

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NORTHEAST REGIONAL OFFICE

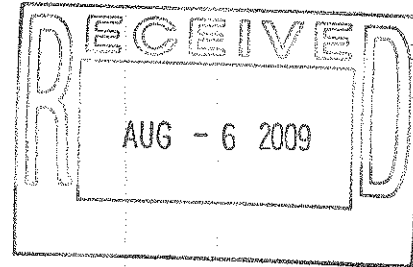
205B Lowell Street, Wilmington, MA 01887 • (978) 694-3200

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

IAN A. BOWLES
Secretary

LAURIE BURT
Commissioner



August 4, 2009

Martin E. Levin, Esq.
Stern Shapiro Weissberg and Garin, LLP
90 Canal St
Boston, MA. 02114

RE: WETLANDS/NATICK
DEP File #233-0641
Lake Cochituate
Herbicide application
**SUPERSEDING ORDER
OF CONDITIONS**

Dear Atty. Levin:

Following an in-depth review of the file referenced above, and in accordance with the Massachusetts General Laws, Chapter 131, Section 40, the Massachusetts Department of Environmental Protection, Northeast Regional Office (NERO), Wetlands Program (MassDEP) is issuing the enclosed Superseding Order of Conditions. This Superseding Order approves the project based upon: 1) information and plans submitted; 2) information gathered during the on-site inspection on June 11, 2009; and 3) reasons the MassDEP has deemed necessary to protect the statutory interests identified in the Wetlands Protection Act.

The proposed project involves the application of herbicides to the Middle Pond of Lake Cochituate to control nuisance levels of aquatic vegetation; specifically, Eurasian milfoil (Myriophyllum spicatum) and variable milfoil (M. heterophyllum). The Applicant is the Massachusetts Department of Conservation and Recreation (MassDCR), which manages the Cochituate State Park and Lake Cochituate. MassDCR proposes to apply herbicide for aquatic weed control in a 5 acre area making up the state recreational beach area (called State Beach), including the beach, boat ramp and kayak rental facility, all of which are located in the northwest corner of Middle Pond.

The applicant has requested approval of a five year Vegetation Management Plan at the State Beach on Middle Pond of Lake Cochituate. The primary method of control is an area-specific application of the herbicide Reward®, with the active ingredient diquat dibromide. The Order of Conditions issued by the Natick Conservation approved only one application of herbicide. The condition requiring the one-time application also stated, "Any future treatments will require an additional written approval of the Commission." The Order also contained a

condition requiring "hand pulling of stalks and roots of water milfoil" after treatment with herbicide.

DCR has requested authorization of annual herbicide application to maintain lower densities of milfoil at State Beach. The application will be performed by certified applicators, using a chemical that is registered with Massachusetts and the USEPA. A site specific License to Apply Chemicals for the proposed treatment will be filed MassDEP's Office of Watershed Management. Subsequent to treatment, inspections will be performed to map the distribution of milfoil and secondary species in the treatment area.

Follow-up treatment will consist of annual re-applications of the same herbicide until such time that a low density of milfoil cover is achieved. This low density is defined as a 1-5% plant cover, equivalent to between 500-1000 stems per acre of area. For these low density areas, hand-pulling of plants with either traditional diver hand-pulling or diver-assisted suction harvesting (DASH) is proposed. Finally, benthic barriers may also be employed in low-density areas. The final plan each season will be determined at the pre-treatment vegetation survey, which will occur in May of each season. A combination of these techniques may be employed. The proposed management plan for this NOI, in the area of State Beach, will result in the annual application of diquat-based herbicide in areas that have greater than 5% plant milfoil cover over one or more contiguous acres.

