

Conservation Commission

Meeting minutes

DRAFT

Dec. 1, 2022; 7:00 PM

140 Main St. – Marlborough City Hall – 3rd Floor (Memorial Hall)

Present: Edward Clancy-Chairman, Allan White, David Williams, William Dunbar, Dennis Demers, John Skarin and Karin Paquin. Also present was Priscilla Ryder-Conservation officer

Absent: None

The hearing was recorded using Microsoft Teams.

Approval of Minutes: The minutes of Nov. 17, 2022, were reviewed and on a motion by Mr. White second by Mr. Clancy, the Commission voted unanimously to approved -7-0

Public hearings:

Request for Determination of Applicability

0 Red Spring Rd. – 10 sewer connections for House numbers 19, 25,27,29,33,29,45,49,51,& 53

Mr. Parente was present representing the Red Spring Rd. Homeowners Association. He explained that the sewer line is being installed and is completed about halfway as of today. The next step is to have the Commission review the connections from the sewer line to the houses and the abandonment of the cess pools and existing systems. He explained that there are 27 total connections to be reviewed, but they have split them up. Tonight, he is only asking for approval of 10 for the house lots listed above. The remaining 17 will be submitted for review at a later date. The Commission reviewed each plan individually as to proximity to wetland, how the pipes would be connected to the house and street etc. The common theme for all the systems are as follows: There will be a gravity line from the house to the pump chamber. The pump chamber will be a 230-gallon storage facility which will contain the E-One pump & grinding system which will in almost all cases pump up to the roadway sewer line. Where system connections are within 10' of the building a plumber will be engaged as those are the rules. The existing cesspool and septic tanks will be pumped clean and then crushed and filled with sand and gravel to abandon these facilities per Board of Health (BOH) requirements. Mr. Demers confirmed with the applicant that the E-One systems would have stainless steel check valves. He also noted their needs to be a cleanout where the pipe exits the house for maintenance reasons, regardless of whether there is the turn in the pipe or not. In addition, the Commission noted that the pump system and piping should be placed in sand and not stone as shown in the details. Mr. Parente agreed to amend the plan to note the above. Mr. White asked about the sequencing of tying into the roadway sewer. Mr. Parente assured the Commission that they would put all the systems in place and would only connect when the system is up and running, coordination with the homeowners on the final connection will be required to ensure proper connections and use. Mr. Parente confirmed that the City is inspecting the installation of the sewer line as they do for other private projects and are out daily (or more often). He also noted that there is a curb stop at each of these tie ins to the street. As the systems are the same for each house with only the location of the pipe connection and pitch of the pipe being slightly different and some needing additional electrical service this was accepted. All the connections, except for #19, are outside the 30' no disturb wetland zone. #29 has the longest piping run up to the street at about 180' most are shorter with the shortest connection for #53.

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A question was raised about #49 which will need renovation in the future. Can they use the existing foundation which is in the 30' buffer zone? The Commission suggested they talk to building department first and once, they have an answer the Commission can weigh in. Any new additions or new building would have to be outside 30' buffer zone.

After some additional discussion about procedure, where wells were located how connections were to be made and what BOH requirements were, and no further questions from the Commission or the audience, the hearing was closed. The Commission noted that the changes to the plans as noted should be provided and the following conditions be reflected in the decision: **Ensure:** curb stops, clean out at house exit, bedding of pipe to be sand, erosion controls installed as shown as-built plan to be submitted when done, ongoing maintenance will be responsibility of Homeowner along with standard conditions. On a motion by Mr. White, second by Mr. Clancy to issue a negative Determination of Applicability with the conditions noted above. The Commission voted unanimously to approve 7-0 and asked Ms. Ryder to hold the permit until the revised plans as noted have been submitted.

Notice of Intent – 212-1254 (continued from Nov. 17, 2022)
846 & 850 Boston Post Rd. East – Exela Movers

At the applicants request this hearing was continued to the February 2, 2023 meeting.

