



Environmental Consulting & Restoration, LLC



ADDITIONAL INFORMATION - STREAM REVIEW MEMO

TO: Duxbury Conservation Commission
FROM: Brad Holmes
DATE: February 22, 2024
RE: 50 Railroad Avenue, Duxbury – DEP File #SE018-2059

Please include this Additional Information Stream Review Memo with the NOI application under review for the property located at 50 Railroad Avenue in Duxbury (the Site). As previously stated to the Commission, Environmental Consulting & Restoration, LLC (ECR) is familiar with the stream located on and near the site. ECR confirmed this stream to be intermittent during the ANRAD process in 2018. Included as part of this additional information is a copy of the ORAD and ECR's support information during the ANRAD process.

During the intermittent stream review, ECR did research on whether the timing of the stream review was during a drought period. Please refer to ECR's 12-15-17 letter stating that the review was performed during a non-drought status and the location of the photographs in the stream bed. This was peer reviewed by Marti Nover of Nover Armstrong Associates during the ANRAD process.

Regarding drought status, there were no drought declarations in September 2017. The closest MassDCR (Massachusetts Department of Conservation & Recreation) drought status to the date of the photographs is August 2017, see link below, which stated normal status.

https://www.mass.gov/files/documents/2017/09/22/august_2017.jpg

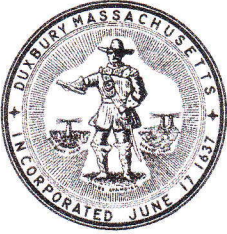
The past MassDCR drought list is found below:
<https://www.mass.gov/info-details/drought-status#past-droughts-and-declaration->

Wetland Strategies, Inc. sent a document to the Commission titled MASSACHUSETTS DROUGHT RETROSPECTIVE 2016-2017. By September 2017 the drought was over. The only thing that comes close in this report is that precipitation had an advisory noted in the Southeast in September 2017. This is not a drought status declaration. Streamflow is noted as normal in Sept. 2017. All other data appears normal in Sept. 2017. This document should not be used to determine drought. The MassDCR website is what is used regarding drought status. Not the drought retrospective.

How this relates today. The stream was confirmed as Intermittent per the ORAD DEP File #SE18-1786. The ORAD was issued in Jan. 2018 and was extended through the Covid Extension. Today, it is not the burden of proof of the applicant to show that the USGS mapped perennial stream is intermittent since prior history confirmed intermittent status. Today, we need to show that the confirmed intermittent stream cannot be perennial. South River Environmental has documented the stream intermittent both ways per the Regulations found at 310 CMR 10.58 to confirm the intermittent stream does not meet the criteria as a perennial stream.

Upon review of this memo, please contact me at (617) 529 – 3792 or brad@ecrwetlands.com with any questions or requests for additional information.

Thank you,
Brad Holmes, Professional Wetland Scientist #1464
Manager



TOWN OF DUXBURY CONSERVATION COMMISSION

878 Tremont Street, Duxbury, Massachusetts 02332-4499
(781) 934-1100 ext. 5471

January 17, 2018

Sealund Corporation
764 Washington Street
Pembroke, MA 02359

RE: ANRAD – 136-138 Bay Road
Lots #106-032-004 & 136-032-005

Dear Applicant:

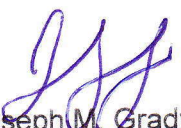
Enclosed are the Orders of Resource Area Delineation issued by the Conservation Commission on January 9, 2017 in accordance with the Town Bylaw and the State Wetlands Protection Act.

If you have any questions, feel free to call the Conservation Commission Office at 781-934-1100, ext.5471.

Very truly yours,

DUXBURY CONSERVATION COMMISSION

By


Joseph M. Grady, Jr.
Conservation Administrator



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 4B – Order of Resource Area Delineation

Provided by MassDEP:

SE18-1786
 MassDEP File Number

eDEP Transaction Number

Duxbury
 City/Town

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.