Lake Cochituate is located in the Sudbury River Basin and consists of four named ponds, North, Middle, Carling and South, connected by shallow waterways. A portion of the North and Middle Ponds and all of Carling and South Ponds are located in Natick. The Town of Natick has two public water supply groundwater well fields located in close proximity to Lake Cochituate. The Natick Evergreen well field is located adjacent to Middle Pond and is the closest to the proposed treatment area. The Zone 1 radius (400 feet from the wellhead) extends into the pond, with the proposed area for treatment located more than 900 feet from the wellhead. The proposed treatment area is also over 300 feet from the boundary of the Zone II boundary.

The removal of aquatic nuisance vegetation to retard pond eutrophication is one of the goals listed under 310 CMR 10.53(4) to improve habitat value. The proposed treatment methodology is consistent with the guidance document promulgated by MassDEP entitled: Guidance for Aquatic Plant Management in Lakes and Ponds: As it Relates to the Wetlands Protection Act (April 2004) and the implementation guidance for diquat application contained in The Final Generic Environmental Impact Report: Eutrophication and Aquatic Plant Management in Massachusetts (June 2004).

It is MassDEP's opinion that the project complies with the Regulations and the applicable guidances for aquatic plant management. Therefore, MassDEP is issuing the enclosed Superseding Order of Conditions (SOC) allowing the implementation of DCR's management plan for the State Beach area for a five-year period. The requirements of the Conservation Commission pertaining to a single application of herbicide only and the hand-pulling of stalks after herbicide treatment are eliminated from the SOC.

This SOC serves to protect the interests of the Wetlands Protection Act, Massachusetts General Laws, Chapter 131, Section 40. Please be advised that it is the Department's responsibility to address only those interests identified in the Act. However, the Department reserves the right, should there be further proceedings in this case, to raise additional issues and present further evidence as may be appropriate. Should any party dispute these findings, please consult the language in the Order, which specifies your rights and procedures for appeal.

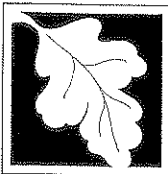
If you have any questions concerning this Superseding Order, please contact Phil DiPietro at 978-694-3251.

Sincerely,



Rachel Freed
Section Chief
Wetlands and Waterways Program

cc. Anne Monnelly, Acting Director, Office of Water Resources, Massachusetts Department of Conservation and Recreation, 251 Causeway Street, Suite 800, Boston, MA 02114
Mr. Tom Flannery, MADCR, Lakes and Ponds Program, 251 Causeway Street, Boston, MA. 02114
Natick Conservation Commission, Town Hall, 13 East Central Street, Natick, MA 01760



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

WPA Form 5 – Superseding Order of Conditions

233-0641

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

A. General Information

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



From: MassDEP, Northeast Region, 205B Lowell Street, Wilmington, MA. 01887
1. Regional Office of the Department of the Environment

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

3. To: Applicant:

Tom Fiannery
a. First Name b. Last Name c. Company
251 Causeway Street
d. Mailing Address
Boston MA 02114
e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

a. First Name b. Last Name c. Company
d. Mailing Address
e. City/Town f. State g. Zip Code

5. Project Location:

Lake Cochituate, DCR beach and boat ramp Natick
a. Street Address b. City/Town
N/A N/A
c. Assessors Map/Plat Number d. Parcel/Lot Number
Latitude and Longitude, if known (note: 42d 18' 35.36" 71d 22' 29.36"
electronic filers will click for GIS locator): e. Latitude f. Longitude

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

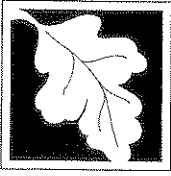
a. County b. Certificate (if registered land)
c. Book d. Page

7. Dates: February 19, 2009 April 2, 2009 August 5, 2009
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):

Aquatic Management Program-Lake Cochituate
a. Plan Title
Aquatic Control Technology, Inc. Gerald Smith
b. Prepared By c. Signed and Stamped by
February, 2009
d. Final Revision Date e. Scale

f. Additional Plan or Document Title g. Date



WPA Form 5 – Superseding Order of Conditions

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

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, The Department finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection 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. The Department 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. The Department 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.

