



October 31, 2023

Shutesbury Conservation Commission
P.O. Box 276
1 Cooleyville Road
Shutesbury, MA 01072

Attn: Miriam DeFant, Chair

**Re: Order of Resource Area Delineation Extension Request
MassDEP File No. 286-0282
Leverett Road (Lot ZF-15)
Shutesbury, MA 01072**

Dear Commission Members:

On behalf of the Applicant, W.D. Cows, Inc., Tetra Tech respectfully requests an Extension of the Order of Resource Area Delineation (ORAD) issued by the Shutesbury Conservation Commission on April 23, 2021 pursuant to the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40) and its Regulations (310 CMR 10.00), and the Town of Shutesbury General Wetlands Protection Bylaw and Regulations.

W.D. Cows, Inc. continues to evaluate development alternatives at the subject property and a Notice of Intent filing prior to the expiration of the ORAD will not be feasible. It is our opinion that the wetland delineation approved under the ORAD represents the current wetland resource areas, as no substantive changes have been observed at the undeveloped subject property. Per 310 CMR 10.05(8), we respectfully request a three (3) year extension of the Order of Resource Area Delineation to April 23, 2027.

Thank you for your consideration of this extension request. Should you have any questions or require additional information, please do not hesitate to contact me at (508) 786-2348 or matthew.moyen@tetrattech.com.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Matthew Moyen'.

Matthew Moyen, PE
Senior Project Manager

Attachments: Order of Resource Area Delineation, MassDEP File No. 286-0282

Cc: MassDEP Western Regional Office
W.D. Cows, Inc.

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For Registry of Deeds Use Only



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

**WPA Form 4B – Order of Resource Area
Delineation**

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

Provided by MassDEP:

286-0282

MassDEP File Number

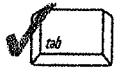
eDEP Transaction Number

Shutesbury

City/Town

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.



Note: Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

From: Shutesbury
1. Conservation Commission

2. This Issuance is for (check one):

- a. Order of Resource Area Delineation
- b. Amended Order of Resource Area Delineation

3. Applicant:

a. First Name W.D. Cowls, Inc. b. Last Name _____

c. Organization P.O. Box 9677.

d. Mailing Address North Amherst

e. City/Town MA f. State 01059 g. Zip Code

4. Property Owner (if different from applicant):

a. First Name _____ b. Last Name _____

c. Organization _____

d. Mailing Address _____

e. City/Town _____ f. State _____ g. Zip Code _____

5. Project Location:

Leverett Rd Shutesbury 01072

a. Street Address b. City/Town c. Zip Code

ZF 15

d. Assessors Map/Plat Number e. Parcel/Lot Number

Latitude and Longitude (in degrees, minutes, seconds): 42.45249d m s -72.43256d m s

f. Latitude g. Longitude

6. Dates: 10.26.2020 04.22.2021 04.23.2021

a. Date ANRAD filed b. Date Public Hearing Closed c. Date of Issuance



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A. General Information (cont.)

7. Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

Leverett West Project Shutesbury, MA Wetland Delineation (Figure 2 Sheet 1-8)	<u>04.22.2021</u>
_____	b. Date
_____	_____
c. Title	d. Date

B. Order of Delineation

1. The Conservation Commission has determined the following (check whichever is applicable):

a. **Accurate:** The boundaries described on the referenced plan(s) above and in the Abbreviated Notice of Resource Area Delineation are accurately drawn for the following resource area(s):

1. Bordering Vegetated Wetlands
2. Other resource area(s), specifically:

a. _____

b. **Modified:** The boundaries described on the plan(s) referenced above, as modified by the Conservation Commission from the plans contained in the Abbreviated Notice of Resource Area Delineation, are accurately drawn from the following resource area(s):

1. Bordering Vegetated Wetlands
2. Other resource area(s), specifically:

a. ANRAD was modified April 22, 2021. Please also refer to attached findings entitled 'Attachment for ORAD at Leverett West'

c. **Inaccurate:** The boundaries described on the referenced plan(s) and in the Abbreviated Notice of Resource Area Delineation were found to be inaccurate and cannot be confirmed for the following resource area(s):

1. Bordering Vegetated Wetlands
2. Other resource area(s), specifically:



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B. Order of Delineation (cont.)

3. The boundaries were determined to be inaccurate because:

C. Findings

This Order of Resource Area Delineation determines that the boundaries of those resource areas noted above, have been delineated and approved by the Commission and are binding as to all decisions rendered pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c.131, § 40) and its regulations (310 CMR 10.00). This Order does not, however, determine the boundaries of any resource area or Buffer Zone to any resource area not specifically noted above, regardless of whether such boundaries are contained on the plans attached to this Order or to the Abbreviated Notice of Resource Area Delineation.

