

January 25, 2023

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

**Re: Franklin Heights – 0 Lincoln Street  
MassDEP File No. 159-1260 Notice of  
Intent Peer Review #2**

Dear Ms. Goodlander:

Creative Land & Water Engineering, LLC (CLAWE) has received and reviewed the second peer review comments by BETA dated December 29, 2022 for the referenced project. This letter is provided to response to BETA's comments and recommendations item by item with respect to wetland and stream crossing design and site construction phasing and fill operation and slope stabilization. Issues related to stormwater management and site plan design will be addressed by G&H in a separate letter. We will quote the comments first and be followed with our response to Beta's second comments if it is required from our first response as **CLAWE2**.

## **BASIS OF REVIEW**

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

- Notice of Intent entitled **Re: NOI, 0 Lincoln St (Parcel ID# 219-178-002-000), Franklin, MA**; prepared by Creative Land & Water Engineering, Inc.; dated September 21, 2022.
  - WPA Form 3 revised through December 7, 2022
- Plans (12 Sheets) entitled **Franklin Heights, Parcel B, 40B Development Plan**; prepared by Guerriere & Halnon, Inc.; dated September 14, 2022; revised through December 7, 2022; stamped and signed by Robert E. Constantine II, MA P.L.S. No. 49611 and Robert J. Duff, MA P.E. No. 40707.
- **Stormwater Report, Franklin Heights, Parcel B, 40B Development Plan**; prepared by Guerriere & Halnon, Inc.; dated September 14, 2022; revised through December 5, 2022; stamped and signed by Robert J. Duff, MA P.E. No. 40707.
- Plan (3 Sheets) entitled **Stream Crossing and Wetland Replication Plan**; prepared by Creative Land & Water Engineering, LLC.; dated July 20, 2022; revised through December 5, 2022; stamped and signed by Desheng Wang, MA P.E. No. 39511.
- Letter entitled **Franklin Heights – 0 Lincoln Street MassDEP File No. 159-1260 Notice of Intent Peer Review**; prepared by Creative Land & Water Engineering, LLC.; dated December 7, 2022.
- Letter entitled **Review Comments from Beta Group, Inc: Franklin Heights, Parcel B, 0 Lincoln Street dated November 2, 2022**; prepared by Guerriere & Halnon, Inc.; dated December 7, 2022.

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

- Site Visit on October 25, 2022
- **Massachusetts Wetlands Protection Act 310 CMR 10.00** effective October 24, 2014
- **Massachusetts Stormwater Handbook** effective January 2, 2008 by MassDEP
- **Stormwater Management Chapter 153 From the Code of the Town of Franklin**, Adopted May 2, 2007
- **Wetlands Protection Chapter 181 From the Code of the Town of Franklin**, dated August 20, 1997
- **Town of Franklin Best Development Practices Guidebook**, dated September 2016

## PEER REVIEW UPDATE – DECEMBER 29, 2022

The Applicant has provided revised materials and written comment responses pursuant to BETA's November 2, 2022 peer review letter. For ease of review, BETA's original comments from the November 2, 2022 peer review letter are included in plain text. Comment responses attributed to the Guerriere & Halnon, Inc. (G&H) letter are prefaced with "G&H:", and comment responses attributed to Creative Land & Water Engineering, LLC. (CLAWE) are prefaced with "CLAWE:". BETA's most recent responses are prefaced with "BETA2:".

The revisions to the Project presented by the Applicant generally include the following:

- Redesign of the stream crossing and new stream channel profile based on a more detailed existing conditions survey;
- Inclusion of additional details related to water control and dewatering;
- Inclusion of additional details intended to provide construction and stabilization sequencing of the 2H:1V slope at the southern extent of the property;
- Relocation of an infiltration basin further from the BVW boundary;
- Conversion of an infiltration basin to a detention basin; and
- Depiction of previously **undisclosed** impacts to Resource Areas and Buffer Zone on the Project plans.

Although the Applicant has provided the revisions noted above, BETA's responses in this letter identify additional information that should be provided by the Applicant to fully address previous comments and demonstrate compliance with the Act. At this time, the Applicant has not provided sufficient information to describe the Site, the work, and the effects of the work on the interests of the Act. Further, the Project does not presently comply with the Massachusetts Stormwater Management Regulations.

## SITE AND PROJECT DESCRIPTION

The Site includes two (2) parcels located at 0 Lincoln Street in Franklin, Massachusetts, further identified by the Franklin Assessor's Office as Assessor's Parcel 219-178-001-005 ("Parcel A") and Assessor's Parcel 219-178-002-000 ("Parcel B"). The Site is bounded on all sides by residential development and to the west by Lincoln Street. Parcel A consists of the existing Franklin Heights apartment and condominium complex and is improved by paved private roadways (Trooper Paul Barry Way, Shayne Road, and Leanne Way), maintained landscape areas, stormwater management infrastructure, and utilities. Parcel B is an undeveloped, wooded parcel featuring a centrally located area of upland vegetated by species including sugar maple (*Acer saccharum*), Eastern white pine (*Pinus strobus*), and roundleaf greenbrier (*Smilax rotundifolia*). Gentle topographic relief from the central upland area is present on all sides.

Several 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 the following:

- Inland Bank (to intermittent stream);
- Bordering Vegetated Wetland (BVW);
- Land Under Water (LUW); and
- Isolated Vegetated Wetland (IVW).

