

Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 - Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 MassDEP File #:301-1362
 eDEP Transaction #:1349112
 City/Town:SUDBURY

A. General Information

1. Conservation Commission SUDBURY

2. Issuance a. OOC b. Amended OOC

3. Applicant Details

a. First Name	TIM	b. Last Name	DEXTER
c. Organization	MASSDOT		
d. Mailing Address	10 PARK PLAZA RM 4260		
e. City/Town	BOSTON	f. State	MA
		g. Zip Code	02116

4. Property Owner

a. First Name	CHALITA	b. Last Name	BELFIELD
c. Organization	MASSDOT RAIL DIVISION		
d. Mailing Address	10 PARK PLAZA, SUITE 4160		
e. City/Town	BOSTON	f. State	MA
		g. Zip Code	02116

5. Project Location

a. Street Address	BRUCE FREEMAN RAIL TRAIL		
b. City/Town	SUDBURY	c. Zip Code	01776
d. Assessors Map/Plat#	C10,11,D10,E09,G09,H08,J08,K08	e. Parcel/Lot#	5100
f. Latitude	42.36334N	g. Longitude	71.42267W

6. Property recorded at the Registry of Deed for:

a. County	b. Certificate	c. Book	d. Page
SOUTHERN MIDDLESEX		13117	113

7. Dates

a. Date NOI Filed : 12/23/2021 b. Date Public Hearing Closed: 2/28/2022 c. Date Of Issuance: 3/1/2022

8. Final Approved Plans and Other Documents

a. Plan Title:	b. Plan Prepared by:	c. Plan Signed/Stamped by:	d. Revised Final Date:	e. Scale:
SUDBURY BRUCE FREEMAN RAIL TRAIL 100% SUBMITTAL PLANS	FUSS & O'NEILL	ERIC BERNARDIN	02/18/2022	AS NOTED

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act

Following the review of the the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act.

Check all that apply:

a. <input checked="" type="checkbox"/> Public Water Supply	b. <input type="checkbox"/> Land Containing Shellfish	c. <input checked="" type="checkbox"/> Prevention of Pollution
d. <input checked="" type="checkbox"/> Private Water Supply	e. <input checked="" type="checkbox"/> Fisheries	f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat

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g. Ground Water Supply h. Storm Damage Prevention i. Flood Control

2. Commission hereby finds the project, as proposed, is:

Approved subject to:

a. The following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

Denied because:

b. The proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**

c. The information submitted by the applicant is not sufficient to describe the site, the work or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**

3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310CMR10.02(1)(a).
 a. linear feet

Inland Resource Area Impacts:(For Approvals Only):				
Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input checked="" type="checkbox"/> Bank	<u>451</u> a. linear feet	<u>451</u> b. linear feet	<u>317</u> c. linear feet	<u>317</u> d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	<u>2710</u> a. square feet	<u> </u> b. square feet	<u>3760</u> c. square feet	<u> </u> d. square feet
6. <input checked="" type="checkbox"/> Land under Waterbodies and Waterways	<u>1746</u> a. square feet	<u>1746</u> b. square feet	<u>1355</u> c. square feet	<u>1355</u> d. square feet
	<u>0</u> e. c/y dredged	<u>0</u> f. c/y dredged		
7. <input checked="" type="checkbox"/> Bordering Land Subject to Flooding	<u>1736</u> a. square feet	<u>1736</u> b. square feet	<u>538</u> c. square feet	<u>538</u> d. square feet
Cubic Feet Flood Storage	<u>67.5</u> e. cubic feet	<u>67.5</u> f. cubic feet	<u>337</u> g. cubic feet	<u>337</u> h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet		

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Cubic Feet Flood Storage	<u> </u> c. cubic feet	<u> </u> d. cubic feet	<u> </u> e. cubic feet	<u> </u> f. cubic feet
9. <input checked="" type="checkbox"/> Riverfront Area	<u>109626</u>	<u>109626</u>		
	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	<u>67704</u>	<u>67704</u>	<u>25387</u>	<u>25387</u>
	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	<u>41922</u>	<u>41922</u>	<u>43769</u>	<u>43769</u>
	g. square feet	h. square feet	i. square feet	j. square feet

Coastal Resource Area Impacts:

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. c/y nourishment	<u> </u> d. c/y nourishment
14. <input type="checkbox"/> Coastal Dunes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. c/y nourishment	<u> </u> d. c/y nourishment
15. <input type="checkbox"/> Coastal Banks	<u> </u> a. linear feet	<u> </u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u> a. square feet	<u> </u> b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	<u> </u> a. square feet	<u> </u> b. square feet		

22.

