

10.99: continued

DEP File No.

(To be provided by DEP)

Form 2

City/Town Belmont  
Applicant McLean Hospital

Commonwealth  
of Massachusetts

Date Request Filed 8/13/97

**Determination of Applicability  
Massachusetts Wetlands Protection Act, G.L. c. 131, § 40**

From Belmont Conservation Commission Issuing Authority  
TO Michele Gougeon, Sr. Vice Pres./ McLean Hospital Corp.  
(Name of person making request) (Name of property owner)  
Chief Operating Officer  
Address 115 Mill Street, Belmont, MA 02178 Address 115 Mill Street, Belmont, MA 02178

This determination is issued and delivered as follows:

- by hand delivery to person making request on \_\_\_\_\_ (date)
- by certified mail, return receipt requested on 12/11/97 (date)

Pursuant to the authority of G.L. c. 131, §40, the Belmont Conservation Commission has considered your request for a Determination of Applicability and its supporting documentation, and has made the following determination (check whichever is applicable):

Location: Street Address 115 Mill Street  
Lot Number: Map 59, Parcel 11

This Determination is positive.

1.  The area described below, which includes all/part of the area described in your request, is an Area subject to Protection under the Act. Therefore, any removing, filling, dredging or altering of that area requires the filing of a Notice of Intent.  
(See attached determination)
2.  The work described below, which includes all/part of the work described in your request, is within an Area Subject to Protection Under the Act and will remove, fill, dredge or alter that area. Therefore, said work requires the filing of a Notice of Intent.

RECEIVED  
TOWN CLERK  
BELMONT, MA.  
Dec 10 4 03 PM '97

10.99: continued

- 3.  The work described below, which includes all/part of the work described in your request, is within the Buffer Zone as defined in the regulations, and will alter an Area Subject to Protection Under the Act. Therefore, said work requires the filing of a Notice of Intent.

This Determination is negative:

- 1.  The area described in your request is not an Area Subject to Protection Under the Act.
- 2.  The work you described in your request is within an Area Subject to Protection Under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.
- 3.  The work you described in your request is within the Buffer Zone, as defined in the regulations, but will not alter an Area Subject to Protection Under the Act. Therefore, said work does not require the filing of a Notice of Intent.
- 4.  The area you described in your request is subject to Protection Under the Act, but since the work you describe therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required: \_\_\_\_\_

Issued by Belmont Conservation Commission

Signature(s) John E. Murphy  
Thomas E. Kelly  
David R. Allen  
Matthew Baskin Deith S. Foster

This Determination must be signed by a majority of the Conservation Commission.  
 On this 11th day of December 19 97, before me personally appeared The Belmont Conservation Commission, to me known to be the person described in, and who executed, the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed.

Ernest E. Fay  
 Notary Public **ERNEST E. FAY**  
 MY COMMISSION EXPIRES DEC. 6, 2002  
 My Commission Expires

This Determination does not relieve the applicant from complying with all other applicable federal, state or local institutes, ordinances, by-laws or regulations. This Determination shall be valid for three years from the date of issuance.

The applicant, the owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the Department of Environmental Protection to issue a Superseding Determination of Applicability, providing the request is made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form as provided in 310 CMR 10.03(7) within ten days from the date of issuance of this Determination. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and the applicant.

McLean Hospital Corp.  
115 Mill Street  
Belmont, MA 02178  
12/10/97

### To be Added to the Determination of Applicability

The boundaries of the resource areas shall be as delineated on the McLean Hospital site plan titled "Wetland Location Plan" dated 10/7/97 as revised 10/20/97 and further revised 11/17/97. Said plan prepared by Pressley Associates, Inc. and Design Consultants, Inc.

With respect to the natural watercourse in a channel area at the southern portion of the Site ("the Southern Watercourse"), the Commission determines that the watercourse is intermittent and does not qualify as a "River" pursuant to the Rivers Protection Act and is not a resource area protected under the Wetlands Protection Act. In response to Commission and Community concerns relative to development in this area, McLean has voluntarily agreed to impose certain development restrictions in this area extending 100 feet on either side of the center line of the Southern Watercourse ("the Restricted Zone"), as set forth on Exhibit A attached hereto, which restrictions shall be embodied in a Memorandum of Understanding between the Commission and McLean.