The boundaries of BVW and IVW were previously confirmed by an Order of Resource Area Delineation (ORAD) issued under MassDEP File No. 159-1249 on May 17, 2022 and recorded at the Norfolk County Registry of Deeds in Land Court Book 7224, Page 356. The ORAD does not indicate that Bank boundaries were approved; however, the potential presence of Vernal Pools are incorporated by reference.

The Site is not located within any Wellhead Protections Areas (Zone I, Zone II, & Interim) or Surface Water Protection Areas (Zone A, B, or C). There are also 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.

Natural Resource Conservation Service (NRCS) soil maps indicate the presence various soil groups at the Site including Woodbridge Fine Sandy Loam with a Hydrologic Soil Group (HSG) rating of C/D, Paxton Fine Sandy Loam with a HSG rating of C, and Whitman Fine Sandy Loam with a HSG rating of D.

Proposed work is associated with a residential development pursuant to M.G.L. Chapter 40B (40B) and includes the following activities (collectively referred to as “the Project”):

- Construction of a looped bituminous concrete roadway with a single entrance/egress off Trooper Paul Barry Way;
- Construction of a wetland and intermittent stream crossing consisting of an open-bottom culvert and retaining walls;
- Construction of 60 residential units, 19 of which are within Buffer Zone;
- Construction of a sidewalk with a grass buffer along one (1) side of the new roadway;
- Construction of driveways and parking areas for each unit;
- Construction of a closed drainage system that directs runoff to two (2) infiltration basins, one (1) of which is within Buffer Zone;
- Installation of new water and sewer utilities with service off of Trooper Paul Barry Way;
- Re-grading of Parcel B, including backfill at the western portion of the Site, with increases in elevation of up to twelve (12) feet; and
- Planting of various trees and shrubs.

The Project will result in direct impacts to Bank, BVW, and LUW. As a 40B development, it is assumed that the Bylaw has been or will be waived by the Franklin Zoning Board of Appeals (ZBA); therefore, the Project is being reviewed only under the Act.

## **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
North Arrow	✓	
Registered PLS Stamp (Existing Condition Plans Only)	✓	
Assessors' Reference	✓ (See Comment A2)	
Abutting Property Assessors' Reference	✓ (See Comment A2)	
Survey Benchmark	✓ (See Comment A3)	
Existing Conditions Topography (with source and date of survey)	✓ (See Comment A4)	
Accurate Plan Scale	✓	
Plan Scale 1" = 40' or smaller	✓	

**PLAN AND GENERAL COMMENTS AND RECOMMENDATIONS**

A1. No file number or technical comments have been issued by the Massachusetts Department of Environmental Protection (MassDEP) as of 10/31/2022.

*CLAWE: DEP has issued a file number -159-1260*

**BETA2: Acknowledged.**

A2. Depict Assessors' references for both the Site and the abutting properties on the plans.

*G&H: The Assessor information has been added to the Existing Conditions Plan Sheet 2 as requested.*

**BETA2: Comment resolved.**

A3. Include at least one (1) survey benchmark on the plans.

*G&H: Benchmarks have been added to plans as requested.*

**BETA2: Comment resolved.**

A4. Include the date(s) and method(s) of the topographic survey in the plan notes.

*GH: Note 14 has been added to Sheet 2 of 12 identifying the date and method of the topographic survey.*

**BETA2: Comment resolved.**

A5. Depict the proposed tree line on the Site development plans.

*G&H: the proposed tree line has been added as requested. See Sheet 5 of 12.*

**BETA2: Comment resolved.**

A6. Provide a detail of the proposed retaining wall at the stream/BVW crossing.

*CLAWE: The wall will be Shea Concrete block wall and will be provided for construction.*

**BETA2: The typical retaining wall detail requested to corroborate the proposed work with the reported impacts has not been provided - comment remains.**

**CLAWE2: A typical shea block wall is provided. See a detail sheet in updated plan.**

A7. Revise the WPA Form 3 to detail all temporary and permanent impacts to BVW, Bank, and LUW.

*CLAWE: The WPA Form 3 is updated as requested.*

**BETA2: Comment remains. The WPA Form 3 does not appear to include temporary Bank impacts associated with the crossing/retaining wall installation. It is also unclear if temporary LUW impacts have been included.**

**CLAWE2: We noted in the form that all the banks and LUW under culvert will be treated to be temporarily altered and will be restored. We have added the restoration notes in our plan.**

**See Response to W18 for restoration plan to Bank and LUW.**

A8. Depict the limit of erosion controls on all plan sheets.

*CLAWE: Provided all erosion control lines on all applied plans.*

**BETA2: Comment resolved.**

## **WETLAND RESOURCE AREAS AND REGULATORY REVIEW**

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

The NOI and associated documents and plans have been revised to address several plan comments as identified above. The Applicant has also provided additional information on the design of the stream crossing and now proposes a more appropriate channel geometry with the intent of mirroring existing hydraulics/hydrology. In addition, more detailed information related to the proposed wetland replication area has been provided to demonstrate that this area could be successfully established as a wetland and can meet the applicable Performance Standards.

However, the NOI application remains insufficient in quantifying temporary impacts (i.e., to Bank and Land Under Water) and does not propose adequate restoration of temporarily impacted Resource Areas or Buffer Zones. Therefore, the Project as proposed does not represent a minimization of impacts to jurisdictional areas. In addition, stabilization of the large 2H:1V slope at the southern extent of the property remains unclear; it is BETA's opinion that the construction sequencing proposed for this feature does not minimize the potential for impacts to Resource Areas. BETA recommends that the Applicant address the outstanding comments presented in this letter to demonstrate that the Project will support the interests of the Act.

