



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

071-0349

MassDEP File #

eDEP Transaction #

Swampscott

City/Town

A. General Information

Please note:
 this form has
 been modified
 with added
 space to
 accommodate
 the Registry
 of Deeds
 Requirements

Important:
 When filling
 out forms on
 the
 computer,
 use only the
 tab key to
 move your
 cursor - do
 not use the
 return key.



1. From: Swampscott
 Conservation Commission

2. This issuance is for (check one): a. ☒ Order of Conditions b. ☐ Amended Order of Conditions

3. To: Applicant:

Max

a. First Name

Kasper

b. Last Name

Town of Swampscott

c. Organization

22 Monument Ave

d. Mailing Address

Swampscott

e. City/Town

MA

f. State

01907

g. Zip Code

4. Property Owner (if different from applicant):

Town of Swampscott

a. First Name

b. Last Name

c. Organization

22 Monument Ave

d. Mailing Address

Swampscott

e. City/Town

MA

f. State

01907

g. Zip Code

5. Project Location:

10 Whitman Rd & 101 Forest Ave

a. Street Address

Swampscott

b. City/Town

22

c. Assessors Map/Plat Number

E1 (10 Whitman), E (101 Forest)

d. Parcel/Lot Number

Latitude and Longitude, if known:

42d28m20s

d. Latitude

-70d53m53s

e. Longitude



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A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

Essex

a. County

2792 (10 Whitman) 290 (101 Forest)

c. Book

b. Certificate Number (if registered land)

419 (10 Whitman) 30 (101 Forest)

d. Page

7. Dates: 3/17/2022 04/07/2022 04/07/2022
a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

See attached spreadsheet

a. Plan Title

Nitsch Engineering & Lavalley Brensinger
Architects

2/25/2022

d. Final Revision Date

David Conway, PE

c. Signed and Stamped by

10

e. Scale

f. Additional Plan or Document Title

g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a. ☐ Public Water Supply b. ☐ Land Containing Shellfish c. ☐ Prevention of Pollution
d. ☐ Private Water Supply e. ☐ Fisheries f. ☐ Protection of Wildlife Habitat
g. ☐ Groundwater Supply h. ☐ Storm Damage Prevention i. ☐ Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



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B. Findings (cont.)

Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. ☒ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 18
a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



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B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. ^{cu yd} nourishment	d. ^{cu yd} nourishment
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. ^{cu yd} nourishment	d. ^{cu yd} nourishment
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		
22. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



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B. Findings (cont.)

* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. ☐ Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

24. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on _____ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]

"File Number 071-0349 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
 - (1) ☒ is subject to the Massachusetts Stormwater Standards
 - (2) ☐ is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
 - i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

See attached document

- 20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☐ Yes ☒ No
2. The _____ hereby finds (check one that applies):
 Conservation Commission
 - a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.
 - b. ☐ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

1. Municipal Ordinance or Bylaw

2. Citation
3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.
 The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):



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E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

04/07/2022

1. Date of Issuance

Please indicate the number of members who will sign this form.

5

This Order must be signed by a majority of the Conservation Commission.

2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Tonia Bandrowicz
 Signature

Tonia Bandrowicz
 Printed Name

Colleen Hitchcock
 Signature

Colleen Hitchcock
 Printed Name

A. Randall Hughes
 Signature

A. Randall Hughes
 Printed Name

Monica Lagerquist
 Signature

Monica Lagerquist
 Printed Name

Jonathan Grabowski
 Signature

Jonathan Grabowski
 Printed Name

 Signature

 Printed Name

 Signature

 Printed Name

 Signature

 Printed Name

☒ by hand delivery on

☐ by certified mail, return receipt requested, on

04/12/2022

Date

 Date



TOWN OF SWAMPSCOTT
CONSERVATION COMMISSION

ELIHU THOMSON ADMINISTRATION BUILDING 22
MONUMENT AVENUE, SWAMPSCOTT, MA 01907

MEMBERS
TOM RUSKIN, CHAIR
TONIA BANDROWICZ, VICE-CHAIR
MONICA TAMBORINI
JONATHAN GRABOWSKI
MONICA LAGERQUIST
COLLEEN HITCHCOCK
A. RANDALL HUGHES

CERTIFICATE OF VOTE AUTHORIZING SIGNATURES PURSUANT TO M.G.L. c. 110G

On October 20, 2020, the Town of Swampscott Conservation Commission met in open session through publicly accessible video-conference software, pursuant to the "Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A 20," issued by Governor Charles D. Baker on March 12, 2020. At this duly held meeting, the following action was taken:

Motion made by Thomas Ruskin: The Swampscott Conservation Commission hereby recognizes and accepts the provisions of the M.G.L. c.110G regarding electronic signatures and that its members will henceforth execute documents either with electronic signatures or with wet ink signatures and that both will carry the same legal weight and effect. Motion seconded by Tonia Bandrowicz.

