

**From:** [j.colmanley](mailto:j.colmanley)  
**To:** [Conservation Commission](#); [Tom Tidman](#)  
**Subject:** Impoundments and the Assabet  
**Date:** Tuesday, August 18, 2015 3:59:54 PM

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Hello all ---FYI. Note especially the last sentence of the first long paragraph.

Jim

----- Forwarded Message -----

**From:** "Stroman, Michael (DEP)" <michael.stroman@state.ma.us>  
**To:** j.colmanley <jcolmanley@yahoo.com>  
**Cc:** "Langley, Lealdon (DEP)" <lealdon.langley@state.ma.us>  
**Sent:** Tuesday, August 18, 2015 3:45 PM  
**Subject:** RE: Quick question???

Hello Jim,

This issue has been the subject of recent internal discussions and generally breaks down into three scenarios.

In the first instance, the issue you raise was adjudicated some time ago (perhaps on the Assabet) as it related to a cove protruding beyond the main channel of the river. As a result of that case (finding that due to the lack of "riverine characteristics" in the cove, that portion of the waterbody did not have "riverfront area"), the wetland regulations were amended at 10.58(2)(e) to read that "Rivers include the entire length **and width** to the mean annual high-water line...." This provision applies to all of the so-called "named" major rivers (including the Assabet) in 10.58(2)(e) and was intended to override the exceptions spelled out in 10.58(2)(h) for all "other" rivers in the Commonwealth. As such, the Assabet - and its associated flow through lakes and ponds - is considered to have Riverfront Area for its entire length.

A second case relates to the 10.58(2)(h) provision that provides that Great Ponds are never rivers. As such, the program position is that in the case of "other" rivers flowing through Great Ponds (<http://www.mass.gov/eea/agencies/massdep/water/watersheds/massachusetts-great-ponds-list.html>), the Riverfront Area stops at the inlet and begins again at the outlet of the Great Pond.

In the third case of "other" rivers - that do not flow through Great Ponds - but rather flow through smaller lakes, ponds, and impoundments, the presence or absence of Riverfront Area will be determined on a case-by-case basis depending on whether the water body has "primarily riverine characteristics".

Hope that helps clarify any confusion but feel free to follow up with any other questions.

Mike

PS: We're coping with the new world order and things are going pretty well - hope all is

well on your end too.

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**From:** j colmanley [mailto:[jcolmanley@yahoo.com](mailto:jcolmanley@yahoo.com)]  
**Sent:** Tuesday, August 18, 2015 2:09 PM  
**To:** Stroman, Michael (DEP)  
**Cc:** Langley, Lealdon (DEP)  
**Subject:** Fw: Quick question???

Good afternoon Michael --- I hope you are doing well and coping OK with the loss of staff through early retirement.

Please see my question below.

Thanks very much  
Take care

Jim Colman

----- Forwarded Message -----

**From:** j colmanley <[jcolmanley@yahoo.com](mailto:jcolmanley@yahoo.com)>  
**To:** Langley Lealdon (DEP) <[lealdon.langley@state.ma.us](mailto:lealdon.langley@state.ma.us)>  
**Sent:** Tuesday, August 18, 2015 2:06 PM  
**Subject:** Quick question???

Hi Lealdon --- I hope all is well.

I have what I hope is a quick question about riverfront, but one never knows.....

In Section 10.58 (2)h, the regulations say that where rivers flow through lakes or ponds (including impoundments), the Riverfront Area stops at the inlet.....etc.

In Section 10.58 (2)e, the regulations state that rivers include the ENTIRE LENGTH

of certain rivers, including the Assabet.

It seems that (2)h specifically says that certain sections of a river may be excluded from the riverfront provisions, but (2)e seems to say that certain rivers are rivers for their entire length, at least implying that there are no exclusions on those rivers.

So, I think my questions is: for those rivers listed in (2)e, are the lakes, ponds, or impoundments through which they may flow not considered to be Riverfront Areas?

I am a little confused and looking for guidance.

Thanks very much

Jim Colman