



TOWN OF WAYLAND
MASSACHUSETTS
01778
CONSERVATION COMMISSION

TOWN BUILDING
41 COCHITUATE ROAD
TELEPHONE: (508) 358-3669
FAX: (508) 358-3606

April 14, 2005

Mr. Edwin Madera
C/o Raytheon Company
528 Boston Post Road – Mail stop 1880
Sudbury, MA 01776

RE: DETERMINATION OF APPLICABILITY, WETLANDS PROTECTION ACT, D-651
400 Boston Post Road, Wayland, MA.

Dear Mr. Madera,

Enclosed is a copy of the negative Determination of Applicability issued by the Wayland Conservation Commission relative to the application filed for continued site investigation within 100 feet of resource areas at 400 Boston Post Road (former Raytheon facility), Wayland. The work has been permitted subject to conditions noted in Attachment "A". If you are not satisfied with the Determination, you may appeal to the Massachusetts Department of Environmental Protection (DEP) within ten days of the date of issue. The decision was also issued under Wayland's Wetlands and Water Resources Bylaw and the process for an appeal of that is outlined in the Bylaw itself (Section 194-11).

There is a requirement that written notice be provided to the Conservation Commission not less than two or more than five business days prior to commencing work. All correspondence relating to this decision should include a reference of D-651.

If you have any questions please contact me at (508) 358-3669. Thank you.

Sincerely,

Brian J. Monahan
Conservation Administrator

BJM/jm
Enc.

cc: DEP, Northeast Region
J. Drobinski, L.S.P. (ERM)
Board of Selectmen (w/ enc.)
Building Department
Board of Health (w/o enc.)
Planning (w/o enc.)
Town Clerk
Abutters (w/o enc.)
File



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

B. Determination (cont.)

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

Positive Determination

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

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

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

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

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

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

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

Wayland

Name of Municipality

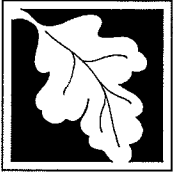
Pursuant to the following municipal wetland ordinance or bylaw:

Wetlands & Water Resources Bylaw

Name

Chapter 194

Ordinance or Bylaw Citation



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

B. Determination (cont.)

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

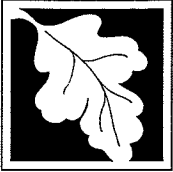
- Alternatives limited to the lot on which the project is located.
- Alternatives limited to the lot on which the project is located, the subdivided lots, and any adjacent lots formerly or presently owned by the same owner.
- Alternatives limited to the original parcel on which the project is located,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

Negative Determination

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

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



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

B. Determination (cont.)

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

Exempt Activity (site applicable statutory/regulatory provisions)

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

Name of Municipality

Pursuant to a municipal wetlands ordinance or bylaw.

Name

Ordinance or Bylaw Citation

C. Authorization

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

by hand delivery on

by certified mail, return receipt requested on

April 14, 2005

Date

Date

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

This Determination must be signed by a majority of the Conservation Commission. A copy must be sent to the appropriate DEP Regional Office (see Attachment) and the property owner (if different from the applicant).

Signatures:

[Handwritten signatures: Alexander, Antonell, Bachman, Gluck]

[Handwritten signature: Barbara Howell]

Date



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

D. Appeals

The applicant, owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate Department of Environmental Protection Regional Office (see Attachment) to issue a Superseding Determination of Applicability. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form (see Request for Departmental Action Fee Transmittal Form) as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Determination. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant if he/she is not the appellant. The request shall state clearly and concisely the objections to the Determination which is being appealed. To the extent that the Determination is based on a municipal ordinance or bylaw and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.



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CHAPTER 194
WETLANDS AND WATER RESOURCES PROTECTION BYLAW
DETERMINATION OF APPLICABILITY

430 Boston Post Road – Raytheon Test Wells D-65-D

Wayland Conservation Commission:

[Handwritten signatures of commission members]

Date issued: _____

Commonwealth of Massachusetts, Middlesex County

On this 11th day of April, 2005

Before me, the undersigned Notary Republic, personally appeared _____

Proved to me through satisfactory evidence of identification, which was ~~were~~

known to me personally

to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as a member of the Wayland Conservation Commission.

[Handwritten signature of Brian J. Monahan]

Signature of Notary Republic
Brian J. Monahan
Printed Name of Notary Republic

This Permit is issued to the applicant as follows: ___ by hand delivery on _____
___ by certified mail on _____

Project Description:

To conduct further site investigations within 100 feet of resource areas as part of an effort to characterize impacts to groundwater. Specific activities include Membrane Interface Probe Borings, Waterloo Profile borings, some soil sample collection and analysis, and installation of groundwater monitoring wells.

Findings MGL Chap 131, Sec 40 and Wayland's Chapter 194:

- a. Resource areas on the parcels identified include: riverfront area, bordering land subject to flooding, and bordering vegetated wetlands.
- b. Resource areas have not been precisely defined on the documents submitted with the application.
- c. The proposed activity is within both resource areas and the buffer zone.
- d. Resource areas protected by the Wetlands Protection Act, MGL Chap. 131, Sec. 40 have the following values: the protection of public and private water supplies; prevention of pollution, wildlife habitat, prevention of flooding, prevention of stormwater damage, ground water, and fisheries.
- e. The Commission noted that property owners included the Federal Government and inquired about the status of work being proposed on the land owned by the Federal Government.
- f. Resource areas have not been defined in the field. Heavy equipment use is not being permitted within wetlands.
- g. The applicant will need to define what heavy equipment is to be used prior to using that equipment in the field.
- h. Operation of heavy equipment within resource areas is likely to alter wetlands and controls are necessary to mitigate impacts.
- i. The wetlands will have to be defined in the field prior to commencing the work permitted by this decision.
- j. No existing trees will be removed to conduct the testing permitted by this decision.
- k. The seismic refraction geophysical work involves the use of a number of small explosive charges to generate shock waves within the ground that allow for characterization of soils and bedrock. According to the Applicant there is no available substitute method that can achieve the necessary soil and bedrock characterization without this temporary disturbance to wildlife.
- l. The applicant indicated that the proposed testing will take approximately one week.
- m. Nothing in this decision is intended to permit an increase in rate or volume of water discharged from the applicant's property onto the property of others as a result of work being permitted by this decision.
- n. This decision 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.
- o. This decision does not confer property rights of the applicant onto the property of others.
- p. Property boundaries need to be defined prior to commencing the work at the site.
- q. The applicant has stated that there is an existing agreement with the property owners to conduct the activities permitted by this decision.
- r. Additional work associated with this testing may require the filing of a Notice of Intent.