At this time, the Applicant has not provided sufficient information to describe the Site, the work, or the effects of the work on the interests of the Act.

### **RESOURCE AREA BOUNDARY COMMENTS AND RECOMMENDATIONS**

BETA conducted a Site visit on October 25, 2022 to assess existing conditions, particularly with regards to the proposed stream crossing and adjacent BVW replication area. BETA observed numerous wetland flags in the field and considered their location when reviewing the proposed BVW replication area.

W1. BVW boundaries were previously approved under the ORAD; however, it is unclear whether the boundaries of Bank and the intermittent status of the associated stream were approved. BETA generally observed the Bank flagging in the field to accurately delineate the top of Bank where flags were present, i.e., the first observable break in slope/mean annual flood level. Based on information accessed through the Massachusetts Geographic Information Systems (MassGIS) website and the United States Geologic Survey (USGS) StreamStats tool, the stream does not appear on USGS topographic maps and is not associated with a drainage area greater than 0.50 square miles; therefore, the stream qualifies as intermittent.

*CLAWE: All wetland and streambank delineation has been approved by the ORAD at the crossing.*

**BETA2: BETA defers to the Commission on the scope of the previously issued ORAD. In the event that Bank boundaries were not confirmed within the ORAD, BETA observed an accurate Bank delineation during the October 25, 2022 Site visit.**

**CLAWE2: We agree with BETA and consider this issue settled.**

W2. Provide additional Bank delineation of the BKN series to depict the location of the stream channel along the BVW replication area.

*CLAWE: Additional bank delineation are provided and surveyed as shown on the plan.*

**BETA2: Additional flagging has been provided as requested. Based on the existing topographic data and BETA's familiarity with the location of the proposed wetland crossing, the delineation appears accurate. Comment resolved.**

W3. Provide calculations to demonstrate whether the IVWs at the Site have the water holding capacity to qualify as ILSF and be afforded protection under the AFct.

*CLAWE: The ILSF calculations had been provided during the ANRAD review. The two IVWs have area of 2520 Sf and 7887 Sf with less than 1 ft depth, respectively. So, the total volume is less than 0.25 ac-ft, which disqualify them as ILSF according to 310 CMR 10.57 (2) (b) 1. The only issue remain with IVW is the potential VP concern, which should not be an issue as no alteration is proposed to the IVW. Based on the depth of the IVW, it is our professional opinion that these two IVW is unlikely a vernal pool.*

**BETA2: The IVWs do not meet the definition of ILSF – comment resolved. BETA has not assessed the IVWs for potential vernal pool indicators and defers to the Commission on their status as vernal pools.**

**CLAWE2: There will be no direct impact on the IVW area regardless of Vernal pool status though we have documented hydrological evidences that does not appear to support vernal pool habitat conditions. It can be conditioned that the project shall take caution during the construction time. The limit of work is set about 10 ft minimum from the smaller IVW and about 14 ft to the larger IVW.**

## CONSTRUCTION COMMENTS AND RECOMMENDATIONS

W4. The Project will result in approximately 9.6 acres of clearing and grubbing. Provide a phasing plan to supplement the erosion control plan that limits the total area of disturbance at the Site at a one time. The proposed single line of perimeter erosion controls is anticipated to be insufficient for the large area of clearing where soils are associated with high runoff volumes.

*CLAWE: We will phase the project in five phases. See Plan sheet 3 for details. It will require a temporary crossing as we did with soil testing for erosion control installation.*

**BETA2: The Applicant provided a phasing plan which did not include additional erosion controls at the toe of the slope or timelines for stabilization. It is also unclear if permanent stormwater BMPs will be used for construction-period stormwater management, as the notes indicate that basins will be cleaned in Phase V but also state that temporary sediment basins will be used for construction-period stormwater control. The Applicant should clarify construction period stormwater management and stabilization phasing and provide consistency with the G&H response to Comment SW28. Use of permanent infiltration BMPs for construction-period stormwater management is not recommended.**

**CLAWE2: 1) Additional erosion control is added along the western side fill including grinding check dam, curlex slope protection. 2)When the two stormwater basins are used for temporary sediment basin, the basin shall be cleaned when the site is stabilized with vegetation and shaped to the final designed and seeded with New England detention basin seed mix. 3)The two basins will be used for stormwater management including some temporary erosion control function as a matter of fact, that is why we required cleanup at the end. The basins will not be used as the primary erosion**

control device as runoff will be pretreated as much by compost socks, check dams, woodchip mulch, etc.

- W5. The Erosion Control Plan indicates that the Site will be cleared following construction of the construction entrance and installation of erosion controls. Clarify whether the construction entrance will include full construction of the stream/BVW crossing, or if a temporary crossing is required. Should a temporary crossing be required, provide construction details.

*CLAWE: A temporary crossing for soil testing has been granted. We would request that the same or similar method of temporary crossing can be used for clearing and Erosion Control installation without soil disturbance.*

**BETA2: The requested detail for a temporary crossing has not been provided. Comment remains.**

**CLAWE2: The temporary crossing has been used before as approved by the Conservation Commission and proved effective, which include steel plates that will be placed over the stream for temporary crossing and filter fabric over the buffer zone with rubber mats or plates for temporary crossing needs. This will not impede the stream flow and minimize the impact on buffer zone. Erosion control compost tube has been placed along the sides of the crossing. This temporary crossing will stay for Phase I clearing and perimeter erosion control installation. Then the temporary crossing it will be replaced with the full crossing constructed as spelled out in Phase I**

- W6. The Applicant should confirm whether additional test pits will be conducted for this Project. Test pit data provided on the Plans is dated 2005 and should be reconfirmed as discussed in Comment SW18. Conducting test pits at the Site would require approval from the Conservation Commission and would not qualify for the exemption at 310 CMR 10.02(2)(b)2.g. if Resource Area crossings are required.

