

TOWN OF DUXBURY CONSERVATION COMMISSION

878 Tremont Street, Duxbury, Massachusetts 02332-4499
(781) 934-1100 ext. 134
FAX (781) 934-1137

February 10, 2021

Freeman Boynton, Jr
Duxbury Construction LLC
PO Box 2514
Duxbury, MA 02331

RE: Determination of Applicability
MA Wetlands Protection Act & Duxbury Wetlands Protection Bylaw
44 River Lane, Lot Number 117-151-000

Dear Mr. Boynton:

Enclosed are the Determination of Applicability documents that the Duxbury Conservation Commission voted to issue to you at its meeting on February 9, 2021 in response to your Request for Determination of Applicability (RDA). The Commission voted a negative determination that a Notice of Intent is not required for the proposed irrigation well. The Commission felt that the proposed work would not alter the wetland resources protected under the Wetlands Protection Act and the Local Bylaw, provided the work is completed as described in the Request for Determination and as discussed at the meeting.

If there are any significant changes to your proposal you should contact the Conservation Commission Office to see if any further review is required by the Commission.

If you have questions, don't hesitate to call.

Very truly yours,

DUXBURY CONSERVATION COMMISSION

By


Joseph M. Grady, Jr.
Conservation Administrator



Town of Duxbury

DEP File No.

City/Town: **DUXBURY**

Applicant: **Duxbury Construction**

Date Request Filed: **January 19, 2021**

Determination of Applicability Town of Duxbury Wetlands Protection Law General Bylaw, Chapter 9

From: **DUXBURY CONSERVATION COMMISSION** (Issuing Authority)

TO Freeman Boynton, Duxbury Construction LLC David Caso
(Name of Person Making request) (Name of property owner)
Address P.O. Box 2514, Duxbury, MA 02331 Address 44 River Lane Duxbury, MA 02332

This determination is issued and delivered as follows:

- by hand delivery to person making request on 2/10/21 (date)
- sent by certified mail, return receipt requested on _____ (date)

Pursuant to the authority of Chapter 9 (Wetlands Protection) of the General Bylaws of the Town of Duxbury, the **Duxbury Conservation Commission** has considered your request for a Determination of Applicability and its supporting documentation, and has made the following determination (check whichever is applicable): Shown on a plan entitled Proposed Irrigation Well in Duxbury dated 12/17/2020.

Location: Street Address 44 River Lane
Lot Number: 117-151-000

This Determination is positive:

1. The area described below, which includes all/part of the area described in your request, is an Area Subject to Protection Under the BYLAW. Therefore, any removing, filling, dredging or altering of that area requires the filing of a Notice of Intent.
2. The work described below, which includes all/part of the work described in your request, is within an Area Subject to Protection Under the BYLAW and will remove, fill, dredge or alter that area. Therefore, said work requires the filing of a Notice of Intent.

3. The work described below, which includes all/part of the work described in your request, is within the Buffer Zone as defined in the regulations, and will alter an Area Subject to Protection Under the BYLAW. Therefore, said work requires the filing of a Notice of Intent.

This Determination is negative:

1. The area described in your request is not an Area Subject to Protection Under the BYLAW.
2. The work described in your request is within an Area Subject to Protection Under the BYLAW, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.
3. The work described in your request is within the Buffer Zone, as defined in the regulations, but will not alter an Area Subject to Protection Under the BYLAW. Therefore, said work does not require the filing of a Notice of Intent.
4. The area described in your request is Subject to Protection Under the BYLAW, but since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required: _____

Issued by **Duxbury Conservation Commission**

Signatures (s) Corey L. Wisneski
 Corey L. Wisneski, Chairman

Samuel W. Butcher
 Samuel W. Butcher

Robb L. D'Ambruoso
 Robb L. D'Ambruoso

Thomas J. Gill III
 Thomas J. Gill III

Daniel 'Mickey' McGonagle
 Daniel 'Mickey' McGonagle

Hollis B. Morris
 Hollis B. Morris

Scott M. Zoltowski
 Scott M. Zoltowski

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

On this the 10th day of February, 2021, before me personally appeared the above members, to me known to be the person described in, and who executed, the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed.

Joseph M. Grady, Jr.
 Notary Public, Joseph M. Grady, Jr.

My Commission Expires _____

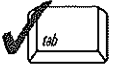

This Determination does not relieve the applicant from complying with all other applicable federal, state or local statutes, ordinances, by-laws or regulations. This Determination shall be valid for three years from the date of issuance.



