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Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
**WPA Form 5A – Restoration Order of
Conditions**

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

Provided by MassDEP:
33-1551
MassDEP File #

Haverhill
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: Haverhill
Conservation Commission

2. This issuance is for (check one):

a. ☒ Restoration Order of Conditions b. ☐ Amended Restoration Order of Conditions

3. To: Applicant:

James Fiorentini
a. First Name b. Last Name
City of Haverhill
c. Organization
Office of the Mayor, City Hall Room 100, 4 Summer Street
d. Mailing Address
Haverhill MA 01830
e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant) / Parcels Affected by Dam Removal:

Parcel ID: 307-2-9: Shain Realty Trust, c/o Little River Dam Owner, LLC, Attn: Barry Weiner, 3A
Curlew Street, Gloucester, MA 01930
Parcel IDs: 307-2-4 and 307-2-10: G & C Concrete Construction, 19 Hale Street, Haverhill, MA
01830
Parcel ID: 601-453-1: MBTA, Attn: Tess Paganelli, 10 Park Plaza, Boston, MA 02116
Parcel IDs: 523-326-1 and 649-611-7: City of Haverhill, 4 Summer Street, Haverhill, MA 01830
Parcel ID: 516-304-1: New Alpha Bro Property, LLC, 93 Lafayette Square, Haverhill, MA 01832

5. Project Location:

Little River, Winter Street to Whittier Place Haverhill
a. Street Address b. City/Town
Parcel ID: 523-326-1, Cashman's Field (Primary Municipal Parcel)
c. Assessors Map/Plat Number d. Parcel/Lot Number



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A. General Information (cont.)

Latitude and Longitude, if known: 42.77764 -71.08868
d. Latitude (in decimal) e. Longitude (in decimal)

Note: If the Ecological Restoration Project involves work on a stream crossing, baseline photo-points that capture longitudinal views of the crossing inlet, the crossing outlet and the upstream and downstream channel beds during low flow conditions. The latitude and longitude coordinates of the photo-points shall be included in the baseline data.

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

Southern Essex District

a. County

38148

c. Book

b. Certificate Number (if registered land)

422

d. Page

7. Dates: June 19, 2023 August 3, 2023 10/18/2023
a. Date Ecological Restoration NOI Filed b. Date Public Hearing Closed c. Issuance Date

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

See Attachment "A", "Special Conditions", incorporated herein and made part of this Order of Conditions.

b. Prepared By

c. Signed and Stamped by

d. Final Revision Date

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 Ecological Restoration Notice of Intent described in Section A 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. <input type="checkbox"/> Public Water Supply | d. <input checked="" type="checkbox"/> Flood Control | g. <input checked="" type="checkbox"/> Land Containing Shellfish |
| b. <input checked="" type="checkbox"/> Private Water Supply | e. <input checked="" type="checkbox"/> Storm Damage Prevention | h. <input checked="" type="checkbox"/> Fisheries |
| c. <input checked="" type="checkbox"/> Groundwater Supply | f. <input checked="" type="checkbox"/> Prevention of Pollution | i. <input checked="" type="checkbox"/> Wildlife Habitat |



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B. Findings (cont.)

2. This Commission hereby finds the project, as proposed, is an Ecological Restoration Project for:

- ☒ Dam Removal
- ☐ Freshwater Stream Crossing Repair and Replacement
- ☐ Stream Daylighting
- ☐ Tidal Restoration
- ☐ Rare Species Habitat Restoration
- ☐ Restoring Fish Passageways

Approved subject to:

☒ The following conditions are required in accordance with the Ecological Restoration eligibility criteria 310 CMR 10.13 (1) through (7) and performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Ecological Restoration Notice of Intent for the project described in Section A. The General Conditions in Section C and Special Conditions checked in Section D are incorporated into this Restoration Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Ecological Restoration Notice of Intent, these conditions shall control.

Denied because:

☐ The proposed work does not meet the eligibility criteria in 310 CMR 10.13(1) through (7). Therefore, work on this project may not go forward unless and until a new Notice of Intent (WPA Form 3 or 3A) is submitted and a Final Order of Conditions (WPA Form 5 or 5A) has been issued. The Commission has determined that following the eligibility criteria have NOT been met.



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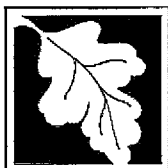
B. Findings (cont.)

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input checked="" type="checkbox"/> Bank	5100	5100	~8100	~8100
	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	22,570	22,570	0	0
	a. square feet	b. square feet	c. square feet	d. square feet
6. <input checked="" type="checkbox"/> Land Under Waterbodies and Waterways	415,400	415,400	~162,000	~162,000
	a. square feet	b. square feet	c. square feet	d. square feet
	10,360	10,360		
	e. c/y dredged	f. c/y dredged		
7. <input checked="" type="checkbox"/> Bordering Land Subject to	10,300	10,300	0	0
	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	0	0	0	0
	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to				
	a. square feet	b. square feet		
Cubic Feet Flood Storage				
	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input checked="" type="checkbox"/> Riverfront Area	83,730	83,730		
	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

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	Note: No armoring of a Coastal Dune or Barrier Beach is permitted. Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c/y c. nourishment	c/y d. nourishment



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B. Findings (cont.)

