

LAW OFFICES OF  
**WILLIAM C. HENCHY, P.C.**

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By Hand Delivery and electronic mail

June 13, 2016

Jonathan F.X. O'Brien, Esquire  
Chairman  
Sudbury Zoning Board of Appeals  
Flynn Building  
278 Old Sudbury Road  
Sudbury, MA 01776

RE: Village at Sudbury Station Stormwater Management Plan

Dear Chairman O'Brien and Members of the Board of Appeals:

Please find enclosed my client's Stormwater Management Plan for the Board's consideration. We are filing this plan for the June 20, 2016 hearing in accordance with the schedule established by the Board during its public hearings. I note that Staff has repeatedly suggested that these materials were due at an early date, for an earlier hearing, but those assertions are incorrect, as the record plainly establishes. We are responding to the schedule for proceeding as established by the Board, not staff.

I wish to point out several important items for your consideration. First, because the system has been carefully designed to preclude any discharge into any wetland or water body, compliance with the Massachusetts Stormwater Standards is not required, as those standards do not apply. Since the stormwater management system is not part of a municipal separate storm sewer system, it is exempt from the requirements of 314 CMR 3.00 et. Seq, and the infiltration dry-well system is specifically allowed by 310 CMR 27.05, provided that it is registered with the DEP in accordance with 310 CMR 27.08. The total rainfall amounts which are utilized in the design of the system comply with technical guidance issued by MassDEP in November, 2015 (copy attached) which in turn requires the continued use of "United States Department of Commerce, Weather Bureau,



Technical Paper 40, *Rainfall frequency Atlas of the United States.*” Though other potential datasets for rainfall amounts are under consideration by MassDEP, because the reliability of these datasets when applied to Massachusetts is not demonstrated, MassDEP still requires the application of Technical Paper 40 (“TP-40”) in calculating rainfall totals for purposes of stormwater design.<sup>1</sup> Modifications to this standard are not expected in the immediate future (Lealdon Langley and Thomas Maguire MassDEP personal communication May 9, 2016). To the extent that compliance with NPDES General Permits are required, the applicant will ensure such compliance.

In short, the stormwater management system as proposed fully complies with all applicable state and federal standards.

Nevertheless, because the Town of Sudbury has enacted a local by-law and set of regulations that essentially purport to require compliance with the Massachusetts Stormwater Standards<sup>2</sup> (see Sudbury Stormwater Regulations at 8.0), the system has been designed to meet all of the Massachusetts Stormwater Management Standards. In particular, the system meets the following standards:

***The Stormwater Management Standards***

1. *No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or waters of the Commonwealth.*

The System as designed complies with this Standard. MassDEP has granted a Negative Superseding Determination of Applicability under the Wetlands Act (copy attached) confirming that no alteration of any wetland will occur as the result of the operation of the system.

2. *Stormwater management systems shall be designed so that post-development peak discharge rates do not exceed pre-development peak discharge rates. This Standard may be waived for discharges to land subject to coastal storm flowage as defined in 310 CMR 10.04.*

The system as designed complies with this standard.

3. *Loss of annual recharge to groundwater shall be eliminated or minimized through the use of infiltration measures including environmentally sensitive site design, low impact development techniques, stormwater best management practices, and*

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<sup>1</sup> The exception to this requirement is when the applicant chooses to use another dataset and the dataset selected has higher rainfall rates than those contained in TP-40. The Sudbury Stormwater by-law and Regulations purport to use rainfall calculations which differ significantly with TP-40 and which are inconsistent with the DEP technical guidance attached. To the extent that Sudbury’s local regulation deviates from the DEP Technical guidance, the applicant will use the DEP Technical Guidance, apply the TP-40 rainfall rates, and seek a waiver of the local requirement in accordance with G.L. c. 40B sec. 20-23 and 760 CMR 56.00 et. Seq.



*good operation and maintenance. At a minimum, the annual recharge from the post-development site shall approximate the annual recharge from pre-development conditions based on soil type. This Standard is met when the stormwater management system is designed to infiltrate the required recharge volume as determined in accordance with the Massachusetts Stormwater Handbook.*

The system as designed meets this standard.

4. *Stormwater management systems shall be designed to remove 80% of the average annual post-construction load of Total Suspended Solids (TSS). This Standard is met when:
  - a. *Suitable practices for source control and pollution prevention are identified in a long-term pollution prevention plan, and thereafter are implemented and maintained;*
  - b. *Structural stormwater best management practices are sized to capture the required water quality volume determined in accordance with the Massachusetts Stormwater Handbook; and*
  - c. *Pretreatment is provided in accordance with the Massachusetts Stormwater Handbook.**

The system as designed meets this standard.

