



RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF WATER RESOURCES
235 Promenade Street
Providence, Rhode Island 02908

CERTIFIED MAIL

August 31, 2023

Daniel & Susan Sleboda
171 Whipple Road
Smithfield, RI 02917

PERMIT TO ALTER FRESHWATER WETLANDS

RE: Wetlands Application No. 22-0307, RIPDES File No. RIR102403 in reference to the location below:

At 169 Whipple Road, approximately 1200 feet southwest from the intersection of Whipple Road and Sables Way, Assessor's Plat 42, Lot 14, Smithfield, RI.

Dear Mr. & Mrs. Sleboda:

The Department of Environmental Management's ("DEM") Freshwater Wetlands Program ("Program") has completed its review of your **Application to Alter a Freshwater Wetland** regarding subdivision with three single family dwellings, each a pervious driveway, onsite wastewater treatment system (OWTS), private well and waterline, and an underground infiltration system, a paved private access road with a retaining wall, culverts, and a detention basin for stormwater management, grading, landscaping, screen plantings, and temporary erosion controls as described and detailed in the material and information submitted in support of your application and on site plans received by the DEM on February 21, 2023. These site plans describing the project were made available for public comment as part of the forty-five (45) day public notice period required in accordance with the Freshwater Wetlands Act (R.I. Gen. Laws § 2-1-18 *et seq.*) and the procedures set forth in the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act, 250-RICR-150-15-1, specifically in 250-RICR-150-15-1.10.

This Program received one letter relating to your application which was submitted during the public notice period. This letter expressed concern regarding your project's impacts to freshwater wetland values. This Program reviewed the letter together with any supporting documents and evaluated the potential impacts from the project upon the values mentioned in the letter. The Program has determined that the comments contained within this letter does not constitute an objection of a substantive nature as defined in 250-RICR-150-15-1.10(D)(3)(c). Therefore, a public hearing pursuant to R.I. Gen. Laws § 2-1-22 is not required.

Pursuant to the Program's review and evaluation of your application including all supporting information and material, as well as the record to date, the Program has determined that this project does not represent a random, unnecessary or undesirable alteration of freshwater wetlands. Therefore, this Program hereby issues this permit to alter freshwater wetlands **subject to all controlling Rules and the Terms and Conditions set forth herein.**

Terms and Conditions for Wetlands Application No. 22-0307; RIPDES No. RIR102403:

1. This letter is the DEM's permit for this project under the R.I. Fresh Water Wetlands Act, R.I. Gen. Laws § 2-1-18 et seq.
2. This determination also includes your final authorization to discharge storm water associated with construction activity under the **2020 RIDPES General Permit for Stormwater Discharge During Construction Activity ("CGP")**. For future references and inquiry, your permit authorization number is RIPDES No. **RIR102403**.
3. This permit is specifically limited to the project, site alterations and limits of disturbance as detailed on the site plans submitted with your application and received by the DEM on February 21, 2023. A copy of the site plans stamped approved by the DEM is enclosed. Changes or revisions to the project that would alter freshwater wetlands are not authorized without a permit from the DEM.
4. Where the terms and conditions of the permit conflict with the approved site plans, these terms and conditions shall be deemed to supersede the site plans.
5. You must notify this Program in writing of the anticipated start date, and of your contractor's contact information, by submitting the Notice of Start of Construction Form prior to commencement of any permitted site alterations or construction activity. You must also notify this Program in writing upon completion of the project, including submittal of the Notice of Termination Form. The Start of Construction Form and the Notice of Termination can be found on the webpage: dem.ri.gov/stormwaterconstruction
6. A copy of the stamped approved site plans and a copy of this permit must be kept at the site at all times during site preparation, construction, and final stabilization. Copies of this permit and the stamped approved plans must be made available for review by any DEM or City/Town representative upon request.
7. **Within ten (10) days of the receipt of this permit, you must record this permit in the land evidence records of the Town of Smithfield and supply this Program with written documentation obtained from the Town showing this permit was recorded.**
8. The effective date of this permit is the date this letter was issued. This permit expires one (1) year from the date of this letter unless renewed pursuant to the Rules.
9. Any material utilized in this project must be clean and free of matter that could pollute any freshwater wetland.
10. Prior to commencement of site alterations, you shall erect or post a sign resistant to the weather and at least twelve (12) inches wide and eighteen (18) inches long, which boldly identifies the initials "DEM" and the application number of this permit. This sign must be maintained at the site in a conspicuous location until such time that the project is complete and the Program issues a Notice of Completion of Work.
11. Both the owner and the contractor retained to undertake the construction activity are required to comply with all terms and conditions of the CGP. This includes maintaining the Soil Erosion and Sediment Control (SESC) Plan, performing the required inspections and maintenance of the selected Best Management Practices (BMPs), and retaining inspection records. Further information on the requirements of the CGP is available at:
<http://www.dem.ri.gov/programs/benviron/water/permits/ripdes/pdfs/cgp092620.pdf>.