Roll Call Vote:



Monica Tamborini – Aye;

A. Randall Hughes – Aye;

Colleen Hitchcock – Aye;

Monica Lagerquist – Aye

Jonathan Grabowski – Aye;

Tonia Bandrowicz, Vice Chair – Aye;

Thomas Ruskin, Chair – Aye

Vote was 7-0

Name/Title:

Marissa Meaney, Land Use Coordinator

Date: July 28, 2021

County of Essex, ss.

On this 28th day of July, 2021, before me, personally appeared Marissa Meaney, Land Use Coordinator and Town staff liaison to said Conservation Commission, as aforesaid, and proved to me through satisfactory evidence of identification, which was Driver's License to be the person whose name is signed on the preceding document, and acknowledge to me that she signed it voluntarily for its stated purpose on behalf of the Town of Swampscott.

Notary Public

My Commission Expires:

April 7, 2028

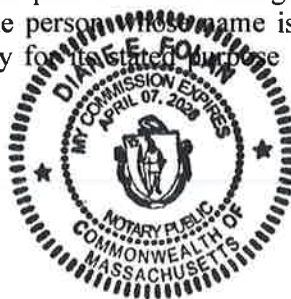
Certified by Town Clerk:

Name:

Susan R. Duplin

Date:

July 28, 2021





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F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



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G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Conservation Commission

Please be advised that the Order of Conditions for the Project at:

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for:

Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant



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DEP File Number: _____

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP _____

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. Request Information

1. Location of Project

a. Street Address _____

b. City/Town, Zip _____

c. Check number _____

d. Fee amount _____

2. Person or party making request (if appropriate, name the citizen group's representative):

Name _____

Mailing Address _____

City/Town _____

State _____

Zip Code _____

Phone Number _____

Fax Number (if applicable) _____

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

Name _____

Mailing Address _____

City/Town _____

State _____

Zip Code _____

Phone Number _____

Fax Number (if applicable) _____

4. DEP File Number: _____

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



B. Instructions

1. When the Departmental action request is for (check one):

- ☐ Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- ☐ Superseding Determination of Applicability – Fee: \$120
- ☐ Superseding Order of Resource Area Delineation – Fee: \$120



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

Request for Departmental Action Fee Transmittal Form

Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Instructions (cont.)

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection
Box 4062
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>).
4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

	Swampscott School						
	List of Approved Plans						
	Nitsch Project #13858						
	DEP #071-0349						
	4/11/2022						
	NOI Submission:					03-03-2022 Submission	04-01-2022 Submission
1	NOI Report					X	X
2	Stormwater Report					X	X
3	Civil Plans:		Drawing No.	Drawing Name	Scale		
		1	C-000	Civil Notes, Legend, and Abbreviations	NTS	X	X
		2	C-100	Site Demolition, Erosion Control & Sedimentation Plan	1"=20'	X	X
		3	C-101	Site Demolition, Erosion Control & Sedimentation Plan	1"=20'	X	X
		4	C-200	Site Layout and Materials Plan	1"=20'	X	X
		5	C-201	Site Layout and Materials Plan	1"=20'	X	X
		6	C-300	Site Utility Plan	1"=20'	X	X
		7	C-301	Site Utility Plan	1"=20'	X	X
		8	C-400	Site Drainage Plan	1"=20'	X	X
		9	C-401	Site Drainage Plan	1"=20'	X	X
		10	C-500	Site Grading Plan	1"=20'	X	X
		11	C-501	Site Grading Plan	1"=20'	X	X
		12	C-600	Site Erosion Control & Sedimentation Details	NTS	X	X
		13	C-601	Site Layout Details	NTS	X	X
		14	C-602	Site Utility Details	NTS	X	X
		15	C-603	Site Drainage Details I	NTS	X	X
		16	C-604	Site Drainage Details II	NTS	X	X
4	Landscape Planting Plan						X
5	Easement Exhibit						X
6	Addressed Peer Review Comments						X
7	PR and Existing HydroCAD Reports					X	X
8	EX & PR HydroCAD Files						X
9	SWPPP					X	X
10	Civil CAD Files						X



Town of Swampscott
OFFICE OF THE
Conservation Commission
Elihu Thomson Administrative Building
22 Monument Avenue
Swampscott, Massachusetts 01907

Tonia Bandrowicz, Vice-Chairman
Jonathan Grabowski
Colleen Hitchcock
A. Randall Hughes
Monica Lagerquist
Monica Tamborini

Swampscott Conservation Commission
New Elementary School, 10 Whitman Street
DEP File #071-0349