*CLAWE: The applicant has DA from the Commission to conduct soil testing, which is provided in the attached soil testing plan. Soil logs has been submitted to the Conservation Agent.*

**BETA2: Comment resolved.**

- W7. Revise the Erosion Control Plan to include a note stating clearing of the BVW and BVW replication area is prohibited until the Wetland Scientist reviews the area for woody plants to potentially transplant, as indicated on the Stream crossing and Wetland Replication Plan.

*CLAWE: The note has been incorporated to the plan special note for wetland and stream crossing as follows: 1. Clearing of the BVW and BVW replication area is prohibited until the Wetland Scientist reviews the area for woody plants to potentially transplant, as indicated on the Stream crossing and Wetland Replication Plan.*

**BETA2: Comment resolved.**

- W8. The proposed 2V:1H slope at the west side of the site will be stabilized as “designed by others”. Provide the method(s) and timing of both temporary and permanent slope stabilization to prevent sedimentation of the downgradient BVW. The Applicant should consider use of native seed mixes with wildlife habitat / pollinator habitat value for permanent stabilization where within Buffer Zone.

*CLAWE: The 2V:1H slope at the west side of the site will be constructed and stabilized as spelled out on sheet 3 of the plan entitled “Construction phasing and slope stabilization plan” by CLAWE.*

**BETA2: The above-referenced slope stabilization plan is not anticipated to be sufficient given the length and pitch of the slope, as well as its proximity to Resource Areas. BETA notes the following:**

- **Stabilization, even if only temporary, should be completed along lower portions of the slope as it is constructed. A phased stabilization plan would reduce the area of soils**

exposed at any given time.

- A “berm” of onsite loam tailing with an upgradient stone trench and underdrain will be constructed at the top of the slope to prevent uncontrolled runoff from flowing down the slope. However, precipitation falling on the slope itself will not be captured by the trench and is anticipated to erode the loam layer from the slope if left unprotected.
- The above-referenced “berm” is pitched in two (2) directions, which will likely result in sediment accumulation occurring within the stone trench. This trench is not shown on the drainage plans. The Applicant should clarify whether this trench is temporary, and depict it on the Erosion Control Plan, including its discharge point if applicable.
- As noted in Comment W4, it is recommended that the perimeter erosion controls be doubled in locations where high runoff is anticipated, i.e., the toe of this proposed slope. **A mulch berm, if feasible, could be considered for this area.**

**CLAW2: 1) The slope stabilization plan is updated with additional erosion control measures including an additional row of stump grinding check dam along side with the perimeter compost tube, fill slope curlex surface protection with loam and seed.**

**2) The temporary top of fill berm will be constructed to form a basin on top so the water can be contained and infiltrated into the tailing mix.**

**3) The trench will be installed at the final stage to reduce surface runoff over the fill. It will be level with a raised lip berm over the top of slope.**

W9. Provide a plan that depicts all Resource Area impacts associated with the Project, as the Stream Crossing and Wetland Replication Plan does not accurately disclose all impacts. It appears that temporary impacts are anticipated to be required for the following:

- a. Stream water control (if applicable);
- b. Construction of the stream/BVW crossing and retaining walls;
- c. Construction of the BVW replication area; and
- d. Installation of erosion controls along/over the BVW boundary between flags B30A/B34AN and B40AN/B44A.

*CLAW2: a. Crossing work will be preferably done during dry season if time allows to avoid dewater issue. If it needs to work during flowing season, we have devised a dewater plan for Conservation Commission to review and approval. b. The retaining wall will be provided by Shea Concrete for the crossing c. Compost tube should be adequate for the replication area given fairly flat area with little contribution watershed. D. A line of boulders can be used to shore up the bottom slope in area upgradient of flags B30A to B34AN and B40AN to B44A. The updated plan showed all resource area alteration associated with the wetland and stream crossing.*

**BETA2: It is recommended the information requested below be provided to the Conservation Commission by the Applicant in order to accurately permit the Project through an Order of Conditions.**

a. BETA concurs with the Applicant’s preference to conduct the work during low-flow conditions; however, it is assumed that groundwater dewatering will be required for deep utility installation regardless of the time of year. The dewatering detail should be revised as follows:

- i. **Remove reference to hay bales.**
- ii. **Clarify whether the 4 – 6-inch high-density polyethylene (HDPE) pipe is intended to divert streamflow through the work area during utility and culvert construction.**
- iii. **Relocate dewatering pump inlet to the work area within the crossing/utility trenches.**
- iv. **Depict locations of utility lines**
- v. **Quantify impacts to LUW associated with dewatering**



- vi. Clarify the need for the swale and sediment basin on upstream side of culvert. The Applicant may want to consider relocation of the dewatering area to the downstream side of the culvert.
- vii. Provide Buffer Zone restoration for the dewatering area if dewatering is conducted.