12. Temporary erosion and sediment controls detailed or described on the approved site plans shall be properly installed at the site prior to or commensurate with site alterations. Such controls shall be properly maintained, replaced, supplemented, or modified as necessary throughout the life of this project to minimize soil erosion and to prevent sediment from being deposited in any wetlands not subject to disturbance under this permit.
13. Upon permanent stabilization of all disturbed soils, temporary erosion and/or sediment controls must be removed.
14. You are responsible for the proper installation, operation, maintenance and stability of any mitigative features, stormwater treatment facilities, and systems of treatment and control that are installed or used in compliance with this permit to prevent harm to adjacent wetlands until documentation is provided that this responsibility has been assigned to another entity. Operation and maintenance shall be as described in the plan entitled, "Stormwater System Operation and Management Plan for "Sleboda Subdivision", Whipple Road, Smithfield, RI", dated June 2022, as prepared by Timothy J. Behan of Commonwealth Engineers & Consultants, Inc.
15. You are obligated to install, utilize and follow all best management practices detailed or described on the approved site plans in the construction of the project to minimize or prevent adverse impacts to any adjacent freshwater wetlands and the functions and values provided by such wetlands.
16. All plantings of shrubs, trees or other forms of vegetation as shown or detailed on the approved plans, or detailed in this permit, must be installed as soon as possible after completion of final grading; weather and season permitting. You must notify this Program in writing upon completion of the required plantings for a compliance inspection by a Program representative.
17. Buffer zone plantings of trees and/or shrubs proposed between the project and any adjacent freshwater wetland areas, except for necessary replacement, must be allowed to develop naturally without being subjected to mowing or manicuring.
18. Any plantings which fail to survive one full growing season shall be replaced. Replacement plantings shall be similarly guaranteed for one full growing season.
19. You must provide written certification from a registered land surveyor or registered professional engineer that the stormwater drainage system including any and all basins, piping systems, catch basins, culverts, swales and any other stormwater management control features have been constructed/installed in accordance with the site plans approved by this permit. This written certification must be submitted to this Program within twenty (20) days of its request or upon completion of the project.
20. This Program has made specific revisions to the approved site plans. These revisions are clearly marked in red on Sheet 4 of the approved plans and include revegetating the proposed alterations in a Riverbank and Perimeter Wetland by incorporating a planting bed on the southeast side of the cul-de-sac. Our evaluation determined that the grading associated with the southeastern portion of the proposed cul-de-sac encroaches into Perimeter and Riverbank Wetlands. Additional mitigative measures will be necessary in this location and has been noted on the approved site plans by a cross-hatching. This project must take place in compliance with these revisions. The planting bed shall be completed as follows:

Balled and burlapped or transplanted tree species must be planted in an interspersed fashion fifteen feet (15') on center, four feet (4') tall after planting throughout the defined cross-hatched area. The number of trees to be planted shall be at least six (6). Tree species must include an equal distribution of at least one (1) of the following selections:

White pine, *Pinus strobus*;
Red maple, *Acer rubrum*; and
Northern red oak, *Quercus rubra*