14. ☐ Coastal Dunes

	<u> </u>	<u> </u>	<u> </u>	<u> </u>
a. square feet	b. square feet	c. ^{c/y} nourishment	d. ^{c/y} nourishment	

Note: No armoring of a Coastal Dune or Barrier Beach is permitted.

15. ☐ Coastal Banks

<u> </u>	<u> </u>
a. linear feet	b. linear feet

16. ☐ Rocky Intertidal
Shores

<u> </u>	<u> </u>
a. square feet	b. square feet

17. ☐ Salt Marshes

<u> </u>	<u> </u>	<u> </u>	<u> </u>
a. square feet	b. square feet	c. square feet	d. square feet

18. ☐ Land Under Salt
Ponds

<u> </u>	<u> </u>
a. square feet	b. square feet

<u> </u>	<u> </u>
c. ^{c/y} dredged	d. ^{c/y} dredged

19. ☐ Land Containing
Shellfish

<u> </u>	<u> </u>	<u> </u>	<u> </u>
a. square feet	b. square feet	c. square feet	d. square feet

20. ☐ Fish Runs

Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above

<u> </u>	<u> </u>
a. ^{c/y} dredged	b. ^{c/y} dredged

21. ☐ Land Subject to
Coastal Storm
Flowage

<u> </u>	<u> </u>
a. square feet	b. square feet

* 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

22. ☐ Riverfront Area

<u> </u>	<u> </u>
a. total sq. feet	b. total sq. feet

Sq ft within 100 ft

<u> </u>	<u> </u>	<u> </u>	<u> </u>
c. square feet	d. square feet	e. square feet	f. square feet

Sq ft between 100-200 ft

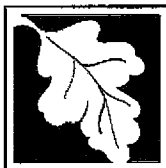
<u> </u>	<u> </u>	<u> </u>	<u> </u>
g. square feet	h. square feet	i. square feet	j. square feet

23. ☐ Restoration/Enhancement *:

<u> </u>	<u> </u>	<u> </u>
a. square feet of BVW	b. square feet of salt marsh	c. square feet of other wetland resource areas

24. ☐ Stream Crossing(s):

<u> </u>	<u> </u>
a. number of new stream crossings	b. number of replacement stream crossings



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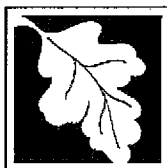
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C. General Conditions Under Massachusetts Wetlands Protection Act

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 Restoration Order of
2. The Restoration 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 Restoration 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 Restoration 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 Restoration 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 Restoration Order.
5. This Restoration 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 Restoration Order.
6. If this Restoration Order constitutes an Amended Restoration Order of Conditions, this Amended Restoration Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Restoration Order will expire on October 18, 2026, 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.
8. This Restoration Order is not final until all administrative appeal periods from this Restoration 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 Restoration 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 Restoration 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 Restoration 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 Restoration Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.



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

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 33-1551 ”

11. Where the Department of Environmental Protection is requested to issue a Superseding Restoration 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 Restoration Order at reasonable hours to evaluate compliance with the conditions stated in this Restoration Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Restoration Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Restoration Order and to any contractor or other person performing work conditioned by this Restoration Order.
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 Restoration Order.



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

General Conditions for all Ecological Restoration Projects

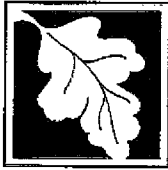
19. The project shall be conducted in accordance with any preliminary written determination obtained from the Natural Heritage and Endangered Species Program as set forth in 310 CMR 10.11(2) and any time of year restrictions or other conditions recommended in writing by the Division of Marine Fisheries (for projects in coastal Resource Areas) and the Division of Fisheries and Wildlife (for projects in inland Resource Areas) as set forth in 310 CMR 10.11(3), (4) and (5).
20. The applicant shall implement the plan submitted with the Notice of Intent as approved by the Issuing Authority to prevent and control invasive species.
21. If the project involves the dredging of 100 cubic yards or more in a Resource Area or dredging of any amount in an Outstanding Resource Water, the dredging and Dredged Material management shall be performed in accordance with the Water Quality Certification submitted with the Notice of Intent.
22. If the project involves infrastructure, the owner shall operate and maintain the infrastructure in accordance with the operation and maintenance plan submitted with the Notice of Intent as approved by the Issuing Authority. Implementation of the operation and maintenance plan as approved by the Issuing Authority shall be a continuing condition that shall be set forth in the Certificate of Compliance.
23. 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;



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

- 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;
 - 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 Restoration 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.



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

- 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.
- 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 Restoration 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.