Findings

1. On February 23, 2022, the Town of Swampscott submitted a Notice of Intent (NOI) for new elementary school project, prepared by its consultant, Nitsch Engineering Inc. (Nitsch). Given the interest in this project, the Commission decided to hire its own third-party consultant, Linden Engineering Partners LLC (Linden) to do a peer review of the project.
2. The Town, through its consultant, Nitsch, presented the project at a March 17, 2022 public hearing; however, because Linden, the peer reviewer, had not completed its review of the Town's proposal, the Commission, with the agreement of the Town, and pursuant to WPA regulations 310 CMR 10.05(5), continued the hearing until March 28, 2022.
3. In the intervening time, Linden along with two Commissioners had an opportunity to visit the site with town representatives and consultants on March 10, 2022.
4. Linden completed its review and submitted a report on the Town's NOI the afternoon of March 28, 2022. At the March 28 public hearing, because the Commission had only received Linden's report that afternoon, the Commission, again with the Town's agreement and pursuant to WPA regulations 310 CMR 10.05(5), continued the hearing until April 7, 2022. In the intervening time, Nitsch addressed Linden's March 28 comments and some additional comments made by the Commission in a March 31, 2022 Memorandum and April 5, 2022 addendum.
5. While the majority of Linden's comments concerned clarifying, expanding, and/or correcting technical aspects of the Town's NOI, there were two issues of a more substantive nature: (1) whether the NOI form needed to be signed by the Unitarian Universalist Church of Greater Lynn as well as the Town given that the easement proposed as part of the project is on Church property. On March 24 and 31, 2022, the Town's Legal Counsel, KP Law, submitted legal opinions, with supporting citations, that the Town had acquired a legal interest as an easement holder in the relevant portion of the Church property when it recorded its Order of Taking at the Registry of Deeds on or about March 17, 2022, and so had acquired a legal interest as an easement holder in the Church property prior to the opening of the public hearing by the Commission on the Town's NOI, and that signature by the Church was not required; (2) whether a small separate wet area located at the very bottom of the long narrow island on the Church parking lot, which is immediately adjacent to several wet sumps, should have been delineated as jurisdictional wetlands under the WPA. In a March 30, 2022 memorandum from the Town's environmental consultant, LEC Environmental Consultants (LEC), LEC stated that it had reviewed the issue with Pam Merrill, Environmental Analyst at the Massachusetts Department of Environmental Protection (DEP) Wetlands Program and that the DEP

confirmed LEC's determination that the area in question is not jurisdictional under the WPA. A request will be made to obtain a written confirmation from the DEP on this issue for the record.

6. The project consists of the demolition of an existing building and site improvements on the Stanley School property located at 10 Whitman Street in Swampscott and the construction of a new elementary school and site improvements on the property along with a proposed access to the adjacent property of the Church. While none of the work is proposed within wetland resource areas, portions of the work will occur within the wetlands buffer zone of wetland resource areas in both Ewing Woods and a wooded area on Church property. Nitsch has described these wetlands as "hydrologically isolated and topographically confined" but characterized them as a Bordering Vegetated Wetland (BVW) due to the presence of "internal intermittent stream channels.

General Conditions
(These supplement the General Conditions in WPA Form 5)

1. This Order of Conditions (Order) shall apply to the applicant, and its successors and/or assigns.
2. No work shall commence on the affected property until all appeal periods have elapsed. After the expiration of all appeal periods, in accordance with General Condition 9 on page 6 of this Order (WPA Form 5) and prior to commencement of any work on the affected property, this Order must be recorded at the Essex County Registry of Deeds, Southern District and notification of the Date and Book and Page of the recording shall be provided to the Commission. Failure to record this Order of Conditions will result in automatic revocation of this Order as provided by General Condition 1 on page 5 of this Order (WPA Form 5).
3. Prior to any work being done on the project site, the applicant shall inform the Commission in writing of the names, addresses, business, mobile and home telephone numbers of both the project supervisor who will be responsible for ensuring on-site compliance with this Order and his/her alternate. The notification shall occur at least 48 hours prior to commencement of any work on the site. The 48 hours shall not be over weekends or holidays. The applicant shall also notify the Commission in writing of any changes in this information.
4. At least seven days prior to the commencement of any activity on the project site the applicant shall notify the Commission in writing that activity is commencing on a date certain. The seven calendar days shall not include holidays.
5. The applicant and any person involved in the activity that is the subject of this Order shall notify the Commission immediately upon discovery of a matter related to this Order that may affect any areas within the jurisdiction of the Commission.
6. In accordance with the requirements of General Condition 14 on page 6 of this Order (WPA Form 5), any changes to the approved plans must be presented to the Commission for a determination as to whether the changes are insignificant, whether the changes require a new Public Hearing and an Amended Order of Conditions or if the changes require the filing of a new Notice of Intent. If a new public hearing is required or a new Notice of Intent is required these shall all be duly advertised and noticed to all abutters at the expense of the applicant, in order to take testimony from all interested parties. Within 21 days of the close of said hearing, the Commission shall issue an Amended or New Order of Conditions as appropriate.
7. Any errors found in the plans or information submitted by the applicant shall be considered as changes, and the procedures outlined above shall be followed.
8. The Commission reserves the right to require additional conditions if deemed necessary to protect

resource areas and interests as defined in MGL Chapter 131 Chap 40 (310 CMR 10.00).

