

**BRUCE FREEMAN RAIL TRAIL**  
**Notice of Intent DEP No. 85-1149**  
**Draft of Special Conditions for the Order of Conditions**

Findings of Fact:

- F1. The proposed rail-to-trail project represents a public benefit through the introduction of public transportation, recreational opportunities and potential for public education and exposure to the natural environment.
- F2. The Bruce Freeman Rail Trail crosses Acton for a distance of approximately 4.8 miles, with the vast majority of the trail having potential or actual impact on wetland resources and associated buffer zones or riparian zones. Therefore, it is imperative that any activities within the wetland resources and associated areas be carefully monitored to minimize impacts.
- F3. Project impacts to wetlands interests are generally confined to a narrow area paralleling and/or encompassing the existing railroad bed.

Include Standard Conditions 1-16

Include Standard Condition 20

**Add to Standard Condition 8:** A pre-construction meeting shall be held at least two weeks prior to commencement of any site work (including staking of erosion controls) in order to review the project with the Contractor, discuss schedule, and obtain 24-hour contact information of a person responsible for the site, who shall have the authority to direct work and to stop work. This meeting shall include, at a minimum, the Project Contractor, the Project Engineer, a Mass Department of Transportation representative, the Project Wetland Scientist, the Project Environmental Monitor, and the Conservation Commission and/or its Agent.

**In addition, meetings shall also be initiated by the Contractor with all associated parties, including the Commission and/or its Agent, at least two weeks prior to advancing to the next major section or phase of the project to discuss the sequencing of construction and impacts to wetlands.**

**Add the following Special Conditions:**

1. The term "Applicant" as used in this Order of Conditions ("Order") shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of Intent, supporting documents and this Order of Conditions. The Conservation Commission (the "Commission") shall be notified in writing within 30 days of any transfer of title of any portion of the property that takes place prior to the issuance of the Certificate of Compliance.

2. With respect to all conditions, the Commission designates the Town of Acton Conservation Agent as its agent, with full powers to act on its behalf in administering and enforcing this Order.
3. This document shall be included by reference in all contracts, plans and specifications dealing with the activity that is the subject of this Order, and that are created or modified after the issuance date of this Order, along with a statement that this Order shall supersede any conflicting contractual arrangements, plans or specifications.
4. The Applicant shall provide a copy of this Order to the person or persons supervising the activity that is the subject of this Order, and will be responsible for ensuring that all persons performing the permitted activity are fully aware of the terms and conditions of this Order.
5. If any change is made to the above-described plans which may or will alter an area subject to protection under the Wetlands Protection Act (the "Act"), and/or the regulations associated with the Act, the applicant shall inquire of the Commission or its Agent, prior to implementing the change in the field, whether the change is significant enough to warrant the filing of a New or Amended Notice of Intent. Any errors in the plans or information submitted by the Applicant shall be considered changes and the above procedures shall be followed.
6. No material of any kind may be buried, placed, or otherwise dispersed in areas within the jurisdiction of the Commission by activities that are the subject of this Order, except as expressly permitted by this Order or the plans approved herein.
7. There shall be no pumping of surface or groundwater from any wetland resource area, other than such pumping necessary for the dewatering of excavations associated with the activities approved herein.
8. No fuel, oil, or other hazardous materials shall be stored in any resource area or the buffer zone thereto.
9. The Applicant shall hire or otherwise designate an Environmental Monitor whose qualifications shall be similar to that outlined in Spec Item 755.7, except that the Environmental Monitor shall demonstrate additional qualifications for general construction monitoring and erosion control monitoring. The Environmental Monitor must be qualified in Bank, Land Under Water and Waterways (LUWW), Bordering Vegetated Wetland (BVW), Bordering Land Subject to Flooding (BLSF), Riverfront Area and wildlife construction impact and restoration issues.
10. The Wetland Specialist identified in Spec Item 755.7 shall have at least ten years related experience. Depending upon qualifications and experience, it is possible that one person could fulfill the roles of both Environmental Monitor and Wetland Specialist. The Environmental Monitor and Wetland Specialist must be approved by the Commission. The qualifications shall be submitted to the Commission simultaneously with submittal to Mass

DOT within 60 days following Notice to Proceed so that the Commission can provide input to Mass DOT.