Balled and burlapped or transplanted shrub species must be planted in an interspersed fashion ten feet (10') on center, three feet (3') tall after planting, throughout the defined cross-hatched area. The number of shrubs to be planted shall be at least fourteen (14). Shrub species must include an equal distribution of at least two (2) of the following selections:

Mountain laurel, *Kalmia latifolia*;
Arrowwood (southern), *Viburnum dentatum*;
Highbush blueberry, *Vaccinium corymbosum*;
Inkberry (Gallberry holly), *Ilex glabra*; and/or
Sweet pepperbush, *Clethra alnifolia*

Again, you must notify this Program in writing upon completion of the required plantings for a compliance inspection by a Program representative.

You shall ensure that large diameter trees within the limit of disturbance are protected to the greatest extent possible to reduce the risk of erosion and to preserve on-site wooded habitat. The use of tree armoring (detail enclosed) shall be employed to protect all trees from unnecessary damage that are in the vicinity of proposed alterations.

Pursuant to the provisions in 250-RICR-150-15-1.7(A)(9) and 250-RICR-150-15-1.11(D), as applicable, any properly recorded and valid permit is automatically transferred to the new owner upon sale of the property. Pursuant to the provisions in 250-RICR-150-15-1.7(A)(9)(c), within ten (10) days of any property transfer, the subsequent transferee must notify the Department by forwarding a certified copy of the deed of transfer.

Please be aware that the RIDEM's Rules and Regulations Governing the Establishment of Various Fees (250-RICR-30-00-1) require that RIPDES CGP permit holders to pay an Annual Fee of \$100.00. An invoice will be sent to the owner on record in May/June of each year if the construction was still active as of December 31st of the previous year. The owner will be responsible for the Annual Fee until the construction activity has been completed, the site has been properly stabilized, and a completed Notice of Termination (NOT) has been received by the RIPDES Program.

You are required to comply with the terms and conditions of this permit and to carry out this project in compliance with the Rules at all times. Failure to do so may result in an enforcement action against you by the DEM.

In permitting the proposed alterations, the Department assumes no responsibility for damages resulting from faulty design or construction. This permit does not remove your obligation to obtain any local, state, or federal approvals or permits required by ordinance or law and does not relieve you from any duties owed to adjacent landowners with specific reference to any changes in drainage.

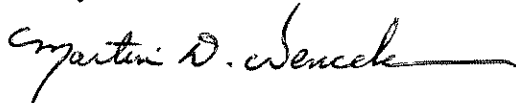
If you are aggrieved by this decision, you may, within thirty (30) days of the receipt of this letter, request an adjudicatory hearing in writing. This request must be sent directly to the DEM Administrative Adjudication Division ("AAD"), 235 Promenade Street, Suite 350, Providence, RI 02908. A copy of the request should also be forwarded to this Program and to the Office of Legal Services, at the same address. Your written request for an adjudicatory hearing must be timely filed and should conform to the requirements of 250-RICR-10-10-1.7(B) of the DEM Rules and Regulations for the Administrative Adjudication Division, 250-RICR-10-00-1. Section 250-RICR-10-00-1.7(B) provides:

"The request for a hearing shall state clearly and concisely the specific issues which are in dispute, and the facts in support thereof, the relief sought, if any, the license or permit sought or involved, and any additional information required by applicable statues and regulations."

The written request must be accompanied by an adjudicatory hearing fee of two thousand dollars (\$2,000.00); in the form of a certified bank check or money order made payable to the Rhode Island General Treasurer; however, in the event that the cost of the hearing exceeds the fee paid, the Program through the AAD will require an additional fee which the applicant must submit prior to the DEM's issuance of any final decision regarding this application. The adjudicatory hearing will be held before a Hearing Officer from the AAD. Such hearing will be held in compliance with 250-RICR-10-00-1, R.I. Gen. Laws Chapter 42-35-1 et seq., and other governing laws, rules, and regulations adopted by the DEM. Please note that you have the right to be represented by legal counsel in any proceeding which may be held in this matter.