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

From: Duxbury
 1. Conservation Commission

2. This Issuance is for (check one):

- a. Order of Resource Area Delineation
- b. Amended Order of Resource Area Delineation

3. Applicant:

a. First Name Sealund Corporation b. Last Name _____
 c. Organization 764 Washington Street
 d. Mailing Address Pembroke MA 02359
 e. City/Town _____ f. State _____ g. Zip Code _____

4. Property Owner (if different from applicant):

Wheaton College; Brian Douglas, Finance Office
 a. First Name _____ b. Last Name _____
 c. Organization 26 Main Street
 d. Mailing Address Norton MA 02766
 e. City/Town _____ f. State _____ g. Zip Code _____

5. Project Location:

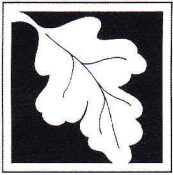
136 & 138 Alden Street Duxbury 02332
 a. Street Address _____ b. City/Town _____ c. Zip Code _____
106-032-004 & 106-032-005
 d. Assessors Map/Plat Number _____ e. Parcel/Lot Number _____
 Latitude and Longitude _____ d m s _____ d m s
 (in degrees, minutes, seconds): f. Latitude _____ g. Longitude _____

6. Dates:

Sept. 25, 2017 January 9, 2018 January 17, 2018
 a. Date ANRAD filed _____ b. Date Public Hearing Closed _____ c. Date of Issuance _____

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

Wetland Delineation Plan for #136Š Alden Street Duxbury by South Shore Survey Consultants; sign & stamp by William E Rainey, Land Surveyor O12/15/2017
 _____ b. Date _____
 _____ c. Title _____ d. Date _____



**WPA Form 4B – Order of Resource Area
Delineation**

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

B. Order of Delineation

1. The Conservation Commission has determined the following (check whichever is applicable):

a. **Accurate:** The boundaries described on the referenced plan(s) above and in the Abbreviated Notice of Resource Area Delineation are accurately drawn for the following resource area(s):

- 1. Bordering Vegetated Wetlands
- 2. Other resource area(s), specifically:

a. Intermittent Stream

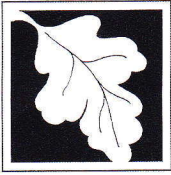
b. **Modified:** The boundaries described on the plan(s) referenced above, as modified by the Conservation Commission from the plans contained in the Abbreviated Notice of Resource Area Delineation, are accurately drawn from the following resource area(s):

- 1. Bordering Vegetated Wetlands
- 2. Other resource area(s), specifically:

c. **Inaccurate:** The boundaries described on the referenced plan(s) and in the Abbreviated Notice of Resource Area Delineation were found to be inaccurate and cannot be confirmed for the following resource area(s):

- 1. Bordering Vegetated Wetlands
- 2. Other resource area(s), specifically:

3. The boundaries were determined to be inaccurate because:



WPA Form 4B – Order of Resource Area Delineation

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

C. Findings

This Order of Resource Area Delineation determines that the boundaries of those resource areas noted above, have been delineated and approved by the Commission and are binding as to all decisions rendered pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40) and its regulations (310 CMR 10.00). This Order does not, however, determine the boundaries of any resource area or Buffer Zone to any resource area not specifically noted above, regardless of whether such boundaries are contained on the plans attached to this Order or to the Abbreviated Notice of Resource Area Delineation.

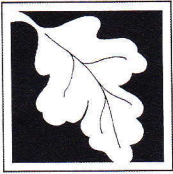
This Order must be signed by a majority of the Conservation Commission. The Order must be sent by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html>).