11. The Environmental Monitor and Wetland Specialist shall be authorized to talk directly to the Commission and/or its Agent and shall have the authority to stop the contractor's work in order to consult with the Commission and/or its Agent.
12. Prior to the installation of erosion controls, clearing or grubbing, the Contractor shall mark locations of erosion controls and limits of work in the field. The Contractor shall then meet with the Commission and/or its Agent in the field to establish the final locations in order to minimize the amount of vegetation removal and pruning in the buffer zone and resource areas.
13. The erosion control barriers and/or markers shall represent the limit of work, although the Commission reserves the right to establish limits of work within the limits of the erosion controls. In all areas where erosion controls are not proposed, the limit of work shall be marked in the field, prior to clearing or grubbing, for approval by the Commission and/or its Agent. This limit of work can be marked by erosion controls, construction fencing, or similar method approved by the Commission and/or its Agent. No other work shall commence in a given work area until the Commission and/or its Agent has inspected and approved the erosion control and limit of work locations.
14. Bank, BVW and LUWW impact areas shall be staked with identification (i.e. Station location) prior to the commencement of work in order that it can subsequently be determined in the field that the estimated impact area is not exceeded and that, in the case of temporary disturbance, the disturbed area is ultimately restored to acceptable conditions. These areas shall be monitored by the Environmental Monitor or Wetland Specialist.
15. In consultation with the Contractor and Environmental Monitor, and by joint agreement, the Commission and/or its Agent may identify certain trees within the limit of work area, or that extend over the limit of work area, that shall not be removed, pruned and/or otherwise disturbed. The Contractor shall then establish a limit of work line around any such tree and shall protect it from damage or disturbance.
16. The SWPPP shall be submitted to the Commission and its Agent least two weeks before work commences, and shall be reviewed and discussed at the pre-construction meeting.
17. The inspection of erosion controls and site conditions is to be done on a weekly basis as well as after each incidence of rainfall exceeding 0.5 inches in 24 hours. The Contractor is also to submit written weekly inspection forms, storm event inspection forms and monthly summary reports to the Commission. The monthly summary reports shall include a summary of construction activities undertaken during the reporting period, general site conditions, erosion control maintenance and corrective actions taken, the anticipated schedule of construction activities for the next reporting period, any SWPPP amendments, and representative photographs.

18. Mass DOT or its agent shall conduct an invasive species inspection, with a representative of the town, of the rail alignment for the purpose of identifying and locating areas for invasive species control, and to review with the Commission and/or its Agent methodologies for invasives control. Final Spec Item 102.3 shall be provided to the Commission and/or its Agent at least 30 days before any invasive control work is to begin.
19. Any certified vernal pool within 100 feet of the trail, or other pool having the characteristics of a vernal pool, shall be demarcated and protected by timber rail fencing. (Note: Commission is willing to identify such pools prior to finalization of the project specs.)
20. No site work shall be performed in or within 100 feet of any Bank, LUWW or BVW between December 1 and April 1, except with the permission of the Commission and/or its Agent.
21. Unless otherwise approved by the Commission and/or its Agent, all disturbed areas shall be stabilized following completion of installation of the trail. Those areas not permanently stabilized by December 1 shall be temporarily stabilized for winter months by proper installation of erosion control blankets or other appropriate measures.
22. No salting or sanding of the trail shall be conducted without prior approval by the Commission and/or its Agent.
23. All erosion controls for each section of the trail shall be maintained in proper working condition until the section has achieved its final stabilized condition. The integrity of the erosion controls shall be inspected by the SWPPP and the Contractor or Engineer in compliance with NPDES. Any signs of excessive erosion shall be immediately reported to the Commission and/or its Agent and steps taken to stop the erosion and stabilize the affected areas. Upon notification by the Commission and/or its Agent that modifications or additional erosion controls are required, the Applicant shall install such measures within 24 hours.
24. All railroad rails and ties removed in the course of the project, as well as any waste asphalt generated by the project, shall be either immediately removed from the site to a proper disposal or recycling facility, or placed in a temporary storage area located outside the 100-foot buffer zone. Stone dust and other material stockpiles shall be kept 100 feet away from any Banks, BVW or LUWW.
25. Compensatory flood storage areas shall be planted with native trees and/or shrubs to provide wildlife habitat mitigation. A plan for the plant species and locations shall be submitted to the Commission for approval 30 days prior to construction, and shall be reviewed at the pre-construction meeting.
26. Temporarily disturbed Banks shall be restored as naturally as possible, with consideration given to the replanting of trees and/or shrubs or live stakes. Plans for such restoration shall be provided to the Commission for approval at least 30 days prior to work commencing and shall be reviewed at the pre-construction meeting.

27. Any temporary/construction basins shall not result in an increase in the limit of work shown on the plans without prior approval by the Commission.
  
28. Monitoring conducted by the Environmental Monitor or Wetland Specialist shall include an assessment of the temporarily disturbed and the restored BVW, Banks and Land Under Water, as well as an assessment of the wildlife habitat mitigation for the Compensatory Flood Storage Areas. As per the Spec Item 755.7, monitoring shall occur twice yearly. In addition, to the report required by 755.7, a similar report is to be submitted to the Commission by June 1 each year documenting the results of the monitoring. Such assessments shall indicate the degree to which the mitigation and restoration programs are performing as expected.
  
29. In the course of construction, the contractors shall remove and properly dispose of any trash and debris encountered within the rail right-of-way and easements.