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 2 – Determination of Applicability
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. General Information

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



From: Duxbury
 Conservation Commission

To: Applicant			Property Owner (if different from applicant):		
<u>Duxbury Construction LLC</u>			<u>David Caso</u>		
Name			Name		
<u>PO Box 2514</u>			<u>44 River Lane</u>		
Mailing Address			Mailing Address		
<u>Duxbury</u>	<u>MA</u>	<u>02331</u>	<u>Duxbury</u>	<u>MA</u>	<u>02332</u>
City/Town	State	Zip Code	City/Town	State	Zip Code

- Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

<u>Proposed Irrigation Well in Duxbury</u>	<u>12/17/2020</u>
Title	Date
<u> </u>	<u> </u>
Title	Date
<u> </u>	<u> </u>
Title	Date
- Date Request Filed:

01/20/2021

B. Determination

Pursuant to the authority of M.G.L. c. 131, § 40, the Conservation Commission considered your Request for Determination of Applicability, with its supporting documentation, and made the following Determination.

Project Description (if applicable):

Install an irrigation well 50.8' from the B.V.W./coastal bank

Project Location:

<u>44 River Lane</u>	<u>Duxbury</u>
Street Address	City/Town
<u>117</u>	<u>151-000</u>
Assessors Map/Plat Number	Parcel/Lot Number



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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B. Determination (cont.)

The following Determination(s) is/are applicable to the proposed site and/or project relative to the Wetlands Protection Act and regulations:

Positive Determination

Note: No work within the jurisdiction of the Wetlands Protection Act may proceed until a final Order of Conditions (issued following submittal of a Notice of Intent or Abbreviated Notice of Intent) or Order of Resource Area Delineation (issued following submittal of Simplified Review ANRAD) has been received from the issuing authority (i.e., Conservation Commission or the Department of Environmental Protection).

1. The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.

2a. The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid.

2b. The boundaries of resource areas listed below are not confirmed by this Determination, regardless of whether such boundaries are contained on the plans attached to this Determination or to the Request for Determination.

3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.

4. The work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to protection under the Act. Therefore, said work requires the filing of a Notice of Intent or ANRAD Simplified Review (if work is limited to the Buffer Zone).

5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by:

Name of Municipality

Pursuant to the following municipal wetland ordinance or bylaw:

Name

Ordinance or Bylaw Citation



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

B. Determination (cont.)

6. The following area and/or work, if any, is subject to a municipal ordinance or bylaw but not subject to the Massachusetts Wetlands Protection Act:
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7. If a Notice of Intent is filed for the work in the Riverfront Area described on referenced plan(s) and document(s), which includes all or part of the work described in the Request, the applicant must consider the following alternatives. (Refer to the wetland regulations at 10.58(4)c. for more information about the scope of alternatives requirements):

- Alternatives limited to the lot on which the project is located.
- Alternatives limited to the lot on which the project is located, the subdivided lots, and any adjacent lots formerly or presently owned by the same owner.
- Alternatives limited to the original parcel on which the project is located, the subdivided parcels, any adjacent parcels, and any other land which can reasonably be obtained within the municipality.
- Alternatives extend to any sites which can reasonably be obtained within the appropriate region of the state.

Negative Determination

Note: No further action under the Wetlands Protection Act is required by the applicant. However, if the Department is requested to issue a Superseding Determination of Applicability, work may not proceed on this project unless the Department fails to act on such request within 35 days of the date the request is post-marked for certified mail or hand delivered to the Department. Work may then proceed at the owner's risk only upon notice to the Department and to the Conservation Commission. Requirements for requests for Superseding Determinations are listed at the end of this document.

1. The area described in the Request is not an area subject to protection under the Act or the Buffer Zone.
2. The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.
3. The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).
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4. The work described in the Request is not within an Area subject to protection under the Act (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

B. Determination (cont.)

5. The area described in the Request is subject to protection under the Act. Since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required:

Exempt Activity (site applicable statutory/regulatory provisions)

6. The area and/or work described in the Request is not subject to review and approval by:

Name of Municipality

Pursuant to a municipal wetlands ordinance or bylaw.

Name

Ordinance or Bylaw Citation

C. Authorization

This Determination is issued to the applicant and delivered as follows:

by hand delivery on

by certified mail, return receipt requested on

Date

Date

This Determination is valid for **three years** from the date of issuance (except Determinations for Vegetation Management Plans which are valid for the duration of the Plan). This Determination does not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.

This Determination must be signed by a majority of the Conservation Commission. A copy must be sent to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>) and the property owner (if different from the applicant).



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

C. Authorization (cont.)

Signatures:

Signature

Corey L. Wisneski, Chair

Printed Name

Signature

Robb L. D'Ambruoso, Vice-chair

Printed Name

Signature

Samuel W. Butcher

Printed Name

Signature

Thomas J. Gill III

Printed Name

Signature

Daniel McGonagle

Printed Name

Signature

Hollis B. Morris

Printed Name

Signature

Scott M. Zoltowski

Printed Name

Signature

Printed Name

D. Appeals

The applicant, owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, 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 Department of Environmental Protection Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>) to issue a Superseding Determination of Applicability. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form (see 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 Determination. 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. The request shall state clearly and concisely the objections to the Determination which is being appealed. To the extent that the Determination is based on a municipal ordinance or bylaw and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.