

**Rochester Conservation Commission  
August 7, 2018**

**Present:** Michael Conway, Chairman  
Daniel Gagne, Vice Chairman  
Christopher Gerrior  
Laurene Gerrior  
Maggie Payne  
Chris Post

**Absent:** *(None)*

Laurel J. Farinon, Conservation Agent  
Margaret Gonneville, Board Administrator

The meeting was held in the Town Hall conference room. Chairman Conway called the meeting to order at 7:00 p.m. and announced that the meeting was being televised.

**Public Hearing**

***(Continued from June 5, 2018)*** DEP File # SE 272-0557 A Notice of Intent filed by Repurpose Properties, LLC, 55 Main Street, Buzzards Bay, MA 02532 for property located at Rounseville Road, Rochester, MA 02770, designated as Lots 24, 25B, and 25C on Assessor's Map 30. The applicant proposes construction of an age-related community with 22 duplex units and a common building with a pool area. A roadway with underground utilities, drainage facilities, and a shared septic system for all buildings will be installed. All proposed work within the development is outside of the 25-foot No Disturb Zone, but 14 duplex units, 3 point-source discharges, and 16,100 square feet of roadway will be constructed within the 100-foot Buffer Zone to a resource area. Erosion control measures will be implemented. The property owner of record is Gibbs V. Bray & Patricia M. Bray, Trustees, P.O. Box 989, Marion, MA 02738. The applicant's representative is John Churchill, Jr., J.C. Engineering, Inc., 2854 Cranberry Highway, East Wareham, MA 02538.

Chairman Conway announced that Brian Wallace of JC Engineering sent an email request on August 2, 2018 to continue the public hearing until the next meeting on August 21, 2018.

A motion to continue the public hearing until August 21, 2018 was made by Vice Chairman Gagne and seconded by Member Gerrior. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

***(Continued from July 17, 2018)*** DEP File # SE 272-0556 An Abbreviated Notice of Resource Area Delineation filed by Pedro Rodriguez, Solar MA Project Management, LLC, Series XXXVI, 143 West Street, Suite C201, New Milford, CT 06776, for property located on 0 Walnut Plain Road, Rochester, MA 02770, designated as Lots 16, 21, 23 & 31 on Assessor's Map 23. The purpose of the filing is to confirm 9,950+/- linear feet of Bordering Vegetated Wetland boundary. The property owner of record is Diana Murphy, Trustee, Midchester Realty Trust, 24 Old Powderhouse Road, Lakeville, MA 02347. The applicant's representative is Scott Goddard, Goddard Consulting, LLC, 291 Main Street, Suite 8, Northborough, MA 01532.

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*(Members Christopher Gerrior & Laurene Gerrior recused themselves from the public hearing.)*

**Documents submitted:** *Plan entitled “Wetland Flagging Exhibit, Seaboard Solar, Walnut Plain Road & Old Middleboro Road, Map 23, Lots 16, 21, 23 & 31, Town of Rochester, Plymouth County, Commonwealth of Massachusetts” revised through July 18, 2018 and DEP Bordering Vegetated Wetland Delineation Field Data Forms dated July 14, 2018*

Pedro Rodriguez of Solar MA Project Management, LLC, Series XXXVI, and Nicole Hayes, Senior Wetland Scientist of Goddard Consulting, LLC were present at the public hearing. Ms. Hayes presented the Wetland Flagging Exhibit plan and stated that several site visits were done with both the Commission and Agent to review the delineation. The final edits eliminated flagging stations 38, 46, 49, and 74 and off site areas.

Agent Farinon stated that DEP Bordering Vegetated Wetland Delineation Field Data Forms were requested and submitted for areas in question. Said forms were included in the Commission packet.

Agent Farinon summarized that after a thorough review she is in agreement with the line shown on the submitted plan, and recommended the issuance of an Order of Resource Area Delineation based upon the submitted revised Wetland Flagging Exhibit plan of July 18, 2018. A motion to accept the delineation of the wetland parcels and not the abutting parcels was made by Vice Chairman Gagne and seconded by Member Post. **The motion passed by a vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

*(Members Christopher Gerrior & Laurene Gerrior returned to their roles at the meeting.)*

**An Abbreviated Notice of Resource Area Delineation filed by Steve Long, Borrego Solar Systems, Inc., 55 Technology Drive, Suite 102, Lowell, MA 01851, for property located on 75 Vaughan Hill Road, Rochester, MA 02770, designated as Lot 23 on Assessor’s Map 32. The purpose of the filing is to confirm 6,662 linear feet of Bordering Vegetated Wetland boundary. The property owner of record is Kiriakos A. Rentumis, 75 Vaughan Hill Road, Rochester, MA 02770.**