Restoration/Enhancement (For Approvals Only)

If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c & d or B.17.c & d above, please entered the additional amount here.

a. square feet of BVW

b. square feet of Salt Marsh

23.

Streams Crossing(s)

If the project involves Stream Crossings, please enter the number of new stream crossings/number of replacement stream crossings.

0

5

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not exceed the issuance date of the original Final Order of Conditions.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior

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to the commencement of work..

10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

" Massachusetts Department of Environmental Protection"
[or 'MassDEP']
File Number : "301-1362"

11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before Mass DEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order(the "Project") is (1) is not (2) subject to the Massachusetts Stormwater Standards. If the work is subject to Stormwater Standards, then the project is subject to the following conditions;
- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Construction General Permit as required by Stormwater Standard 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that: *i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the

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BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures; *ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized; *iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10; *iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition; *v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 19(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.
- g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.

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-
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
 - k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
 - l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions:

SEE SPECIAL CONDITIONS ATTACHED.

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No

2. The Conservation Commission hereby (check one that applies):

a. DENIES the proposed work which cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

1. Municipal Ordinance or Bylaw _____

2. Citation _____

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order or Conditions is issued. Which are necessary to comply with a municipal ordinance or bylaw:

b. APPROVES the proposed work, subject to the following additional conditions.

1. Municipal Ordinance or Bylaw _____

2. Citation _____

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows:

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E. Signatures

This Order is valid for three years from the date of issuance, unless otherwise specified pursuant to General Condition #4. If this is an Amended Order of Conditions, the Amended Order expires on the same date as the original Order of Conditions. 3/1/2022
1. Date of Original Order

Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission. 4
2. Number of Signers

The Order must be mailed 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 Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures: _____ Richard Morse _____

Dave Henkels _____

Ken Holtz _____

Bruce Porter _____

by hand delivery on _____ by certified mail, return receipt requested, on _____

Date _____ Date _____

F. 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 MassDEP Regional Office to issue a Superseding Order of Conditions. 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 associated with this appeal 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 providing written information to the Department prior to issuance of a Superseding Order.

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

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(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 ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

G. Recording Information

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

SUDBURY
Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:
SUDBURY
Conservation Commission

Please be advised that the Order of Conditions for the Project at:

BRUCE FREEMAN RAIL TRAIL 301-1362
Project Location MassDEP File Number

Has been recorded at the Registry of Deeds of:

County Book Page

for:
Property Owner CHALITA BELFIELD

and has been noted in the chain of title of the affected property in:

Book Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

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Signature of Applicant

Rev. 4/1/2010



ORDER OF CONDITIONS State Wetlands Protection Act

DEP FILE #301-1362
Address: MassDOT Right-of-Way, Bruce Freeman Rail Trail
Applicants: Massachusetts Department of Transportation
Issued: March 2, 2022

The Sudbury Conservation Commission hereby finds that the following conditions are necessary, in accordance with the Performance Standards set forth in the Wetlands Protection Act and its corresponding regulations to protect those interests checked in this Order. To aid in implementation, compliance, and enforcement the specific conditions are divided into several broad categories for reference.

The Sudbury Conservation Commission orders that all work shall be performed in accordance with said conditions and with the Notice of Intent referenced. To the extent that the following conditions modify or differ from the plans, specifications or other proposals submitted with the Notice of Intent, the conditions shall control.

This Decision of the Sudbury Conservation Commission under the Wetlands Protection Act may be appealed to the MA Department of Environmental Protection, Northeast Region.

