



Department of Environmental Protection  
Waterways Regulation Program  
**Inland Waterways Permitting**

**MassDEP Presenters:**

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## Presentation Outline

### **M.G.L Chapter 91 (Public Waterfront Act)**

- Overview
- Geographic Jurisdiction (310 CMR 9.04)
- Applicable C.91 Authorizations for Inland Waterways
- Activities Subject to Jurisdiction (310 CMR 9.05)

### **Scenarios/Quiz**

**Questions?** (please hold Q's till end of presentation)





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## M.G.L Chapter 91 Overview

Pre 1866, any fill and structures in tidelands or Great Ponds were authorized through state legislative action.

In 1866, M.G.L Chapter 91 (Public Waterfront Act) was established.

Rooted in the Public Trust Doctrine

- Codified in colonial ordinances of 1641-47.
- Public Has Fundamental Rights in Natural Resources such as the air, the sea, and the shore.
- The state, as trustee of the public's rights, has a duty to preserve these resources and the public's right to use them.



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## M.G.L Chapter 91 Overview

### **Waterways Regulations 310 CMR 9.00**

- to ensure tidelands are utilized for water-dependent uses or otherwise serve a proper public purpose
- To protect public health, safety & general welfare
- To revitalize urban waterfront properties
- To promote public use and enjoyment of the water



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## Chapter 91 Geographic Jurisdiction

### **Flowed Tidelands**

- Seaward of Mean High Water

### **Filled Tidelands**

- Seaward of the Historic High Water

### **Great Ponds**

- Surface area of 10+ acres in its natural state
- Great Pond List available at: <https://www.mass.gov/doc/massachusetts-great-ponds-list/download>

### **Nontidal Navigable Rivers and Streams**

- Navigable by any vessel during any time of year (310 CMR 9.04)



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***Great Ponds***



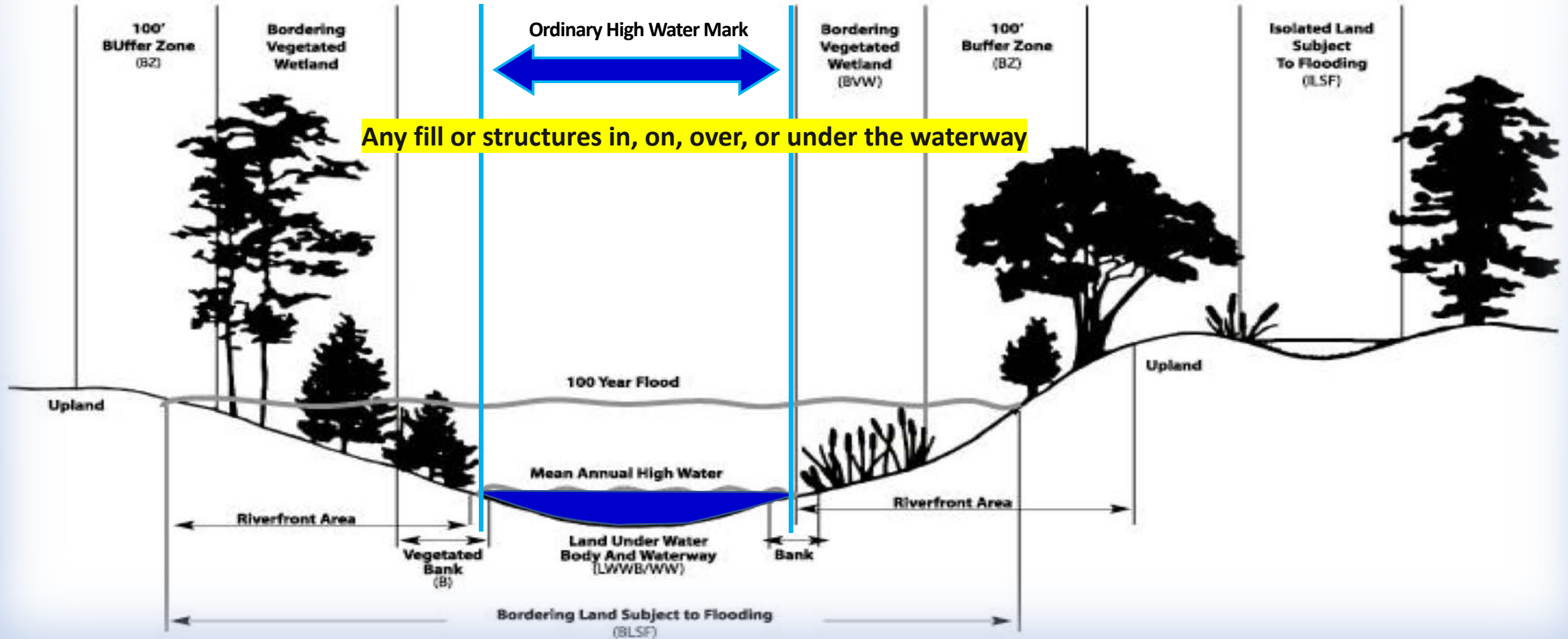
***Nontidal Navigable Rivers or Streams***