D. Appeals

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

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

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



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 4B – Order of Resource Area Delineation

Provided by MassDEP:

SE18-1786

MassDEP File Number

eDEP Transaction Number

Duxbury

City/Town

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

E. Signatures

January 9, 2018

Date of Issuance

7

1. Number of Signers

Please indicate the number of members who will sign this form

Carey Wones
 Signature of Conservation Commission Member

[Signature]
 Signature of Conservation Commission Member

Signature of Conservation Commission Member

[Signature]
 Signature of Conservation Commission Member

[Signature]
 Signature of Conservation Commission Member

[Signature]
 Signature of Conservation Commission Member

Signature of Conservation Commission Member

This Order is valid for three years from the date of issuance.

If this Order constitutes an Amended Order of Resource Area Delineation, this Order does not extend the issuance date of the original Final Order, which expires on _____ unless extended in writing by the issuing authority.

This Order is issued to the applicant and the property owner (if different) as follows:

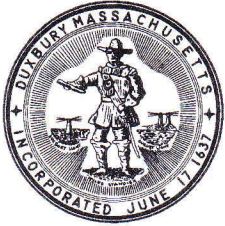
2. By hand delivery on

3. By certified mail, return receipt requested on

January 17, 2018

a. Date

a. Date



TOWN OF DUXBURY

DEP File No. SE18-1786

Applicant: Harrington

Order of Resource Area Delineation Duxbury Wetlands Protection Bylaw General Bylaw, Chapter 9

A. General Information

From: Duxbury Conservation Commission

To: Applicant:

Sealund Corporation

Name

764 Washington Street

Mailing Address

Pembroke

City/Town

MA

State

02359

Zip Code

Property Owner:

Wheaton College; Brian Douglas, Finance Office

Name

26 Main Street

Mailing Address

Norton

City/Town

MA

State

02766

Zip Code

1. Project Location:

136 & 138 Alden Street

Street Address

106-032-004 & 136-032-005

Assessors Map/Parcel Number

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

Wetland Delineation Plan for #136Š Alden Street, Duxbury prepared by South
Shore Survey Consultants; signed & stamped by William E Rainey, Land Surveyor

12/15/17

Date

Title

Date

Title

Date

3. Dates:

9/25/17

Date ANRAD Filed

1/9/2018

Date Public Hearing Closed

01/17/2018

Date of Issuance

This Order is valid for three years from the date of issuance.

This Order is issued to the applicant and the property owner (if different) as follows:

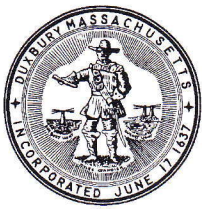
by hand delivery on

by certified mail, return receipt requested on

1/17/18

Date

Date



Order of Resource Area Delineation

Duxbury Wetlands Protection Bylaw

General Bylaw, Chapter 9

B. Order of Delineation

The Conservation Commission has determined the following:

Accurate: The boundaries described on the referenced plan(s) above and in the Abbreviated Notice of Resource Area Delineation are accurately drawn for the following resource area(s):

Bordering Vegetated Wetlands

Other Resource Area(s), specifically:

Intermittent Stream; 100-foot Buffer Zone; Isolated Vegetated Wetland; Potential Vernal Pool

Modified: The boundaries described on the plan(s) referenced above, as modified by the Conservation Commission from the plans contained in the Abbreviated Notice of Resource Area Delineation, are accurately drawn from the following resource area(s):

Bordering Vegetated Wetlands

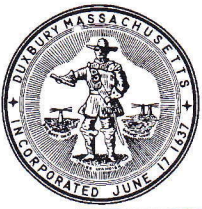
Other Resource Area(s), specifically:

Inaccurate: The boundaries described on the referenced plan(s) and in the Abbreviated Notice of Resource Area Delineation were found to be inaccurate and cannot be confirmed for the following resource area(s):

Bordering Vegetated Wetlands

Other Resource Area(s), specifically:

The boundaries were determined to be inaccurate because:



**Order of Resource Area Delineation
Duxbury Wetlands Protection Bylaw
General Bylaw, Chapter 9**

Issued by: **Duxbury Conservation Commission**

Signatures (s) *Corey 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

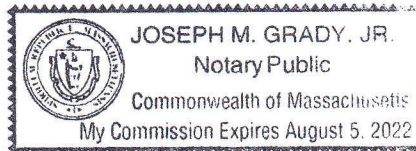
Hollis B. Morris
Hollis B. Morris

Scott M. Zoltowski
Scott M. Zoltowski

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

Commonwealth of Massachusetts County of Plymouth

On this **9th day of January 2018**, before me, the undersigned notary public, personally appeared the above Conservation Commission members, proved to me through satisfactory evidence of identification, which was based on my personal knowledge of the identity of the principal, to be the persons whose names are signed on the preceding or attached document, and in my presence acknowledged to me that he/she signed it voluntarily for its stated purpose.



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

Appeals

Any applicant, owner, abutter, or other party in interest may appeal an Order of the Conservation Commission under this Bylaw to the Superior Court of Plymouth County no later than sixty (60) days following the date of issuance of the Order.

ECR

Environmental Consulting & Restoration, LLC



December 15, 2017

Town of Duxbury
Conservation Commission
878 Tremont Street
Duxbury, MA 02332
Attn: Joe Grady, Conservation Administrator

RE: Letter to Support the Abbreviated Notice of Resource Area Delineation (ANRAD), 136 & 138 Alden Street, Duxbury, DEP File #SE18-1786

Dear Mr. Grady & Members of the Conservation Commission:

Pursuant to Nover Armstrong Associates, Inc.'s December 11, 2017 peer review letter on ANRAD application to confirm the classification and location of wetland resource areas at 126 & 138 Alden Street, ECR is submitting this letter signed under the penalties of perjury to attest to the authenticity the photographs and observations of dry stream bed and/or no flow conditions within the intermittent stream on and near the property at 136 and 138 Alden Street in Duxbury (the Site). I performed field observations and collected photographs of the intermittent stream in a dry and/or no flow status in September 2017 during a non-drought status. My observations and photographs collected during the September 2017 review are contained in the August 30, 2017 wetland delineation report with accompanying photographs.

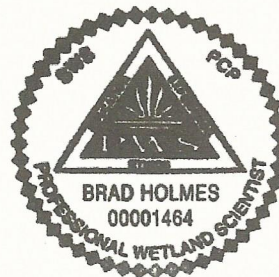
In addition to this letter are the following:

1. Wetland Delineation Memo with Photographs
2. Sketch showing the approximate location of each photograph at the site

The data presented to confirm the intermittent stream status follows the criteria for stream classification as defined in the Riverfront Area Regulations found at 310 CMR 10.58(2)(a)(1)(d). It is also our understanding that intermittent stream status for this stream has been previously been determined for other projects located to the east of the site. If you have any questions or require additional information, please contact me at (617) 529-3792.

Sincerely yours,
Environmental Consulting & Restoration, LLC

Brad Holmes, PWS, MCA
Manager



CC: South Shore Survey Consultants, Inc.
Sealund Corp., 794 Washington Street, Pembroke, MA 02359

ECR

Environmental Consulting & Restoration, LLC

August 30, 2017



Wetland Delineation Report – #136 Alden Street, Duxbury, Massachusetts

Wetland Report Narrative

On August 9, 2017 Environmental Consulting & Restoration, LLC (ECR) delineated the landward limits of Bordering Vegetated Wetlands and the Inland Bank of a stream located on and near the property at #136 Alden Street in Duxbury (the Site). The site consists of a single family home with a paved driveway, large barn and outbuildings, horse corrals, lawn, landscaped areas, etc. The weather on August 9th was sunny, clear and warm (approximately 70 degrees) with light wind and dry site conditions. As a result of ECR's field work and review of available environmental databases, ECR is able to confirm that the site contains the following wetland resource areas and areas of Conservation Commission jurisdiction:

- Bordering Vegetated Wetlands (BVW)
- Isolated Vegetated Wetland (IVW)
- 100 foot buffer zone to BVW & IVW