9. Work shall be halted on the site if the Commission or Massachusetts Department of Environmental Protection determines that any of the work is not in compliance with this Order.
10. By accepting this Order, the applicant agrees with the Commission's position that the Order as written is necessary to protect the Interests of the Wetlands Protection Act. In the event that an Enforcement Order is issued to the applicant and/or the property owner and the applicant and/or the property owner fails to act after ten business days from the receipt of said Enforcement Order, the Commission may satisfy the requirements of the Enforcement Order and the applicant agrees to reimburse the Town for all administrative costs and other expenses required to satisfy the Enforcement Order including but not limited to all costs incurred by the Town due to the use of its own resources or the use of outside resources including the employment of experts, specialized contractors or any other individual or organization it deems necessary to satisfy the requirements of the Enforcement Order.
11. By accepting this Order, the applicant and property owner agree that the Town of Swampscott Conservation Commission's members and staff and the consultant or designated representative of the Commission may enter onto and inspect the property and the project pursuant to Condition 15 on page 6 of this Order (WPA Form 5), with or without probable cause or prior notice, and until a Certificate of Compliance is issued. After a Certificate of Compliance is issued the same parties may enter and inspect the property and the project, with or without probable cause or prior notice for the purpose of monitoring compliance with those Conditions of this Order which remain in effect in perpetuity. The above-named entities agree to follow the property owner's on-site check-in and safety procedures when entering the property.
12. This Order shall be made part of all construction contracts and subcontracts dealing with the work proposed, and the requirements of this Order shall supersede any conflicting contract requirements. The applicant shall assure that all contractors, subcontractors, and other personnel performing the permitted work are fully aware of the Order's terms and conditions. Any person performing work on the activity that is the subject of this Order is individually responsible for understanding and complying with the requirements of this Order.
13. The contractor, contractors, or other individual(s) in charge of work on the site shall have a copy of this Order, as well as all approved plans and documents referenced in this Order available at the on-site office upon commencement of any site work and shall make the plans and documents available to any person doing work on the site at all times until a Certificate of Compliance is granted.
14. This Order applies only to the work permitted herein, all work shall be conducted in strict accordance with the Notice of Intent and the approved plans and supporting documentation unless otherwise specified in this Order, which shall be the controlling document. Any other or additional activity in areas within the jurisdiction of the Commission will require separate review and approval by the Commission.
15. No on-site wells for irrigation shall be constructed within 100 feet of any Wetland Resource without the filing of a new Notice of Intent with the Commission
16. Issuance of these conditions does not in any way imply or certify that the site or downstream areas will not be subject to flooding, storm damage, or any other form of water damage.
17. It is the responsibility of the applicant to satisfy all procedural requirements of all agencies having jurisdiction over the activity that is the subject of this Order, and to obtain all required licenses, permits, or authorizations. These include but are not limited to the following: a) NPDES Stormwater Pollution Prevention Permit; b) Town of Swampscott Planning Board, Selectmen and other Town Boards, if required; and c) Permits from the Town Building, Wiring Inspector and Plumbing Inspectors and Board of Health, if

required. Copies of all such licenses, permits and authorizations shall be provided to the Commission immediately upon receipt.