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D. Special Conditions for Ecological Restoration Projects

☒ **Dam Removal**

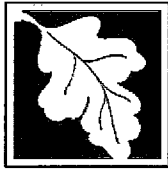
This project involves dam removal and the following special conditions shall apply in addition to the general conditions set forth in 310 CMR 10.14(1):

- a) An as-built plan and a written statement from a registered professional engineer or other environmental professional expert in ecological restoration certifying substantial compliance with the design plan and construction specifications approved in the Restoration Order of Conditions shall be submitted to the Issuing Authority within 90 days of completion of the dam removal.
- b) The applicant shall monitor the dam removal site during the first two years following completion of the dam removal. Said monitoring shall include a topographic survey of the longitudinal profile and stream cross-sections from downstream of the former dam through the upstream end of the former impoundment. The survey reference point shall comprise a permanent marker or recoverable survey point with known coordinates, such as a fixed point shown on the as-built plan, an existing bench mark, or a new benchmark. That marker should be identified or referenced on the plans and on the as-built plans. The applicant shall establish at least two photo-points for pre- and post-restoration monitoring at the dam removal site. At least one photo-point location shall be chosen to document a view of the dam pre-restoration and to document the same site after the dam is removed. A second location shall be chosen to document a view of the impoundment pre- and post-restoration. Photos shall be taken for two years after the dam removal is completed.
- c) The applicant shall submit a report detailing the results of this monitoring within six months of the completion of the two year post-construction monitoring period, or within 30 months after the dam removal is complete whichever is sooner. The report shall include a comparison of post-restoration survey data with pre-restoration survey data as illustrated by the photos taken during the monitoring period.

☐ **Freshwater Stream Crossing Repair and Replacement Projects**

The project involves one or more freshwater crossing repair or replacement and the following special conditions in addition to the general conditions apply:

- a) An as-built plan and/or a written statement from a registered professional engineer or other environmental professional expert in ecological restoration certifying substantial compliance with the design plans and construction specifications approved in the Restoration Order of Conditions shall be completed within 90 days of completion of construction. The as-built plan shall include the dimensions of the structure, the invert elevation of the upstream and downstream ends of the structure and the road or other surface elevation above the structure.



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D. Special Conditions for Ecological Restoration Projects (cont.)

- b) The applicant shall monitor the site by collecting sufficient data within 12 months after construction is complete to evaluate the effect of the structure. At a minimum, when a Certificate of Compliance is requested, the applicant shall provide post-construction photo-points that capture longitudinal views of the crossing inlet, the crossing outlet and the upstream and downstream channel beds during low flow conditions. The photo-points shall be located at the same geographic photo-point latitude and longitude coordinates as required in the Notice of Intent per 310 CMR 10.12(1)(n). The applicant shall submit a report to the Issuing Authority detailing the results of this monitoring within 18 months after construction is complete. The report shall include a comparison of the post-restoration data with pre-restoration data.

☐ **Stream Daylighting**

The project involves stream daylighting and the following special conditions in addition to the general conditions apply:

- a) An as-built plan and a written statement from a registered professional engineer or other environmental professional expert in ecological restoration certifying substantial compliance with the design plan and construction specifications approved in the Restoration Order of Conditions shall be submitted to the Issuing Authority within 90 days of completion of the project. At a minimum, when a Certificate of Compliance is requested, the applicant shall provide post-construction photo-points that capture longitudinal views of the upstream and downstream channel beds of the daylighted reach during low flow conditions.
- b) The applicant shall conduct photo-point monitoring by establishing at least three photo-points for pre- and post-restoration monitoring at the stream daylighting site. One photo-point location shall be chosen to document the upstream end of the site and one photo-point location shall be chosen to document the downstream end of the site. A third photo-point shall be chosen to document conditions in the restored channel. Photos shall be taken during high flow and low (summer) flow of each year during the two years following completion of the project.
- c) Within 30 months after the completion of the project, the applicant shall submit a report describing the ecological changes observed at the project site during the two years following completion of the project, as illustrated by the photos.



Massachusetts Department of Environmental Protection
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WPA Form 5A – Restoration Order of Conditions

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

Provided by MassDEP:

33-1551

MassDEP File #

Haverhill

City/Town

D. Special Conditions for Ecological Restoration Projects (cont.)

☐ Tidal Restoration Projects

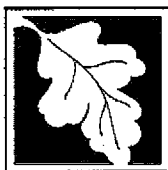
The project involves restoration of tidal influence and the following special conditions in addition to the general conditions apply:

- a) If the project is a culvert or bridge replacement or repair project, an as-built plan and a written statement from a registered professional engineer or other environmental professional expert in ecological restoration certifying substantial compliance with the design plans and construction specifications approved in the Restoration Order of Conditions shall be submitted to the Issuing Authority within 90 days of completion of construction. The as-built plan shall include the dimensions of the structure, the invert elevation of the upstream and downstream ends of the structure and the road or other surface elevation above the structure.
- b) The applicant shall monitor pre- and post-construction tidal conditions upstream and downstream of the tidal restriction with water level readings measured at an interval no greater than every 10 minutes over a minimum of a one-week period that includes a spring tide. Pre- and post-construction water level readings shall be taken at approximately the same locations and shall be referenced to the same vertical elevation datum. The applicant shall prepare a report detailing the results of this monitoring within 12 months after construction is complete. The report shall include and compare pre- and post-construction tidal elevation monitoring data to assess attainment of the project's predicted post-restoration tidal conditions.

