



**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:  
 33-1510  
 MassDEP File # \_\_\_\_\_  
 eDEP Transaction # \_\_\_\_\_  
 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.  Order of Conditions      b.  Amended Order of Conditions

3. To: Applicant:  
 a. First Name Noah      b. Last Name Berger

c. Organization Merrimack Valley Regional Transit Authority

d. Mailing Address 85 Railroad Avenue

e. City/Town Haverhill      f. State MA      g. Zip Code 01835

4. Property Owner (if different from applicant):  
 a. First Name \_\_\_\_\_      b. Last Name \_\_\_\_\_

c. Organization \_\_\_\_\_

d. Mailing Address \_\_\_\_\_

e. City/Town \_\_\_\_\_      f. State \_\_\_\_\_      g. Zip Code \_\_\_\_\_

5. Project Location:  
 a. Street Address 85 Railroad Avenue      b. City/Town Haverhill

c. Assessors Map/Plat Number Map 712, Block 684      d. Parcel/Lot Number Lot 8

Latitude and Longitude, if known: 42.766441      -71.091591  
 d. Latitude      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):  
 Southern Essex District  
 a. County \_\_\_\_\_ b. Certificate Number (if registered land) \_\_\_\_\_  
 9938 \_\_\_\_\_ 25 \_\_\_\_\_  
 c. Book \_\_\_\_\_ d. Page \_\_\_\_\_
7. Dates: August 31, 2021 October 7, 2021 December 2, 2021  
 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 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 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) 0  
 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 checked="" type="checkbox"/> Bank	<u>495</u> a. linear feet	<u>495</u> b. linear feet	<u>495</u> c. linear feet	<u>495</u> d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	<u>          </u> a. square feet	<u>          </u> b. square feet	<u>          </u> c. square feet	<u>          </u> d. square feet
6. <input checked="" type="checkbox"/> Land Under Waterbodies and Waterways	<u>1409</u> a. square feet	<u>1409</u> b. square feet	<u>1409</u> c. square feet	<u>1409</u> d. square feet
	<u>          </u> e. c/y dredged	<u>          </u> f. c/y dredged		
7. <input checked="" type="checkbox"/> Bordering Land Subject to Flooding	<u>31882</u> a. square feet	<u>31882</u> b. square feet	<u>31882</u> c. square feet	<u>31882</u> d. square feet
Cubic Feet Flood Storage	<u>902cy</u> e. cubic feet	<u>902cy net loss</u> f. cubic feet	<u>          </u> g. cubic feet	<u>          </u> h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	<u>          </u> a. square feet	<u>          </u> b. square feet		
Cubic Feet Flood Storage	<u>          </u> c. cubic feet	<u>          </u> d. cubic feet	<u>          </u> e. cubic feet	<u>          </u> f. cubic feet
9. <input checked="" type="checkbox"/> Riverfront Area	<u>25569</u> a. total sq. feet	<u>25569</u> b. total sq. feet		
Sq ft within 100 ft	<u>20463</u> c. square feet	<u>20463</u> d. square feet	<u>19695</u> e. square feet	<u>19695</u> f. square feet
Sq ft between 100-200 ft	<u>5106</u> g. square feet	<u>5106</u> h. square feet	<u>5106</u> i. square feet	<u>5106</u> 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	_____	_____	_____ cu yd	_____ cu yd
	a. square feet	b. square feet	c. nourishment	d. nourishment
14. <input type="checkbox"/> Coastal Dunes	_____	_____	_____ cu yd	_____ cu yd
	a. square feet	b. square feet	c. nourishment	d. 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 checked="" type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	50	50		
	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 December 2, 2024, 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            33-1510            "
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 Attachment "A", "Special Conditions", incorporated herein and made part of this Order of Conditions.**

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 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 Chapter 253  
Adjoining Land Areas \_\_\_\_\_ 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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### 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.

December 2, 2021

1. Date of Issuance

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

five

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.

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.

<u>/Harmony Wilson/</u> Signature	<u>Harmony Wilson</u> Printed Name
<u>/Ralph Basiliere/</u> Signature	<u>Ralph Basiliere</u> Printed Name
<u>/Thomas Wylie/</u> Signature	<u>Thomas Wylie</u> Printed Name
<u>/Neil Frasca/</u> Signature	<u>Neil Frasca</u> Printed Name
<u>/Frederick Clark/</u> Signature	<u>Frederick Clark</u> Printed Name
_____ Signature	- Printed Name
_____ Signature	- Printed Name
_____ Signature	_____ Printed Name

by hand delivery on

by certified mail, return receipt requested, on

December 2, 2021

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



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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.