Discussion/ Correspondence

- **541 Pleasant St. violation** - Attorney White was present representing the homeowner. He noted that he had engaged a landscape company “Solution Driven Landscaping” who had drafted the restoration plan which the Commission had copies of. The Commission noted that the plan was just the first step of the entire restoration plan to resolve the wetland violation that occurred 2 years ago. Attorney White noted that he’d like to get the project started, so if this plan represents the first step, he’d like to get started and then return with step two. The Commission noted that they would like to see the full scope of the work before approving different steps. Two companies have come before the Commission lately who are specialist in invasive plant removal – Green Abundance by Design and Ruby Environmental Inc. as well as SuAsCo Cisma may be a resource. Attorney White indicated he would look into them to find a company familiar with this work. The landscaper he had spoken with hadn’t done much in the way of invasive plant removal. After some additional discussion, the Commission asked Attorney White to report back in February on his progress in obtaining a contractor and on or before the end of March 2023 to produce a plan for the proposed work so the Commission can review and hopefully approve in anticipation of work starting in the spring March/April of 2023.
- **Meeting dates for January** - Due to scheduling conflicts, the Commission determined that there will only be one meeting in January on the 12th. The remainder of the year will be the first and third Thursdays of the month.
- **Lot L Hayes Memorial Dr. – 2022 Fall Wetland restoration report** - The Commission reviewed the report and Ms. Ryder noted she has not seen the area since the spring. She will investigate and report back at the next meeting. This item was tabled to the next meeting.
- **36 Fitchburg St. drainage issue** - Ms. Ryder shared a sketch provided by the builder to address the standing water in the back yard. The plan shows a drainage pipe with three-yard drains to help convey water out of this yard. The Commission noted that the approved plan shows a drainage swale with a positive pitch to

drain water off the yard. They were not convinced that the drain as shown would solve the problem as drains clog and pipes freeze if they are only just below the surface. They asked Ms. Ryder to convey that the original plan of installing a functional swale needs to be met, the pipe design is not approved. They also noted that additional stones around the wetland area near the driveway side of the lot need to be added, Ms. Ryder will convey this information to the builder.

- **Green District Trail – DEP 212-1215** Ms. Ryder noted that she had received an e-mail and photo of the trail section near the pool on phase 1. The applicant has installed irrigation along the location where the trail was to be installed, and they are requesting to shift the trail closer to the wetland as shown on the marked-up photograph. The Commission indicated that the edge of the erosion controls was already as close to the wetland as was approved, so if the irrigation line was placed in the wrong place, then that needs to be moved, NOT the relocation of the trail. Ms. Ryder will convey same. She also noted that the invasive plant removal project has begun this week and she will be inspecting it next week.

Next Conservation Commission meetings: December 15, 2022, and January 12, 2023

Adjournment - There being no further business, on a motion by Mr. White second by Mr. Clancy to adjourn. The Commission voted unanimously to approve 7-0. The meeting was adjourned at 8:30 PM.

Respectfully submitted,

Priscilla Ryder
Conservation Officer/Sustainability Officer

November 29, 2022

Conservation Commission
City of Marlborough
140 Main Street
Marlborough, MA 01752

Re: Request for an Amendment
to OOC # 212.1218
Walcott Heritage Farms
339 Boston Post Road

Dear Commission Members,

Allen & Major Associates, Inc., on behalf of WP Marlborough MA Owner, LLC, respectfully submits this letter to request an Amendment to the Order of Conditions (MassDEP #212-1218) issued on September 11, 2020. This request comes from the September 12, 2022 Special Permit approval by the City Council in which the projects scope was reduced by approximately 25%

The reduction eliminates one of the four buildings and reduces the overall unit count from 188 to 140 and the parking stall count from 376 to 280.

This reduction in units and parking allows the following site scope to be reduced:

- More than doubles the front setback of the four-story buildings along Route 20 from 50 feet to 120 feet.
- Eliminates the satellite parking on Lots 26 & 26A.
- Reduces the impervious cover from 4.5 to 3.56 acres.
- Increases the minimum buffer to the bordering vegetated wetlands (BVW) from 3 feet to 20 feet.
- Reduces disturbances to the Bordering Land Subject to Flooding (BLSF) from 24,399 sf to zero.
- Reduces development impacts in the Inner Riparian Zone from 7,716 square feet to zero.
- Reduces development impacts in the Outer Riparian Zone from 51,007 sf to 33,203 square feet.