5. *For land uses with higher potential pollutant loads, source control and pollution prevention shall be implemented in accordance with the Massachusetts Stormwater Handbook to eliminate or reduce the discharge of stormwater runoff from such land uses to the maximum extent practicable. If through source control and/or pollution prevention all land uses with higher potential pollutant loads cannot be completely protected from exposure to rain, snow, snow melt, and stormwater runoff, the proponent shall use the specific structural stormwater BMPs determined by the Department to be suitable for such uses as provided in the Massachusetts Stormwater Handbook. Stormwater discharges from land uses with higher potential pollutant loads shall also comply with the requirements of the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-53 and the regulations promulgated thereunder at 314 CMR 3.00, 314 CMR 4.00 and 314 CMR 5.00.*

This standard is inapplicable as the project is not such a project. See also the Definition of "Hotspot" contained in the Sudbury Stormwater Regulations.

6. *Stormwater discharges within the Zone II or Interim Wellhead Protection Area of a public water supply, and stormwater discharges near or to any other critical area, require the use of the specific source control and pollution prevention measures and the specific structural stormwater best management practices determined by the Department to be suitable for managing discharges to such areas, as provided in the Massachusetts Stormwater Handbook. A discharge is*



*near a critical area if there is a strong likelihood of a significant impact occurring to said area, taking into account site-specific factors. Stormwater discharges to Outstanding Resource Waters and Special Resource Waters shall be removed and set back from the receiving water or wetland and receive the highest and best practical method of treatment. A “storm water discharge” as defined in 314 CMR 3.04(2)(a)1 or (b) to an Outstanding Resource Water or Special Resource Water shall comply with 314 CMR 3.00 and 314 CMR 4.00. Stormwater discharges to a Zone I or Zone A are prohibited unless essential to the operation of a public water supply.*

This standard is inapplicable to the project.

7. *A redevelopment project is required to meet the following Stormwater Management Standards only to the maximum extent practicable: Standard 2, Standard 3, and the pretreatment and structural best management practice requirements of Standards 4, 5, and 6. Existing stormwater discharges shall comply with Standard 1 only to the maximum extent practicable. A redevelopment project shall also comply with all other requirements of the Stormwater Management Standards and improve existing conditions.*

This standard is inapplicable to the project.

8. *A plan to control construction-related impacts including erosion, sedimentation and other pollutant sources during construction and land disturbance activities (construction period erosion, sedimentation, and pollution prevention plan) shall be developed and implemented.*

This standard is inapplicable to the project (See Massachusetts Stormwater Handbook Volume I, Chapter 2, page 3 “for projects subject to the Stormwater Management Standards, Standard 8 set forth in the Wetlands Regulations at 310 CMR 10.06(6)(k)(8) requires the development and implementation of a construction period erosion, sedimentation and pollution prevention plan”). To the extent legally required under any NPDES General Permit, such a plan will be developed.

9. *A long-term operation and maintenance plan shall be developed and implemented to ensure that stormwater management systems function as designed.*

The system as designed meets this standard.

10. *All illicit discharges to the stormwater management system are prohibited.*

The system as designed meets this standard.



In summary, we have designed and submit herewith a stormwater management plan which complies fully with all applicable State and Federal requirements, and which in all material respects complies with the Sudbury Stormwater By-law and Regulations.

Copies are being supplied to the peer review firm directly by Sullivan Connors & Associates, Inc. Vito Collona and Michael Sullivan will be available and will present the plan on June 20, 2016 at the Board's public hearing.

Thank you for your courtesies.

Very truly yours,

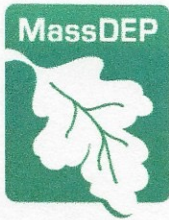
A handwritten signature in dark ink, appearing to read 'WCH', followed by a long, sweeping horizontal line that curves upwards at the end.

William C. Henchy

Wch/

cc. Christopher Claussen  
Christopher Kennedy  
Joseph Hakim  
Hancock Associates  
Sullivan Connors & Associates, Inc.  
Robert Engler  
Don Provencher P.E.