Notes:

1. The site is not located within an area mapped as Priority Habitat & Estimated Habitat for Rare Species according to the Massachusetts Natural Heritage & Endangered Species Program (MaNHESP).
2. The site does not contain or is near a Certified Vernal Pool according to the MaNHESP. Please note that ECR delineated the Mean Annual High Water line of a mapped Potential Vernal Pool to the northwest of the site.
3. The site is not located within an area mapped as Land Subject to Flooding according to the FEMA Maps.
4. The site does abut a U.S.G.S. mapped perennial stream.
5. The site is not located within an Area of Critical Environmental Concern (ACEC).

Wetland Delineation

A BVW system is located along and near the eastern portion of the site. This BVW connects to a U.S.G.S. mapped perennial stream located on and near the eastern portion of the site. An IVW system is located on and near the northwestern corner of the site. These vegetated wetlands were delineated following the methodology established by the Massachusetts Department of Environmental Protection (DEP) regulations found at 310 CMR 10.55 pertaining to the delineation of Bordering Vegetated Wetlands. The delineation was performed by analyzing vegetation, hydrology within 12 inches of the surface, and soil conditions within 20 inches of the surface. The vegetated wetlands contain hydric soils, saturated soils, and dominant wetland indicator. BVW flags (pink & black striped ribbons) #A1 to #A40 and IVW flags #B1 to #B9 were placed along the landward limits of the vegetated wetlands resource areas on and near the site. One transect with two examination plots (yellow numbered plastic ribbons) was conducted in order to verify the accuracy of this wetland delineation (please refer to the DEP BVW Field Data Sheets attached).

Please note that within the B series IVW exists a ponded area of water that appears to meet the criteria of a vernal pool. MassGIS identifies this area as a Potential Vernal Pool. Therefore, ECR flagged the Mean Annual High Water line of the potential vernal pool within blue flagging numbered PVP1 to PVP6.

Inland Bank Delineation

The USGS topographic map identifies the stream within the A series BVW as a perennial stream (dark blue line). Therefore, ECR delineated the top of the Inland Bank of the stream with blue flagging numbered #IB1 to #IB23. The delineation was conducted by locating the first observable break in slope,

ECR

Environmental Consulting & Restoration, LLC

August 30, 2017



meaning, where the bank of the stream was obvious. Where the stream did not contain an obvious first observable break in slope, the mean annual high water line was delineated by analyzing bankfull conditions. Please note that portions of the stream bed were dry during ECR's site review. It also appears that this stream was created as a channel or ditch as part of the historic cranberry bog operations at the site. It is ECR's opinion that this stream should not be considered a perennial stream since it was dry during the site review and was historically ditched. Although additional dry stream conditions are necessary to support the intermittent stream status, manmade canals are not considered perennials streams in accordance with the Riverfront Regulations (310 CMR 10.58).

Attachments

Attached for your review are the following attachments:

1. USGS Site Locus Map
2. FEMA Map
3. NHESP Estimated & Priority Habitat Map
4. DEP BVW Field Data Sheets

Upon review of this wetland delineation report, please contact me at (617) 529 – 3792 or brad@ecrholmes.com with any questions or requests for additional information.

Sincerely yours,
Environmental Consulting & Restoration, LLC



Brad Holmes, PWS, MCA
Manager



Photograph #1 – View of the dry stream bed on Sept. 1, 2017.



Photograph #2 – Another view of the dry stream bed on Sept. 1, 2017



Photograph #3 – View of the dry stream bed on Sept. 4, 2017.



Photograph #4 – Another view of the dry stream bed on Sept. 4, 2017.



Photograph #5 – View of the stream bed on Sept. 8, 2017. Water is stagnant with no flow.



Photograph #6 – Another view of the stream bed on Sept. 8, 2017. Water is stagnant with no flow.