Findings - Wayland's Chapter 194:

- i. Wayland's Wetland Bylaw, Chapter 194, establishes land within 100 feet of a stream and a wetland, the buffer zone, as a resource area.

Attachment "A" - Special Conditions
April 14, 2005 - D-651
430 Boston Post Road, Wayland
Map 23, Parcel 52C and 52D

- ii. Wayland's Wetland Bylaw also includes additional resource areas that the applicant has identified, for prior applications, on plans including all wetlands and land subject to flooding and inundation.
- iii. Work, as it has been shown on the plan and described in the field, will be in a resource area - the buffer zone.
- iv. Resource areas protected by the Wetlands Bylaw have values and functions including, but not limited to, public or private water supply, groundwater, flood control, erosion sedimentation control, storm damage prevention, water pollution prevention, storm water quality, water quality, fisheries, unusual plants, wildlife, wildlife habitat, passive recreation, and aquaculture.
- v. The proposed activity will be done in all the buffer zone and the Commission with nominal use of mechanized equipment.
- vi. The Commission would like a summary of any test results provided in a tabular form.
- vii. This decision 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.
- viii. This decision does not confer any property rights of others to the applicant.
- ix. Notice of the public meeting was published in the Town Crier and sent to abutters.
- x. The applicant must be aware that all activities within 100 feet of wetlands may be subject to formal review by the Conservation Commission.
- xi. A negative determination issued pursuant to Wayland's Wetland and Water Resources Bylaw contains no provision to start work, at the applicant's own risk, until the appeal period has expired.

SPECIAL CONDITIONS

1. Work shall conform to the findings and proposed work plan submitted with the Request for Determination except as modified by conditions imposed herein. No other activity, except the geophysical survey is being permitted by this decision in an area subject to review under the Wetlands Protection Act and Wayland's Wetlands and Water Resources Bylaw Chapter 194.
2. The applicant is advised that any proposed or executed change in the plans approved under this Determination shall require a new filing. There is no provision for amending a Determination of Applicability.
3. All correspondence submitted to or upon which the Conservation Commission is copied, relating to this permit/decision shall include reference to D-651.
4. **Prior to commencing of any work permitted by this decision** the wetlands shall be marked in the field and viewed by the Conservation Administrator.
5. **Prior to commencing of any work**, there shall be a preconstruction conference on the site between the contractor who will do the work and the Conservation Administrator, to ensure the requirements of this Determination are understood. The purpose of the pre-construction meeting is to allow for final inspection of the site prior to construction and to resolve any outstanding issues at that time. All parties shall be provided with a minimum of 72 hours notice of the pre-construction meeting.

Attachment "A" - Special Conditions
April 14, 2005 - D-651
430 Boston Post Road, Wayland
Map 23, Parcel 52C and 52D

6. **Prior to commencing any work** the applicant shall provide written notice, not less than two or more than five business days prior to commencing any activity permitted by this Order, to the Conservation Commission.
7. Evidence shall be provided that property owners upon whose land the geophysical survey is being done have given their permission to conduct such work.
8. Property boundaries or corners shall be defined in the field.
9. At the end of each workday, the applicant shall mechanically sweep or manually sweep sediments from the adjacent streets, unless tracking and sediment is not evident on the streets.
10. Members and agents of the Commission shall have the right to enter and inspect the premises to evaluate compliance with this Determination, and the Commission may require the submittal of any data deemed necessary by the Commission for that evaluation.
11. There shall be no stockpiling of soil or other materials within a resource area or the buffer zone.
12. Any debris, which falls into any wetland or other resource area, shall be removed immediately by hand.
13. There shall be no trees cut to conduct the testing permitted by this decision.
14. Upon completion of the project the applicant shall notify the Conservation Commission in writing that the work has been completed in accordance with the approved plans and the above conditions. The letter shall include a request for an on-site inspection to be held with the applicant, and agent of the Commission to verify compliance.
15. This decision does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
16. This decision 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.
17. A copy of any test results shall be provided, in a tabular form, to the Conservation Commission within 30 days of the applicant obtaining them.
18. Failure to comply with the conditions of this permit is a violation of the Wetlands Bylaw. Violations of Chapter 194 may result in the imposition of non-criminal penalties in the amount of \$300 in addition to other remedies available. Each day the violation exists may be considered a separate violation of the Bylaw.

This decision is not valid without a notarized signature sheet.

This permit expires on April 14, 2008.

Attachment "B" - Property Owners
April 14, 2005 - D-651
430 Boston Post Road, Wayland
Map 23, Parcel 52C and 52D

PID: 23-52D – Wayland Meadows Limited Partnership
C/o Levco Inc.,
145 Rosemary Street
Needham, MA 02494

PID: 23-52C – GRM Properties II LLC
33 Arch Street, Suite 2100
Boston, MA 02110