Findings:

The Notice of Intent was filed for the construction of a 4.4-mile segment of the Bruce Freeman Rail Trail, from the Concord Town Line to its confluence with the Mass Central Rail Trail just west of Union Avenue, along the inactive Massachusetts Department of Transportation Rail Division Right-of-Way, in Sudbury, MA, under the State Wetlands Protection Act.

The Commission finds that though the application was not filed under the Sudbury Wetlands Administration Bylaw, the applicant has incorporated appropriate mitigation to meet the intent of the Bylaw.

The Commission finds that the project, as designed and mitigated for, is eligible for a limited project status under 310CMR 10.53(6), however the applicant is not seeking relief from meeting the performance standards of Wetlands Protection Act.

The Commission finds that the stormwater management for the rail trail has been designed in accordance with 310CMR 10.05(m) and the new parking facility at Broadacres is in compliance with stormwater standards.

The Commission finds that the applicant has provided a full analysis of possible alternative routes to minimize adverse environmental impacts and that these alternatives would not result in a reduction of proposed wetland impacts.

All wetland resource areas within the Project Locus were reviewed and approved as part of the Abbreviated Notice of Resource Area Delineation process with the Sudbury Conservation Commission through the Order of Resource Area Delineation (ORAD) issued under DEP File #301-1193 in November 2016, and as amended in September 2020. Resource areas reviewed under the ORAD included both State and locally jurisdictional wetland resource areas. The status of streams as perennial or intermittent could not be defined under the ORAD or the Amendment thereto as we were in a drought during both processes.



ORDER OF CONDITIONS State Wetlands Protection Act

The Commission finds that this project is designed to meet the performance standards of the Wetlands Protection Act. Mitigation for the proposed project will be achieved by creation of a wetland replication area sized to replace both state and local wetlands resource areas altered, installation of restoration and mitigation plantings within the limits of work, creation of strategic brush piles for wildlife habitat, improved wildlife migration by clearing existing cattle crossings and improving/replacing existing culverts, and implementation of a minimum of a 4-acre invasive species management program within the MassDOT Rail Division ROW but outside the limits of work proposed for the Project. The Commission finds the Project, as conditioned in this Order is sufficient to meet the requirements of the state regulations.

Final Record Documents:

1. Sudbury Bike Path Construction (Bruce Freeman Rail Trail) Notice of Intent dated December 22, 2021 and revised through February 22, 2022.
2. Wildlife Habitat Assessment Relative to the 25% Design Submittal dated November 2016, with supplemental Appendix B Wildlife Habitat Evaluation Report for Culvert 4, dated February 4, 2022.
3. Sudbury Bruce Freeman Rail Trail 100% Submittal Plans, as revised through February 18, 2022
4. Long Term Operation and Maintenance Plan – Bruce Freeman Rail Trail, dated February 16, 2022.
5. Long Term Operation and Maintenance Plan – Broadacres Farm Parking Lot, dated February 16, 2022

All work must conform to the plans referenced, the Notice of Intent, and this Order. In case of conflict, the requirements in this Order shall prevail. By accepting this Order, the Applicants confirms submission all relevant documentation, reports, and information available to Applicants, in the application submitted and that this information is true and valid to the best of the Applicants' knowledge.

SPECIAL CONDITIONS:

PART I: GENERAL PROJECT CONDITIONS:

These conditions apply to all projects permitted by the Sudbury Conservation Commission. They shall remain in force until issuance of a Certificate of Compliance by the Commission. A violation of any of these conditions shall constitute reason for enforcement action by the issuing authority:

- a. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
- b. This Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
- c. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, by-laws, or regulations.
- d. The work authorized hereunder, except for that work which has specific timeframes indicated, shall be completed within three years from the date of issuance of this Order unless either of the following apply:
 - 1) the work is a maintenance dredging project as provided for in the Act; or
 - 2) the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance and both that date and the special circumstances warranting the extended time period are set forth in this Order.
- e. This Order may be extended by the issuing authority for one or more periods of up to three years upon application to the issuing authority at least thirty days prior to the expiration date of this Order.



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In determining whether or not to grant an Extension Permit, the Sudbury Conservation Commission shall review and apply the criteria for extensions of time as set forth in the Regulations.