☐ Rare Species Habitat Restoration

The project is a Rare Species Habitat Restoration Project and in addition to the general conditions the following special conditions apply:

- a) An as-built plan and a written statement from a registered professional engineer or other environmental professional expert in ecological restoration certifying substantial compliance with the design plan, construction specifications, and the Habitat Management Plan submitted with the Notice of Intent as approved in the Restoration Order of Conditions shall be submitted to the Issuing Authority within 90 days of completion of the project.
- b) The applicant shall establish at least two photo-points for pre- and post-restoration monitoring at the project site. Photos shall be taken for two years after construction is complete. Within 30 months of completion of the project, the applicant shall submit to the Issuing Authority a report describing the ecological changes observed at the project site as illustrated by the photos.



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D. Special Conditions for Ecological Restoration Projects (cont.)

☐ **Fish Passageway Restoration**

The project involves the repair or replacement of a fish passageway and in addition to the general conditions the following special conditions:

- a) The property owner is responsible for maintaining and repairing the fishway in good condition so that it will support safe and efficient fish passage in accordance with an operation and maintenance plan approved by the Division of Marine Fisheries. This requirement is a continuing condition that shall be set forth in the Certificate of Compliance.
- b) a post-construction project summary using surveys, a narrative and photographs as needed, that confirm the fishway slope and entrance and exit elevations shall be submitted to and approved by the Division of Marine Fisheries, prior to submittal of a request for a Certificate of Compliance.



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E. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No
2. The Haverhill 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:

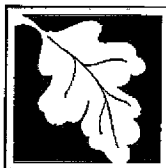
An Ordinance to Protect the Wetlands, Related Water Resources
and Adjoining Land Areas

Chapter 253

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):
See Attachment "A", "Special Conditions", incorporated herein and made part of this Order of Conditions.



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F. Signatures

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

October 18, 2023

1. Date of Issuance

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

four

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

2. Number of Signers

The Restoration 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 and the property owner, if different from applicant.

Pursuant to the vote taken by the Conservation Commission on May 7, 2020, the following signatures are made in accordance with M.G.L. c.110G and pursuant to said Commission's electronic signature authorization vote recorded on May 21, 2020, with the Southern Essex District Registry of Deeds in Book 38538, Page 455.

Signatures:

/Frederick Clark/

Frederick Clark

/Thomas Wylie/

Thomas Wylie

/Phillip LaCroix/

Phillip LaCroix

/Harmony Wilson/

Harmony Wilson

☒ by hand delivery on

☐ by certified mail, return receipt
requested, on

October 18, 2023

Date

Date



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

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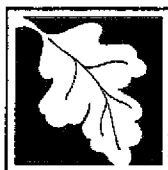
City/Town

G. Appeals

The applicant, the owner, any person aggrieved by this Restoration Order, any owner of land abutting the land subject to this Restoration 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 Restoration 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 Restoration 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 Restoration Order of Conditions 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 Restoration Order, or providing written information to the Department prior to issuance of a Superseding Restoration Order.

The request shall state clearly and concisely how the project permitted under the Restoration Order which is being appealed does or does not meet the eligibility criteria in 310 CMR 10.13(1) and the relevant provisions of 310 CMR 10.13(2) through (7). To the extent that the Restoration 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.



Massachusetts Department of Environmental Protection
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H. Recording Information

Prior to commencement of work, this Restoration 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 Restoration Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Restoration Order. In the case of registered land, this Restoration Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Restoration Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Haverhill

Conservation Commission

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

To:

Haverhill

Conservation Commission

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

Little River, Winter Street to Whittier Place
Parcel ID: 523-326-1

33-1551

MassDEP File Number

Has been recorded at the Registry of Deeds of:

Southern Essex District

County

Book

Page

For City of Haverhill

Property Owner

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

Book

Page

In accordance with the Restoration Order of Conditions issued on:

Date

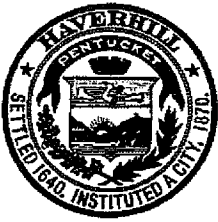
If recorded land, the instrument number identifying this transaction is:

Instrument Number

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

Document Number

Signature of Applicant



Haverhill

Conservation Department
Phone: 978-374-2334 Fax: 978-374-2366
rmoore@cityofhaverhill.com
conservation@cityofhaverhill.com

ATTACHMENT A: SPECIAL CONDITIONS

MassDEP FILE #33-1551

ISSUING AUTHORITY: Haverhill Conservation Commission ("HCC")

APPLICANT: City of Haverhill

PROJECT LOCATION: Little River, Winter Street to Whittier Place – Parcel ID: 523-326-1

PROJECT DESCRIPTION

The proposed project consists of the removal of Little River Dam, and associated restoration. This dam removal and restoration project includes the following elements: dredging sediment for targeted sediment cleanup; installation of fish passage structures; construction of low flow channel downstream of Winter Street Bridge; installation of bioengineered slope stabilization and scour protection; and installation of native plantings. The project is designed in accordance with the ecological restoration project requirements under 310 CMR 10.12 and 10.13.

RESOURCE AREA FINDINGS

The Haverhill Conservation Commission finds this site to contain, at a minimum, the following resource areas: land under water, bank, riverfront area, bordering vegetated wetlands, and bordering land subject to flooding, all associated with the Little River, along with associated buffer zones.