Photograph #7 – View of the dry stream bed on September 11, 2017



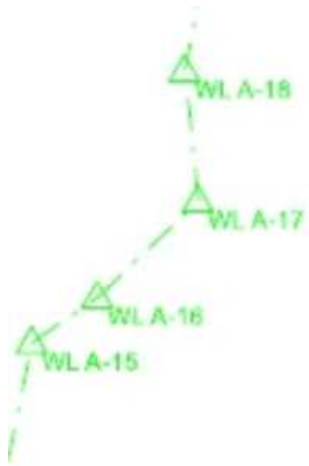
Photograph #8 – Another view of the dry stream bed on September 11, 2017



Photograph #9 – View of the dry stream bed on September 12, 2017

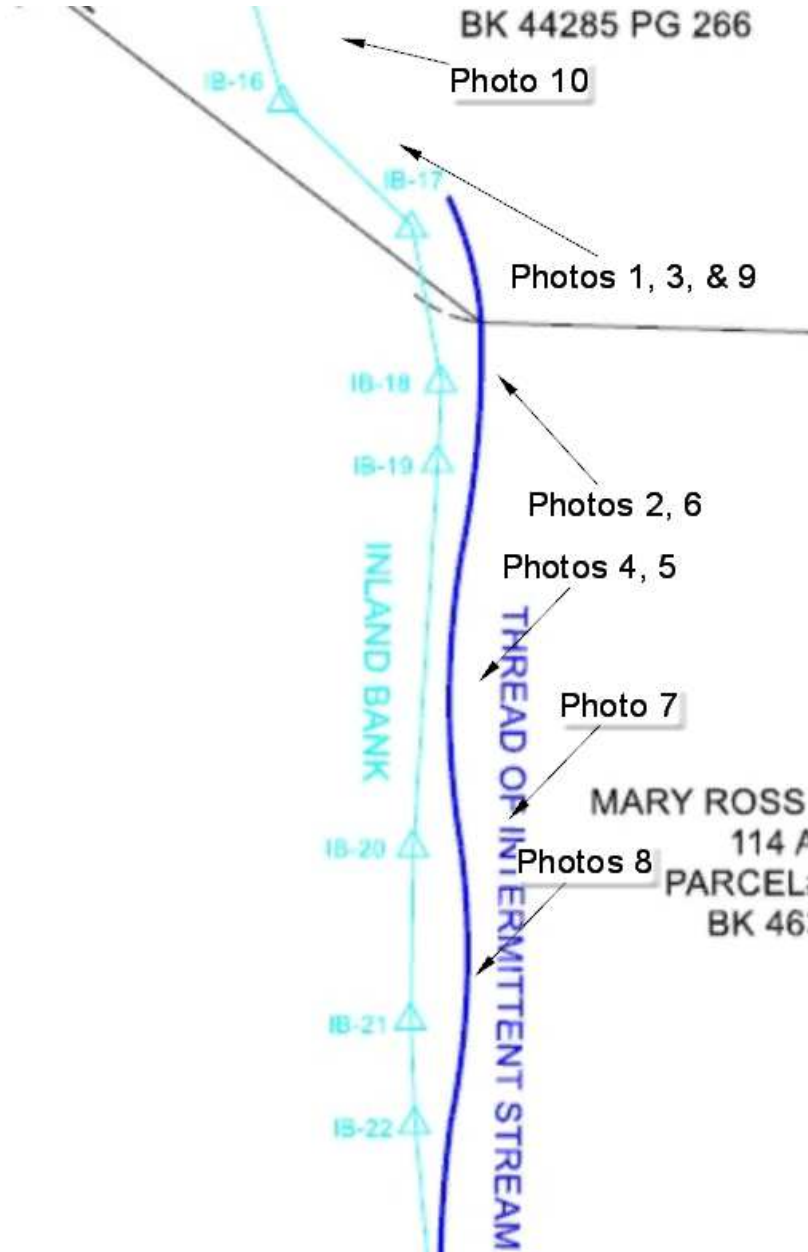


Photograph #10 – Another view of the dry stream bed on September 12, 2017



WLA-14-2
LA-14
A-13
LA-12
II
LA10

BVW A AREA
63,602.409 SF
1.460 AC



N/F
MARY ROSS WISBACH TRUST
114 ALDEN ST.
PARCEL# 106-034-000
BK 46306 PG 183



Environmental Consulting & Restoration, LLC



December 28, 2017

Town of Duxbury
Conservation Commission
878 Tremont Street
Duxbury, MA 02332
Attn: Joe Grady, Conservation Administrator