In addition to the reduced project scope the City Council approval conditioned open space mitigation in condition #10 as follows:

- a) The Applicant, its successors and/or assigns, shall grant a conservation restriction to the City's Conservation Commission or its designee over areas of the Site identified as "CR Area 1", "CR Area 2", and "CR Area 3" (including any area outlined in red) shown on the plan attached as "Attachment B" (the "Restricted Land"). The form of the conservation restriction over the Restricted Land shall be approved by the City Solicitor and the City Conservation Officer prior to the issuance of a building permit. The Conservation Restriction must be approved by the Conservation Commission, the City Council, and finally signed by the Mayor before being approved by the State Secretary of Energy and Environmental Affairs. The conservation restriction must be granted and recorded prior to the issuance of a certificate of occupancy for any unit within the Use, or at a later time agreed to in writing by the City Conservation Officer. The Conservation Restriction will allow for the mowing and management of portions of CR Area 1 to enhance wildlife habitat and meadows as approved by the Conservation Commission and shall allow for the passive recreational use of CR Area 1 by the Site's residents.*
- b) Prior to the issuance of a building permit, the Applicant, its successors and/or assigns, shall provide a payment to the City in the amount of \$20,000 to be used by the City Council or its designee to study and/or fund a recreational trail for pedestrians along the City-owned sewer land adjacent to the Site, to*



November 29, 2022

provide public access and connections between Route 20 and the Site's neighboring residential properties and Kane School.

Associated revisions in the design have been illustrated in the attached site plans and drainage report and have been revised to meet the previously approved standards of design and zoning requirements. Conditions #49-#58 of the OOC are requested to be modified or deleted as part of this amendment to reflect the changes.

We look forward to appearing before the Conservation Commission on December 15, 2022 to discuss the improved project changes.

Very Truly Yours,

ALLEN & MAJOR ASSOCIATES, INC.



Carlton M. Quinn, P.E.
Senior Project Manager

Enclosure:

City Council Notice of Decision, dated September 12, 2022

Civil Site Plans, dated November 29, 2022

Drainage Report, dated November 17, 2022

November 21, 2022

Marlborough Conservation Commission
Marlborough City Hall
140 Main Street
Marlborough, MA 01752

Re: Wetland Restoration Monitoring Report, Fall 2022
Parcel 'L' Hayes Memorial Drive, DEP #212-1229

Goddard Consulting, LLC (Goddard) is pleased to submit this wetland restoration monitoring report on behalf of the permit holder, The Gutierrez Company, as required in the Order of Conditions (OOC) for DEP File #212-1229 at 0 Hayes Memorial Drive "Lot L". Goddard has acted as the Wetlands Scientist in accordance to Special Condition #46-47 in the OOC.

Site Inspection:

On November 11, 2022, Goddard Consulting conducted its third site inspection of the restoration area that was completed in the fall (Figure 1) of 2020 as required by Special Condition #47.

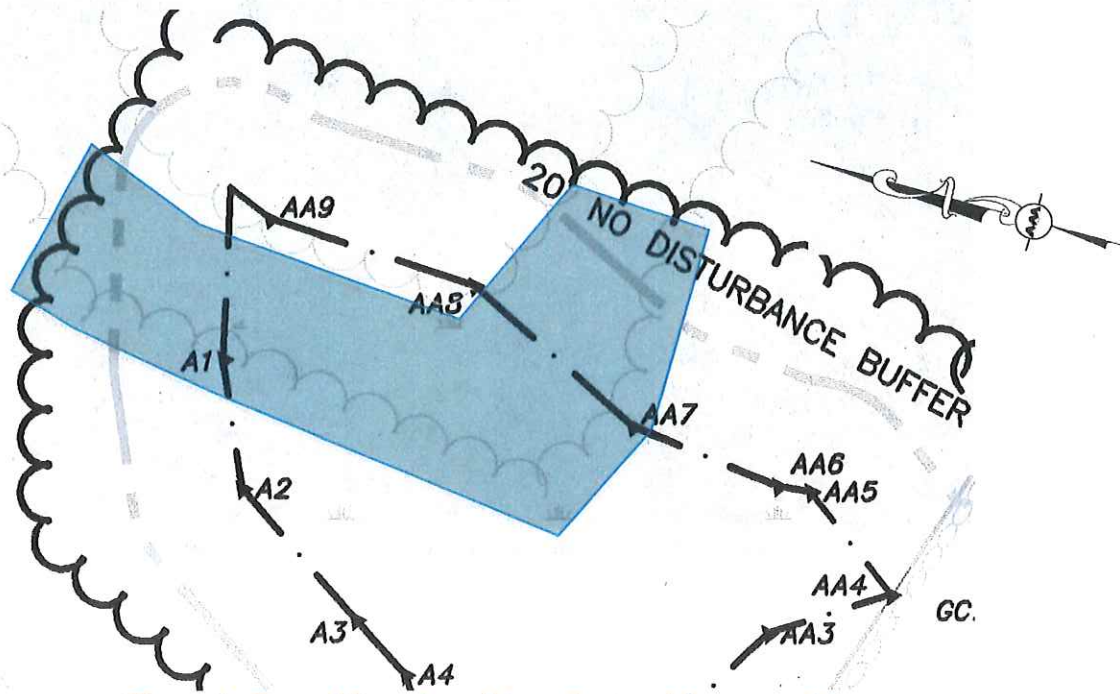


Figure 1: General Location of Area Restored (not to scale)

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Hydrology:

Visible or evidence of standing water or saturated conditions on the ground surface was observed throughout the restoration area. The surface hydrological connection to the adjacent wetland also appears to be functioning well. Some natural iron staining was observed.

