

# Pre-Hearing by Parker River Clean Water Association before the Conservation Commission

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**Objective:** To receive suggestions and input to explore what needs to be done to receive a negative impact finding on an RDA and to discover what needs to be done or not done that would avoid triggering an NOI.

**Site Description:** The Gloria Braunhardt Bike/Pedestrian Trail project covers three different sections.

One, the northern section of the path from Storey avenue to the abandoned Route 95 roadbed that extends for 1,100 feet. This area is within 100' of wetlands and the road surface is a dirt path with stone dust on top.

Second, a roadbed three lanes wide that extends for 1.1 miles. It is surrounded by stormwater drainage sites that are located at the edge or nearby the paved section. The Little River goes around and under. Toward the southern one-third of the pavement, wetlands are on both sides within 25 feet.

Third, a stone dust path that goes from the end of the paved road and goes directly up to Hale Street. It has wetlands directly north of the entire length of the path for 600 feet.

**Review:** According to 310 CMR 10.02 Commentary: The Department has determined that activities within 100 feet of those areas specified in 310 CMR 10.02(1)(a) are sufficiently likely to alter said areas that preconstruction review **may** be necessary. **Therefore, a request for a Determination of Applicability must be filed for some activities within the Buffer Zone.** The Conservation Commission shall then make a determination as to whether the **activity so proposed will alter an Area Subject to Protection** under M.G.L. c. 131, § 40 and, if so, shall require the filing of a Notice of Intent for said activities. **[emphasis added]**

**According to the same Commentary, the issuing authority (Conservation Commission) shall not require the filing of a Notice of Intent if it determines that the activity proposed within the Buffer Zone will not alter an Area Subject to Protection under M.G.L. c. 131, § 40.** 310 CMR 10.05(3)(a)2. also indicates **Any person who proposes to perform work within the Buffer Zone shall submit** to the conservation commission either a Notice of Intent for such work **or a Request for Determination of Applicability.** Said request shall include sufficient information, as required on Form 1, to enable the conservation commission to find and view the area and to determine whether the proposed work will alter an Area Subject to Protection under M.G.L. c. 131, § 40. **[emphasis added]**

## Some of the justifications for a negative finding are proposed below:

1. Work largely limited to existing paved areas, with exception of replacement of guardrails with a split rail fence.
2. Construction access will be via the existing stone dust path and pavement from Storey Avenue. For over two years since the stone dust path was installed, T-Mobile cell tower utility vehicles have used them, often turning around down at the roadbed. There have been no adverse effects on the path.
3. No pavement removal or associated large equipment.
4. Sediment control barrier will be installed along limit of work up-gradient of wetlands/streams. These will be used to prevent any contamination from the removal of the guard rails largely found at the top of culverts.
5. The third section (Stone dust path at the south end) had proposed work even closer to the wetlands. This was previously approved via a negative finding for the Determination of Applicability for a Boy Scout Eagle Project. (See attached) This project has been completed with boards on the south side to prevent erosion.
6. Landscaping will utilize native plants on a 4' wide berm on either side of the bike trail which will be soil and sod 6" deep directly on top of the pavement.
7. Swale points along the 4' sod berm will allow drainage to in-place stormwater drains placed long ago by MassDOT.
8. There is sufficient space for a 12' koir log above the culverts where the river crosses that will prevent any debris from migrating towards the wetlands as part of the removal of the guardrails. The alternative to the full extraction would be to cut the rails flush with the ground. Regardless of method, this is the only disturbance that is close to the river/wetlands. The guardrails are only around the culverts for short lengths. (There are three sets of guard rails to be removed.)
9. The proposed installation of fencing as a replacement of the old guardrails will be driven into the **pavement** of the outer lane closest to the culvert and will not disturb any soils or trees.
10. Mass Historic has forbidden the removal of any tree roots for the entire length of the bike trail. (Letter attached) This does not preclude cutting back the branches that overhang the bike trail.
11. 1/10<sup>th</sup> mile post markers will be driven **directly into the pavement**' off the bike trail.

**12. The overall proposed work will not alter the resource area surrounding the roadbed.** As for stormwater runoff, access will be provided using the pre-installed storm water drains placed long ago by Mass Highway.

Parker River Clean Water Association is seeking to complete the improvement of the trail to achieve the project goal of a handicap-accessible path for bike and pedestrians especially those with physical challenges. Immediately after we receive input from the Commission members, PRCWA will submit a check for a posting in the *Newburyport Daily News* and submit an RDA to the Planning Office. We will then next appear before the Conservation Commission for a formal hearing.

Prior to this action, we are eager to hear the Commission member's input so we can accomplish this community benefit.