EXPIRATION DATE

Unless extended, this Order of Conditions ("OOC") will expire October 18, 2026.

PLANS AND DOCUMENTS

Work on this project site shall be performed according to the following listed plans and documents on file with the HCC. Should any conflicts be found to exist between these plans and documents and the conditions of this OOC, the HCC shall be contacted for clarification.

- a) "Little River Dam Removal and River Restoration – Preliminary Design Development Plans", site plan prepared by Fuss & O'Neill (1550 Main Street, Suite 400, Springfield, MA 01103), plan set dated June 30, 2022; and
- b) "Little River Dam Removal and River Restoration Notice of Intent" (including Appendix D, "Invasive Species Control Plan" and Section 6, "Maintenance and Operation Plan"), document prepared by Fuss & O'Neill, dated June 12, 2023.

Pursuant to the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40), its Regulations (310 CMR 10.00), and Haverhill City Code Chapter 253 ("An Ordinance to Protect the Wetlands, Related Water Resources and Adjoining Land Areas"), the Commission orders that all work shall be performed in accordance with the following additional, special conditions:

GENERAL CONSTRUCTION

21. The HCC may designate one or more Conservation Department Officials as its agent ("HCC Official"), with full powers to act on its behalf in administering and enforcing this OOC.
22. Work on this project shall be performed in accordance with Haverhill Municipal Ordinances Chapter 253 – "An Ordinance to Protect the Wetlands, Related Water Resources, and Adjoining Land Areas".
23. In accordance with Haverhill Municipal Ordinance Chapter 253, there shall be no activities allowed within 25' of the delineated wetland resource areas and no building construction within 50' of these same areas, except as shown on the approved plans referenced above.
24. All wetland resource areas shall be visibly flagged and/or staked every 25 feet along the resource area boundaries to assure that no intrusion into these areas occurs. Flagging and staking used to identify wetland resource areas shall be of a color different from any others used on the site and shall be maintained until the work is complete.
25. The rows of erosion control devices, as shown on the site plan, shall also act as a limit of site activity.
26. The MassDEP File Number sign shall not be attached to a live tree.
27. Any changes proposed under this OOC might require the Applicant to file a "Request for a Modification to the Order of Conditions" with the HCC.
28. While all activities regulated by this Order are being performed and during the construction phase of this project, an on-site foreman, directing engineer, or designated construction manager, shall have a copy of this permit and its associated plans and documents at the site, familiarize him or herself with the conditions of this permit, and adhere to such conditions. This OOC shall be made part of all construction-related documents for this project. All contractors working at the site shall be made aware of the provisions contained within this OOC and adhere to them.
29. The Applicant shall secure an Environmental Monitor ("EM") for this project. The EM shall be, at a minimum, a professional with experience in Resource Area Protection; Erosion, Sedimentation, and Pollution Prevention; and Stormwater Management. The EM shall have, at a minimum, a working knowledge of botany, hydrology, and general construction practices. The Applicant may designate the EM as responsible for fulfilling the requirements of the Pollution Prevention and Erosion and Sedimentation Control ("PPESC") Monitor under this OOC. Otherwise, the EM shall establish an appropriate working relationship with the PPESC Monitor to ensure the project's complete compliance with this OOC. The Applicant shall give the EM authority to stop construction for PPESC purposes.
 - a) On the Monday of every week throughout the life of this project, the EM shall provide the HCC with a status report of the project. This report shall indicate the functions of the PPESC devices and any need for maintenance, replacement, augmentation, emergency placement, and any other corrective action of

PPESC devices; the activities completed the previous week; and the activities planned for the current week. The report shall also mention any deviations from the previous week's report and any environmental mitigation measures that have been undertaken. The report shall include representative photographs of deviations, needed repairs, and on-going work. The frequency of this reporting may be altered as site conditions warrant, upon concurrence between the HCC and the EM.

- b) In addition to this reporting, the EM shall be responsible for all inspections and reporting as outlined in this OOC and the referenced plans and documents pertaining to Resource Area Activities; Erosion, Sedimentation, and Pollution Prevention; and Stormwater Management. The EM shall be on site as necessary to ensure proper implementation of the conditions of this OOC and the work outlined in the referenced plans and documents.