Soils:

From the fall 2020 restoration work, the soil conditions were in a natural condition, and therefore, satisfy the bordering vegetated wetland (BVW) criteria as designed and intended.

Vegetation:

The restoration area showed good spring establishment of the herbaceous vegetation, including cinnamon fern, sensitive fern, hayscented fern, sedges, golden rod, rushes and skunk cabbage (present in spring). Buds were noted on Spicebush, arrowwood, highbush blueberry, and winterberry shrubs. Red Maple tree canopy also shadowed most of the restoration area. The vegetation coverage from these species was 90% (Trees 40%, Shrubs 30%, Herbaceous 90%). The vegetation satisfies the 75% wetland vegetative coverage required for success as intended. Goddard did remove a handful of multiflora rose seedlings.



Photo 1: Restoration area from AA8 looking south



Photo 2: Restoration area from AA8 looking west



Photo 3: Restoration area from AA8 looking north



Photo 4: Restoration area near A1 and A9 looking south

Conclusion:

Goddard found the restoration work has restored the area back to natural conditions and has 90% vegetative coverage that includes herbaceous shrubs and trees. The area has been monitored for two full growing seasons as outlined by Condition #47 and meets the required standards for success.

If there are any questions concerning this report, please do not hesitate to contact us.

Sincerely,
Goddard Consulting, LLC

By:

Handwritten signature of Mark R. Arnold in blue ink.

Mark R. Arnold
BSc, Wetland Engineer

Distribution List via email:

- David M. Robinson, Allen & Major Associates, Inc., drobinson@allenmajor.com
- Joe Vasapolli, The Gutierrez Company, jvasapolli@gutierrezco.com
- Israel Lopez, The Gutierrez Company, ilopez@gutierrezco.com



**Tennessee Gas Pipeline
Company, L.L.C.**
a Kinder Morgan company

December 5, 2022

Priscilla Ryder
Conservation Commission
Town of Marlborough
140 Main Street
Marlborough, MA 01752

**Re: Notification of Pipeline Maintenance Activities
Tennessee Gas Pipeline Company, L.L.C.
City of Marlborough, Middlesex County, Massachusetts**

Dear Ms. Ryder:

Tennessee Gas Pipeline Company, L.L.C. ("Tennessee") is providing notification to the Conservation Commission of Tennessee's intent to perform mechanical vegetation maintenance activities (e.g., mowing) on its existing pipeline. Work is expected to take place in December 2022.

To facilitate compliance with 49 C.F.R., Part 192, Subpart L (Operations) and Subpart M (Maintenance), Tennessee conducts periodic vegetation maintenance activities on its permanent easements. Tennessee must maintain its easements for a variety of reasons:

- To allow for aerial and other types of surveillance of the pipeline,
- To comply with its Damage Prevention Program,
- To facilitate planned cathodic protection surveys, and
- To allow access for both routine pipeline maintenance and emergency repairs by maintaining its right of ways ("ROWs") free of encroaching vegetation that may impede visual and physical access to the pipeline.

This work is exempt maintenance, for which governmental permits and approvals are not required under Section 404(f)(1)(b) of the Federal Clean Water Act as well as the Massachusetts Wetlands Protection Act (M.G.L. 131 § 40) and implementing regulations (310 CMR 10.02). Tennessee must perform this necessary maintenance work to support Tennessee's pipeline integrity program, which is required by the U.S Department of Transportation Pipeline and Hazardous Materials Safety Administration.

All discernable ruts created by vegetation maintenance activities on the ROW will be repaired.

8 Anngina Drive, Enfield, CT 06082

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**Tennessee Gas Pipeline
Company, L.L.C.**
a Kinder Morgan company

Please feel free to contact me using the information below with any questions.

Respectfully,

Tennessee Gas Pipeline Company, L.L.C.