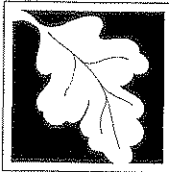
Denied because:

- 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 these interests, 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).**

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

3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and wetland boundary (if available)

| Resource Area | Proposed Alteration | Permitted Alteration | Proposed Replacement | Permitted Replacement |
|---|------------------------------------|------------------------------------|----------------------|-----------------------|
| 4. <input type="checkbox"/> Bank | a. linear feet | b. linear feet | c. linear feet | d. linear feet |
| 5. <input type="checkbox"/> Bordering Vegetated Wetland | a. square feet 5 acre | b. square feet | c. square feet | d. square feet |
| 6. <input checked="" type="checkbox"/> Land Under Waterbodies and Waterways | treatment area e. cu.yd dredged | b. square feet f. cu.yd dredged | c. square feet | d. square feet |



WPA Form 5 – Superseding Order of Conditions

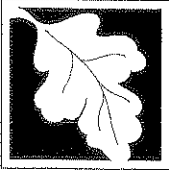
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Findings (cont.)

| Resource Area | Proposed Alteration | Permitted Alteration | Proposed Replacement | Permitted Replacement |
|--|---------------------|----------------------|----------------------|-----------------------|
| 7. <input type="checkbox"/> Bordering Land Subject to Flooding | a. square feet | b. square feet | c. square feet | d. square feet |
| Cubic Feet Flood Storage | e. cubic feet | f. cubic feet | g. cubic feet | h. cubic feet |
| 8. <input type="checkbox"/> Isolated Land Subject to Flooding | a. square feet | b. square feet | | |
| Cubic Feet Flood Storage | c. cubic feet | d. cubic feet | e. cubic feet | f. cubic feet |
| 9. <input type="checkbox"/> Riverfront area | a. total sq. feet | b. total sq. feet | | |
| Sq ft within 100 ft | c. square feet | d. square feet | e. square feet | f. square feet |
| Sq ft between 100-200 ft | g. square feet | h. square feet | i. square feet | j. square feet |

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

| | | | | |
|--|---|------------------|-------------------|-------------------|
| 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. cu.yd dredged | d. cu.yd dredged | | |
| 12. <input type="checkbox"/> Barrier Beaches | Indicate size under Coastal Beaches and/or Coastal Dunes below | | | |
| 13. <input type="checkbox"/> Coastal Beaches | a. square feet | b. square feet | c. c/y nourishmt. | d. c/y nourishmt. |
| 14. <input type="checkbox"/> Coastal Dunes | a. square feet | b. square feet | c. c/y nourishmt. | d. c/y nourishmt. |
| 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. cu.yd dredged | d. cu.yd dredged | | |
| 19. <input type="checkbox"/> Land Containing Shellfish | a. square feet | b. square feet | c. square feet | d. square feet |
| 20. <input type="checkbox"/> Fish Runs | Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above | | | |
| | a. cu.yd dredged | b. cu.yd dredged | | |
| 21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage | a. square feet | b. square feet | | |



WPA Form 5 – Superseding Order of Conditions

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

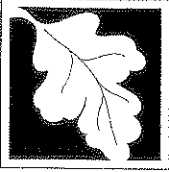
C. General Conditions Under Massachusetts Wetlands Protection Act

(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.
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.
6. 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.
7. 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.
8. 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 Regional Office of DEP 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.
9. 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, "MA DEP"]

"File Number 233-0641"



WPA Form 5 – Superseding Order of Conditions

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

C. General Conditions Under Massachusetts Wetlands Protection Act

10. 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 DEP.
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
12. The work shall conform to the plans and special conditions referenced in this order.
13. Any change to the plans identified in Condition #12 above shall require the applicant to inquire of the Department in writing whether the change is significant enough to require the filing of a new Notice of Intent.
14. 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.
15. 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.
16. 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 DEpartment.
17. 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 Department and 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.
18. All work associated with this Order is required to comply with the Massachusetts Stormwater Policy Standards.