CONSTRUCTION SEQUENCING

- 30. Prior to the commencement of work, the Applicant shall provide the HCC with electronic copies of all other applicable federal, state, and local permits for this project.
- 31. The Applicant shall adhere to the Time of Year restriction recommended by the MA Division of Marine Fisheries for this project. No in-water work shall occur during March 1 to June 30 of each project year for the purpose of minimizing impacts to diadromous fish resources in the adjacent Merrimack River from sedimentation and turbidity. In-water work shall be sequenced to occur during periods of low flow stream conditions in Little River (i.e., July 1 to October 31). To minimize sedimentation and turbidity in downstream areas, the Applicant shall deploy such measures as downstream turbidity curtains and temporary coffer dams. The Applicant shall obtain the Fishway Construction Permit from DMF that is required for this project.
- 32. A minimum of two (2) business days in advance, the Applicant shall provide the HCC with written notification of the commencement of work on site. At this time, the Applicant shall also supply the HCC with a list of names, addresses, and emergency phone numbers (including evenings and weekends) for those parties responsible for compliance with this OOC on the site, including the Environmental Monitor and the Pollution Prevention and Erosion and Sedimentation Control Monitor.
- 33. Prior to the commencement of work on this site, the Applicant shall schedule a pre-construction meeting with the site contractor, the Applicant's engineers/consultants, the EM, the PPESC Monitor, and the HCC. The purpose of the meeting is to review this OOC and resolve any outstanding issues at that time.
- 34. The Applicant shall make every effort to ensure that no invasive plant species, as defined and listed by the Massachusetts Invasive Plant Advisory Group, are introduced to, or moved around the site by construction activities, including importation of infected materials such as borrow, compost, nursery stock, seed, or hay bales. Corrective measures, if necessary, shall be made by the Applicant as directed by the EM. Corrective measures shall be implemented for as long as necessary to eliminate the introduced invasive plant species and prevent re-establishment of same. The Applicant shall satisfactorily dispose of all cleared, invasive plant material (seeds, roots, woody vegetation, associated soils, etc.). The Applicant shall take measures to prevent viable, invasive plant materials from leading to further infestations while stockpiled, in transit, or at final disposal locations. All precautions shall be taken to avoid contamination of natural landscapes with invasive plants or invasive plant material.

Prior to the commencement of work on site, the EM shall survey this site for the presence of invasive plant species within the approved limits of work. If found, the EM shall provide the HCC with an updated, as necessary, written Invasive Species Control Plan ("ISCP") proposal and schedule of control. The ISCP is critical for identifying pre-construction conditions, as well as strategies for minimizing import or spread of invasive plants. All materials and methods proposed shall be consistent with the conditions of this OOC. The ISCP shall include, but not be limited to, the following:

- a) Description of treatment areas, including identification of targeted invasive plant species, locations, approximate size of areas, and digital photos with time/date stamp.
- b) Delineation of treatment areas with polygons outlining their perimeter or locations of individual plants. A free-hand sketch drawn on construction plans, or an aerial photo can be used to show locations.
- c) Proposed methods of treatment for each species or area, such as manual removal, cutting, or herbicides.
 - i. If herbicides are proposed, the IPMS shall include the product label, including application methods and rates for each. MSDS information shall also be provided for each herbicide.
- d) Proposed time of treatment based on target plant species and construction schedule.
- e) Method for disposing of invasive plant materials.
- f) General monitoring schedule.
- g) Preliminary re-treatment schedule. Re-treatment shall be based on assessment of initial results and time of year.
- h) Proposed performance metrics, or measure of treatment success, which shall be agreed upon with HCC.

Control of invasive plant species shall begin immediately with the initiation of construction and continue for a minimum of five (5) years, after which time a Complete Certificate of Compliance may be pursued for this project. The EM shall report on the success of the ISCP in the work area in the weekly, seasonal, and final EM reports required under this OOC. If necessary, the corrective measures shall be outlined in the reporting in a manner consistent with the ISCP requirements.

35. Immediately upon completion of this project, the Applicant shall provide the HCC with an as-built drawing showing, at a minimum, the following information as it pertains to the subject property. This plan shall be stamped by a MA-registered Professional Engineer. This plan shall be subject to the review and approval of the HCC.
- a) Wetland resource areas subject to protection under this OOC and their approved delineations;
 - b) Limits of all Buffer Zones, including No-Disturbance and No-Build Zones;
 - c) Planted trees and shrubs;
 - d) Structures, including fishways, new walls, and drainage features;
 - e) Existing limits of lawn/landscaped, pavement, ... areas;
 - f) Date(s) of survey fieldwork; and
 - g) A statement by the Professional Engineer certifying compliance with the approved plans and conditions of this OOC and setting forth deviations from same, if any exist.

CONSTRUCTION PERIOD EROSION, SEDIMENTATION, AND POLLUTION PREVENTION

36. The Applicant, site contractor, and their assigns shall implement Construction Period Pollution Prevention and Erosion and Sedimentation Control measures from the commencement of work until the site is fully and permanently stabilized and the temporary erosion and sedimentation controls are removed, upon HCC approval.

