



OXBOW ASSOCIATES, INC.

Wetlands Delineation and Permitting • Wildlife Studies • Herpetology • Vernal Pool Ecology

May 21, 2014

Mr. Terrance Maitland, Chair
Acton Conservation Commission
Town Hall
Acton, MA 01720

*****VIA EMAIL*****

**Re: Esterbrook Farm Administrative Consent Order (Nov. 8, 2013)
41 Esterbrook Road, Acton, MA
Commencement of Site Work Notice and Request for
Extension of Time for Performance**

Dear Mr. Maitland and Commissioners:

Oxbow Associates, Inc. (OA) has been retained by Ms. Sieurin, the manager of Esterbrook Farm, LLC for the purpose of overseeing and directing the restoration as approved through the ACO process with the Acton Conservation Commission, DEP and ACOE-NED.

Ms. Sieurin contacted OA in early April for purposes of pursuing the completion of the work within the prescribed June 1 timeline per the ACO. At that time it was my opinion, and advice to Ms. Sieurin that due to the protracted winter and series of significant rain events to that time and thereafter in April, that conditions at the property are poorly suited to the amount of site work specified in the ACO, both proximate to and largely within jurisdictional areas.

The work was not commenced in the fall/winter following the issuance of the ACO, for obvious reasons relative to prevailing conditions. Though the conditions are improved over several weeks ago, there is still standing and flowing surface water, much of it supporting American Toad tadpoles as I write. In view of the site conditions, site containment and management would be considerably more challenging than preferred if work were ongoing at this time.

Condition 25 of the ACO provides relief under circumstances of *Force Majeure*. Although the current conditions do not result from an acute event or disaster, the aggregate prolonged, very snowy winter, and a late, wet spring leave the site in very poor condition to manipulate, reconfigure and plant the extant compact till soils that pervade the property.

You were accommodating in reviewing the site today with me and Mr. Tidman, Conservation Director at which time we observed the conditions and contemplated the current difficulties of working within the site with an objective of restoring the wetland characteristics of the

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mapped resource areas. At the conclusion of the walk I believe we were in agreement that even at this date, the conditions are sub-optimal for undertaking a restoration project and assuring complete site containment.

In view of these circumstances we request an extension of the performance period to July 18, 2014.

We have a wetlands contractor whom we have worked with on compensatory wetlands construction that we anticipate engaging immediately to conduct the work under OA's supervision and documentation. Under suitable conditions the site work should take two weeks or thereabouts to complete but we will schedule the activities so as to not result in the planting stock to sit on site, unplanted for an extended period.

Can you please place the consideration of this request on the Acton Conservation Commission meeting agenda at the earliest possible time?

Additionally, please accept this letter as the requisite notice (Condition 18) that we anticipate commencing site work in the near future, though not necessarily precisely in seven days; conditions to dictate schedule.

Thank you for your time and attention to this matter and your accommodation for a site review this morning.

Sincerely,
Oxbow Associates, Inc.



Brian O. Butler, President

Cc (via regular mail): K. Sieurin, Manager, Esterbrook Farm, LLC
MA DEP CERO (M. DiPinto)
ACOE – NED (P. Sneeringer)