Matthew A. Nowak, PWS
Project Permitting & Compliance
Cell: 413-695-7001
E-Mail: matthew_nowak@kindermorgan.com

cc: Jeff Gatto (Tennessee)
Carey Diehl (Tennessee)

DEC 05 2022

nationalgrid

November 28, 2022

Marlborough Mayor Arthur G. Vigeant
140 Main Street
Marlborough, MA 01752

Dear Mayor Arthur G. Vigeant:

In compliance with 333 CMR 11.06, 45 Day Yearly Operational Plan Public Notice, Review and Comment, please review National Grid's Yearly Operational Plan (YOP) at the following website (hard copy available upon request): https://www9.nationalgridus.com/transmission/c3-8_standocs.asp

The map(s) for your municipality can also be found on the above website (scroll through the pdf to your municipality). If you have any trouble viewing the maps, please send me an email at mariclaire.rigby@nationalgrid.com.

Please review the YOP map(s) that locate the right-of-way corridors and the plotted location of known sensitive areas including public and private drinking water supplies. If there are any additional sensitive areas located on or near the rights-of-way, please advise us as soon as possible so we may establish GIS permanent records and implement appropriate field protective actions. **We particularly rely on this process to collect corrections to the public wells and to record the location of private wells.**

National Grid's YOP details specific information pertaining to the intended 2023 program. Please note that the YOP also lists the rights-of-way from the 2022 treatment program in case National Grid needs to request a "touch-up" retreatment of scattered locations from our contractor(s). If upon review of the previous year's treatments, National Grid finds a site(s) within your municipality that need follow-up treatments, this letter serves as notification of that follow-up treatment. The individual landowner(s) will also be notified about this work. *Please note that scheduled rights-of-way are subject to change based on workplan constraints.*

This notification also serves as a 21-day herbicide application notification. As detailed in National Grid's Five-Year Vegetation Management Plan (VMP) and Yearly Operational Plan (YOP), this treatment is conducted as a component of an integrated vegetation management (IVM) program that also utilizes mechanical and natural control techniques. National Grid's current Five-Year Vegetation Management Plan (2019-2023) is posted at the following website (hard copy available upon request): <https://www.mass.gov/doc/national-grid-vmp-2019-2023/download>

As described in the VMP and YOP, the program will consist of a late winter-spring mechanical control, cut surface (CST), basal treatment, or dormant stem; a summer selective foliage or cut stubble, and, as necessary, fall CST, basal, or dormant stem treatments.

In compliance with 333 CMR 11.06-11.07, no herbicide applications will occur before the conclusion of the 45-day YOP review period, the 21 day treatment notice and the 48 hour newspaper notice. At the end of these review periods, which can run concurrently, no application shall commence more than ten days before nor conclude more than ten days after the treatment periods listed above.

Municipality: Marlborough

ROW: 1523

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Potential Treatment Periods*

January 23, 2023 – May 30, 2023	May 30, 2023 - Oct 15, 2023	Oct 15, 2023 – Dec 31, 2023
CST	Foliar	CST
Basal	CST	Basal
Dormant stem	Basal	Dormant Stem
	Cut stubble	

* The exact treatment dates are dependent upon weather conditions and field crew progress.

Commonwealth of Massachusetts recommended herbicides for use in sensitive areas listed in Section 7 (pages 13-15) of the YOP will be selectively applied to target vegetation by experienced, Massachusetts' licensed/certified applicators that walk along the rights-of-way using backpack equipment. Copies of the manufacturers' herbicide labels and fact sheets are also included in the YOP, Appendices 8 and 9.

The work will be performed by one of the following vegetation management vendors:

Lewis Tree Service, Inc. 300 Lucius Gordon Drive West Henrietta, NY 14586 (585) 436-3208	Stanley Tree 662 Great Road North Smithfield, RI (401) 765-4677	Vegetation Control Service, Inc. 2342 Main Street Athol, MA 01331 (978) 249-5348
Lucas Tree Experts 12 Northbrook Drive Falmouth, ME 04105 (800) 339-8873	BluRoc 15 Atwood Dr, Suite 301 Northampton, MA 01060 (413) 887-3653	

This informational 21-day notification follows Chapter 132B, section 6B of the Massachusetts General Laws, 333 CMR 11.05-11.07 Rights of Way Management and Chapter 85, Section 10 of the Acts of 2000. National Grid's vegetation management program is subject to federal and state regulations only. By statute, local permits or rulings are not applicable.