This Order must be signed by a majority of the Conservation Commission. The Order must be sent 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 DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>).

D. 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 DEP Regional Office to issue a Superseding Order of Resource Area Delineation. When requested to issue a Superseding Order of Resource Area Delineation, the Department's review is limited to the objections to the resource area delineation(s) stated in the appeal request. 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 of Resource Area Delineation 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 Determination, or providing written information to the Department prior to issuance of a Superseding Order or Determination.

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



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E. Signatures

Date of Issuance

3

1. Number of Signers

Please indicate the number of members who will sign this form.

Shutesbury Conservation Commission

Please see the attached Certificate of Vote authorizing the execution of documents with electronic signatures as voted by the Shutesbury Conservation Commission 5.14.2020 and certified by the Shutesbury Town Clerk 5.20.2020.

Signatures

Signature of Conservation Commission Member	Liam Cregan Printed Name
Signature of Conservation Commission Member	Miriam DeFant Printed Name
Signature of Conservation Commission Member	Mary David Printed Name
Signature of Conservation Commission Member	Printed Name
Signature of Conservation Commission Member	Printed Name
Signature of Conservation Commission Member	Printed Name
Signature of Conservation Commission Member	Printed Name
Signature of Conservation Commission Member	Printed Name

This Order is valid for three years from the date of issuance.

If this Order constitutes an Amended Order of Resource Area Delineation, this Order does not extend the issuance date of the original Final Order, which expires on _____ unless extended in writing by the issuing authority.

This Order is issued to the applicant and the property owner (if different) as follows:

2. By hand delivery on

3. By certified mail, return receipt requested on

a. Date

04.23.2021

a. Date

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

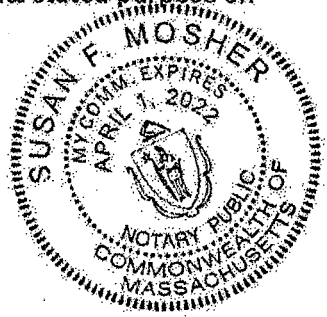
The above is a true and accurate account of the proceedings of the Conservation Commission.

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

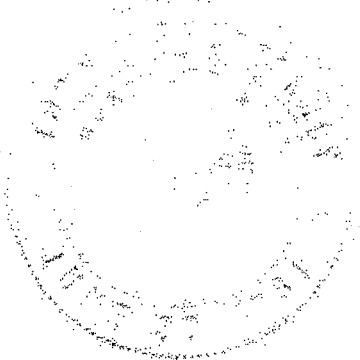
Commonwealth of Massachusetts
County of Franklin, ss.

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 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



Attachment for ORAD at Leverett West

Lot: ZF-15

Applicant: W.D. Cowls

These findings are based on the *Leverett West Project Shutesbury, MA Wetland Delineation (Figure 2 Sheet 1-8)*, revised 4.22.2021. DEP File # 286-0282.

- 1) The Shutesbury Conservation Commission approves the boundaries of stream banks and bordering vegetated wetlands depicted on the final plan set "Leverett West Project Shutesbury, MA" Figure 2 Sheets 1 through 8, final revision April 22, 2021, on the following condition: if a Notice of Intent is submitted citing the boundaries approved under this ORAD, then current flags shall be renumbered and replaced at the exact geo-referenced location depicted on the final plan in consecutive numeric order.
- 2) The Commission does not approve bank and wetland flags outside the study area. The Commission does approve the MAHW flags outside the study area as depicted on the final plans.
- 3) The following findings concern jurisdictional areas protected by both the Massachusetts Wetlands Protection Act and the Shutesbury Wetlands Bylaw:
 - The Commission approves 100ft buffer zones within the study area.
 - The Commission approves the S1 stream bank within the study area (Figure 2 sheets 1- 4, Flags 23-31, 33-49.1, 50-52, 54-57, 122-138, 140-141, 143-152)
 - The Commission approves the S2 MAHW flags within the study area (Figure 2 sheets 1- 2, Flags 23-29)
 - The Commission approves the W1 bordering vegetated wetland within the study area (Figure 2 sheets 1- 4, Flags 16-24, 26-27, 29- 33.1, 34-35, 37-38)
 - The Commission approves the W2 bordering vegetated wetland within the study area (Figure 2 sheets 1- 2, Flags 1-12)
 - The Commission approves the W3 bordering vegetated wetland within the study area (Figure 2 sheets 1 and 5, Flags 1-10, 13-15, 31-39)
- 4) The following findings concern the jurisdictional areas protected by the Shutesbury Wetlands Bylaw:
 - The mapped 100ft buffer zones within the study area are approved by the Commission and protected as resource areas under the bylaw.
- 5) Roaring Brook (referred on the plans as S2) is designated a MA Fish & Wildlife cold water fisheries resource (ID# CFR3420250).