- f. No work shall be undertaken until all administrative appeal periods from the date of issuance of this Order have elapsed or, if such an appeal has been filed, until all proceedings have been completed.
- g. **No work shall be undertaken until the Final Order has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property.** In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, the final Order shall also be noted on the Land Court Certificate of title of the owner of the land upon which the proposed work is to be done.
- h. The recording information shall be submitted to the Commission on the form at the end of the Order, or other form acceptable to the Commission, within thirty days of the issuance of this Order or prior to the start of construction, whichever is sooner.
- i. Where the Department of Environmental Protection is requested to make a determination and to issue a Superseding Order, the Sudbury Conservation Commission shall be party to all agency proceedings and hearings before the Department.
- j. The work shall conform to the plans and special conditions incorporated in this document.
- k. The project engineer, contractors, and all subcontractors must be informed of the conditions in this Order.
- l. The Applicants are held responsible for compliance with this Order of Conditions. The Sudbury Conservation Commission shall be notified, in writing, within forty-eight hours of any transfers of title on this property.
- m. This Order of Conditions shall apply to any successor in control, or successor in interest, of the property described in the Notice of Intent and accompanying plans.
- n. Members and agents of the Sudbury Conservation Commission shall have the right to enter and inspect the property to evaluate compliance with the conditions stated in this Order.
- o. The Applicant shall report in writing to the Commission once every month while construction is underway within the 100-foot buffer zone, 200-foot Riverfront Area or any wetland resource area to confirm that all activities are in compliance with the conditions of this Order. The status report shall at a minimum include a description of any erosion control problems, progress on construction and grading, changes in construction schedule or sequence, actions taken to address problems and any other recommendations for site management.

PART II: PROJECT SPECIFIC CONDITIONS

- a. The Applicant shall ensure there is a qualified Environmental Monitor(s) on site at all times overseeing work that is subject to this Order. The Environmental Monitor(s) shall send weekly erosion control inspection reports and reports following any storm event of ½ inch of rain or greater, or as otherwise called for in the Stormwater Pollution Prevention Plan, to the Conservation Commission.



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- b. Prior to any land disturbance, the applicant shall map the corridor for the presence of invasive species within and adjacent to the limit of work. The information generated from this mapping shall be used to identify any new invasive species populations or significant expansions of invasive species that are a direct result from the Project. Mapping shall be used by the Applicants to implement a program to control invasive species populations to ensure the functions of wetland resource areas in the limits of work that have been restored with native vegetation are not subject to degradation by expansion of invasive species. If the Commission or its agent determines that the Project resulted in new or significantly expanded invasive populations, the Applicants shall implement a program to control these populations to ensure the project does not result in additional degradation of wetland resource areas.
 - c. At least four weeks prior to any land disturbance, an Invasive Species Management Plan shall be developed and submitted to the Conservation Commission for review and approval. The applicant shall be responsible for the initial removal of a minimum of 4 acres of invasive species from land within the MassDOT Rail Division Right-of-Way, but outside the proposed limit of work, and maintenance during construction. Methodologies of removal may include, but are not limited to, cut-dab, targeted spray, and removal by hand. Efforts shall focus on improving wildlife habitat in the Buffer Zone and Riverfront Areas, where such restoration would not constitute additional resource area impacts. Herbicide use shall be minimized to the maximum extent practical. This invasive species management shall be in addition to invasive species management in and around the wetland replication area and the restoration area proposed directly south of Hudson Road.
 - d. At least two weeks prior to any land disturbance, the Applicant shall provide a construction schedule detailing construction activities and sequencing. This shall be amended as necessary throughout construction. Weekly reports shall be submitted to the Commission that details work completed each week and anticipated work for the coming week. These reports shall include anticipated dewatering activities so that oversight can be provided by the Commission or its Agent, if found necessary, and include the location of active stockpiles with confirmation that appropriate erosion control measures are being implemented.
 - e. At least two weeks prior to the start of construction, the Applicant shall provide the final Stormwater Pollution Prevention Plan (SWPPP) to the Commission for review and approval. Any use of permanent infiltration BMPs for temporary construction-related stormwater management shall be specifically addressed in the SWPPP and protocol for removal of fine silt and sediment from these BMPs shall be conducted at the completion of construction. Any changes made to the SWPPP during the course of the project shall be submitted and approved by the Commission prior to implementation.
 - f. The limit of work/erosion control location shall be survey located in the field and certified by a Mass Registered Professional Land Surveyor, installed under the oversight of the Applicant's Environmental Monitor, and reviewed by the Commission and/or its Agent prior to commencement of any site work.
 - g. Prior to any site disturbance, with the exception of the installation of the erosion control barrier, the Applicant shall schedule a pre-construction site visit with the Conservation Coordinator at least one week prior to commencement of work. At a minimum, those in attendance at this site visit should include the Applicant, construction supervisor, and environmental monitors involved in the project.
 - h. A site visit shall be conducted with the contractor prior to clearing activities, at which time trees for girdling and areas appropriate for brush piles for wildlife habitat, will be identified.



