



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

CERTIFIED MAIL

June 25, 2024

Rhode Island Airport Corporation
c/o Brittany Morgan, Chief Legal Council
2000 Post Road
Warwick, RI 02886

PERMIT TO ALTER FRESHWATER WETLANDS

Re: Application No. 23-0170 in reference to the location below:

Approximately 2000-feet north of Forest Avenue and approximately 2,500-feet west of its intersection with West Main Road (Route 114) at Newport State Airport, Assessor's Plat 112, Lot 24A, Middletown, RI.

Dear Ms. Morgan:

The Department of Environmental Management's ("DEM") Freshwater Wetlands Program ("Program") has completed its review of your **Application for a Significant Alteration** regarding the proposed selective clearing of vegetation encroaching within 15' of protected FAA airspace as described and detailed in the material and information submitted in support of your application and on site plans received by the DEM on April 5, 2024. 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-150-15-3, specifically in 250-RICR-150-15-3.12.

This Program received 6 letters relating to your application which were submitted during the public notice period. These letters expressed concern regarding your project's impacts to freshwater wetland values. This Program reviewed these letters together with any supporting documents and evaluated the potential impacts from the project upon the values mentioned in the letters. The Program has determined that the comments contained within these letters do not constitute an objection of a substantive nature as defined in 250-RICR-150-15-3.12.4(C)(3). 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.**

Permit Terms and Conditions for Wetlands Application No. 23-0170:

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 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 April 5, 2024. A copy of the site plans stamped approved by the DEM is enclosed. Changes or revisions to the project which would alter freshwater wetlands are not authorized without a permit from the DEM.
3. 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.
4. You must notify this Program in writing immediately prior to the commencement of site alterations and again upon completion of the project.
5. 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 town representative upon request.
6. Within ten (10) days of the receipt of this permit, you must record this permit in the land evidence records of the Town of Middletown and supply this Program with written documentation obtained from the Town showing this permit was recorded.
7. 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 250-RICR-150-15-3.14.2.
8. Any material utilized in this project must be clean and free of matter that could pollute any freshwater wetland.
9. 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 or the DEM issues a Notice of Completion of Work for the project.
10. Temporary erosion and sediment controls and wetland matting 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. **Prior to any work adjacent to Bailey Brook and its associated tributaries and the unnamed Intermittent Stream, appropriate erosion controls must be installed.**
11. Upon permanent stabilization of all disturbed soils or upon project completion, temporary erosion and/or sediment controls including wetland matting must be removed.
12. Only vegetation removal is authorized. No stumping or grubbing is authorized in freshwater wetlands or buffers under this permit. Herbicides use can only be applied for invasive species management as indicated below in condition number 15.

13. Trees proposed for removal are penetrating or within 15' of penetrating protected air surfaces. All trees proposed for removal will be geo-located using GPS equipment and flagged in the field prior to proposed work.
14. In areas proposed for clearing along rivers and streams, maintain as much vegetation that is not penetrating or within 15' of the regulated airspace as feasible to provide shading and avoid cutting to ground level.
15. The clearing authorized in this permit must be conducted in a way which discourages any more than a minimal intrusion of or increase in, invasive or exotic plant species in the freshwater wetland or buffer (e.g. allowing the spread of *Phragmites australis* in the wetland resulting from clearing the subject areas). Should invasive plant species begin to colonize the cleared areas, measures to be taken that can include treatment with herbicides shall be carried out by a licensed herbicide applicator. This measure must be implemented for two years following the issuance of this permit to promote eradication of the invasive species.
16. An environmental consultant, experienced in site assessments and measures necessary to protect sensitive aquatic environments or sensitive ecosystems, must be employed prior to the commencement of site alterations to monitor this project and to ensure compliance with the terms and conditions of this permit. This Program must be notified in writing of the consultant chosen to comply with this condition and must receive a written report from the consultant regarding compliance with this permit upon the Program's receipt of a Notice of Termination of Work (NOT) form or within one year of the date of this permit, whichever comes first.
17. Access points within freshwater wetlands for proposed work are to be temporary only. If mechanized equipment is used, matting must be utilized to further protect wetland soils. Clearing and filling to create access roads or paths in freshwater wetlands is not authorized under this permit. Any clearing necessary for access is to be limited to the minimum necessary and accomplished in a manner that allows for rapid revegetation.

Pursuant to the provisions in 250-RICR-150-15-3.14.4, 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-150-15-3.14.4(B), 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.

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.

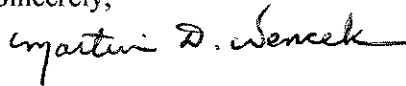
If you are aggrieved by this decision, you may, within thirty (30) days of the receipt of this letter, request an adjudicatory hearing in writing. This request must be sent directly to the DEM Administrative Adjudication Division ("AAD"), One Capitol Hill, Second Floor, Providence, RI 02903. A copy of 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-10-00-1.7(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 statutes 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 Sam Dufresne at this office (telephone: 401-537-4220).

Sincerely,



Martin D. Wencek, Program Supervisor
Office of Water Resources
Freshwater Wetlands Program

MDW/SGD/sgd

Enclosure: Approved Site Plans

- ec: Elizabeth Waterhouse, U.S. Army Corps of Engineers
Gregg Cohen, Stantec
Jason Ringler, TRC Companies
Robert & Roberta Duffy
Peter & Danielle Walsh
- xc: Ian Scott, President, Crystal Spring/Spring Water Vending
Terence M. Sullivan, Executive Director, Aquidneck Land Trust
Joseph & Amy Gomes
Shawn J. Brown, CPA, CFE, Town Administrator, Middletown, RI