Charles D. Baker  
Governor

Karyn E. Polito  
Lieutenant Governor

Matthew A. Beaton  
Secretary

Martin Suuberg  
Commissioner

## **MassDEP to Review Recent Studies on Precipitation Rates in Massachusetts**

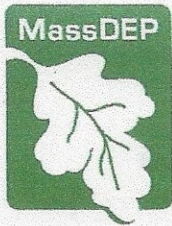
The Massachusetts Department of Environmental Protection (MassDEP) is currently evaluating the new precipitation frequency statistics published September 2015 online in the [National Oceanic and Atmospheric Administration \(NOAA\) Atlas 14](#). The existing precipitation frequency statistics referenced in the Wetland regulations, the [Hydrology Handbook for Conservation Commissioners](#), and the [Massachusetts Stormwater Handbook](#) are based on Technical Paper 40 (TP40), published by the U.S. Weather Bureau in 1961. In addition to the new NOAA study, MassDEP is also evaluating the precipitation frequency statistics prepared by the [Northeast Regional Climate Center](#) (NRCC) at Cornell University published online in 2008, relative to the currently used TP40 methodology.

Precipitation frequency statistics are used in calculating stormwater peak runoff rates in order to reduce likelihood of flooding from land development and to measure the extent of vernal pools and bordering lands subject to flooding in the absence of information from the Federal Emergency Management Agency (FEMA). The precipitation frequency statistics are also used to determine the extent of the 10-year floodplain significant to wildlife habitat and the extent of isolated lands subject to flooding.

In order to update the wetland regulations and incorporate the findings of these most recent studies, a regulation amendment is needed to the Wetland regulations at 310 CMR 10.57. Concurrently, revisions will also be needed to the Hydrology and Stormwater Handbooks which incorporate either the NOAA or NRCC atlases in place of TP40. Preliminary MassDEP review indicates that in some cases both NOAA and NRCC have lower precipitation than TP40, while in other cases, greater precipitation rates are expected. MassDEP is considering the need for an Advisory Committee to review and compare each of the three studies. Following completion of the preliminary analysis, proposed regulatory amendments will be undertaken consistent with Massachusetts Executive Order 562 (<http://www.mass.gov/governor/legislationexecorder/execorders/executive-order-no-562.html>).

In the interim, TP 40 values should continue to be used for calculating stormwater peak runoff rates unless an applicant voluntarily chooses to use the NOAA or NRCC Atlases and the selected methodology has a higher precipitation value than that of TP40 for the geographic location being evaluated.





Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Northeast Regional Office • 205B Lowell Street, Wilmington MA 01887 • 978-694-3200

Charles D. Baker  
Governor

Karyn E. Polito  
Lieutenant Governor

Matthew A. Beaton  
Secretary

Martin Suuberg  
Commissioner

April 20, 2016

Christopher Claussen  
2134 Sevilla Way  
Naples, FL 34109

RE: WETLANDS/SUDBURY  
Peter's Way  
**Superseding Determination of  
Applicability-Negative**

Dear Mr. Claussen:

Following an in-depth review of the file referenced above, and in accordance with the Massachusetts General Laws, Chapter 131, Section 40, the Northeast Regional Office of the Massachusetts Department of Environmental Protection Wetlands Program (MassDEP) is issuing the attached **negative** Superseding Determination of Applicability (SDA) based upon: 1) information and plans submitted; 2) information gathered during a March 10, 2016 site inspection; and 3) reasons the MassDEP has deemed necessary to protect the statutory interests identified in the Wetlands Protection Act.

The proposed project is for the construction of an access roadway off of Concord Road to a proposed Chapter 40B affordable housing development. The roadway will be constructed over an existing unpaved road. Stormwater runoff will be directed to a subsurface detention system.

Based upon a review of the project site and information contained in the file, the MassDEP has determined that the project site contains the following Areas Subject to Protection Under the Act: Bordering Vegetated Wetlands (BVW), Bank of an intermittent stream and Bordering Land Subject to Flooding (BLSF). Said Areas are presumed to be significant to protect one or more of the statutory interests of the Act. All work is proposed only in the Buffer Zones of BVW and Bank.

The applicant filed a Request for a Determination of Applicability (RDA) on January 11, 2016 for the above described work seeking a negative determination. The Sudbury Conservation Commission (SCC) held a hearing January 25, 2016 and failed to issue a Determination of



**Sudbury, Peter's Way**  
**Determination of Applicability**  
**Page 2**

Applicability (DA) indicating that they would not be issuing a DA. MassDEP received your appeal of the DA for lack of action on February 4, 2016 pursuant to 310 CMR 10.05(7)(b)4.