18. The erosion controls shall be maintained per General Condition 18 on page 7 of this Order (WPA Form 5) until the referenced stabilization efforts and inspected by the Commission members, staff or other designated representative of the Commission and it is mutually agreed that they are no longer needed, at which time they will be removed, using mutually satisfactory removal procedures. The area where the erosion control devices are removed from shall be stabilized and seeded immediately after the devices are removed and restored to pre-disturbance condition.
19. Any landscaping shall not consist of any exotic, invasive plant including, but not limited to, *Euonymus alata* (Burning Bush or winged euonymus, etc.) *Berberis thunbergii* (Japanese Barberry), or any other plant listed in the Massachusetts Banned Plants List.
20. Upon completion of the work on the project, the applicant shall request in writing a Certificate of Compliance (WPA Form 8A sent to the Commission by Certified Mail) from the Commission and shall submit the following information with the request:
 - a. A certification from a Massachusetts Registered Professional (Civil) Engineer stating that construction complies in all respects with the requirements of this Order and setting forth any deviations that exist. If there are deviations that impact the function and discharge of the Stormwater Management Systems then the Engineer shall provide supporting calculations detailing the impact of the deviations on the system function and discharge;
 - b. Three sets of field surveyed as-built site plans prepared, signed and stamped by a Massachusetts Registered Professional Land Surveyor or a Massachusetts Registered Professional (Civil) Engineer. The as-built plan shall include, at a minimum, and as applicable to the project, elevations of all pipe inverts at inlets, outlets and all drainage or stormwater treatment structures, roof drainage systems, roof drainage piping, monitoring wells, elevations of the sumps of all catch basins and stormwater treatment systems, all drainage pipe sizes, pipe materials, and pipe slopes; all other drainage structures, elevations and locations of all other utilities within the limit of work, limits of clearing, grading and fill; all structures, pavement and spot elevations and 1 foot contour elevations within 100 feet of wetlands boundaries; detailed locations and elevations of all stormwater detention basins, the locations of wetlands boundaries; all alterations within wetland buffer zones and all dates of fieldwork. The as-built survey shall include a statement that the survey was made on the ground under the direct supervision of the Surveyor/Engineer and that the survey conforms to all the requirements of 250 CMR 6.02;
 - c. Two CDs, DVDs or USB Memory Sticks containing the electronic drawing file for the As-Built Survey in .pdf and AutoCAD 2013-2017 formats;
 - d. The as-built plans shall locate at least three horizontal control points and at least three benchmarks; and
 - e. Post-construction photographs demonstrating compliance with this Order, including established vegetation where required.
21. When issued by the Commission, the Certificate of Compliance must be recorded at the Essex County Registry of Deeds and a copy of the recorded Certificate shall be provided to the Commission.
22. The applicant is hereby notified that failure to comply with all requirements herein may result in the issuance of enforcement actions by the Conservation Commission including, but not limited to, civil administrative penalties under M.G.L. Chapter 21A, section 16.

Special Conditions

1. At least seven days prior to the commencement of any construction or activity on the project site, an on-site Preconstruction Meeting must be held with the contractor, designated agent and the Commission members, staff and/or designated representative of the Commission to review this Order to ensure that all conditions of this Order are understood and review the proposed construction schedule and sequencing.
2. Prior to the Preconstruction meeting, the applicant shall furnish the Commission with the Clean Water Act National Pollutant Discharge Elimination System (NPDES) Notice of Intent and EPA approved NPDES Permit.
3. Prior to the Preconstruction Meeting, all of the wetland flags within 120 feet of any proposed work shall be refreshed by placing new flags in the same location as the old flags. If flags are missing, they shall be replaced by accurate survey methods.
4. Prior to the preconstruction meeting, the proposed limit of work and siltation control lines shown on the approved plans shall be clearly marked with stakes, flags, or fencing in the field. The staking of these lines shall be approved by the Commission or its designated Agent at the preconstruction meeting. Such markers shall be maintained until all work on the site's perimeter is complete. All workers shall be informed that no activity is to occur beyond the limit of work line at any time.
5. Prior to the preconstruction meeting, the applicant shall submit the final SWPPP to the Commission for their review and approval. The Final SWPPP must be approved prior to any land disturbance at the site. A .pdf file of the Final Approved SWPPP shall be provided to the Commission.
6. At the Preconstruction Meeting, the applicant shall submit the documents listed below. These documents shall be updated regularly until construction on the project is complete. Documents shall include the following:
 - a. Photographs depicting the project site along the wetland boundary with flagging visible;
 - b. Construction sequencing plan; and
 - c. Construction schedule.
7. No clearing of vegetation, including trees, or disturbance of soil on any areas within 100 feet of any wetland resource area shall occur prior to the Preconstruction Meeting, except such minimal disturbance required in order to stake the required limit of work/erosion control lines.
8. At the Preconstruction meeting, the applicant will review with the Commission which trees, if any, are planned to be removed in the buffer zone. No cutting of trees in the buffer zone shall occur without approval of the Commission and compliance with the Town of Swampscott's Tree Bylaw, if applicable.
9. After the Preconstruction Meeting and prior to any construction at the site, all necessary erosion controls shall be installed along the approved staked line in all locations as shown on the approved plans. Erosion controls shall be installed with minimal disturbance to vegetation. Where possible, erosion controls should go around trees, shrubs, and other vegetation, on the uphill side.
10. Upon completion of the installation of erosion controls, the Commission shall be contacted in order to conduct a follow-up inspection to ensure that erosion controls have been properly installed. No other work on the project may occur until the installed erosion controls have been inspected and approved by the Commission or its consultant or other designated representative of the Commission.
11. Prior to any demolition on the property, temporary fencing or another method of screening the demolition

site from the resource area shall be installed and maintained in order to prevent the spread of dust and debris from entering the resource area.