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- i. Any clearing of native vegetation removal conducted outside the Limit of Work, without permission from the Conservation Commission, will be a violation of the Order and requires full restoration to pre-existing conditions.
- j. During initial vegetation removal, trunks shall be retained but cut as close to the ground as possible. Following installation and approval of erosion controls, stumps and roots may be grubbed, if necessary. Stumping and grubbing activities shall not adversely affect woody vegetation or soils outside the erosion control barrier. Logs, stumps, and other large woody debris in and/or overhanging the resource areas shall be left undisturbed to maximize food source and habitat.
- k. Tree/limb clearing shall be minimized to only that which is required to access the project site with equipment and to conduct the approved work. Equipment shall be chosen which minimizes required clearing to the maximum extent practicable. The Applicant shall retain as many limbs overhanging the limit of work as possible. Prior to tree felling, the Applicant shall walk the corridor with the Commission or its Agent to determine the extent of canopy that can be retained.
- l. To prevent the spread of invasive plants, during the initial clearing operation, vegetation removed from the site shall be chipped directly into a truck and removed from the project site. Woody material for reuse on site for the creation of wildlife habitat features shall be identified and retained.
- m. All areas of disturbance shall be monitored for invasive species for the duration of the project and until such time as a minimum of 90% native vegetative cover is established. Invasive species shall be removed when encountered.
- n. The Commission shall be notified in advance of any herbicide treatments used for vegetation control within jurisdictional areas, indicating the target control species, the type(s) of herbicide to be used, the proposed application rate, and the on-going maintenance plan for the targeted area for review and approval.
- o. The site shall be accessed predominantly from public ways. If alternative access points are needed, the Applicant will first direct the contractor to use previously disturbed areas outside wetlands jurisdiction. If alternative access is found to be needed within wetlands jurisdiction, access may be permitted within previously disturbed areas that will not require additional vegetation removal or additional impacts to wetland resource areas, with approval from the Commission's representative. No equipment turnaround locations outside the limit of work are permitted.
- p. Other than road crossings and pullouts, the paved multi-use trail shall not exceed ten (10) feet in width. Any pavement that exceeds 10 feet in width shall be required to be removed.
- q. Laydown areas shall be located outside resource areas subject to the Commission's jurisdiction. If any construction laydown area is proposed outside of the currently proposed work limits and in an area subject to the Commission's jurisdiction, an erosion control plan shall be submitted in advance to the Commission's representative for review and approval.
- r. All vehicles and equipment shall be cleaned and certified invasive species free, prior to entering the site. Such certification shall be provided to the Commission prior to commencement of mobilization into the site and when remobilized within the project site.
- s. Any fill used in connection with this project shall be clean fill, containing no trash, refuse, rubbish or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles or parts of any of the foregoing.