**CLAW2:** The information is provided as requested as follows:

- i. Eliminated hay bales from the dewatering plan.
- ii. The pipe will be only used during the temporary crossing use if needed. During the utility and culvert construction, it will be replaced by dewatering sump and pump.
- iii. The dewatering sump is moved inside the working area.
- iv. Sewer line is added to the crossing area
- v. The dewatering sump is expected to be 2 ft by 2ft and will be located in the floodplain and lined with crushed stones to minimize sediment. The LUW is assumed to be temporarily altered during construction as stated in the response to A7.
- vi. The temporary sediment basin can be constructed with compost tubes to reduce erosion in discharging.
- vii. Any dewatering area will impact only the buffer zone within the roadway and will not require restoration.

**b.** The Applicant has quantified temporary impacts to BVW associated with the construction of the retaining wall; however, a wall detail has not been provided and the quantification of temporary Bank/LUW impacts is unclear. Permanent and temporary Bank and LUW impacts should be depicted on the plans.

**CLAW2:** The retaining wall construction will not require more temporary wetland alteration than has been marked on the plan.

The temporarily altered wetland at the upstream and downstream for the crossing construction is estimated 5 ft wide and about 259 SF. We expect very minimum soil alteration in the area. The primary impact expected will be vegetation suppression. In case woody plants to be removed, it will be planted back in kind except for invasive plants. It is proposed there that six (6) shrubs including 3 highbush blueberry, 3 winterberry, and 3 sweet pepperbushes to be planted. Location will be determined in the field relative to any existing saved plants. Any disturbed soil area will be restored to original grade using saved wetland soil and seeded with New England Wetmix.

**c.** Comment remains - Temporary impacts associated with the erosion controls along the BVW boundary downgradient of the BVW replication area have not been quantified. Restoration details for this area have not been provided.

**CLAW2:** Given the relatively small excavation requirements for the wetland replication, we do not expect significant impact on the BVW boundary by setting the ECB (compost tube) right on the BVW line. Compost can be left in place for biodegradation and do not need removal. When the replication is established, we can assess if we need to overseed some of the decayed compost tube area. There are 172 ft wetland line bordering the proposed replication area, which shall impact no more than 172 Sf of wetland due to the placement of compost socks. With the biodegradation of the compost and establishment of the replication wetland, this less than 1 ft linear area shall naturally restore itself. If some overseeding needed at the end of monitoring, we will assess it and provide the Commission a report to make final decision on this.

**d.** Comment remains – temporary impacts are likely to occur along the wetland boundary and should be quantified, depicted, and restored.

**CLAW2:** See above for response.

W10. Erosion controls consisting of siltation fencing and compost filter tubes are proposed to be installed across the stream as depicted on the Wetland Replication & Stream Crossing Plan, which is not a typical method of in-water erosion, sedimentation, and/or turbidity control. Clarify what time of year the crossing work will occur, what erosion controls will be used for in-water work, and how water will be controlled during construction of the crossing. To comply with the Section 404 Massachusetts General Permit, in-water controls should only be in place while required to complete the crossing work. Based on BETA's experience with the Franklin Conservation Commission, the Commission may wish to clarify if they would prefer the use of alternative erosion controls.

*CLAWE: See response to W9. If time allows, we prefer to do the work during now flow summer and fall. If dewater is required, a dewater plan is provided on the plan detail sheet to assure no flowing water will coming through the construction section of the crossing.*

**BETA2: See BETA 2.a. response to Comment W9.**

**CLAWE2: As we noted in our Phase Plan, during the early stage of the construction, it will require temporary crossing of the wetland. The erosion control included compost filtering tubes along the two sides of the crossing, and filter fabric over the buffer zone vegetation and steel plates and/or rubber matting. This method has been approved for soil testing and will be continued for the early construction Phase I work.**

W11. To apprise the Conservation Commission of federal permitting requirements, the Project will be required to obtain U.S. Army Corps of Engineers (USACE) approval under the Section 404 Massachusetts General Permit prior to commencing construction.

*CLAWE: We agree and will start with USACE permitting when we reached a definitive consensus with the Commission review.*

**BETA2: Acknowledged.**

## MITIGATION COMMENTS AND RECOMMENDATIONS

The mitigation comments and recommendations for the Project are primarily related to the proposed BVW replication area. BVW replication area comments consider the Massachusetts Inland Wetland Replication Guidelines and generally accepted wetland science/construction procedures.

W12. If available, the BVW replication area should be backfilled initially with native hydric soils, with creating a soil blend having high organic content as a way to supplement native soils. The Applicant should estimate the volume of hydric soils that can be reused from the permanent BVW impact area associated with the crossing. Based on hand auger soil sampling conducted during BETA's Site visit, soils within the proposed replication area consist of shallow refusal and gravelly A- and B-layers. Onsite soils used for a supplemental hydric soil blend should be assessed for appropriate composition, and compost used for the supplemental hydric soil blend should consist of clean leaf mulch. It is recommended that the contractor target 50% organic matter by volume when creating supplemental hydric soils; therefore, additional compost will be required beyond the 1/3 composition indicated on the plans.

BETA recommends revising the Wetland Replication & Stream Crossing plan notes to reference the items above.

*CLAWE: There 2140 SF of wetland replication, which contains about 8" good high organic loam. With the additional transferring of about 12" wetland soil from the filled 947 SF wetland, we estimated about 20 Cu. yard of compost organic materials will be needed to achieve the 50% organic matter content soil for wetland plants as specified in the note.*

**BETA2: It is recommended that the note referenced above also include a requirement for the contractor to cover all stockpiled hydric soils and keep them moist until their eventual reuse.**

**CLAWE2: The recommended note is added to the Wetland Replication and Stream Crossing Special notes 2. The other notes numbering is adjusted accordingly.**

- W13. A note should be added to the Wetland Replication & Stream Crossing Plan indicating that the subgrade of the BVW replication area should be loosened prior to placing hydric soil backfill to provide sufficient vegetation rooting depth. If a heavily compacted C-layer is encountered, it is recommended that additional excavation/aeration occur to provide greater than 12 inches of hydric soils in the replication area.