For inquiries concerning safety of the herbicides, please contact:

MDAR-Pesticide Division-ROW Coordinator
251 Causeway Street, Suite 500
Boston, MA 02114-2151
Telephone: (617) 626-1782

A copy of the Environmental Monitor Notice is enclosed and published under the Massachusetts Environmental Policy Act (MEPA).

Please contact me if you have any questions about the application and monitoring of the vegetation management program. Email: mariclaire.rigby@nationalgrid.com Phone: 781-290-8310

Sincerely,

Mariclaire Rigby
Lead Vegetation Strategy Specialist

CC: Board of Health, **Conservation Commission**, Private and Public Water Suppliers
Massachusetts Department of Agricultural Resources
Assigned vegetation management vendor

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

251 Causeway Street, Suite 500, Boston, MA 02114
617-626-1700 fax: 617-626-1850 www.mass.gov/agr



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor

BETHANY A. CARD
Secretary

JOHN LEBEAUX
Commissioner

NOTICE

Pursuant to the provisions of the Rights-of-Way Management Regulations, 333 CMR 11.00, to apply herbicides to control vegetation along rights-of-way, a five year Vegetation Management Plan (VMP) and a Yearly Operational Plan (YOP) must be approved by the Massachusetts Department of Agricultural Resources (MDAR). National Grid has submitted and holds a current VMP, therefore, notice of receipt of a YOP and procedures for public review is hereby given as required by Section 11.06 (3).

National Grid has submitted a YOP to MDAR for 2023 and National Grid's YOP identifies the following municipalities as locations where they intend to use herbicides to treat their electric Rights-of-Way in 2023:

2023 Municipalities						
Abington	Chelmsford	Foxborough	Lowell	North Adams	Shelburne	Wakefield
Amesbury	Chelsea	Franklin	Lynn	North Andover	Somerset	Webster
Andover	Clinton	Georgetown	Lynnfield	North Brookfield	Southborough	Wendell
Attleboro	Colrain	Grafton	Malden	North Reading	Southbridge	Wenham
Avon	Dighton	Great Barrington	Mansfield	Northampton	Stockbridge	West Bridgewater
Ayer	Douglas	Groton	Marlborough	Norton	Stoughton	West Newbury
Barre	Dracut	Groveland	Medway	Oxford	Sturbridge	Westborough
Belchertown	Dunstable	Haverhill	Melrose	Petersham	Sutton	Weymouth
Bellingham	East Bridgewater	Heath	Merrimac	Plainville	Swampscott	Whitman
Bernardston	Easthampton	Holbrook	Methuen	Reading	Swansea	Williamstown
Boxford	Easton	Hudson	Milford	Revere	Tewksbury	Wilmington
Bridgewater	Erving	Lawrence	Millbury	Rowe	Topsfield	Wrentham
Brockton	Everett	Lee	Millville	Salisbury	Tyngsborough	
Buckland	Fall River	Leominster	Monroe	Saugus	Upton	
Charlemont	Florida	Leyden	New Salem	Sheffield	Uxbridge	

In 2023 National Grid will conduct a selective herbicide treatment program on their rights-of-way as part of an Integrated Vegetation Management (IVM) program on transmission and distribution lines.

The intended vegetation control program will be consistent with the guidelines set forth in National Grid's VMP and YOP. Herbicides will be selectively applied to target vegetation by licensed/certified applicators carrying backpack or hand held application equipment.

National Grid will only use herbicides recommended by MDAR for use in sensitive areas for their IVM program. Pursuant to 333 CMR 11.04, no herbicides will be sprayed within any designated "no spray sensitive sites." Instead, mechanical only methods will be used to control vegetation in these areas.

Public notification will be provided to each "affected" municipality at least twenty-one days prior to any herbicide application and in a newspaper notification at least 48 hours before the beginning of the spray season.

In accordance with 333 CMR 11.06 (2), National Grid's YOP includes the identification of target vegetation; methods of identifying, marking and protecting sensitive areas; application techniques; the herbicides, application rates, carriers and

adjuvants proposed for use; alternative control measures, a list of the application companies and YOP supervisor; procedures for handling, mixing and loading herbicides; emergency resources including local, state and federal emergency telephone numbers; maps of the rights-of-way that include mapped sensitive areas, and herbicide fact sheets and labels.