# Haverhill

Economic Development and Planning  
Conservation Department  
Phone: 978-374-2334 Fax: 978-374-2366  
[rmoore@cityofhaverhill.com](mailto:rmoore@cityofhaverhill.com)  
[conservation@cityofhaverhill.com](mailto:conservation@cityofhaverhill.com)

## ATTACHMENT A: SPECIAL CONDITIONS

**MassDEP FILE #33-1510**

**ISSUING AUTHORITY:** Haverhill Conservation Commission (“HCC”)

**APPLICANT:** Merrimack Valley Regional Transit Authority

**PROJECT LOCATION:** 85 Railroad Avenue – Parcel ID: 712-684-8

### PROJECT DESCRIPTION

The Applicant proposes to stabilize about 495 linear feet of the Merrimack River’s right bank. As stated by the Applicant, “the intent of the project is to mitigate current erosion and to stabilize the severely eroded riverbank...restoration...is intended to ensure the structural integrity of the adjacent bus garage/administration building and warehouse building”. The HCC issues this Order imposing conditions to contribute to the interests of the Act and to ensure the improvement of the natural capacity of the Bank and Riverfront Area to protect the interests of wildlife habitat, storm damage prevention, and prevention of pollution (stormwater runoff and siltation).

### RESOURCE AREA FINDINGS

The Haverhill Conservation Commission finds this site to contain, at a minimum, the following resource areas: bank, riverfront area, and bordering land subject to flooding, all associated with the Merrimack River, along with buffer zone, priority habitat of rare species, and estimated habitat of rare wetland species.

### EXPIRATION DATE

Unless extended, this Order of Conditions (“OOC”) will expire December 2, 2024.

### 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 a clarification.

- a) “Riverbank Stabilization Project MVRTA Operating Facility” (10 Sheets), site plan prepared by Geosyntec Consultants (289 Great Road, Suite 105, Acton, MA 01720), plan set dated July 2017;
- b) “Stormwater Management Report, Attachment A, Long-term Operation and Maintenance Plan”, document prepared by Geosyntec, dated August 2021;
- c) Natural Heritage and Endangered Species Program Letter of Review and Conditions (64 Pages, including attachments), signed by Everose Schluter, Ph.D., dated September 29, 2021; and
- d) “Wildlife Habitat Evaluation MVRTA Maintenance Facility”, document prepared by Rimmer Environmental Consulting, LLC (57 Boston Road, Newbury, MA 01951), dated July 21, 2021.

**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 occur. 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 experiences 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 copies of all other applicable federal and state permits for this project.
31. The Applicant shall comply with all requirements of the U.S. Army Corps of Engineers, NOAA - National Marine Fisheries Service, and MA Division of Fisheries and Wildlife - Natural Heritage and Endangered Species Program, including all Time of Year work restrictions.
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 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 Plant Management Strategy ("IPMS") proposal and schedule of control. The IPMS 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 IPMS 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 plan 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 agree upon with HCC.