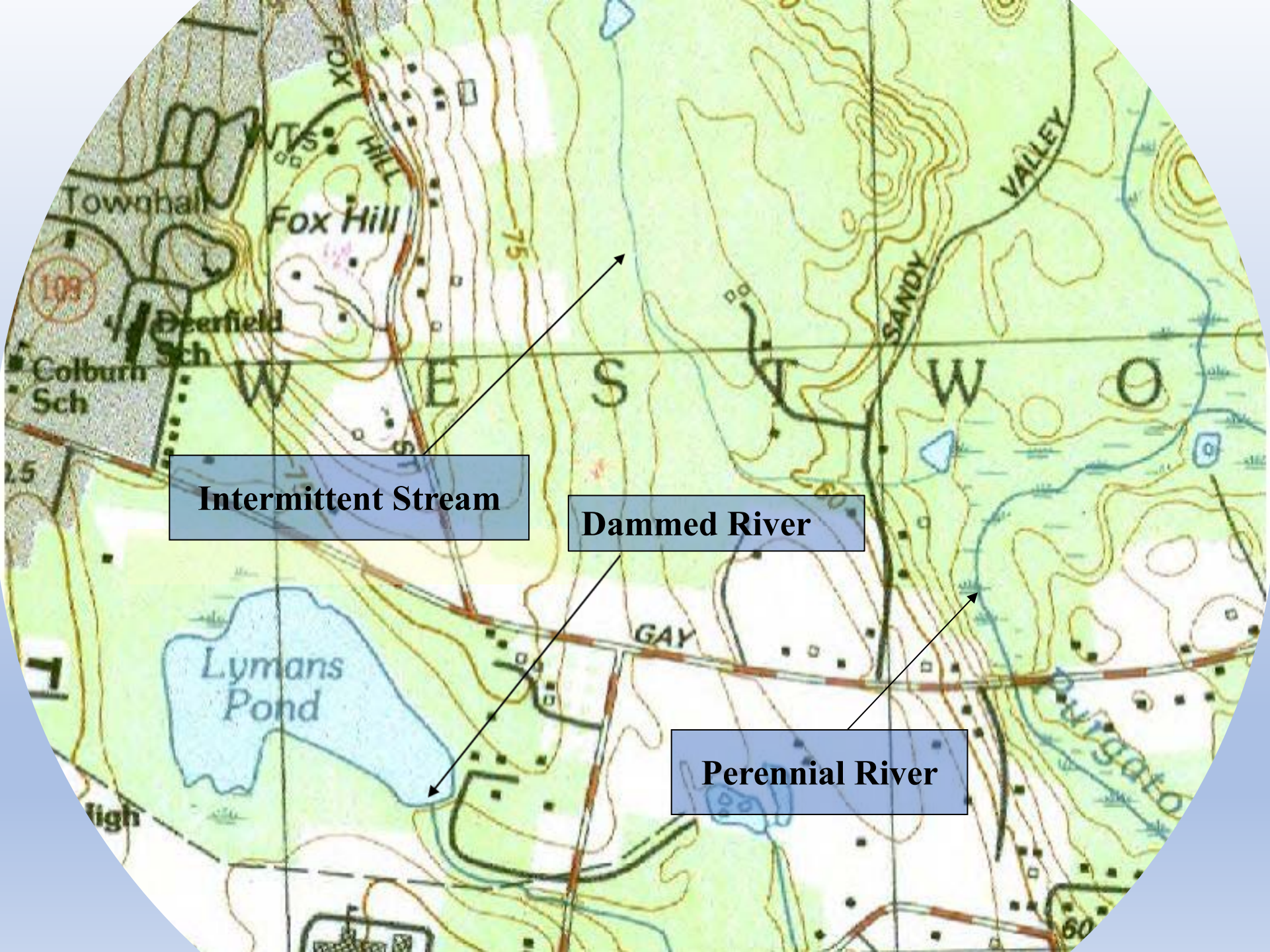


# Department of Environmental Protection

