. Hydro-raking will generate turbidity that can impact the water column outside of the work area. It is recommended that a turbidity curtain be required along the extents of the dredge area and remain in place until sediment settles out of the water column.

MITIGATION COMMENTS

- W4. Within the Draft Construction Sequence on the provided plan, the Applicant states that restoration/stabilization will occur. The Applicant should specify exactly what type of restoration/stabilization is being proposed. Based on the proposed work, there appears to be minimal risk of exposed soils.
- W5. The Commission should consider including a Special Condition in the Order of Conditions requiring the contractor to clean all machinery used as part of the Project and provide a signed statement indicating the date and method of cleaning, to ensure that there is no spread of invasive species.

WPA PERFORMANCE STANDARDS COMMENTS

The Project was filed as an Ecological Restoration Limited Project under 310 CMR 10.53(5) and will result in 26,722 square feet of impacts to LUW.

- W6. The NOI is missing the required narratives addressing the Project’s compliance with the LUW Performance Standards and the applicability of the Ecological Restoration Limited Project provisions to the Project. The Applicant should revise the NOI to include this information for the Commission’s review.
- W7. The WPA Form 3 indicates that work within LUW will not involve dredging. BETA has been informed by MassDEP on similar projects that hydro-raking does constitute dredging, as there is

no method to completely avoid removal of sediment from the substrate when disposing of the harvested vegetation. Dredge volumes should be provided as part of the NOI application.

Should the volume of dredged sediment exceed 100 cubic yards, an individual 401 Water Quality Certification from MassDEP will be required. The requirement for a state permit would create Massachusetts Environmental Policy Act (MEPA) jurisdiction over the Project, and it is anticipated that the areal extent of LUW impacts would exceed a MEPA threshold, requiring the submission of an Environmental Notification Form at a minimum.

BYLAW REGULATORY COMMENTS

W8. BETA defers to the Commission on the approval of the project narrative, as the narrative does not provide specific Bylaw requirements including who is performing the work, when the proposed activity will be completed, and what measures will be used to mitigate any impacts to the functions and characteristics of the Resource Area (Bylaw Regulations Section 7.9.1).

STORMWATER MANAGEMENT

The Project is subject to the Massachusetts Stormwater Management Regulations and Standards; however, it is not anticipated to have any measurable effect on stormwater runoff patterns and it will not involve any development activities. It is recommended that the Applicant provided a stamped and signed Stormwater Checklist to meet MassDEP filing requirements and a brief narrative documenting which Standards apply and do not apply to the Project.

REVIEW SUMMARY

Based on our review of the NOI submittal and Project plans, the Applicant has not provided the Conservation Commission with sufficient information to describe the Site, the work, and the effect of the work on the interests identified in the Act and the Bylaw.

If we can be of any further assistance regarding this matter, please contact us at our office.

Very truly yours,
BETA Group, Inc.



Anna Haznar
Staff Scientist



Jonathan Niro
Senior Project Scientist

cc: Amy Love, Town Planner
Bryan Taberner, AICP, Director of Planning & Community Development
Matt Crowley, P.E., BETA