Control of invasive plant species shall begin immediately with the initiation of construction and continue until such time that a Complete Certificate of Compliance is issued for this project, unless included as an Ongoing Condition to the Certification. The EM shall report on the success of the IPMS or, if species are not present during the pre-construction survey, the presence or lack thereof of species 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 IPMS 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;
  - e) Existing limits of lawn/landscaped, forest, and meadow 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 experiences 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 close 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. Subsequent to seeding, disturbed areas shall be covered with straw mulch, netting, or other protective covering in order 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, man-made 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 be always 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 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. All work shall be performed “in the dry”, that is, during low flow conditions. As proposed by the Applicant, turbidity barriers shall be deployed for the duration of construction to reduce the potential for underwater noise and 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 soils 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 three (3) 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. A minimum of six monitoring reports for these areas shall be submitted over the first three years. 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. **Plans of Record.** All work must conform to the Plans of Record and as amended and approved by the Division of Fisheries and Wildlife (the “Division”). Any changes, updates, or revisions to the proposed Project or any additional work beyond that shown on the Plans of Record shall require additional review and approval by the Division prior to implementation.
66. **Biological Assessment & Sturgeon Protection Plan.** The Project must be conducted in accordance with the Biological Assessment (attached, the “BA”) and concurrence letter issued by NMFS. All requirements and conditions incorporated into the BA and responding NMFS concurrence letter are authorized and required by the Division. Mitigation measures in the BA are summarized in section 5.5. These same measures are summarized, and some additional conditions added herein.
- a) **Sturgeon Protection Plan (SPP).** The Project will implement a Shortnose and Atlantic Sturgeon Protection Plan (BA, Appendix E).
- i. A qualified biologist will monitor noise levels in the river prior to and during pile driving to ensure sound levels do not exceed instantaneous injury levels. If noise levels were to exceed instantaneous injury level (206 dB peak), all work must stop, and additional sound/pressure mitigation measures installed. Then, sound levels will continue to be monitored until such time as the mitigation measures are sufficient to keep all sound below the instantaneous injury threshold (e.g., bubble curtains or additional turbidity curtains).
  - ii. A turbidity curtain will be installed to enclose the in-river work area (i.e., below the High Tide Line to contain suspended materials from entering the river).
  - iii. All sturgeon sweeps must be conducted by a qualified biologist approved by the Division. The initial sweep will be as the curtain is installed to ensure no sturgeon are behind or within the curtain before it is completely enclosed. If a sturgeon is behind the curtain, the curtain will be lifted such that the sturgeon can swim away. Any observed sturgeon will be reported to the NMFS Protected Species Division and NHESP.
- b) **Required Revisions to the SPP.** The Project shall submit an update/revision to the Protection Plan addressing the following, unless otherwise allowed by the Division.
- i. The curtains must be inspected daily to ensure their integrity.
  - ii. The curtains must be inspected at a tidally-informed schedule to be certain that the bottom of the curtain is not lifting off the bottom during higher tides or faster water.
  - iii. The curtain must be inspected each day of work and at any time high flows are experienced to ensure it is not overtopped.
  - iv. If, at any time, lifting of the curtain bottom or overtopping is observed or reported to the project team, all work shall cease until such time as the qualified biologist completes a sweep of the areas within the curtain.
67. **Erosion & Sedimentation Control:** Prior to the start of Work, adequate erosion and sedimentation control measures shall be implemented, including any necessary controls not specifically referenced in the Plan, and be maintained in effect throughout Project construction and until the site has become stabilized. Structural failure of erosion and sedimentation controls may be subject to enforcement action pursuant to the MESA. If any additional measures are proposed to be installed below the high tide line, consultation with the Division is required.
68. **Plantings and Seeds.** Any plantings or seeds located outside of areas to be maintained as lawn, shall be native to the County in accordance with ‘The Vascular Plants of Massachusetts: A County Checklist First

Revision' (Dow Cullina, M., B. Connolly, B. Sorrie, and P. Somers. 2011. MA NHESP DFW). Available from State Library of Massachusetts at <http://archives.lib.state.ma.us> {search for the name of the publication noted herein}.

69. **Compliance Report:** Within thirty (30) days of completion of work the Applicant shall submit a brief written report including photographs showing previous and final conditions with emphasize on demonstrating compliance with Conditions herein and that of the BA.
70. **Renewal, extension or Amendment of the Order of Conditions, Request for Certificate of Compliance:** Upon filing for any renewal, extension, amendment, certification of compliance to any Orders of Conditions issued associated with this site pursuant to the MA Wetlands Protection Act, the Applicant shall similarly file with the Division.

### **OTHER CONDITIONS**

71. 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.
72. 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 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.
  - A final monitoring report and current photo log prepared by the EM.
  - 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:

73. The Property Owner and/or Facility Operator ("O/O") shall ensure that a record of at least one copy of all the plans and documents referenced in this Order of Conditions, the subsequent Certificate of Compliance, all Modifications to the Order and their relevant revised plans and/or documents is maintained at all times. This information shall be made available for use by the O/O in its implementation of the activities discussed within and by the Haverhill Conservation Commission ("HCC") during any inspections that may be necessary.



74. 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.
75. The HCC reserves the right to schedule an annual inspection with the O/O as part of a long-term management program to inspect the site for permanent stability and proper maintenance. The O/O shall maintain the permanent stability of this site to prevent the erosion of materials into the Merrimack River.
76. Following initial restoration activities, fertilizers, pesticides, herbicides, and fungicides shall not be used within 100' of the wetland resource area.
77. The O/O shall conduct routine litter pick-ups on the site to prevent debris from entering the Merrimack River.
78. The Applicant shall install and maintain the proposed security perimeter fence to restrict pedestrian access to the river over the restored riverbank.

**--- END ---**



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands  
**Request for Departmental Action Fee**  
**Transmittal Form**

DEP File Number:

\_\_\_\_\_  
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  
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

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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 <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.