



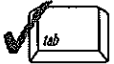
**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands  
**WPA Form 5 – Final Order of Conditions**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File Number:

239-0659

**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.



1. From: Northeast Regional Office  
Regional Office of the Department of Environmental Protection (MassDEP)
2. This issuance is for (check one):  
a.  Superseding Order of Conditions      b.  Superseding Amended Order of Conditions
3. To: Applicant:  
John Murray  
a. First Name      b. Last Name  
Department of Conservation & Recreation  
c. Organization  
251 Causeway Street, Suite 600  
d. Mailing Address  
Boston MA 02114-2119  
e. City/Town      f. State      g. Zip Code
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:  
Hammond Pond Newton  
a. Street Address      b. City/Town  
63 037 29 (DCR)  
c. Assessors Map/Plat Number      d. Parcel/Lot Number  
  
Latitude and Longitude, if known:      e. Latitude      f. Longitude
6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):  
South Middlesex  
a. County      b. Certificate Number (if registered land)  
  
c. Book      d. Page
7. Dates: May 11, 2012 September 27, 2012 October 17, 2012  
a. Date Notice of Intent Filed      b. Date Public Hearing Closed      c. Date of OOC Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):



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See Special Condition #19

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. 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.

**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)



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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	0 a. linear feet	0 b. linear feet	0 c. linear feet	0 d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	0 a. square feet	0 b. square feet	2,550 c. square feet	2,550 d. square feet
6. <input checked="" type="checkbox"/> Land Under Waterbodies and Waterways	3,837 a. square feet e. c/y dredged	3,387 b. square feet f. c/y dredged	 c. square feet	 d. square feet

**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. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. 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		



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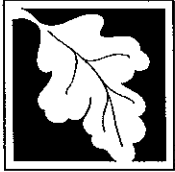
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- |  |   |                |                |                |
|--|---|----------------|----------------|----------------|
| 17. <input type="checkbox"/> Salt Marshes                          | _____   | _____          | _____          | _____          |
|  | 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 |                |                |                |
|  | _____   | _____          |                |                |
|  | a. c/y dredged  | b. c/y dredged |                |                |
| 21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage | _____   | _____          |                |                |
|  | a. square feet  | b. square feet |                |                |

**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 MassDEP 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



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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 MassDEP 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, "MassDEP"]

"File Number 239-0659"

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**C. General Conditions Under Massachusetts Wetlands Protection Act**

10. Where the MassDEP is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to MassDEP.
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 MassDEP 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 MassDEP 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 MassDEP 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 MassDEP.



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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 MassDEP, 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.

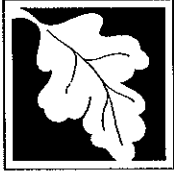
NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

18. **The work associated with this Order (the "Project") is (1)  is not (2)  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.

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

- 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;
  - 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



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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 BMPs 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.

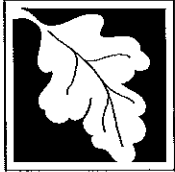
e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, and acceptable 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.



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- 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.
- FOC** Special Conditions (see the attached sheet(s) for additional conditions numbered 19 thru 50.

Brief Description of Project:

The proposed project is for the installation of a floating boardwalk, improvements to on-ground pathways, landscape restoration, resource area enhancements, and drainage improvements at Hammond Pond.



**FINAL ORDER OF CONDITIONS**  
**DEP File Number 239-0659**

**Special Conditions**

19. All work shall conform with the following plans, reports and special conditions:

**Plans titled:** "Hammond Pond Access Enhancements & Ecological Restoration, Newton, MA." 6 sheets. Prepared by the Bioengineering Group and stamped by Michael A. Pustizzi, P.E. #46505 and Robert W. Garner, P.E. #48930. Final revision date: August 16, 2013. Scale: as shown.

**Document titled:** "Hammond Pond Floating Walkway – Maintenance Program" prepared by Rick Corsi of DCR and dated November 25, 2013. Two pages.