12. The applicant and property owner must maintain erosion control devices and check on a weekly basis and after any rain event totaling more than 0.25" of precipitation over any 24-hour period. Erosion controls shall be maintained and replaced on an as-needed basis, unless the Commission determines otherwise, to prevent the passage of accumulated sediments to resource areas downgradient of the site and the work areas. Accumulated sediment upgradient of erosion control devices shall be removed immediately if its depth exceeds six inches or every two weeks during construction. See other conditions in this Order regarding reporting of the inspection results.
13. The erosion control specifications provided in the Notice of Intent and the erosion control provision in the Order will be the minimum standards for this project. Erosion control devices may be modified based upon experience at the site. Additional or modified erosion control measures may be required by the Commission at any time before, during and after construction.
14. All existing and new catch basins or stormwater inlets (immediately upon their installation) on and immediately adjacent to the site shall be protected by Silt Sacks to prevent sediment from entering the drainage system. Silt Sacks shall be maintained and regularly cleaned of sediments until all areas associated with the work permitted by this Order have been permanently stabilized and the Commission and/or staff or designated agent has formally approved their removal. Filter fabric placed under the inlet rim is not an acceptable substitute for silt sacks.
15. Until the proposed impervious surfaces for the roadway have been completed, a temporary stabilized construction entrance shall be maintained in accordance with the detail shown on the approved plans to serve as a tracking pad to assist in the removal of silt and soil from vehicle tires.
16. Street sweeping to eliminate any siltation and deposited material on paved surfaces on and immediately adjacent to the project site during construction will be provided as necessary until all affected surfaces of the site have been stabilized.
17. Accepted engineering and construction standards shall be followed in the completion of this project. This includes proper installation and maintenance of Erosion & Sediment Control (E&SC) Best Management Practices (BMPs) per applicable DEP, US Department of Agriculture Natural Resource Conservation Service (NRCS), and/or manufacturers' guidelines.
18. The applicant and property owner shall have on hand at the start of any soil disturbance, removal or stockpiling, an emergency supply of erosion control materials consisting of a minimum of 25 straw bales, three silt sacks, 100 feet of mulch sock and 100 feet of siltation control fencing along with sufficient stakes for securing the fencing and bales. Said emergency supply shall be used only for the control of emergency erosion, and shall be installed in accordance with the details shown on the approved plans. An emergency-use only reserve of products for other methods of E&SC, if previously approved in writing by the Commission, may be substituted. (*See General Condition 18 on page 7 of this Order (WPA Form 5)*).
19. The designated inspector under the NPDES Permit and the Storm Water Pollution Prevention Plan (SWPPP) shall provide the Commission with copies of all SWPPP Inspection Reports. Inspections shall be conducted at the intervals required under the NPDES Construction General Permit (CGP) and the approved SWPPP and as specified within this Order. The inspection reports shall address the current condition of erosion and sedimentation controls; describe any erosion or sedimentation problems and mitigation measures implemented. Reports shall be sent to the Commission by email within two days of the inspection, and if requested, followed by hard copy in the mail. Failure to provide these reports within two days of the inspection shall constitute a violation of this Order and the Commission may issue an Enforcement Order requiring that all work be ceased until the reports are provided and the site is inspected by the Commission, its agent, consultant or other designated representative.