HIGGINSON HOUSE

EXHIBIT A

INTERMITTENT CHANNEL

CENTERLINE OF CHANNEL

PROJECTED AREA

CHANNEL WAS OBSERVED DRY ON 7/31/97

PLEASANT STREET

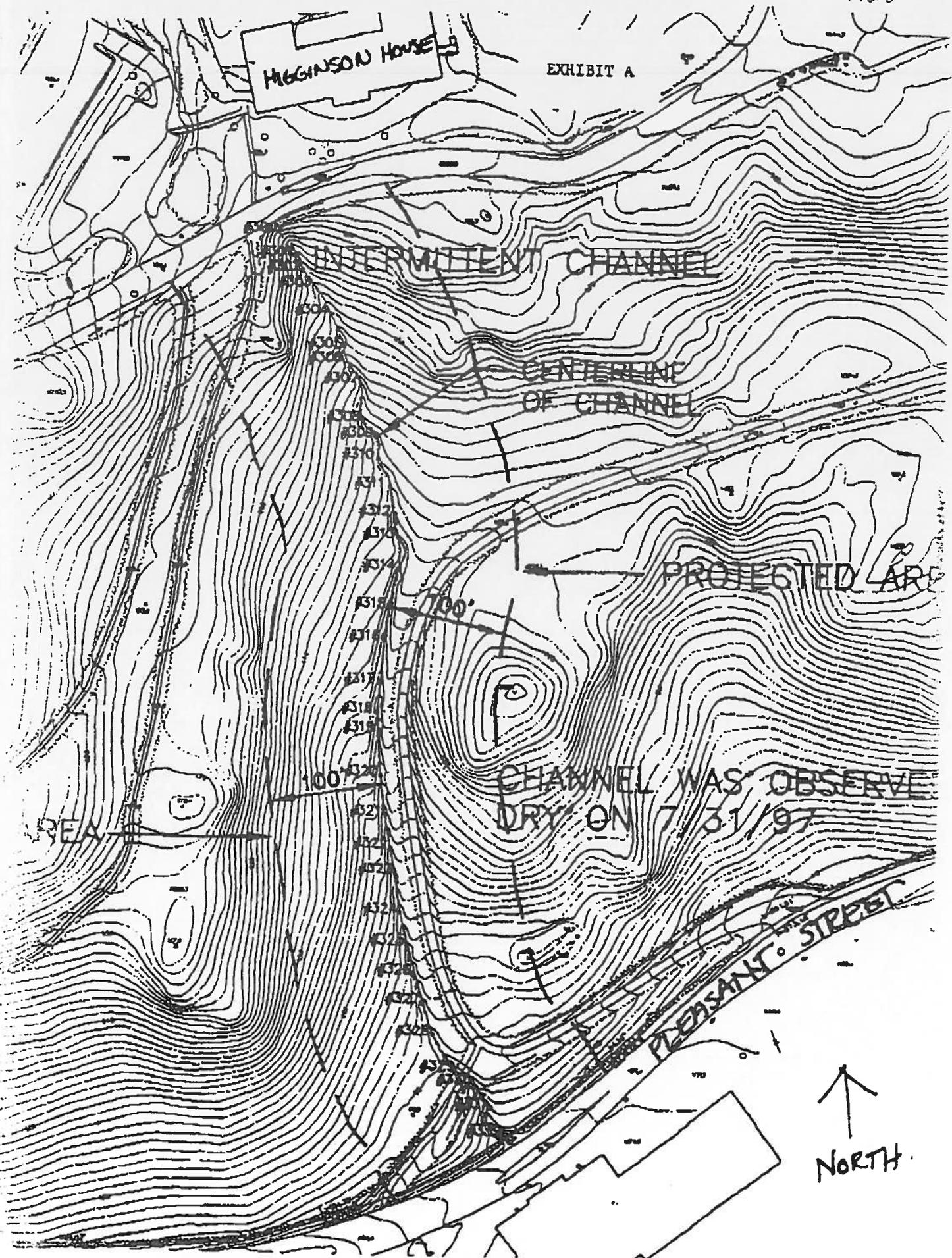
NORTH

300  
305  
308  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322  
323  
324  
325  
326  
327  
328  
329  
330

100'

100'

REA



310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION

10.99: continued

- 3.  The work described below, which includes all/part of the work described in your request, is within the Buffer Zone as defined in the regulations, and will alter an Area Subject to Protection Under the Act. Therefore, said work requires the filing of a Notice of Intent.

This Determination is negative:

- 1.  The area described in your request is not an Area Subject to Protection Under the Act.
- 2.  The work you described in your request is within an Area Subject to Protection Under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.
- 3.  The work you described in your request is within the Buffer Zone, as defined in the regulations, but will not alter an Area Subject to Protection Under the Act. Therefore, said work does not require the filing of a Notice of Intent.
- 4.  The area described in your request is subject to Protection Under the Act, but since the work you describe therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required: \_\_\_\_\_

Issued by the Department of Environmental Protection

Signature \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_\_, before me personally appeared \_\_\_\_\_, to me known to be the person described in, and who executed, the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed.

Notary Public \_\_\_\_\_

My Commission Expires \_\_\_\_\_

This Superseding Determination does not relieve the applicant from complying with all other applicable federal, state or local institutes, ordinances, by-laws or regulations. This Superseding Determination shall be valid for three years from the date of issuance.

The applicant, the owner, any person aggrieved by the Superseding Determination, any owner of land abutting the land upon which the proposed work is to be done, or any ten persons pursuant to G.L. c. 30A, § 10A, are hereby notified of their right to request an adjudicatory hearing pursuant to G.L. c. 30A, § 10, providing the request is made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form as provided in 310 CMR 10.03(7) within ten days from the date of issuance of this Superseding Determination, and addressed to: Docket Clerk, Office of General Counsel, Department of Environmental Protection, One Winter Street, Boston, MA 02108. A copy of the request shall at the same time be sent by certified mail or hand delivery to the conservation commission, the applicant, and any other party.

A notice of Claim for an Adjudicatory Hearing shall comply with the Department's Rules for Adjudicatory Proceedings, 310 CMR 1.01(6), and shall contain the following information:

- (a) the DEP wetlands File Number, name of the applicant, and address of the project;
- (b) the complete name, address and telephone number of the party filing the request, and, if represented by counsel, the name and address of the attorney;
- (c) the names and addresses of all other parties, if known;
- (d) a clear and concise statement of (1) the facts which are grounds for the proceeding, (2) the objections to this Superseding Determination, including specifically the manner in which it is alleged to be inconsistent with the Department's Wetlands Regulations, (310 CMR 10.00) and (3) the relief sought through the adjudicatory hearing, including specifically the changes desired in the Superseding Determination;
- (e) a statement that a copy of the request has been sent to the applicant, the conservation commission and each other party or representative of such party, if known.

Failure to submit all necessary may result in a dismissal by the Department of the Notice of Claim for an Adjudicatory Hearing.