**Pre-Construction:**

20. A copy of this Superseding Order shall be included in all construction contracts and shall supersede any conflicting requirements.
21. No work shall commence on-site until all appeal periods have elapsed and this Superseding Order of Conditions has been recorded with the Registry of Deeds and the MassDEP has been formally notified via the form provided at the end of this Order.
22. Any proposed or executed change in the plans approved under this Superseding Order shall require the applicant to file a new Notice of Intent with the Newton Conservation Commission or to inquire of the MassDEP in writing whether the change is substantial enough to require a new filing. A copy shall be sent at the same time to the Newton Conservation Commission.
23. Erosion controls shall be placed on site between areas of proposed work and resource areas. Haybales and/or silt fence must be staked. Silt fencing must be entrenched. Alternative types of barriers (such as straw, coir, or Filter mitt) may be used with prior approval from MassDEP.
24. An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and shall include materials to repair or replace silt fences, hay bales, stone riprap filter berms, or any other devices planned for use during construction.
25. **Prior to construction**, the applicant shall prepare a construction sequence to MassDEP for review and approval. This sequence should address construction of the bordering vegetated wetland (BVW), and specifically, the timing of excavation of the wetland area, construction of the boardwalk, and planting of the replication area.
26. The applicant shall employ an Environmental Monitor to oversee all boardwalk and wetland area construction as well as erosion control activities on the project site, including, but not limited to supervision of the maintenance and replacement of all erosion control structures. This monitor shall be responsible for ensuring compliance with this SOC during construction. The monitor must be a qualified wetlands professional with a minimum of 5 years of experience. The applicant shall provide MassDEP and the Newton Conservation Commission with the name, address, and telephone number of the monitor prior to the start of work.

27. **Prior to construction on this site**, there shall be a pre-construction meeting between the project supervisor, the contractor responsible for the work, the Environmental Monitor, a member of the Newton Conservation Commission or its Administrator, and a representative of MassDEP to ensure that the requirements of this Superseding Order of Conditions are understood. Arrangements shall be made two weeks prior to any activity to arrange for the pre-construction meeting.
28. **Prior to commencement of construction**, final depth and grading of the proposed BVW area shall be determined and a plan detail submitted to MassDEP.
29. All plans, reports, and information referenced in this Superseding Order of Conditions shall be provided to MassDEP and the Newton Conservation Commission simultaneously.

**Project Specific:**

30. In accordance with Sheet C-3 of the project plans, a BVW area of 2,550 square feet shall be constructed.
31. The soils for the BVW area shall be amended as necessary with a mixture of equal volumes of organic and mineral materials. These materials shall not include woodchips. The organic material used shall be well or partially-decomposed; clean leaf compost is preferred.
32. Planting of the BVW area shall not take place between November 15<sup>th</sup> and April 15<sup>th</sup>, except as allowed by MassDEP.
33. Photographs shall be submitted to MassDEP and the Newton Conservation Commission upon completion of final grading within the BVW area, after planting of the BVW area, and after the first two growing seasons.
34. Shrubs and herbaceous plantings shall be watered, as needed, over the first three years of growth.
35. MassDEP reserves the right to make a determination as to the success or failure of the wetland creation efforts and reserves the right to require additional excavation and/or plantings, as needed.
36. Maintenance and inspection of the floating walkway and appurtenant structures shall be performed in accordance with the 'Hammond Pond Floating Walkway – Maintenance Program' memorandum cited in Special Condition #19.

**Other:**

37. Construction staging and stockpiling shall be located adjacent to the western shoreline. All excavated materials shall be stockpiled outside of wetland resource areas and sufficiently distant from wetland resource areas to prevent surface runoff from entering resource areas. All stockpiled materials shall be surrounded by an erosion barrier.
38. Equipment storage and refueling shall take place outside of the buffer zone to wetland resource areas.
39. During work on this project, there shall be no discharge or spillage of fuel, oil or other pollutants, including sediments, onto any part of the site. The applicant shall take all reasonable precautions to prevent the release of pollutants by ignorance, accident or vandalism.
40. Waste generated by construction activities shall be contained within the construction area and dumpsters shall be maintained on site. The dumpsters shall not be overfilled, shall be regularly emptied, and shall be covered at night.