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- t. No equipment cleaning or refueling may occur within a wetland or upland resource area, with the exception of the crane. For cranes positioned within wetland jurisdiction for more than one day, the Applicant shall provide secondary containment to contain any leaks that may emanate from equipment.
- u. The applicant shall have absorbent materials for use in containing accidental spills available on site at all times. If any release of fuel, motor oil, lubricating oils, etc. occurs, the applicant or designee shall immediately notify the Conservation Office. A response action or cleanup shall be conducted pursuant to GL c. 21E (Massachusetts Oil and Hazardous Material Release Prevention and Response Act) and the Massachusetts Contingency Plan (MCP).
- v. At the end of each workday, the applicant or contractor shall mechanically sweep or manually sweep any sediment tracked onto the adjacent streets.
- w. The applicant shall employ a wetland scientist who has experience in constructing wetland replication areas to supervise in-wetland work and the construction and planting of all wetland replication/restoration areas. The wetland professional shall oversee all activities involving preparation and construction of the wetland replication/restoration areas, and shall be on site while the work is being performed. The activities include but are not limited to: inspecting and confirming site flagging prior to and after excavation of the wetland replication area; identifying appropriate organic soils to be placed in the replication area; overseeing final grading of the area; inspecting final elevations and confirming ground water elevations; obtaining, planting and maintaining the specified wetland plants; and monitoring and reporting on the replication area.
- x. If manufactured soils are used to construct the wetland replication area, they shall consist of soils which contain at least twenty (20) percent peat or partially decomposed leaf litter and shall have approximately the same pH, texture and fertility as the native wetland soil on the site. The wetland replication areas shall have a base of at least twelve (12) inches prior to planting.
- y. Any damage caused as a direct result of this project to any wetland resource areas shall be the responsibility of the applicant to repair, restore or replace. Sedimentation of any resource area shall be considered fill of that wetland area.
- z. The wetland replication area and land adjacent thereto shall be monitored for invasive species, and manually removed when found, in accordance with the construction contract, for the life of the Order. The wetland replication area shall be considered substantially restored when it contains a minimum of 90% cover with native species. Replications that do not properly restore the functions and values of altered resource areas will not be deemed acceptable no matter how closely they adhere to approved engineered plans.
- aa. At the culvert replacement south of Hudson Road, the applicant shall preserve larger rocks, especially flat stones from the stream and strategically place back into stream post-construction. The applicant shall also reuse trees and brush cleared during on-site site preparation to create new or enhance existing brush piles to serve as wildlife habitat.
- bb. There shall be no drafting of water from wetland resource areas for dust control, for watering plantings, or any other activity.
- cc. Every effort shall be made to reduce soil compaction. Compacted soils shall be aerated prior to being revegetated.



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- dd. The contractor shall provide detailed plans of measures needed for crane operations for review and approval, a minimum of one week prior to installation. All work and impacts associated with installation, removal, and stabilization of the crane areas shall be conducted in strict compliance with the Project Plans and Details and shall be reviewed and approved by the Commission and/or its Agent prior to installation and shall be installed under the supervision of the independent Environmental Monitor.
- ee. Dewatering activities shall be located as far as possible from wetland resource areas and shall be prohibited from discharging to Bordering Vegetated Wetlands, Isolated Vegetated Wetlands, Land Under Water Bodies and Waterways, or within the inner Riverfront Area. Dewatering may only occur in other upland resource areas provided adequate control measures are implemented and locations are identified by the contractor and reviewed and approved by the Commission and/or its agent prior to implementation.
- ff. The Conservation Commission and their representative shall be notified at least three (3) business days in advance of demobilization of the cranes at the bridge crossings.
- gg. The Applicant shall ensure that any reuse of on-site soils shall not result in the degradation of soil or groundwater in the area.
- hh. Stockpiling of materials within the ROW shall be limited in size and duration and shall be located as far from sensitive areas as possible. Soil stockpiles shall be covered with tarp or plastic sheet and surrounded by erosion controls. Excess soil not reused within the Project site shall be stockpiled outside the ROW and wetland jurisdiction. Weekly reports throughout construction shall identify the locations of active stockpiles and will confirm that the appropriate erosion control measures are being implemented
- ii. Mitigation, and restoration efforts within the limit of work, shall be implemented during the first growing season following commencement of work. Written reports shall be submitted by December 1 of each year the Order is active that details mitigation efforts that have been implemented, success of implementation, and anticipated activities the following growing season. Mitigation and Restoration areas shall be deemed substantially in compliance when there is a minimum of 90% cover with native species and free of invasive species.
- jj. All seed mixes and plant material shall be comprised of native species. Cultivars will not be accepted.
- kk. Areas adjacent to vernal pools shall be revegetated immediately following the completion of all necessary grading in these areas, and the revegetation in these areas shall be monitored so erosion controls can be removed as soon as field conditions allow.
- ll. Prior to planting, the Applicant's Environmental Monitor shall inspect, approve, and provide photo documentation of all plant stock. Any species substitutions must be provided to the Commission, in writing, including a justification for substitutions, for review and approval prior to implementation.
- mm. The wetland replication area shall be constructed during the initial phase of construction
- nn. All plantings must survive for at least two growing seasons or be replaced at the expense of the Applicant.