*CLAWE: The following note is added as part of Wetland Replication Special notes: 2. The subgrade of the BVW replication area should be loosened prior to placing hydric soil backfill to design wetland scientist should be contact to inspect the site condition to assure that the C-soil is not heavily compacted prior to the placement of the top 12 inches or more organic hydric soils in the replication area.*

**BETA2: Comment resolved.**

- W14. Provide the specification sheet for the New England Wetland Plants Wetland Seed Mix for the contractor's reference.

*CLAWE: The New England Wetmix spec sheet is added to the replication plan for reference.*

**BETA2: Comment resolved.**

- W15. Include a note on the Wetland Replication and Stream Crossing Plan requiring the BVW replication area to be overseeded by doubling the recommended application rate and include a note requiring placing clean straw mulch over the seed to promote stability in the replication area until germination occurs.

*CLAWE: The recommended note is added to the special note. 3. The BVW replication area to be overseeded by doubling the recommended application rate in the NE Wetmix spec with placing clean straw mulch over the seed to promote stability and germination in the replication area.*

**BETA2: Comment resolved.**

- W16. Depict supplemental erosion controls directly upgradient of the BVW replication area on the Stream Crossing and Wetland Replication Plan.

*CLAWE: Temporary access is demarcated on the plan for replication access. In addition to the compost tube erosion control, other erosion control may be used if needed per the contractor and the wetland scientist, which include but not limited to woodchip/grindings mulch or check dam.*

**BETA2: Comment remains. Provide supplemental erosion controls.**

**CLAWE2: Additional row of staked silt fence or compost sock is added to the directly upgradient of the wetland replication area.**

- W17. Provide a narrative describing how Buffer Zone temporarily impacted by the Project will be restored following construction. Based on the provided plans, wooded areas will be cleared to access the BVW replication area and conduct grading, but no Buffer Zone replanting is depicted on the plans.

*CLAWE: The temporary access is marked on the plan with restoration note. In practice, we will try to find a path without or minimum tree removal. In any case, the access path will be restored with loam and New England Erosion Control seed mix or as approved by FCC.*

**BETA2: Access for wetland replication construction will likely require clearing of woody vegetation. The Applicant should provide an appropriate restoration plan with native woody species to reestablish the existing Buffer Zone functions upgradient of the wetland replication area.**

**CLAWE2: The restoration plan is added to the plan as follows:**

**Wetland replication access buffer zone impact restoration plan:**

1. The access will be marked in the field prior to construction.
2. The design wetland Scientist will review the area with the Conservation agent to identify the impacted shrubs if any. Field adjustment of the access may be required with the mutual agreement with the Agent in order to avoid or minimize the access impact on buffer zone vegetation. The project wetland scientist shall photo document the existing access area with counted plants and species for future reference.
3. The access shall be temporarily protected with steel plate or rubber matting as for the temporary stream and wetland crossing.
4. Any unavoidable impact on vegetation (shrubs and trees) except for invasive species, shall be mitigated in 1:1 ratio or better by planting in kind plants in the impacted area according to the same planting standard as the wetland replication area.
5. The impacted area shall be monitored for two consecutive growing seasons as the BVW replication area as the Order conditioned by Franklin Conservation Commission.
6. Any dead plants shall be replanted.

W18. Provide a method for restoring temporary BVW/Bank/LUW impact areas and describe how Banks under the crossing will be graded and permanently stabilized and include notes pertaining to Resource Area restoration on the plan set.

*CLAWE: Field survey of the stream channel has been conducted and recorded and analyzed. The information of the channel morphology is presented in the plan for reference in case channel restoration is needed. A 8-ft steel plate will be used to cover the channel that can fit inside of the 12-ft open bottom culvert. In section of utility installation, the channel will be restored with the channel width and depth as surveyed with 1:1 slope and the saved root rich bank materials plus some 12" anchoring stones extending 6" below the bottom elevation. This is added to our special notes.*

**BETA2: A restoration planting plan should be provided for temporary BVW and Bank impacts associated with the crossing, and measures to stabilize the entirety of the Banks under the crossing should be provided. The Applicant may consider placement of coir logs along the Banks.**

**CLAWE2: The restoration plan is added to the design plan as follows:**

**Bank and Land Under Water (LUW) Restoration Plan:**

The proposed project will involve an intermittent stream crossing of about 35 section of about 4 ft wide by less than 12-in deep. The crossing will be a 12-ft span open bottom box culvert. There will be a 4ft section temporarily excavated for sewer and water line installation. The rest of utilities including electric and cable will be located above the top of culvert and not to impact the bank and LUW. Except for the sewer/sewer trench construction, the rest of the bank and channel will be covered with steel plates to allow water flow and protected. The plan is devised with flexibility to allow of field use:

1. The water/sewer trenches shall be demarcated in the field prior to installation of sewer line and before the culvert installation.
2. Any temporary alteration of bank and LUW shall be documented prior to alteration by the design wetland scientist, which includes the bank section feature: bank height, bankfull width, substrate materials
3. If the bank of LUW shall be excavated, it shall be conducted in sequence to save the materials in

order of layers

4. A 10" schedule 80 PVC sleeve shall be installed under the culvert for the 8" sewer/water lines installation per the design detail drawings.
5. The saved materials from excavation shall be used in restoring the temporarily altered bank and LUW to match the documented geometry and restore the materials in the same order as excavated and stored.
6. The restored section of the bank shall be protected with jute netting in the bottom and coil roll along the bank toe of slopes.