20. The applicant's engineer shall provide the Commission with a minimum of two progress reports per month (or at intervals as agreed upon with the Commission from time to time) when work is ongoing within the Wetlands Buffer Zone, when work is ongoing of the stormwater management system, when earthwork is being performed or when the site is not in an environmentally stable condition. Progress reports shall indicate what work has been done in wetlands resource areas and associated buffer zones and elsewhere on the site, and what work is anticipated to be done over the next reporting period. The report shall also address the current condition of erosion and sedimentation controls; describe any erosion or sedimentation problems and mitigation measures implemented. Reports shall be sent to the Commission by email within two days of the inspection, and if requested, followed by hard copy in the mail. Failure to provide these reports within two days of the applicant's engineer's inspection of the site shall constitute a violation of this Order and the Commission may issue an Enforcement Order requiring that all work be ceased until the reports are provided and the site is inspected by the Commission, its agent, consultant or other designated representative.
21. If the applicant wishes to substitute another stormwater treatment unit for the Jellyfish Treatment unit specified on the plans, the Isolator Row specified on the plans or different underground chambers then he must submit a request for this substitution to the Commission in writing, including all necessary calculations for the sizing of the substituted unit(s), MASSTEP or NJCAT data for the unit(s) and a statement by a Massachusetts Registered Professional Engineer that the unit(s) are equivalent to the approved design shown on the plans. The proposed alternative must have the same (or more) treatment removals and other properties as the approved units. The Commission shall act on the request and the request must be approved prior to the shipment of the alternative unit(s) to the site.
22. Prior to ordering the underground storage chambers for the project, the applicant or its contractor shall submit buoyancy calculations to the Commission for their review and approval demonstrating that the system, when empty, will have sufficient weight to counteract the buoyant forces of the groundwater outside the unit as a whole system. The Commission shall act on the request and the request must be approved prior to the shipment of the unit(s) to the site.
23. All equipment shall be operated and maintained to prohibit any alterations of wetlands and to minimize disturbance in buffer zones to those areas clearly identified on the plans, demarcated in the field, and permitted by this Order. No equipment is to enter or cross any wetland resource area at any time except as provided for by this Order. At the end of each work day all equipment shall be parked outside of the 100-foot wetlands buffer zone as shown on the plans.
24. During and after work on this project, there shall be no discharge or spillage of fuel, oil, or other pollutants into any Wetland Resource Area or Wetland Buffer Zone. During all construction when equipment is present or in use at the site the contractor shall maintain a spill containment kit on the site in a readily accessible location for immediate use in the event of a spill. Also, there shall be no refueling of mechanical equipment within a Wetland Resource Area or within the 100-foot Wetlands Buffer Zone. Equipment for fuel storage and refueling operations shall be located outside all areas within the jurisdiction of the Commission. The applicant shall take all reasonable precautions to prevent the release of pollutants by ignorance, accident, or vandalism. No fuel, oil, or other pollutants shall be stored in any Wetland Resource Area or the Wetlands Buffer Zone.
25. All debris, fill and excavated material shall be stockpiled as far away from Wetland Resource Areas as possible and surrounded by either a double staked row of straw bales or a siltation control fence with mulch sock to prevent sediment from surface runoff entering any wetland resource areas. At no time shall any debris or other waste material be buried or disposed of within a Wetland Resource Area or Wetland Buffer Zone. All demolition debris shall be removed and disposed of properly off site prior to the construction of the building.

26. No unsuitable material of any kind (stumps, roots, trash, debris, demolition materials, etc.) may be buried, placed or dispersed on the property.
27. All construction debris that is not recycled for appropriate on-site use shall be removed from the site. All void areas shall be brought to grade in accordance with the approved grading plan. Imported backfill material, if any, which is brought to the site shall be tested for contaminants prior to being imported to the site.
28. If the work undertaken for this project results in the introduction of or growth of invasive species, it shall be the applicant's responsibility to remove the invasive species (including the roots) and re-establish native vegetation within the affected areas.
29. Concrete trucks and other vehicles shall not be washed out in any Wetland Resource Area or Wetlands Buffer Zone, or into any stormwater drainage system components. Any deposit of cement or concrete products into a Wetlands Buffer Zone or Wetland Resource Area shall be immediately removed and the area shall be restored.
30. The Contractor shall employ dust control at the site on a seven day a week basis. Dust control shall be by watering only.
31. After proper grading, all disturbed areas shall be brought to final finished grade and stabilized permanently against erosion. This shall be done either by sodding, or by loaming with a minimum of 6 inches of topsoil, seeding, and mulching according to E&SC Guidelines for Urban and Suburban Areas (DEP & NRCS, 1997). If the latter course is chosen, achievement of stabilization is considered to be when the surface shows complete vegetative cover. This shall be measured by at least 80% coverage by established vegetation.
32. Subsequent to seeding, disturbed areas will be covered with salt hay mulch, erosion control blanket or netting, or other suitable material in order to provide an adequate surface protection until seed germination. Preference should be given to erosion control netting with biodegradable stitching. Netting shall be required on all slopes 3:1 or steeper unless the slope is covered by stone riprap. As an alternate to the salt hay mulch, erosion control blanket or netting, biodegradable mulch or tackifier incorporated into a hydro seed mixture is acceptable.
33. Bare ground in the Buffer Zone that cannot be permanently stabilized within fourteen days shall be stabilized by a temporary cover of rye or other grass should be established following U.S. Natural Resource Conservation Service (NRCS) procedures to prevent erosion and sedimentation. If the season is not appropriate for plant growth, exposed surfaces shall be stabilized by straw, jute netting, or other NRCS approved methods. Any stabilization materials such as jute netting shall be firmly anchored to prevent them from being washed from slopes by rain or flooding.
34. Grading shall be performed in accordance with the approved plans for the project and shall not direct runoff to the property of others, unless such conditions already exist. This project shall not increase runoff, nor cause flood or storm damage to abutters or the property of others.
35. Site grading and construction in the Wetlands Buffer Zone shall be scheduled to avoid periods of high water. Once begun, grading and construction shall move uninterrupted to completion to avoid erosion and siltation to the wetlands.
36. If any dewatering or drawdown activities are necessary for the project, water shall not be directly released into any Wetland Resource Area or Stormwater drainage system. Water from dewatering activities shall first be deposited into and filtered by a Dirt Bag® or similar device such as a sediment sump surrounded by a crushed stone and filter fabric dike or a stilling basin to remove sediment before the water is released.