Special Conditions:

see attached

If you need more space for additional conditions, select box to attach a text document

See the special conditions below for DEP FILE #233-0641

19. This Order approves the annual treatment of the DCR beach at Lake Cochituáte, called State Beach, and the adjacent boat launch and kayak rental area for a period of five (5) years. The primary method of control is an area-specific application of the herbicide Reward®, with the active ingredient diquat dibromide. Annual herbicide application to maintain lower densities of milfoil is authorized until such time that a low density of milfoil cover is achieved. This low density is defined as a 1-5% plant cover, equivalent to between 500-1000 stems per acre of area. For these low density areas, hand-pulling of plants with either traditional diver hand-pulling or diver-assisted suction harvesting (DASH) is approved. The deployment of benthic barriers in conjunction with or in place of diver or DASH hand-pulling may also be employed in low-density areas. The final plan each season will be determined at the pre-treatment vegetation survey, which will occur in May of each season. A combination of these techniques may be employed. The proposed management plan for this NOI, will result in the annual application of diquat-based herbicide areas that have greater than 5% plant milfoil cover over one or more contiguous acres of the 5 acre target area.

20. To minimize potential impacts to fisheries resources, the proponent shall follow the guidelines outlined in the Herbicide and Algaecide section of The Final Generic Environmental Impact Report: Eutrophication and Aquatic Plant Management in Massachusetts (June 2004).

21. The applicant or his/her designee shall obtain a valid BRP WM 04 Permit for the application of aquatic herbicides for milfoil and a copy of such BRP WM 04 permit shall be submitted to MassDEP NERO, Wetlands and Waterways Program and the Conservation Commission prior to initiating any treatment of aquatic vegetation permitted by this Order.

22. All application of herbicides approved for use by this Order shall be applied by an applicator licensed in the aquatic weed category by the Massachusetts Department of Agricultural Resources (DAR), Pesticide Bureau. Applications shall follow all product label directions

23. In the event of any fish kill within Lake Cochituáte, in the area of the proposed application of herbicide, the applicant and licensed applicator shall immediately contact the Department's Emergency Response section at 1-888-304-1133; the Department of Fish and Game's Westborough office at (508) 792-7270 (during normal working hours); or the Boston 24-hour response line at 1-800-632-8075.

24. Refueling, servicing, and repair of motorized watercraft and service vehicles associated with the lake surveys and treatments shall take place at least 100-feet from boundary of the resource area. Equipment operators shall be prepared to immediately respond to, and contain, accidental releases of fuel, motor oil, or aquatic herbicides. On-site absorbent materials shall be maintained for use in containing accidental spills. If an accidental release of fuel, motor oil, lubricating oils, etc. occurs, the issuing authority shall be immediately notified, and contaminated areas shall be treated according to guidelines established by the DEP's Bureau of Waste Site Cleanup (BWSC). Staging and long-term storage of aquatic herbicides shall take place outside the jurisdiction of the Department.

25. Any plant material collected by divers or by suction shall be removed from the water body and disposed of at an appropriate location.

26. Any change(s) made in the above-described plans, unless specified otherwise in the Order, which will alter an area subject to protection under the Act, or any change(s) in activity subject to regulation under the Act, shall require the Applicant to inquire of MassDEP, in writing, whether the change(s) is/are significant enough to require the filing of a new Notice of Intent. A copy of such a request shall at the same time be sent to all parties. Any errors in the plan or information submitted by the Applicant shall be considered changes, and the above procedures shall be followed.

27. Where relevant, all facilities and equipment will be continually operated and maintained so as to comply with the conditions of the Order, the Act and the Regulations.