## WPA PERFORMANCE STANDARDS COMMENTS AND RECOMMENDATIONS

The Project, according to the WPA Form 3, proposes 947 square feet of BVW impacts. However, the Applicant is required to quantify all temporary and permanent Resource Area impacts and demonstrate how the applicable Performance Standards are met. The submitted NOI does not provide information on compliance with Performance Standards. Additional information is also required to document compliance with the Massachusetts Stream Crossing Standards.

### Bank (310 CMR 10.54)

W19. Depict all temporary and permanent Bank impacts associated with the construction of the crossing. It is anticipated that a Wildlife Habitat Evaluation for Bank impacts will not be required pursuant to 310 CMR 10.54(4)(a)6.

*CLAWE: Per the design, an open bottom box culvert is used for the stream crossing, most of the 35-ft wide stream channel will be protected during construction except for an 8" sewer line installation, which will impact about 4-5 ft section of the channel. The existing channel geometry is surveyed and will be used for restoration as we noted under W18 and in the special notes 4. We agreed that the project as designed will not significantly impact the wildlife habitat function. "Notwithstanding the requirement of 310 CMR 10.54(4)(a)5., the impact on bank caused by the installation of a stream crossing is exempt from the requirement to perform a habitat evaluation in accordance with the procedures contained in 310 CMR 10.60."*

**BETA2: Temporary Bank impacts associated with the construction of the crossing are unclear – comment remains.**

*CLAWE2: See response to W18.*

W20. Provide a narrative to demonstrate compliance with the Performance Standards at 310 CMR 10.54(4).

*CLAWE: As we presented in the stream and wetland crossing design, the design meets all required standards for stream crossing with the preferred style of culvert. The stream section of crossing has less than 6" loose organic substrate due to reversed slope and stony underlay. The design will allow to keep the most of the existing channel intact. The water carry capacity is calculated based on the contributing watershed that is very consistent with the observed stream channel morphology. The stream and bank function will not be significantly impacted according to the design for channel stability, flow carrying capacity, and wildlife habitat.*

**BETA2: Quantification and restoration details for temporary Bank impacts, as well as the stabilization of all Banks under the culvert, should be provided to demonstrate compliance with the Performance Standards.**

*CLAWE2: See response to W18.*

W21. The following comments are provided regarding the Massachusetts Stream Crossing Standards:

- a. The proposed crossing appears to meet the Massachusetts Stream Crossing Standards 1 through 4 (Type of Crossing, Embedment, Crossing Span, and Openness Ratio). However, the Applicant should clarify the proposed Openness Ratio. The Openness Ratio is listed as 0.30, which does not meet the 0.82 requirement. However, the design appears to provide sufficient openness in excess of the requirement.

*CLAWE: The openness ratio has length unit. The design used metric unit of meter and the state standard used ft.  $0.82 \text{ ft} = 0.25 \text{ m}$ . So the design meets the openness ratio standard. The updated plan clarifies the unit.*

**BETA2: Comment resolved.**

- b. Provide information to demonstrate compliance with Standard 5 (Substrate).

*CLAWE: The existing channel is surveyed and documented. The design and construction will keep the existing channel geometry and substrate.*

**BETA2: It appears that the Applicant proposes to preserve the existing substrate for use in the channel in the event that temporary impacts to LUW occur under the culvert. Comment resolved.**

- c. Provide survey cross sections of the stream to demonstrate that the appropriate water depth and velocity will be achieved (Standard 6). Based on BETA's Site visit, it appears that a one (1)-foot-deep channel may be too deep for this location. The existing stream in this location appears to seep through a discrete hummock under low flow conditions and overtops the hummock in higher flow scenarios. Additional spot shots and revised channel grading should be provided to demonstrate that the deeper upstream water levels observed during the Site visit, which appeared to be a result of the existing hydraulic restriction, will not be adversely affected. The proposed channel grading should result in hydraulic conditions comparable existing conditions.

*CLAWE: More information and survey data are provided in the plan to update the stream channel geometry more accurately. The channel has a reverse slope in the crossing section. Some boulders appear to be placed in the downgradient side of the crossing to acting as a broad crest weir condition to cause some backup pool upstream. We analyzed the hydraulics using weir function, which matches the surveyed stream bankfull flow condition very well. The existing survey data will be used to restore the channel if altered to the hydraulic condition comparable existing condition.*

**BETA2: Comment resolved - the new channel design uses on-the-ground survey data which documents the preservation of existing hydrology/hydraulics.**

#### **Bordering Vegetated Wetland (310 CMR 10.55)**

W22. Provide a narrative describing the "Avoid/Minimize/Mitigate" considerations that were assessed during the design of the Project.

*CLAWE: The site is surrounded by wetlands and there is no alternative access that can avoid wetland alteration. The project has designed the crossing to meet all public safety and zoning requirement with retaining wall and open bottom culvert to minimize the impact meeting all crossing and replication ratio for mitigation.*

**BETA2: BETA defers to the Commission to determine whether this is sufficient to demonstrate**

that the Applicant has minimized unavoidable impacts. BETA notes that sufficient restoration details for temporary wetland and buffer zone alteration areas have not been provided.