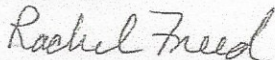
On March 10, 2016, MassDEP held a site visit that was attended by the applicant's representatives and members of the SCC. The proposed access road will be located over an existing gravel road located in the Buffer Zone of BVW and Bank of an intermittent reach of Mineway Brook. The grade of the existing road will be elevated using retaining walls to obtain the required slope for drainage. The proposed road will be 20 feet at its closest approach to the BVW bordering the brook. All stormwater will be contained within the roadway and channeled into catch basins in the proposed road and ultimately discharged into a subsurface detention system with a discharge that will be located outside of wetland jurisdiction. During construction and prior to the construction of the subsurface detention system, stormwater runoff will be discharged to a sedimentation basin located outside of wetland jurisdiction. An engineered plan showing project design, wetland resource areas, erosion control barriers, stormwater system, grading and topography was submitted with the RDA.

It is the opinion of MassDEP that the proposed project will not alter an area subject to protection under the Wetlands Protection Act.

Based upon the above findings, MassDEP hereby attaches its Negative Determination of Applicability for the Peter's Way access road. Please be advised that it is MassDEP's responsibility to address only those interests identified in the Wetlands Protection Act, M. G.L. Chapter 131, Section 40. Should you or any party dispute these findings, please direct your attention to that section of the regulations and the Superseding Determination of Applicability that specifies your rights and procedures to appeal.

If you have any questions concerning this SDA, please do not hesitate to contact Gary Bogue at (978) 694-3372.

Sincerely,



Rachel Freed, Deputy Regional Director  
Bureau of Water Resources-NERO

cc: Mr. William C. Henchy, P.C., 165 Cranberry Highway, Route 6A, Orleans, MA 02653  
Sudbury Conservation Commission, DPW Building, 275 Old Lancaster Road, Sudbury,  
MA 01776



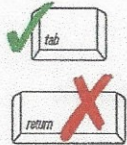


**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**WPA Form 2 – Superseding Determination of Applicability**

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

**A. General Information**

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



From: Department of Environmental Protection

To: Applicant			Property Owner (if different from applicant):		
<u>Christopher Claussen</u>			<u>Laura B. McCarthy</u>		
Name			Name		
<u>2134 Sevilla Way</u>			<u>578 Boston Post Road</u>		
Mailing Address			Mailing Address		
<u>Naples</u>	<u>FL</u>	<u>34109</u>	<u>Sudbury</u>	<u>MA</u>	<u>01776</u>
City/Town	State	Zip Code	City/Town	State	Zip Code

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

<u>Access Road Plan for the Village at Sudbury Station</u>	<u>January 7, 2016</u>
Title	Date

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Title	Date
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- Date Request Filed:  
January 11, 2016

**B. Determination**

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

Project Description (if applicable):

The construction of an access road for a proposed 40B residential development. The roadway will be constructed over an existing unpaved road. Stormwater runoff will be directed to a subsurface detention system. Construction will occur in the buffer zones to BVW and Bank of an intermittent stream.

Project Location:

<u>Peter's Way</u>	<u>Sudbury</u>
Street Address	City/Town





Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 2 – Superseding Determination of  
Applicability**

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

Map G09

Lots 004; 0100; 0300

Assessors Map/Plat Number

Parcel/Lot Number

**B. Determination (cont.)**

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

**Positive Determination**

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

- 1. The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.
- 2a. The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid.

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

- 3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.
- 4. The work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to protection under the Act. Therefore, said work requires the filing of a Notice of Intent.
- 5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by:

Name of Municipality

Pursuant to the following municipal wetland ordinance or bylaw:





Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 2 – Superseding Determination of  
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Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Name

Ordinance or Bylaw Citation

**B. Determination (cont.)**

6. The following area and/or work, if any, is subject to a municipal ordinance or bylaw but not subject to the Massachusetts Wetlands Protection Act:

7. If a Notice of Intent is filed for the work in the Riverfront Area described on referenced plan(s) and document(s), which includes all or part of the work described in the Request, the applicant must consider the following alternatives. (Refer to the wetland regulations at 10.58(4)c. for more information about the scope of alternatives requirements):

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

**Negative Determination**

No further action under the Wetlands Protection Act is required by the applicant.

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

1. The applicant shall hold a preconstruction meeting at which time erosion controls will be inspected and the proposed construction sequence will be reviewed. At the time of this meeting, limit of work staking shall be in place and wetland boundary flags shall be clearly visible. The applicant will notify both MassDEP and the Conservation Commission of the time and date of this meeting.
2. 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 the wetland.
3. Catch basins shall be inspected and cleaned at least four times per year or whenever the depth of deposits is greater than or equal to one half the basin.





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

4. The work described in the Request is not within an Area subject to protection under the Act (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act.

**B. Determination (cont.)**

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

Exempt Activity (site applicable statutory/regulatory provisions)

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

Name of Municipality

Pursuant to a municipal wetlands ordinance or bylaw.

