

The Boston Conservation Commission (the "Commission") finds the proposed project, the Back Bay Fens Interim II Invasive Vegetation Control Plan, located in the Back Bay Fens and Muddy River, (the "project site"), as proposed by the Boston Parks and Recreation Department (the "applicant") cannot be conditioned to meet the performance standards set forth in the Wetland Protection Act Regulations 310 CMR 10.00 (the "Regulations"), as the proposed mechanical cutting of common reed (*Phragmites australis*) will alter over 5,000 square feet of Bordering Vegetated Wetland. The Order of Conditions (the "Order") prohibits the work proposed in the Notice of Intent (the "Notice"), as reviewed and voted on by the Commission at the September 1, 2010 public hearing.

The Commission finds and affirms the presence of the following wetland resource areas, subject to protection under the Massachusetts Wetlands Protection Act, M.G.L. Ch. 131, § 40, at the project site: Inland Bank, Bordering Vegetated Wetland, Land Under Waterbodies and Waterways, Bordering Land Subject to Flooding and Riverfront Area. The Commission affirms the delineation of jurisdictional wetland resource areas as represented in the Notice and on the plans of record, referenced on page 2 of this Order. The delineations of the wetland resource areas at the project site were previously approved by the Commission through an Order of Resource Area Delineation (DEP File No. 006-0867) issued on February 21, 2001, and extended thereafter.

The Commission finds based upon the Notice and plan of record the proposed mechanical cutting of common reed will occur within 3,725 square feet (s.f.) of Inland Bank, 5,400 s.f. of Bordering Vegetated Wetland, 63,570 s.f. of Land Under Waterbodies and Waterways, 18,720 s.f. of Bordering Land Subject to Flooding, and 18,720 s.f. of Riverfront Area. With regard to the performance standards specific to the aforementioned wetland resource areas, the Commission finds the proposed project will not impair ground or surface water quality, the water carrying capacity of the Muddy River, the physical stability of the river bank, or the capacity of the resource areas to provide wildlife habitat functions, breeding habitat, escape cover and food for fisheries due to the *Phragmites* limited habitat value, as represented in the Wildlife Habitat Function (2.2) section of the Notice. Additionally, the Commission finds the Alternatives Analysis (4.0) section of the Notice adequately addresses common reed control methodologies and agrees with the applicant's preferred alternative of 'cutting only' as the most practicable and economically feasible means of *Phragmites* control. Furthermore, the Commission concurs with the applicant's assertion that there are numerous health and safety concerns associated with the tall stands of common reed as they pose a fire hazard and limit visibility in an area of park land actively utilized by the public and urban gardeners.

The Commission finds, however, the project as proposed is denied as it does not meet the performance standards set forth in the Regulations for Bordering Vegetated Wetland (BVW), (310 CMR 10.55). Specifically, the proposed mechanical cutting of 5,400 s.f. of wetland vegetation contravenes the performance standard at 10.55(4)(b), which limits the loss of BVW to 5,000 s.f. and requires the replacement of lost BVW.