**CLAWE2: See response to W18. The applicant team has provided all requested data and restoration plans for the updated plans.**

W23. Although the Applicant has proposed a replication area that exceeds the size of the proposed BVW impacts, no discussion of BVW Performance Standards was included in the NOI. Demonstrate that the Project adheres to the Performance Standards at 310 CMR 10.55(4)(b).

*CLAWE: Field data is provided for soil and groundwater hydrology. The wetland scientist will supervise and monitor the replication process as designed for the wetland replication to comply with the performance requirements in 310 CMR 10.55(4)(b):*

- 1. The replication area is more than twice of the filled area exceeding 1:1 required.*
- 2. The groundwater and surface elevation of the replication area will mimic the filled area and suitable for wetland plants.*
- 3. The replication area is in similar configuration as the filled wetland abutting the same stream.*
- 4. The replication area has unrestricted hydraulic connection with the existing wetland around*
- 5. The replication area is located in the immediate neighboring area abutting the same stream.*
- 6. The replication area will be monitored for two consecutive growing seasons following replication planting to assure that 75% of the surface of the replacement area shall be reestablished with indigenous wetland plant species.*
- 7. As a relatively small wetland replication, it is our professional judgement that the replication exceeds all required performance standards.*

**BETA2: Comment resolved.**

W24. Provide depth to groundwater within the replication area to demonstrate that the proposed grading will result in Estimated Seasonal High Ground Water (ESHGW) levels occurring within 12 inches of the final surface elevation.

*CLAWE: Four soil testing locations are provided with soil profile and groundwater data to assure the proper grading and wetland hydrology in the replication area.*

**BETA2: Indicators of groundwater are present at an appropriate depth when compared to proposed wetland replication area grades. Comment resolved.**

#### **Land Under Water (310 CMR 10.56)**

W25. Depict all temporary and permanent LUW impacts associated with the construction of the crossing.

*CLAWE: As discussed above, the construction will be preferably conducted during no flow time. If timing dictates work during flowing time. Dewatering plan is devised to route the water bypassing the construction section. Given that most of the channel will be kept intact. The LUW will not be impacted significantly. Any alteration will be restored to the documented existing condition.*

**BETA2: Comment remains. As previously noted, it is unclear whether temporary LUW impacts have been considered. These should be depicted on the plans and quantified.**

**CLAWE2: See response to W18. We quantified the alteration to bank and LUW in the updated WPA Form 3.**

W26. Provide a narrative demonstrating compliance with 310 CMR 10.56(4).

*CLAWE: As we showed, the design will maintain the existing stream channel geometry and substrate by using large open bottom box culvert to meet and exceed all stream crossing standard that are in compliance with 310 CMR 10.56(4):*

1. Analysis shows that the channel water capacity and other hydraulic pattern will be maintained as existing condition.
2. No significant ground and surface water is expected to be altered for the water body.
3. The capacity of said land under water will be significantly the same as the existing condition to provide breeding habitat, escape cover. No fish presence is expected for this intermittent stream.
4. The crossing will temporarily alter less than 200 sq ft of LUW in an existing used old car path section, which will unlikely adversely impact any significant wildlife habitat function with the preferred crossing method.
5. The proposed work on the stream crossing shall be presumed to meet the performance standard set forth in 310 CMR 10.56(4)(a) given that the work is performed in compliance with the Massachusetts Stream Crossing Standards by consisting of a span or embedded culvert in which, at a minimum, the bottom of a span structure or the upper surface of an embedded culvert is above the elevation of the top of the bank, and the structure spans the channel width by a minimum of 1.2 times the bankfull width. This presumption is rebuttable and may be overcome by the submittal of credible evidence from a competent source. Notwithstanding the requirements of 310 CMR 10.56(4)(a)4., the impact on Land under Water Bodies and Waterways caused by the installation of a stream crossing is exempt from the requirement to perform a habitat evaluation in accordance with the procedures established under 310 CMR 10.60.

**BETA2: Temporary LUW impacts should be quantified, and a restoration plan should be provided to comply with the Performance Standards.**

**CLAW2: See response to W18.**

## STORMWATER MANAGEMENT REVIEW

See G&H response

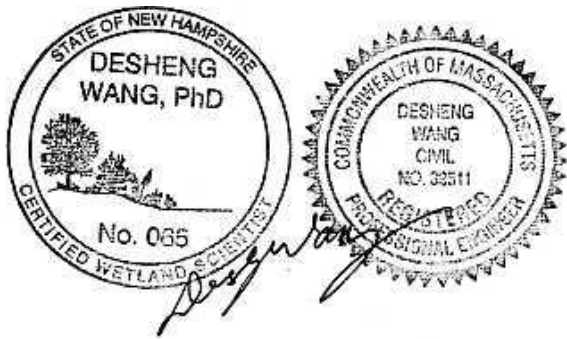


## REVIEW SUMMARY

Based on our review of the NOI submittal and Project plans, the Applicant has not submitted sufficient information to describe the Site, the work, and the effects of the work on the interests of the Act. In addition, the Project does not presently comply with the Massachusetts Stormwater Management Regulations.

**CLAW2: In summary, the project design engineer and wetland scientist has addressed all peer review comments regarding wetland and stream crossing design and mitigation replication. If you have further questions, please feel free to contact us.**

Sincerely,  
Creative Land & Water Engineering, LLC  
By



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