*(Vice Chairman Gagne recused himself from the public hearing.)*

**Documents submitted:** *Existing Conditions Plan entitled “ANRAD, 75 Vaughan Hill Road, Rochester, MA 02770” prepared by Borrego Solar dated July 12, 2018*

Steve Long of Borrego Solar Systems was present at the public hearing and stated that two parcels comprise the subject property owned by Kiriakos A. Rentumis: one parcel includes 9- acres and the other parcel includes 35-acres. The Commission visited the property before the meeting to walk the site. Borrego’s wetland scientist will flag an area adjacent to the driveway that is not shown on the submitted site plans and submit a revised plan.

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Kate MacGregor of 91 Vaughan Hill Road, an abutter to the property, asked about the wetland line on the property. Mr. Long replied that if the proposed is within 100 feet of the wetland Borrego Solar will file a Notice of Intent with the Conservation Commission.

Dan MacGregor of 91 Vaughan Hill Road asked when Borrego Solar proposes to install the solar panels. Mr. Long replied that tonight's public hearing is for the wetland delineation only.

Agent Farinon informed the abutters that the information on the filing is given to the Conservation members in a packet prior to the Conservation Commission meetings. The packet with the information is uploaded onto the Conservation Commission's website and can be viewed at [www.rochestermaconservation.com](http://www.rochestermaconservation.com).

Agent Farinon explained the wetland delineation filing process to the public and abutters present.

Mr. Long requested a continuation of the public hearing until September 4, 2018. A motion to continue the public hearing until September 4, 2018 was made by Member Christopher Gerrior and seconded by Member Payne. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

*(Vice Chairman Gagne resumed his role in the meeting.)*

**Public Meeting**

***(Continued from July 17, 2018) DEP SE 272-0515 A Request for Certificate of Compliance was submitted by Decas Cranberry Co., Inc. for property located at 109 Neck Road, designated as Lot 3 on Assessor's Map 40. An Amended Order of Conditions was issued to Decas Cranberry Co., Inc. on April 7, 2017 under DEP SE 272-0515 allowing for the construction of a tailwater recovery pond/reservoir. The following deviations of the approved plan were noted by the engineer: the proposed pump house slab and equipment is in place but the structure has not been constructed at this time; the pump house location is approximately 200 feet to the west of the proposed location; a concrete block retaining wall was built in front of the pump house; and a short portion of the 8" pipe was installed through the canal instead of within the dike road.***

**Documents submitted:** *Letter from Brian Grady of G.A.F. Engineering, Inc. on behalf of Decas Cranberry Co., Inc. dated August 1, 2018*

Brian Grady of G.A.F. Engineering was present representing Decas Cranberry Co., Inc.

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Mr. Grady stated that the letter was submitted to the Commission requesting whether the deviations from the approved plan are deemed significant enough to warrant a new filing. He said that it is their opinion that the applicant is in substantial compliance with the Order of Conditions. He considers the deviations minor and beneficial to the resource areas. He said that the pump house is an exempt activity and was located there by Scott Hannula because the road was wider at that location. Mr. Grady acknowledged that the Conservation Commission should have been notified, but he does not consider it a major change to the scope of the project. The concrete retaining wall in front of the pump house wall provides stabilization to the area. He said that the short pipe was installed previously; he then provided photographs of the pipe to the Commission members. He said that the Conservation Commission should have been approached, but the changes had no negative impacts to the resource areas.

Member Gerrior stated that the number of deviations make the Commission uncomfortable, and questioned if there was a way to handle plan changes in the future.

Member Gagne asked if any of the changes have any impact on the Buffer Zone. Mr. Grady replied that he believes the changes were in the agricultural resource areas and not in the natural resource areas.

Chairman Conway feels that the changes were substantial and that the applicant did what he wanted to do. He feels that the Certificate of Compliance should be denied and that the applicant should do an after-the-fact Notice of Intent filing.

Mr. Grady agrees that the applicant should have come before the Commission, but he believes that the changes are minor with no increased impacts to resource areas.

Agent Farinon commented that Mr. Grady did what the Commission asked him to do at the last meeting by submitting the requested letter. She said that she shares and agrees with the Commission's concerns. She believes that the project went well with the exception of the four deviations. The final report from hydrogeologist, Peter Newton, indicates that Snow's Pond is back to its original condition. Agent Farinon expressed concern about requiring a Notice of Intent filing for agriculturally exempt work.