37. All vegetation cutting associated with the construction of this project shall be subject to the prior review and approval of the HCC. Prior to the commencement of work, the Applicant's surveyor shall stake out, flag, or mark by other appropriate means, the locations of the approved limits of cutting and the locations of the proposed PPESC devices for inspection by the site contractor, EM, PPESC Monitor, and the HCC. The commencement of vegetation cutting work shall be contingent upon the approval of the HCC at that time.
38. Prior to the commencement of work, the Applicant shall install the initial PPESC devices. The Applicant shall schedule an inspection of the installed devices by the site contractor, EM, PPESC Monitor, and the HCC. Should any of these devices be considered insufficient, the PPESC Monitor shall immediately propose augmentation or other corrective measures to address areas of concern. The continuation of on-site work shall be contingent upon HCC approval of the devices at that time.
39. The Applicant shall designate a PPESC Monitor for the site. This Monitor shall be a professional with experience in PPESC practices. This Monitor shall inspect PPESC devices daily for proper function and maintenance, including the proper disposal of waste products. This Monitor shall immediately arrange for the maintenance, replacement, augmentation, emergency placement, and any other corrective action of PPESC devices on site. Areas of construction shall remain in a stable condition at the end of each day. The Applicant shall give this Monitor authority to stop construction for PPESC purposes.
40. An adequate stockpile of PPESC materials shall be always on site for emergency or routine replacement and shall include materials to repair silt fences, straw bales, stone riprap, filter dikes or any other devices planned for use during construction.
41. PPESC devices may be modified based on experience at the site. Approval of the HCC must be obtained prior to any non-emergency modification of the approved PPESC measures.
42. The HCC reserves the right to impose additional conditions on portions of this project to mitigate any impacts which could result from site erosion or any noticeable degradation of surface water quality discharging from the site.
43. The locations of long term (greater than 30 days) stockpiles and the locations and construction methods of temporary construction entrances, if not addressed in the Construction Period PPESC Plan, shall receive the prior approval of the PPESC monitor and the HCC.
44. During all phases of construction, all disturbed or exposed soil surfaces shall be brought to final finished grade and either a) covered with loam and seeded in accordance with the Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas (or equivalent document) for permanent stabilization or b) stabilized in another way approved by the HCC. Bare ground that cannot be permanently stabilized within 30 days shall be stabilized with mulch or any other protective covering and/or method approved by the USDA Soil Conservation Service.
45. Upon completion of the project all disturbed areas shall be permanently stabilized with rapidly growing vegetative cover with sufficient topsoil to assure long term stabilization of disturbed areas. After seeding, disturbed areas shall be covered with straw mulch, netting, or other protective covering to provide a suitable surface cover until seed germination.

46. All dewatering activities shall be controlled by implementing Best Management Practices. Dewatered fluids shall be prevented from flowing directly into resource areas. Discharge structures, such as temporary sediment basins or other Best Management Practices shall be configured to maximize sediment removal. If discharge towards resource areas cannot be avoided, it shall be via a maximized distance of overland upland sheet flow unless the HCC approves an alternative in advance. The PPESC Monitor shall review and approve all dewatering methods prior to implementation.
47. Soils, stumps, slash, timber, construction materials, debris, or other waste products shall not be deposited, stored, or otherwise accumulated within 100' of a wetland resource area or within land subject to flooding, unless approved in advance by the HCC.
48. Covered dumpsters shall be maintained on site for appropriate materials. The Applicant shall conduct routine litter pick-ups throughout construction to prevent trash and loose, synthetic debris from entering the resource areas and buffer zones.
49. All pumps, drilling machines, and their surrounding areas, whether used for dewatering or other purposes, shall be properly contained to limit the potential for environmental impacts due to fuel leakage, pump leakage, or other failures.
50. Refueling of equipment shall not be done within 100' of a wetland resource area. Fuel, oil, or other potential pollutants shall not be stored within 100' of a wetland resource area.
51. Equipment and vehicles staged overnight shall be stored on an impervious containment surface to prevent drippings and spills from leaching into the soil. The PPESC Monitor shall inspect this surface daily and take prompt action to address all pollution prevention concerns in accordance with this Order.
52. Any spills of hazardous materials, including but not limited to diesel fuel and hydraulic oil, shall be appropriately and promptly cleaned up. The Applicant shall notify Federal, Commonwealth, and/or Local agencies of such spills as may be applicable by law. The Applicant or PPESC Monitor shall notify the HCC, within one hour, of any spills within wetland resource areas or buffer zones. Onsite emergency spill kits shall always be available.
53. The Applicant shall ensure a hazardous materials spill containment kit is always maintained on site throughout construction. The kit shall be appropriately sized for the cumulative volumetric capacity of hazardous fluids contained by equipment on site at any one time.

RESOURCE AREA ACTIVITIES

54. All work proposed within the wetland resource areas and 100'-Buffer Zone shall be performed according to the plans and documents submitted as part of the Notice of Intent filing, unless specified otherwise in this Order. These areas shall meet or exceed the General Performance Standards outlined in 310 CMR 10.00 and Haverhill Municipal Ordinances Chapter 253. Should these areas fail to meet any of these standards, the HCC reserves the right to require those measures necessary to achieve compliance.
55. The Applicant shall ensure the EM is on site sufficiently throughout construction and restoration to provide supervision and inspect resource area activities for compliance with this Order.