28. The contractor responsible for the project's completion shall be notified of the requirements of the Order. A copy of the Order, as well as a copy of the referenced site plans, shall be made available at the site while activities regulated by the Order are being performed so that the applicant and/or any site contractor(s) may review, and adhere to, the requirements of the Order and referenced plans. During the treatment phase for this project, a designated supervisor shall have a copy of this Order of Conditions at the site, familiarize him or herself with the conditions of the Order of Conditions and take all appropriate and necessary steps to ensure compliance with such conditions. The applicant shall provide the MassDEP and the Conservation Commission with the name and phone number (for access on a 24-hour, 7 days/week basis) of the on-site supervisor who is responsible to coordinate the treatment activities and ensure compliance with this Order (24 hours a day).

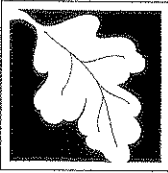
29. Members, agents and employees of the Conservation Commission and MassDEP shall have the right to enter and inspect the premises to evaluate compliance with the conditions stated in the Order, and may require the submittal of any data deemed necessary by MassDEP for that evaluation. MassDEP and the Conservation Commission must receive 48 hours notice prior to the initiation of activities subject to this Order.

30. The limit of any herbicide application or other treatments (e.g. hand removal, suction removal or benthic matting) is strictly limited to the areas shown on the plan of record, as marked "estimated extent of management area" on the drawing named "Site Plan" in the referenced Aquatic Management Program for Lake Cochituate.

31. For any alteration caused as a direct result of the Project to any jurisdictional areas, beyond that authorized by Order, it shall be the responsibility of the applicant to ensure that the contractor takes necessary action to repair, restore and/or replace. The applicant shall without delay notify MassDEP of the nature and extent of the alteration and the proposed restoration measures.

32. During work on this project there shall be no discharge of pollutants or release of any oil or hazardous material, including sediments contaminated by any such discharge or release, into any jurisdictional area. DCRS and its Contractors shall take all reasonable precautions to prevent the discharge of pollutants or the release of oil or hazardous material by ignorance, negligence, accident or vandalism. Any release oil or hazardous material that is a reportable quantity pursuant to the MCP, accidental or otherwise, including sediments, shall be reported in accordance with the MCP and to the Resident Engineer, the EM, the MassDEP DWW, the MassDEP Bureau of Waste Site Cleanup (BWSC) and the Conservation Commissions.

33. Following completion of the project, the applicant shall request a Certificate of Compliance and include an affidavit signed by the licensed applicator stating that the aquatic vegetation has been treated in accordance with the requirements of this Order of Conditions. A written statement by the applicant or treatment contractor shall be included stating the extent to which the five-year treatment plan has worked to eliminate milfoil.



WPA Form 5 – Superseding Order of Conditions

233-0641

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

D. Findings Under Municipal Wetlands Bylaw or Ordinance

- 3. The Department acknowledges that there is a municipal bylaw or ordinance in effect.

To the extent that the Order is based upon a municipal bylaw or ordinance, and not on the Massachusetts Wetlands Protection Act or regulations, The Department of Environmental Protection has no appellate jurisdiction.

E. Issuance

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

August 5, 2009

1. Date of Issuance

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.

Signature:

Rachel Freed

Notary Acknowledgement

Commonwealth of Massachusetts County of

Middlesex

On this

5th
Day

of

August

2009

Month

Year

Before me, the undersigned Notary Public, personally appeared

Rachel Freed

Name of Document Signer

proved to me through satisfactory evidence of identification, which was/were

Personally known
Description of evidence of identification

to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

As Wetlands Section Chief

NERO
DEP Regional Office

Elizabeth Sabounjian
Signature of Notary Public

Elizabeth Sabounjian
Printed Name of Notary Public

My commission expires: February 5, 2010

My Commission Expires (Date)

Place notary seal and/or any stamp above

This Order is issued to the applicant as follows:

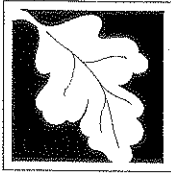
by hand delivery on

by certified mail, return receipt requested, on

Date

August, 2009

Date



WPA Form 5 – Superseding Order of Conditions

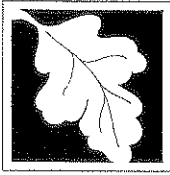
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

F. Appeals

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 Determination, or providing written information to the Department prior to issuance of a Superseding Order or Determination.