PUBLIC REVIEW

MDAR seeks to verify the location of sensitive areas defined in Section 11.02 and reported in the YOP. MDAR itself has a limited ability to survey the geography, land use and water supplies in all the communities through which rights-of-way pass. Municipalities have most of this information readily available, and the particular knowledge with which to better certify the sensitive areas in their communities. MDAR, therefore, requests, and urges the assistance of the "affected" municipalities in reviewing the completeness and accuracy of the maps contained in the submitted YOP.

The YOP can be viewed on MDAR's website: <http://www.mass.gov/eea/agencies/agr/pesticides/vegetation-management-and-yearly-operation-plans.html> or National Grid's website: https://www9.nationalgridus.com/transmission/c3-8_standocs.asp

MDAR has established the following procedures for this review:

Copies of the YOP and this *Notice* will be sent by the applicant to the Conservation Commission, Board of Health (or designated health agent), the Head of Government (Mayor, City Manager, Chair of the Board of Selectman) and appropriate water suppliers of each municipality where herbicides are to be applied during the calendar year of 2023; and if applicable, to the Natural Heritage Endangered Species Program of the Massachusetts Department of Fisheries and Wildlife, the Massachusetts Water Resource Authority and the Massachusetts Department of Conservation and Recreation. Municipal agencies and officials will have forty-five days, following receipt of the YOP, to review its map for inaccuracies and omissions in the location of "sensitive areas not readily identifiable in the field."

Municipal agencies and officials are requested to forward the YOP to the appropriate official(s) in their municipality who are qualified to certify the accuracy of the sensitive areas indicated on the maps. The maps should then be "corrected" and returned to the applicant and a copy should be sent to MDAR, at the address listed below, within the forty-five day review period. If a city or town needs more time to carry out this review, it should send a written request for an extension to MDAR and cite why there is a "good cause" for requesting additional time.

The applicant is required to make corrections and the corrected maps will be sent back to the city/town that requested the disputed changes within fifteen days of receipt of the request. MDAR will decide whether or not the YOP should be approved without the requested changes. MDAR will consider the "final approval" of a YOP individually for each municipality.

The twenty-one day public review period of the Municipal Notification Letter may serve concurrently with the forty-five day YOP review period in order to provide public notifications as required by 333 CMR 11.06-7, if the applicant has an approved VMP and if all the requisite city-town offices that received copies of the YOP completed their review and all corrections were duly made by the applicant and approved by MDAR.

A failure by the city/town to respond to the applicant's submission of the YOP within the forty-five day period will automatically be considered by MDAR to indicate agreement by the municipal officials with the sensitive area demarcations provided by the applicant in their YOP.

Any questions or comments on the information provided in this *Notice* and the procedures established for the municipal review outlined above should be addressed to:

Clayton Edwards, Rights-of-Way Programs
Massachusetts State Pesticide Bureau
225 Turnpike Road,
Southborough, MA 01772

Any questions or comments regarding the YOP should be addressed to:

Mariclaire Rigby
Lead Vegetation Strategy Specialist
National Grid Vegetation Management Strategy
939 Southbridge Street, Worcester, MA 01610

COMMENT PERIOD ENDS AT THE CLOSE OF BUSINESS (5pm) Friday, January 20, 2023

**City of Marlborough
Conservation Commission
140 Main St.
Marlborough, MA 01752
30' WETLANDS SETBACK *NO DISTURB* POLICY**

Unless proven otherwise by the applicant, the Conservation Commission shall presume that any proposed activity within **30 ft.** of any wetland will have a significant adverse impact on the wetland and shall not be permitted.

Purpose of Policy

The Conservation Commission has found that activity in the **30 ft.** buffer zone bordering wetland resource areas poses a serious threat to such areas. As a result, the Conservation Commission strongly discourages such activity within **30 ft.** of wetland boundaries. This undisturbed zone will provide a minimum buffer to prevent negative impacts on wetlands.

Basis of Policy

Scientific research, and the Conservation Commission's own experience in reviewing a wide variety of projects, demonstrates that alteration or construction activities within the buffer zone consistently result in destructive effects on the wetlands themselves. These include, but are not limited to, disturbance of natural vegetation along the wetland boundary, run-off of pollutants, fill materials, and other substances into the wetlands, stockpiling or dumping of materials or debris which migrate over time into the wetlands, and disturbance of wildlife habitat, such as nesting sites and corridors which are important to wetland species. The Conservation Commission has also noted a tendency on the part of many project proponents to design the project so that it goes to the absolute limit of the wetland boundary. Particularly given the difficulty which often arises in defining that boundary, in most instances it is vital to protect an adjacent section of the buffer zone and prevent the inevitable destructive impacts on the wetlands which go to the boundary.