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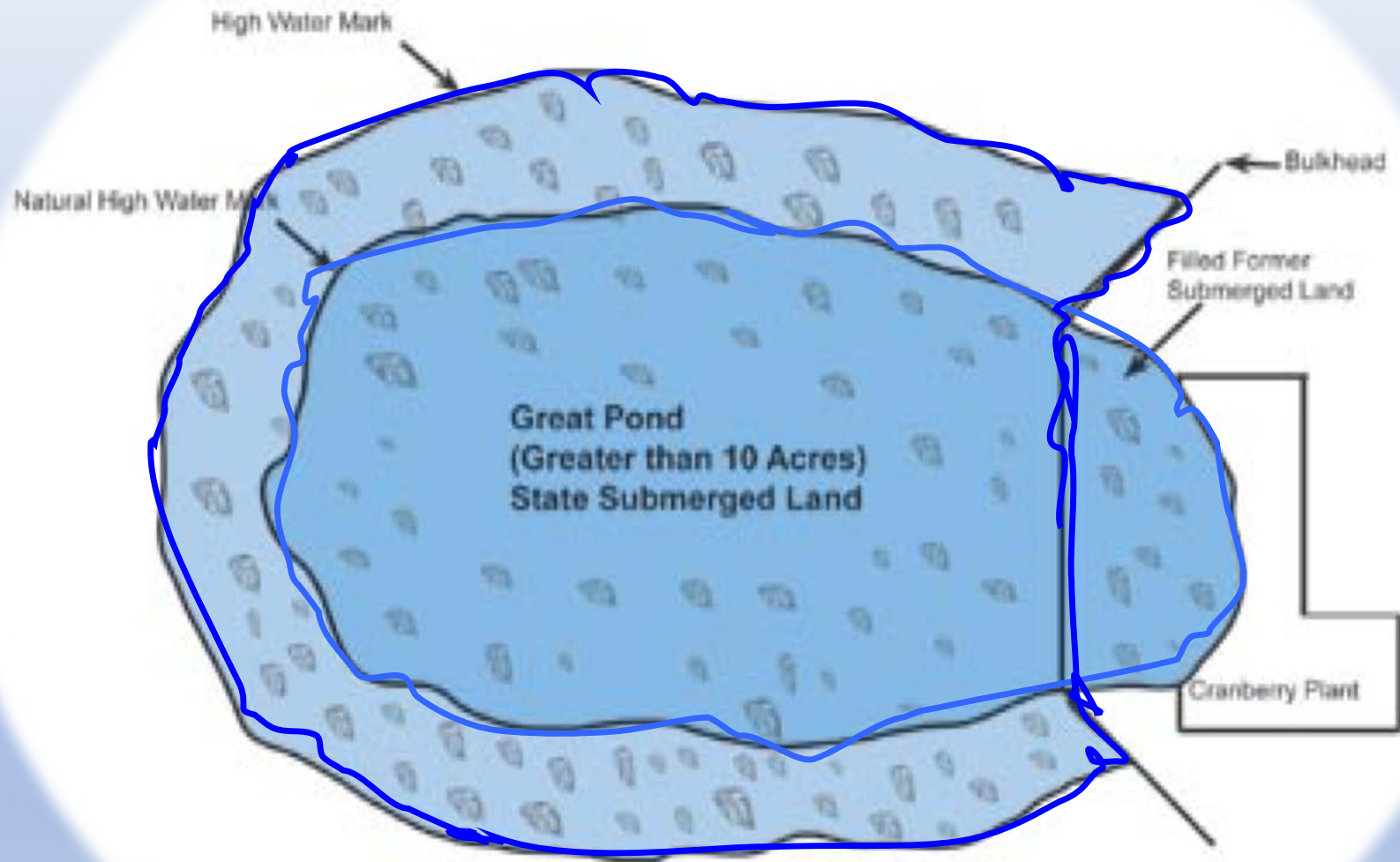