56. The site contractor shall not disturb any area of protected or regulated Federal, State, and/or Local wetland resource area or buffer zone except for that which has been permitted by this Order.
57. The site contractor shall restore all temporarily disturbed resource areas and buffer zones to the satisfaction of the HCC and the EM. The EM shall ensure that 75 percent of the surface area of all temporarily disturbed and restoration areas is reestablished with indigenous plant species within two growing seasons of their planting or replanting. If at the end of one growing season it is evident, in the opinion of the EM or the HCC, that a disturbed area is not likely to be successfully reestablished within this time frame, the EM shall submit to the HCC a corrective plan of action detailing supplements to the planting, soils, and/or grading, as necessary, to achieve the required coverage. This plan shall be implemented upon HCC approval.
58. The contractor shall follow the directions of the EM, whether given prior to, or during, construction of any restoration area(s). If feasible, the contractor shall propose alternative mitigation and environmental protection techniques that provide cost or time savings, improved environmental protection, or enhanced mitigation, provided (1) they provide equivalent or greater wetland protection and mitigation than afforded by the methods contained in this Order and NOI and provided by the EM; (2) they receive prior approval by the HCC and the EM; and (3) they meet the Performance Standards of the MA Wetland Protection Regulations (310 CMR 10.00) and the requirements of Haverhill Municipal Ordinance Chapter 253.
59. The Applicant shall sequence all in-water work to occur during periods of low flow stream conditions. Turbidity barriers shall be deployed to reduce the potential for downstream sedimentation impacts.
60. Excavation equipment brought onto the site shall be cleaned at an off-site location prior to commencement of site work to remove any soil which may contain noxious plant remains.
61. The Applicant is to contact the HCC immediately upon completion of the restoration work; an appointment for inspection by an HCC Official shall be arranged with the EM.
62. Immediately following the completion of work, the Applicant shall submit a status report, written by the EM, describing to the HCC the status of the resource areas and their immediate surroundings. This report shall be accompanied by the as-built drawing required under Condition #37.
63. The EM, prior to and following each growing season for a minimum of five (5) years and until a Certificate of Compliance is issued, shall submit monitoring reports to the HCC. Monitoring reports shall describe, using narratives, plans, and color photographs, the physical characteristics of the areas within the limits of work with respect to soils, hydrology, habitat value, stability, survivorship of vegetation and plant mortality, aerial extent and distribution, species diversity and vertical stratification (i.e., the herb, shrub, and tree layers), the presence of invasive plant species, etc. These monitoring reports shall be submitted by May 31 and September 30 of each year. Applicable General Performance standards as outlined in 310 CMR are to be met within two years of completion. A Certificate of Compliance is to be issued ONLY AFTER the General Performance Standards and reporting requirements have been met.
64. A color photographic log of the site shall be kept with associated text by the EM. This log shall show pre-restoration through post-restoration views of the areas within the limits of work, undisturbed adjacent resource areas and buffer zones, and erosion/sedimentation control devices. A current log shall be

submitted with the status and monitoring reports required above and with the Request for a Certificate of Compliance.

WILDLIFE HABITAT PROTECTION

65. The Applicant shall abide by the March 1 to June 30 Time of Year restriction recommended by the MA Division of Marine Fisheries for this project.

OTHER CONDITIONS

66. If any unforeseen problem occurs during construction, which affects any of the eight statutory interests of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, upon discovery, the Applicant shall notify the HCC and an immediate meeting shall be held between the Commission, the Applicant, the engineer, contractor, and other concerned parties to determine the corrective measures to be employed. The Applicant shall then act to correct the problems using the corrective measures agreed upon.
67. Upon completion of the project, the Applicant shall request a Certificate of Compliance from the Commission and shall submit the following information with the request in both paper form and in an electronic form found acceptable to an HCC Official:
- a) A written statement by a professional engineer registered in the Commonwealth of Massachusetts certifying compliance with the approved plans referenced above and this OOC and setting forth deviations, if any exist.
 - b) A final monitoring report and current photo log prepared by the EM.
 - c) Two sets of as-built drawings prepared by the professional engineer showing resource areas, plantings, and detailed landscaping (i.e., all wetland resource areas, limits of work, etc.). These plans shall include the date(s) of fieldwork and shall be prepared in accordance with the "Plot Plan Standards" of the HCC Policy - P2000-02 "Occupancy Permit Checklist Endorsement".

ONGOING CONDITIONS

Certain conditions are ongoing and do not expire upon the completion of the project or the issuance of a Certificate of Compliance. These conditions shall remain in effect after the issuance of a Certificate of Compliance for the project and shall be referenced in the chain of title for the property. These conditions are:

68. The HCC reserves the right to enforce all restrictions and/or requirements established for this property within this OOC under the enforcement powers of the City's wetlands protection ordinance, Municipal Ordinance Chapter 253.
69. The HCC reserves the right to schedule an annual inspection with the Applicant and/or Property Owner(s) (as may be determined through a post-dam-removal land ownership finding) as part of a long-term management program to inspect the site for permanent stability and proper maintenance. The Applicant/Property Owner shall maintain the restored channel, fishway structures, and stone walls as outlined in the "Maintenance and Operation Plan" included under Section 6 of the Notice of Intent project narrative. The Applicant/Property Owner shall schedule a site meeting with an HCC Official prior to conducting any maintenance activities that exceed a "by hand" level of labor.

--- END ---



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

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: _____

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

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





Massachusetts Department of Environmental Protection
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DEP File Number: _____

**Request for Departmental Action Fee
Transmittal Form**

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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 <http://www.mass.gov/eea/agencies/massdep/about/contacts/>).
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.