RE: Letter to Support the Abbreviated Notice of Resource Area Delineation (ANRAD), 136 & 138 Alden Street, Duxbury, DEP File #SE18-1786

Dear Mr. Grady & Members of the Conservation Commission:

Please include this submittal with the ANRAD application under review for 136 & 138 Alden Street to respond to Nover Armstrong Associates, Inc. request for additional data to support the intermittent stream classification at 136 & 138 Alden Street. In addition to ECR's December 15th confirmation letter (see attached), included with this submittal are all of the photographs from the 5 days Environmental Consulting & Restoration, LLC (ECR) observed the stream on and near the site in a dry or no flow condition. This information, in addition to our December 15th letter with affidavit, provides the Commission with the required data to confirm that the stream on and near the site is an intermittent stream. These observations and information submitted as part of the ANRAD application follow the Massachusetts Wetlands Protection Regulations protocol to overturn a perennial stream status in accordance with 310 CMR 10.58 as found below:

d. Notwithstanding 310 CMR 10.58(2)(a)1.a. through c., the issuing authority shall find that any stream is intermittent based upon a documented field observation that the stream is not flowing. A documented field observation shall be made by a competent source and shall be based upon an observation made at least once per day, over four days in any consecutive 12 month period, during a non-drought period on a stream not significantly affected by drawdown from withdrawals of water supply wells, direct withdrawals, impoundments, or other human-made flow reductions or diversions. Field observations made after December 20, 2002 shall be documented by field notes and by dated photographs or video. Field observations made prior to December 20, 2002 shall be documented by credible evidence. All field observations shall be submitted to the issuing authority with a statement signed under the penalties of perjury attesting to the authenticity and veracity of the field notes, photographs or video and other credible evidence. Department staff, conservation commissioners, and conservation commission staff are competent sources; issuing authorities may consider evidence from other sources that are determined to be competent.

The Duxbury Wetland Regulations do not include a protocol for intermittent versus perennial status. However, the Duxbury Wetland Regulations do state that the burden of proof shall be on the applicant, which is stated in Section 21 Rivers subsection d number 2 as found below:

Notwithstanding the above, a river is any natural flowing body of water that empties to any ocean, lake, pond, other river, stream or wetland and which flows throughout the year. Perennial rivers, streams and creeks are rivers; intermittent streams are not. Notwithstanding 310 CMR 10.58, the burden of proof shall be on any applicant to show that a river, stream or creek is not perennial (i.e., is intermittent).

Regarding the authorizations from abutting parcels for stream designation, we are only asking for confirmation from the Conservation Commission that the stream at 136 and 138 Alden Street is intermittent and that 136 and 138 Alden Street does not contain a Riverfront Area. The ANRAD application is not requesting confirmation of wetland resource areas on the properties of others. However, it is our understanding that the Conservation Commission has issued Orders of Conditions for past and ongoing projects to the northwest of the site with no reference to a Riverfront Area associated with this stream.

Based on our education and experience, the information submitted to the Conservation Commission to confirm intermittent stream status is in accordance with the requirements. If you have any questions or require additional information, please contact me at (617) 529-3792.

Sincerely yours,
Environmental Consulting & Restoration, LLC



Brad Holmes

Brad Holmes, PWS, MCA
Manager

CC: South Shore Survey Consultants, Inc.
Sealund Corp., 794 Washington Street, Pembroke, MA 02359