**Intermittent Stream**

**Dammed River**

**Perennial River**



Area where Chap. 91  
license is required.



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## **C.91 Authorizations for Inland Waterways (two options)**

### **Annual Permit / Mooring Permit / 10A Permit issued at local level**

- Harbormaster or other duly authorized local official/board/commission (per Chapter 91 Section 10A and 310 CMR 9.07)



***-or-***

### **C.91 Authorization issued by MassDEP**

- General License Certificate
- Simplified License
- Full Chapter 91 License





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## How to File

If a community doesn't offer Annual Permit/Mooring Permit/10A Permit for seasonal bottom anchored structures, or one is proposing fill or pile-held or pile-supported structure then they must file for a Chapter 91 Authorization issued by MassDEP (3 types):

- 1) General License Certificate ([must file online](#))
- 2) Simplified Waterways License ([must file online](#))
- 3) Full Chapter 91 Waterways License (online filing not available yet)

**As a first step for online filing, Applicants are required to file a Pre-Application Form which guides them to which option they qualify for**



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## Local Permitting Program per 310 CMR 9.07(3)(a)

- The Legislative Acts that established and modified the Lake Quinsigamond Commission do not provide the Commission with any authority relative to MGL Chapter 91.
- Although a lake commission may have the authority to establish rules and standards for structures that may be subject to Chapter 91 jurisdiction, the Commission's authority does not extend to Chapter 91 or its regulations.
- Rules/standards established by a City/Town or Lake Commission do not preempt the requirements of c.91.
- Currently, there is no Lake Commission with delegated authority to administer a Local Permitting Program (LPP) for the Chapter 91 Program. **Town of Southwick is the only City/Town approved by MassDEP to administer a LPP on Congamond Lake, since 2010.**
- The regulations at 310 CMR 9.07(3)(a) provide the process whereby a City/Town or Lake Commission (approved by the Legislature) can petition to MassDEP Waterways Program for a LPP.
- **The Waterways Program would welcome any authorized entity such as the Lake Quinsigamond Commission, to engage with us to discuss the process for petitioning for a LPP for docks, piers, seawalls, bulkheads and other small-scale structures accessory to a residential use.**



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**Generally Nonwater-Dependent Uses are not Permitted**





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Examples





~ ~ ~ QUIZ TIME ~ ~ ~

**Annual Permit / 10A Permit ?  
issued at local level**

**OR**

**MassDEP issued Authorization ?**

**1**



**2**



**3**



**4**



**Annual Permit / 10A Permit issued at local level ?  
OR  
MassDEP issued Authorization ?**



**Seawall/Fill?**

**Roll-on/Roll-off Dock?**

Mr. Miyagi says: roll-on /roll-off

# Which Structure in a Nontidal River/Stream is subject to Chapter 91?



*Hint: Not Navigable*



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## Presentation Recap

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### **Scenarios/Quiz**

### **Questions?**

*Thank you for attending!*





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***{email is preferred}***

**END OF PRESENTATION**