The Policy

As used herein:

"**Alteration**" shall mean any removal (grading, filling and /or excavation) of vegetative cover, soil or other naturally occurring materials.

"**Construction**" shall mean the construction of any permanent or temporary structure or building, including, without limitation, any residential or commercial building, garage, shed, barn, tennis court, deck, swimming pool, parking area, driveway, **fence**, or landscaping project.

In acting upon Notices of Intent and Determination of Applicability, the Conservation Commission will presume that any **alteration or construction** within **30 ft.** of a wetland boundary would have a significant adverse impact on the wetlands, and such **alteration or construction** shall not be permitted unless the applicant demonstrates that (1) such activity would not have such an impact, or (2) public benefits, such as health or safety, outweighs any such impact, or (3) the activity involves the maintenance of existing structures, or (4) the activity is the installation of the stormwater outlet structure (5) the activity is related to installation of a

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woods trail and/or footbridge crossing. The applicant will have the burden of proof by clear and convincing evidence on this issue. Factors to be considered by the Conservation Commission in determining whether the applicant has met this burden shall include, but are not limited to, the following:

1. Slope of the buffer zone
2. Type and structure of vegetation, soil type and hydrology in the buffer zone
3. Degree and scale of past alterations in the buffer zone
4. Ecological integrity of the adjacent wetlands
5. Importance of the buffer zone to wildlife utilizing the wetland
6. Any ecological benefits arising from the proposed activity, such as removal of exotic vegetation or creation of enhanced wildlife habitat
7. Any public benefits arising from the proposed activity
8. Alternatives have been considered and in the judgment of the Commission no practical alternative is available. However, restoration or plantings in the zone may be required, to help define and protect the remainder of the buffer zone.
9. Project scope and design minimized the work in close proximity to resource area
10. Project will not lead to encroachment on the resource area after the project is completed
11. Commission may impose a wider undisturbed buffer zone to ensure protection of wetland resource areas if the project involves: sensitive habitats, steep slopes, highly erodible soils, extensive disturbed area or hydraulic conditions likely to promote significant erosion

Applicants wishing to rebut the presumption set forth in this policy shall provide the Conservation Commission with the following information, together with any additional relevant information which the Conservation Commission may require:

1. A cross-sectional profile of elevation changes in any area of the buffer zone within **30 ft.** of a wetland which would be disturbed by the proposed activity.
2. A list of all vascular plant species occurring in the **30 ft.** area of the buffer zone and adjacent wetland areas including data on relative abundance of each species.
3. A wildlife habitat evaluation of the 30 ft. area of the buffer zone and adjacent wetlands including data on observed wildlife utilization of such area, such as bird use, occurrence of fish, reptiles, amphibians and mammals.
4. A description of the nature of any public or ecological benefits which may arise from the proposed activities.
5. A photograph of the area to be disturbed.

It is the Conservation Commission's policy, where it has discretion, to prohibit any activity **within 30' of the** wetlands except where there are exceptional circumstances, where no other practical alternative exists, and where satisfactory replication takes place prior to any **alteration or construction**. Activity within the 100 ft. buffer zone will continue to be reviewed on an individual case basis.

Existing Conditions

Maintenance (but, no further alteration or expansion) of yards which existed on or before 8/1/96, within the **30 ft.** buffer will be permitted, however homeowners are encouraged to maintain natural vegetation within 30 ft. of the wetland edge to help improve the water quality of wetlands and streams. A list of wetland vegetation which could enhance wildlife and water quality can be obtained from the Conservation Office at City Hall. The Commission encourages homeowners to allow a natural vegetation buffer to establish itself along the edge of streams, ponds and wetlands for improved habitat and filtering.

Further, the use of herbicides/pesticides, inorganic fertilizers (excluding lime or other organic soil treatments) where labels indicate they are toxic to aquatic organisms, which may alter the adjacent resource area, should not be used adjacent to wetlands. It is likely that the use of these chemicals over time will have an impact on the adjacent wetlands.

The maintenance and replacement of existing fences and walls which fall within the 30' wetland buffer zone is permissible, however, notice to the Conservation Officer for review and approval must be sought. If work extends beyond "maintenance" as described above, the applicant will need to file for a wetland permit from the Conservation Commission and no new work will be permitted within the 30' buffer zone.

Adopted by unanimous vote of the Marlborough Conservation Commission 2-17-2022; further amended on _____ 2022