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- oo. Use of impacted soils (from contamination or invasive seed) shall be prohibited.
- pp. No spoils of construction, construction material, or equipment shall be stored, placed or operated in the wetland resource areas or the wetland buffer zone except as may be permitted by this Order for work in the riverfront and upland resource area. These activities may not occur within the bordering vegetated wetland or within bordering land subject to flooding.
- qq. There shall be no disturbance beyond the limits of activities permitted as part of this Order.
- rr. No deicing products shall be used within the project site. Snow may be stockpiled within the limit of work only or shall be removed from the site to an appropriate facility outside wetlands resource areas.

PART III: EROSION, SEDIMENTATION, STABILIZATION CONDITIONS

- a. Erosion control shall be installed per the approved plan and maintained as necessary to prevent erosion and sedimentation from entering the resource areas. It is the Applicants' responsibility to take appropriate measures to control sedimentation into the wetland resource areas.
- b. Erosion control devices shall not block passage between uplands and vernal pools between the dates of March 1 and June 1, nor between September 1 and October 15. If soils will not be stabilized during these periods, temporary stabilization measure shall be designed to provide a gradual slope or berm over which amphibians may pass.
- c. Erosion control inspections are to be performed by qualified personnel. Areas that have not received final stabilization, areas used for storage, structural control measures, and locations where vehicles enter and exit the site, must be inspected once every 7 days and within 24 hours of a storm event of 0.5 inches or greater. Control measures shall be observed to ensure they are working properly. Inspection reports shall be provided to the Conservation Commission confirming compliance.
- d. The project shall incorporate crushed rock pads at all construction entrances and shall maintain either a 25-foot undisturbed buffer of vegetation or an erosion/sedimentation bale, silt fence barrier between the work site and any neighboring properties to prevent erosion and sedimentation from being carried off site.
- e. All disturbed slopes greater than a 3:1 slope shall be stabilized with erosion control blankets. Biodegradable blankets shall be properly anchored in place, secured with non-chemically treated biodegradable materials. Should non-biodegradable fasteners be needed, with prior approval by the Commission and/or its agent, the Applicants may use non-biodegradable fasteners with the condition that the Applicants shall provide confirmation that all fasteners have been removed once the area is deemed fully stabilized by the Commission and/or its representative.
- f. In the event that all earthwork ceases for more than 30 days, all exposed soils must be stabilized with a temporary vegetative cover, straw mulch, or other method of erosion control acceptable to the Conservation Commission.
- g. Appropriate netting shall be installed under the bridges during bridge work to prevent debris from entering the stream. The Applicants shall contact the Conservation Office once installed for review prior to commencement of bridge work.



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PART IV: PLAN MODIFICATIONS:

- a. Any changes during construction due to soil types found or other conditions discovered during construction shall require immediate notification of the Conservation Commission for a determination if the changes require revisions to this Order or the filing of a new Notice of Intent. Any modifications or revisions to the plans referenced, or any new plans, must be submitted to the Commission for review and a determination as to whether a new Notice of Intent is required. If this procedure is not followed, this Order may not be amended. No additional work not specifically allowed by this Order shall be accomplished on the site without the approval of the Sudbury Conservation Commission and the appropriate new filings or amendment requests are approved. Amendment procedures as described in the Wetlands Protection Act, the regulations, and the Department of Environmental Protection's Wetlands Program Policies shall be followed.
- b. No additional new construction or disturbance of a wetland resource area, as defined in the Wetlands Protection Act and its regulations, or within the 100' wetland resource area buffer zone, not covered by this Order of Conditions, shall be permitted on this site until a determination has been made by the Commission as to whether a new Notice of Intent is required, and the new work or disturbance is incorporated into a new or amended Order of Conditions. An adequate stockpile of unused erosion controls shall be available at or near the site.
- c. Should the Sudbury Conservation Commission become aware of work on site being accomplished that was not approved as part of the Order of Conditions or subsequent amendments, the Commission reserves the right to require a new Notice of Intent. The plan filed with the new Notice of Intent must be based on an interim as-built plan prepared by a registered engineer. The new Notice must provide a detailed description of the discrepancies between the approved plan and the site conditions to date. The Commission reserves the right to require as part of the interim as-built plan, but not be limited to requiring, new topography survey, new drainage calculations, and details or all disturbance within the wetland resource and the 100' wetland buffer zone.

PART V: CERTIFICATE OF COMPLIANCE REQUIREMENTS:

- a. Following completion of construction and site stabilization, but prior to demobilization, the applicant shall request a Partial Certificate of Compliance. This Request shall be accompanied by as-built plans, stamped by a professional land surveyor or other qualified professional, detailing all elements including all restoration plantings, wetlands replication, all stormwater management elements, provide a cut/fill analysis for the project by stream reach and elevations to confirm adequate compensatory storage is provided and affidavit from all site professionals that all aspects of this Order were adhered to, along with reports associated with mitigation activities. Any deviations from the approved plans shall be specifically called out on the as-built plan. A report on the restoration/mitigation plantings and invasive species management program shall be provided that includes an assessment of the plant community composition in the context of the wildlife habitat restoration. Vegetation outside the limit of work shall also be evaluated to confirm no negative impacts occurred outside the limit of work.
- b. Following completion of all monitoring activities, a full Certificate of Compliance shall be requested, accompanied by a final report on restoration/mitigation efforts. Any additional activities conducted since the issuance of the Partial Certificate of Compliance shall be specifically called out.



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- c. A final inspection, mapping, and report documenting the status of the invasive control shall be provided including photo-documentation of pre-construction and post-construction conditions, notations on a plan, summary of treatment performed, and control achieved.

PART VI: CONDITIONS IN PERPETUITY:

The following conditions shall be recorded at the Registry of Deeds as part of this Order of Conditions and shall continue in perpetuity and be included on the Certificate of Compliance. Owners of this property shall be made aware of restrictions in perpetuity on the activities allowed on this property. If the property owner has good cause to request an amendment to the conditions in perpetuity, he/she shall have the right to make a request for an amendment to the issuing authority. If, in the judgment of the issuing authority, the proposed activities will not detrimentally impact the wetland resource area functions, this Order, or the Certificate of Compliance shall be amended.

- a. Wetlands are located on this property that are subject of the Massachusetts Protection Act (Chapter 131, section 40) and the Sudbury Wetlands Administration Bylaw. Any work within a wetland resource area (including the 200' riverfront area) or within 100' of a wetland resource area requires review and approval by the Sudbury Conservation Commission prior to the commencement of such work.
- b. All components of the stormwater management system shall be maintained in accordance with the Long-Term Operation and Maintenance Plans developed separately for the rail trail and the Broadacres parking area. Inspection checklists shall be maintained and be made available for review by the Conservation Commission or staff on request.
- c. There shall be no snow removal activities or de-icing products used on the rail trail, except as required for emergency situations.
- d. When maintaining the rail trail, no debris, including natural debris such as leaves, shall be blown or swept into areas within 25 feet of vernal pools. Signage or other means of demarcating this management requirement shall be provided to and approved by the Conservation Commission prior to issuance of a Certificate of Compliance.
- e. The culverts and drainage structures shall be inspected at least annually and cleared of debris as needed. If culverts become damaged or no longer function as required, they shall be repaired or replaced according to most current MA Stream Crossing Standards. This work will require review and approval by the Conservation Commission under a Notice of Intent.
- f. Following completion of construction, the Town shall continue to monitor and manually remove invasive species along the rail trail and at the wetland replication area.