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.

Section G, Recording Information is available on the following page.



WPA Form 5 – Superseding Order of Conditions

233-0641

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

G. Recording Information

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on Page 7 of this form shall be submitted to the DEP Regional Office listed below.

MassDEP, Northeast Region, 205B Lowell Street, Wilmington, MA. 01887
Regional Office of the Department of Environmental Protection

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

To:

MassDEP, Northeast Region, 205B Lowell Street, Wilmington, MA. 01887
Regional Office

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

Lake Cochituate, DCR beach, Natick 233-0641
Project Location DEP File Number

Has been recorded at the Registry of Deeds of:

County Book Page

for:

Property Owner

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

Book Page

In accordance with the Order of Conditions issued on:

June 27, 2008
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

Appeals

The applicant or landowner, the conservation commission, any person aggrieved by this Superseding Order or Determination if previously a participant in the permit proceedings, any owner of land abutting the land subject to this Superseding Order or Determination if previously a participant in the permit proceedings, or any ten residents of the city or town where the land is located, if any one resident was previously a participant in the permit proceedings, are hereby notified of their right to file a Notice of Claim for an Adjudicatory Appeal (Notice of Claim) pursuant to M.G.L. c. 30A, sec. 10. Previous participation in the Superseding Order or Determination permit proceedings means the submission of written information to the Conservation Commission prior to the close of the public hearing, filing a Request For A Superseding Order or Determination with the Department, or providing written information to the Department prior to issuance of a Superseding Order or Determination.

Complete adjudicatory appeal applications require the submittal of a Notice of Claim and an Adjudicatory Appeal Fee Transmittal Form. A completed Fee Transmittal Form (available at: <http://www.mass.gov/oa/feetrans.htm>) including an appeal fee payment of \$100.00, must be mailed to the DEP Lockbox at:

Department of Environmental Protection
Box 4062
Boston, MA 02211

The Notice of Claim (including a copy of the \$100.00 appeal fee payment check and a copy of the Fee Transmittal Form) must be sent by certified mail or be hand delivered to the Department within ten business days after the date of issuance of this Superseding Order or Determination. The Notice of Claim must be addressed to:

Case Administrator
Department of Environmental Protection
One Winter Street – 2nd Floor
Boston, MA 02108

A copy of the Notice of Claim shall, at the same time, be sent by certified mail or hand delivery to the Conservation Commission, the applicant, and any other parties involved in the proceeding.

The Notice of Claim shall clearly and concisely set forth the facts related to the proceeding, the reasons the Superseding Order or Superseding Determination is considered to be inconsistent with 310 CMR 10.00 and does not contribute to the protection of the interests identified in M.G.L. c. 131, § 40, and the relief sought through the adjudicatory appeal, including the changes desired in the Superseding Order or Superseding Determination. The Notice of Claim must include a copy of the document subject to the appeal and set forth: the Department Wetlands File Number; the name of the applicant and address of the project; the complete name, address, telephone and telefax (if any) numbers of the party filing the request, and, if represented by counsel, the name, address, telephone and telefax (if any) numbers of the attorney; the names, addresses, telephone and telefax (if any) numbers of all other parties, if known; and a statement that a copy of the request has been sent to the applicant, the conservation commission and each other party or representative of such party, if known. In addition, any person filing a Notice of Claim must also set forth sufficient facts to demonstrate their status as a person aggrieved, an abutter, or a ten residents group, and provide documentation to demonstrate previous participation, where required. Failure to submit all necessary information may result in a dismissal by the Department of the Notice of Claim for an Adjudicatory Hearing. Any ten persons may intervene in an adjudicatory proceeding pursuant to M.G.L. c. 30A, s. 10A.