Name

Ordinance or Bylaw Citation

**C. Authorization**

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

- by hand delivery on \_\_\_\_\_  by certified mail, return receipt requested on \_\_\_\_\_

**APR 20 2016**

Date

Date

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

Issued by the Department of Environmental Protection

Signature Rachel Freed  
Rachel Freed, Deputy Regional Director  
Bureau of Water Resources





Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

## WPA Form 2 – Superseding Determination of Applicability

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

### D. Appeals

Notice of Appeal Rights:

#### A) Appeal Rights and Time Limits

The applicant, the landowner, any person aggrieved by the Superseding Order, Determination or other Reviewable Decision as defined at 310 CMR 10.04, who previously participated in the proceedings leading to this Reviewable Decision, the conservation commission, or any ten (10) residents of the city or town where the land is located if at least one resident was previously a participant in the permit proceeding, are hereby notified of their right to appeal this Reviewable Decision pursuant to M.G.L. c.30A, § 10, provided the request is made by certified mail or hand delivery to the Department, along with the appropriate filing fee and a MassDEP Fee Transmittal Form within ten (10) business days of the date of issuance of this Superseding Order or Determination, and addressed to:

Case Administrator  
Office of Appeals and Dispute Resolution  
Department of Environmental Protection  
One Winter Street, 2<sup>nd</sup> Floor  
Boston, MA 02108.

A copy of the request (hereinafter also referred to as Appeal Notice) shall at the same time be sent by certified mail or hand delivery to the Conservation Commission, the applicant, the person that requested the Superseding Order or Determination, and the issuing office of the MassDEP at:

Northeast Regional Office  
205B Lowell Street  
Wilmington, MA 01887

In the event that a ten resident group requested the Superseding Order or Determination, the Appeal Notice shall be served on the designated representative of the ten resident group, whose name and contact information is included in this Reviewable Decision (when relevant).

### Contents of Appeal Notice

An Appeal Notice shall comply with the Department's Rules for Adjudicatory Proceedings, 310 CMR 1.01(6) and 310 CMR 10.05(7)(j), and shall contain the following information:

- (a) the MassDEP Wetlands File Number, name of the applicant, landowner if different from applicant, and address of the project;
- (b) the complete name, mailing address, email address, and fax and telephone numbers of the party filing the Appeal Notice; if represented by consultant or counsel, the name, fax and telephone numbers, email address, and mailing address of the representative; if a ten residents group, the same information for the group's designated representative;
- (c) if the Appeal Notice is filed by a ten (10) resident group, then a demonstration of participation by at least one resident in the previous proceedings that led to this Reviewable Decision;
- (d) if the Appeal Notice is filed by an aggrieved person, then a demonstration of participation in the previous proceeding that lead to this Reviewable Decision and sufficient written facts to





Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

## WPA Form 2 – Superseding Determination of Applicability

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

- (e) demonstrate status as a person aggrieved;
- (e) the names, telephone and fax numbers, email addresses, and mailing addresses of all other interested parties, if known;
- (f) a clear and concise statement of the alleged errors contained in the Department's decision and how each alleged error is inconsistent with 310 CMR 10.00 and does not contribute to the protection of the interests identified in the Wetlands Protection Act, M.G.L. c.131, § 40, including reference to the statutory or regulatory provisions that the party filing the Appeal Notice alleges has been violated by the Department's Decision, and the relief sought, including any specific desired changes to the Department's decision;
- (g) a copy of the Department's Reviewable Decision that is being appealed and a copy of the underlying Conservation Commission decision if the Reviewable Decision affirms the Conservation Commission decision;
- (h) a statement that a copy of the request has been sent by certified mail or hand delivery to the applicant and the conservation commission; and
- (i) if asserting a matter that is Major and Complex, as defined at 310 CMR 10.04(1), a statement requesting that the Presiding Officer make a designation of Major and Complex, with specific reasons supporting the request.

### Filing Fee and Address

A copy of the Appeal Notice along with a MassDEP Fee Transmittal Form and a valid check or money order payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100) must be mailed to:

Commonwealth of Massachusetts  
Department of Environmental Protection  
Commonwealth Master Lockbox  
P.O. Box 4062  
Boston, Massachusetts 02211

The request will be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver. The filing fee is not required if the appellant is a city or town (or municipal agency), county, district of the Commonwealth of Massachusetts, or a municipal housing authority. The Department may waive the adjudicatory hearing filing fee pursuant to 310 CMR 4.06(2) for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file an affidavit setting forth the facts believed to support the claim of undue financial hardship together with the hearing request as provided above.