This requirement also applies to discharge of any and all construction-generated runoff, whether released by gravity or pumped.

37. There shall be no pumping of water from any wetland resource areas on/or adjacent to the site.
38. The area of construction shall remain in an environmentally stable condition at the close of each construction day.
39. If any portions of the stormwater treatment system are to be used as sedimentation control during construction, all accumulated silt and debris shall be thoroughly removed to the naturally occurring soil and cleaned prior to final construction and final stabilization.
40. Immediately upon the construction of all catch basins, silt sacks, silt fence or double staked straw bales shall be set around the inlet to prevent sediment from entering the drainage system.
41. Prior to the creation of any impervious surfaces within a particular phase of the project, all stormwater drainage collection, treatment and control systems including treatment and detention structures serving that phase shall be fully constructed and functional.
42. The applicant's consultant determined that the soils at the border between the school property and Ewing Woods will not act as an impervious surface causing stormwater to flow across to the wetlands in Ewing Woods. If, after construction is completed, the Commission determines that the potential for such overflow exists, the Commission may require the applicant to take action, including but not limited to, creating a nature barrier between the school property and Ewing Woods to prevent such stormwater flow.

Perpetual Conditions

The following Conditions shall survive the expiration of this Order and shall be included as continuing requirements in perpetuity on any Certificates of Compliance and the property owner shall be responsible for compliance with these conditions. These conditions shall survive the Order and shall run with the title of the property in Perpetuity. The Commission members, staff and/or designated representative of the Commission shall have permanent rights of entry onto the property to check on compliance with these Perpetual Conditions.

1. There shall be no new or expanded aboveground or underground storage of fuel oils, gasoline or other hazardous substances or pollutants allowed within any Wetland Resource Area or within the 100-foot Wetlands Buffer Zone, except for such substances stored in double walled containers with leak detection, unless permitted by the Commission in a new Notice of Intent.
2. Snow removal and disposal shall be in accordance with the Massachusetts Department of Environmental Protection Bureau of Water Resources Snow Disposal Guidance dated December 11, 2020, or subsequently issued guidance or rule and there will be no snow storage in the resource area or its buffer zone.
3. Permanent trash dumpsters are not allowed in the 100-foot buffer zone unless they are enclosed and specifically approved by the Commission. No permanent trash dumpsters (enclosed or otherwise) are allowed within 50 feet of a Wetlands Resource.
4. The property owner and its successors in ownership shall not store or dump any landscape debris including leaves, grass clippings, brush, or other debris within any Wetland Resource Area or within the 100-foot Wetlands Buffer Zone on or adjacent to the site or in any portion of the stormwater management system.
5. Pesticides, herbicides, fungicides and fertilizer shall not be used within the 100 feet of wetlands. The Integrated Pest Management ("IPM") prepared for the site both during and after construction, and any subsequent revisions to the IPM, shall not include the use of pesticide products containing the second-

generation anticoagulant rodenticide (SGAR) active ingredients brodifacoum, bromadiolone, difenacoum, and difethialone. If passed by the Massachusetts legislature, pest control on the site shall conform to "An Act Relative to Pesticide Board," H.4601, or any similar legislation.

6. The property owner shall comply with all requirements of the Operation and Maintenance (O&M) Plan filed with the Commission and referenced in this Order. The property owner shall maintain and repair the storm drainage collection and treatment systems and appurtenances in order to ensure that the design capacity, the stormwater treatment and pollution abatement capacity, and structural integrity of these facilities are maintained. The property owner shall maintain all stabilized surfaces as designed including maintenance and repair of pavement and maintenance of landscaped areas maintaining a vigorous growth of all plant materials. Catch basins and stormwater treatment units shall be inspected and cleaned and roadways, driveways and sidewalks shall be swept at intervals specified in the O&M Plan. Sediments shall be removed from snow storage areas in the early spring. Accumulated sediments shall be removed from sumps and floatable wastes shall be removed from the surface of every catch basin at intervals specified in the O&M Plan. All drain pipes shall be inspected and sediment and debris removed at intervals specified in the O&M Plan. Sediments and wastes shall be disposed of in accordance with all applicable federal, state, and local laws. The stormwater BMP's shall be inspected and cleaned at intervals specified in the O&M Plan.
7. The property owner shall file written reports of the inspections, cleaning and stormwater maintenance along with an up to date certified illicit discharge statement with the Commission on an annual basis, by November 1st beginning the year after this Order is issued.
8. It is the ultimate responsibility of the property owner to maintain the stormwater management systems (collection, conveyance, treatment and storage systems) as specified in the O&M Plan for the project to ensure that they function properly.
9. Any issues which arise at any time affecting the function of any components of the Stormwater Management system on the site must be addressed within 30 days of discovery by the property owner at their sole expense.