



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

A. Emergency Information

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



Issuance From: Shutesbury Conservation Commission
Issuing Authority

1. Site Location: Montague Road (42.48231, -72.44438)

2. Reason for Emergency:
Beaver dam is impounding water near road culvert

3. Applicant to perform work: Shutesbury Highway Department

4. Public agency to perform work or public agency ordering the work to be performed:
Highway Department, order from Board of Health per 5/2/23 email to Conservation Commission

5. Date of Site Visit: 5/2/23 Start Date: 5/3/23 End Date*: 5/31/23

* no later than 30 days from start date or 60 days in the case of an Immediate Response Action approved by DEP to address an oil/hazardous material release.

6. Work to be allowed*:

Applicant proposes to breach beaver dam around culvert in 1-2 days using a backhoe from the road. Breach is to be gradual and controlled. Removed debris will be trucked off site and disposed of at a commercial mulching facility.

* May not include work beyond that necessary to abate the emergency.



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B. Signatures

Certified to be an Emergency by this Issuing Authority.
Emergency Certification ratified by Commission on 5/11/23

Shutesbury Conservation Commission
See attached Certificate of Vote authorizing digital signatures.

Signatures:

Miriam DeFant

Digitally signed by Miriam DeFant
Date: 2023.05.02 17:08:19 -0400

Miriam DeFant, Chairperson

Signature
Mary David

Printed Name
 Mary David

Signature
Robin Harrington

Printed Name
 Robin Harrington

Signature
Scott Kahan

Printed Name
 Scott Kahan

Signature
Beth Willson

Printed Name
 Beth Willson

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

A copy of this form must be provided to the appropriate DEP Regional Office.

C. General Conditions

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 Emergency Certification or subject to enforcement action.
2. This Emergency Certification does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of property rights.
3. This Emergency Certification does not relieve the applicant or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. Any work conducted beyond that described above, and any work conducted beyond that necessary to abate the emergency, shall require the filing of a Notice of Intent.
5. 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 Emergency Certification at reasonable hours to evaluate compliance with this Certification, and may require the submittal of any data deemed necessary by the Conservation Commission or the Department for that evaluation.
6. This Emergency Certification shall apply to any contractor or any other person performing work authorized under this Certification.
7. No work may be authorized beyond 30 days from the date of this certification without written approval of the Department.

CERTIFICATE OF VOTE AUTHORIZING SIGNATURES PURSUANT TO M.G.L. c.110G

On May 14, 2020, the Shutesbury Conservation Commission met in open session through publicly accessible video-conference software, pursuant to the "Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20," issued by Governor Charles D. Baker on March 12, 2020. At this duly held meeting, the following action was taken:

Motion: Shutesbury Conservation Commission hereby recognizes and accepts the provisions of M.G.L. c.110G regarding electronic signatures and that its members will henceforth execute documents either with electronic signatures or with wet ink signatures and that both will carry the same legal weight and effect. Motion was seconded.

Roll Call vote:

Commissioner Penny Jaques: aye
Commissioner Russ Mizula: aye
Commissioner Robin Harrington: aye
Commissioner Liam Cregan: aye
Vote was Unanimous

The above is a true and accurate account of the proceedings of the Conservation Commission.

Title/Signature: Alice P. Jaques Date: 20 May, 2020

Commonwealth of Massachusetts
County of Franklin, ss.

On this 20 of May, 2020, before me, personally appeared Alice P. Jaques, Chair of said Conservation Commission, as aforesaid, and proved to me through satisfactory evidence of identification, which was Personally Known to me to be the person whose name is signed on the preceding document, and acknowledged to me that she signed it voluntarily for its stated purpose on behalf of the Town of Shutesbury.

Susan Mosher
Notary Public

My Commission Expires: 4/1/2022

Certified by Town/City Clerk:

Susan Mosher Date: May 20, 2020
Susan Mosher





D. Special Conditions

See attached conditions.

E. Appeals

The Department may, on its own motion or at the request of any person, review: an emergency certification issued by a conservation commission and any work permitted thereunder; a denial by a conservation commission of a request for emergency certification; or the failure by a conservation commission to act within 24 hours of a request for emergency certification. Such review shall not operate to stay the work permitted by the emergency certification unless the Department specifically so orders. The Department's review shall be conducted within seven days of: issuance by a conservation commission of the emergency certification; denial by a conservation commission of the emergency certification; or failure by a conservation commission to act within 24 hours of a request for emergency certification. If certification was improperly granted, or the work allowed thereunder is excessive or not required to protect the health and safety of citizens of the Commonwealth, the Department may revoke the emergency certification, condition the work permitted thereunder, or take such other action as it deems appropriate.

SHUTESBURY CONSERVATION COMMISSION
SPECIAL CONDITIONS FOR EMERGENCY CERTIFICATION

MONTAGUE ROAD-DUDLEY POND CULVERT
BEAVER DAM BREACHING

Landowner: Town of Shutesbury

Applicant: Tim Hunting, Highway Department Superintendent

Date: May 2, 2023

Findings:

1. The Applicant proposes to breach a beaver dam that has developed on the upstream side of the road culvert. The amount of dam materials has increased significantly in past month. With heavy recent rains, impounded water is creating a hazard at the culvert.
2. Only the upstream beaver dam may be breached under this permit.
3. Removal of the beaver dam is to be accomplished using a backhoe or excavator located on the road. Breach will be accomplished in a slow, gradual, and controlled manner over two days. Removed debris is to be trucked off-site and disposed of at a commercial mulching facility. The pond is currently in a flooded state. The dam breaching will lower the pond water level.
4. The Highway Department believes that this breaching will only achieve a temporary solution, and that a flow protection device is needed. The Highway Department plans to consult with a specialist to design such a device.
5. The proposed work shall occur on the Bank of a pond, in Land under a Waterway or Waterbody, Bordering Vegetated Wetlands, and in the 100-foot Adjacent Upgradient Resource Area (AURA) of said wetland Resource Areas.
6. The pond, Land Under Waterway and Waterbody, and Bordering Vegetated Wetlands are protected under the Wetlands Protection Act.
7. The pond, Land Under Waterway and Waterbody, Bordering Vegetated Wetlands, and AURA are protected Resource Areas under the Shutesbury General Wetland Bylaw.
8. An upgradient polygon near affected pond is mapped as Priority Habitat by the Massachusetts Natural Heritage and Endangered Species Program (NHESP).
9. The downstream stone/concrete Dudley Pond Dam has been deemed an unsafe dam by the Office of Dam Safety.
10. The Shutesbury Highway Department and Board of Health have determined that the existing beaver dam is a threat to public health and safety.

Special Conditions

1. Work under this Emergency Certification shall only include breaching of the beaver dam over two successive days if needed to lower the impoundment.
2. Any additional breaching or installation of a flow protection device shall be reviewed under another permit request to the Commission.
3. Pre-existing vegetation shall be preserved to the maximum amount possible.

- 11.** Ground disturbance shall be minimized to the maximum amount possible.
- 12.** The breaching of the dam shall be conducted in a slow, controlled manner to prevent sediment releases and uncontrolled flooding.
- 13.** All removed debris shall be disposed of off-site and away from any Protected Resource Area.
- 14.** The Applicant shall notify the Commission by email within 24 hours of the completion of the work and shall arrange a post-construction site visit with the Commission to review site conditions.