If you have any questions regarding this matter, you may contact me or Sophie Clode of my staff at this office (telephone: 401-222-6820, ext. 2777419).

Sincerely,



Martin D. Wencek, Program Supervisor
Office of Water Resources
Freshwater Wetlands Program
MDW/SC/sc

Enclosure: Approved Site Plans
Tree Armoring detail plan

c: Mohamed J Freij PE, PLS, Supervising Sanitary Engineer, OWTS Program
Neal Personeus, DEM Stormwater Program
Charlotte Skolnick, U.S. Army Corps of Engineers, New England District
Christopher McWhite, Building Official, Town of Smithfield
Donald T. Burns, Chairman, Smithfield Conservation Commission
Timothy Behan, PE, Commonwealth Engineers & Consultants, Inc.
Brandon Faneuf, President, Ecosystem Solutions, Inc.

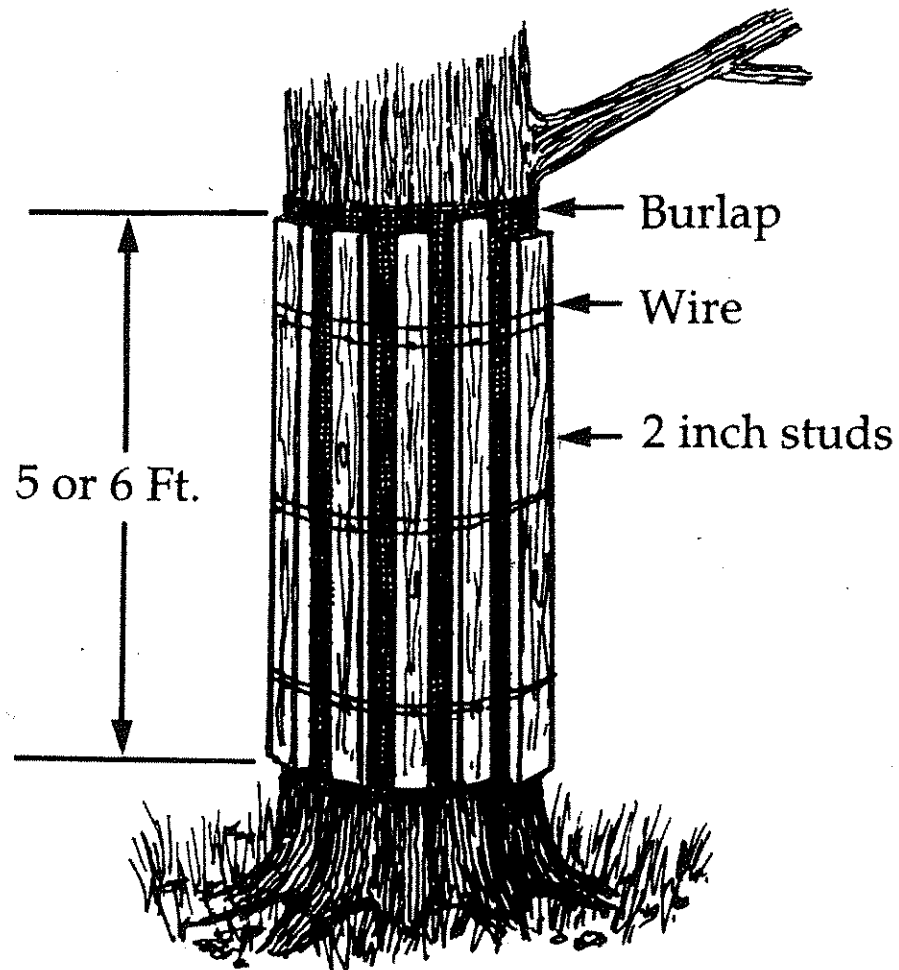


Figure 4-7 Trunk Armoring

*Adapted from: Virginia Erosion and Sediment Control Handbook,
Virginia Soil and Water Conservation Commission, 1980*