Vice Chairman Gagne went over the four deviations and stated that in his opinion the deviations are not significant enough to warrant a new filing. Member Laurene Gerrior agreed with Vice Chairman Gagne that these deviations will not hurt the wetlands. Agent Farinon commented that the Commission is not in the habit of issuing Partial Certificates of Compliance.

Chairman Conway requested that the Commission go over each deviation individually and vote on whether the deviation is insignificant enough to warrant a new filing:

- The proposed pump house slab and equipment is in place but the structure has not been constructed at this time.  
*Members Christopher Gerrior, Payne, Post, Laurene Gerrior, Vice Chairman Gagne and Chairman Conway voted that the change was not significant enough to warrant a new filing.*

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- The pump house location is approximately 200 feet to the west of the proposed location. *Members Christopher Gerrior, Payne, Post, Laurene Gerrior, and Vice Chairman Gagne voted that the change was not significant enough to warrant a new filing, Chairman Conway voted in opposition.*
- A concrete block retaining wall was built in front of the pump house. *Members Christopher Gerrior, Payne, Post, Laurene Gerrior, and Vice Chairman Gagne voted that the change was not significant enough to warrant a new filing, Chairman Conway voted in opposition.*
- A short portion of the 8” pipe was installed through the canal instead of within the dike road. *Members Christopher Gerrior, Payne, Post, Laurene Gerrior, Vice Chairman Gagne and Chairman Conway voted that the change was not significant enough to warrant a new filing.*

A motion to issue a Certificate of Compliance for DEP SE 272-0515 was made by Vice Chairman Gagne and seconded by Member Christopher Gerrior. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

**Commission Business**

**Minutes**

A motion to approve the minutes of July 17, 2018 was made by Vice Chairman Gagne and seconded by Member Christopher Gerrior. Member Post abstained. **The motion passed by a vote of 5 in favor, 0 opposed, 1 abstained (5-0-1).**

**Voucher(s)**

The following voucher was approved: The Wanderer / Recording Secretary Ad: \$16.50.

**New Business**

**Confirm member availability for future site visits and meetings**

With the exception of Member Payne who will not be available, Members present confirmed that they will be available for the next meeting and site visit on Tuesday, August 21, 2018.

**Leonard’s Pond Dam Repair as a result of accident – Mary’s Pond Road**

Agent Farinon reported that she was notified that Mary’s Pond Road would be closed due to repairs to the Leonard’s Pond Dam Bridge that was damaged from a truck accident in June 2017. Agent Farinon stated that the insurance claim was just settled recently and that the company doing the repairs was not aware that they had to do a wetlands filing with the Conservation Commission. Barrett Consulting, LLC will be doing repairs on 120 linear feet of the wall using forms and working in the water. The company will need to file with the Commission: she has spoken with the DEP Southeast Regional office about the project.

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**Swimming in Mary's Pond**

Member Gerrior reported that she has seen inquiries on Facebook about whether swimming is allowed at the Town owned property off Perry's Lane on Mary's Pond. Agent Farinon responded that she will consult with Town Counsel on the Town's official policy and report back to the Commission.

**Future Conservation Commission Filings**

Discussion ensued about future Conservation Commission filings and the applicants' responsibility to adhere to the plans of record. Agent Farinon stated that she will work with Town Counsel Blair Bailey on putting together a condition that will address this matter.

**Loons in Mass Wildlife Magazine**

Member Laurene Gerrior informed Commission members about an article regarding loons that was published in Mass Wildlife Magazine. She informed that the magazine has many other interesting articles and is published about four times a year at a cost of \$5.00.

**Smart Program for Cranberry Bogs**

Member Laurene Gerrior started a discussion regarding the Smart Program as it relates to cranberry bogs. Agent Farinon will forward information on the Cape Cod Cranberry Growers Association meeting that she attended and requested feedback from members.

**Ocean River Institute Correspondence**

Discussion ensued about the letter and the use of fertilizer near waterways and groundwater. Agent Farinon and members commented that restrictions are very difficult to enforce.

**Rochester Bituminous Products, Inc. vs. Town of Rochester Conservation Commission**

Members discussed the Defendant's Answer written by Town Counsel Blair Bailey in connection with the summons received by the Commission.

**Adjournment**

The meeting adjourned at 8:15 p.m. on a motion made by Vice Chairman Gagne and seconded by Member Christopher Gerrior. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

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Margaret Gonneville, Board Administrator

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Michael Conway, Chairman