41. All waste products, refuse, debris, grubbed stumps, slash, excavate, construction materials, etc. shall ultimately be deposited at an approved landfill and shall not be incorporated in any manner into the project site with the exception of the reduction of stumps and slash to mulch. No mulch shall be placed in wetlands resource areas.
42. Chipping and spreading of cut trees and brush shall not take place within the staked limit of work.
43. All dewatering activities shall be controlled by implementing Best Management Practices (BMPs). Wherever possible, dewatered fluids will be prevented from flowing directly into resource area buffer zones, and discharge structures, such as detention basins, retention basins, or other BMPs will be configured to maximize ground infiltration.
44. At no time during or after construction shall fill or other materials be placed, slump into or fall beyond the limit of grading as shown on the plan. The applicant shall be responsible for inspecting and maintaining all slopes and shall immediately notify MassDEP and the Billerica Conservation Commission if slumping, erosion or encroachment occurs.
45. The developer or contractor responsible for the project's completion shall be notified of, and understand, the requirements of this Superseding Order of Conditions. A copy of this Order shall be kept on-site while activities regulated by this Order are being performed.
46. If any unforeseen problems occur during construction, upon discovery, the applicant shall immediately notify MassDEP and the Newton Conservation Commission, and a meeting shall be held to determine the corrective measures to be employed. The applicant shall then act to correct the problem using the corrective measures agreed upon.
47. Upon stabilization of the site, all erosion controls shall be removed. A Certificate of Compliance will not be issued until all controls are removed.
48. Upon completion of this project, the applicant shall request a Certificate of Compliance from the MassDEP and shall submit the following information with the request:
  - a. A written statement by a professional engineer or land surveyor registered in the Commonwealth of Massachusetts certifying compliance with the approved plans referenced above and this Superseding Order of Conditions and setting forth deviations, if any exists;
  - b. An as-built site plan prepared by a registered land surveyor or registered professional engineer showing location and grades of the project.
49. This Order shall apply to all successors or assigns in interest or control and any other party engaging in activity on the property identified in the Notice of Intent.
50. This Order of Conditions supersedes all prior Orders under DEP File #239-0659.

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## D. Findings Under Municipal Wetlands Bylaw or Ordinance

To the extent that the Order is based on a municipal bylaw or ordinance, and not on the Massachusetts Wetlands Protection Act or regulations, MassDEP has no jurisdiction to supersede the local bylaw order.

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## 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.

12-11-13

1.) Date of Issuance

The Superseding 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 Conservation Commission, appellant and the property owner, if different from the applicant.

Issued by the Massachusetts Department of Environmental Protection:

Signature:

\_\_\_\_\_  
Heidi M. Davis, Acting Section Chief, Wetlands Program

December 11, 2013

\_\_\_\_\_  
Date

This Order is issued to the applicant as follows:

by hand delivery on

by certified mail, return receipt requested, on

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

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## F. Appeals

The applicant, the landowner, any person aggrieved by the Superseding Order, Determination or other Reviewable Decision as defined at 310 CMR 10.04, who previously participated in the proceedings leading to this reviewable Decision, the conservation commission, or any ten (10) residents of the city or town where the land is located if at least one resident was previously a participant in the permit proceeding, are hereby notified of their right to appeal this Reviewable Decision pursuant to M.G.L. c.30A, section 10, provided the request is made by certified mail or hand delivery to MassDEP, along with the appropriate filing fee and a MassDEP Fee Transmittal Form within ten (10) business days of the date of issuance of this superseding Order or Determination, and addressed to:

Case Administrator  
Office of Appeals and Resolution  
Massachusetts Department of Environmental Protection  
One Winter Street, 2<sup>nd</sup> Floor  
Boston, MA 02108

A copy of the request (herein referred to as Appeal Notice) shall at the same time be sent by certified mail or hand delivery to the Conservation Commission, the applicant, the person that requested the Superseding Order or Determination, and the issuing office of the MassDEP at:

Mass. Department of Environmental Protection  
Northeast Regional Office  
Wetlands and Waterways Program  
205B Lowell Street  
Wilmington, MA 01887

In the event that a ten resident group requested the Superseding Order or Determination, the Appeal Notice shall be served on the designated representative of the ten resident group, whose name and contact information is included in this Reviewable Decision (when relevant).

Contents of Appeal Notice

An Appeal Notice shall comply with MassDEP's Rules for Adjudicatory Proceedings, 310 CMR 1.01 (6) and 310 CMR 10.05 (7)(j), and shall contain the following information:

- (a) the MassDEP Wetlands File Number, name of the applicant, landowner if different from applicant and address of the project;
- (b) the complete name, mailing address, email address, and fax and telephone numbers of the party filing the Appeal Notice; If represented by consultant or counsel, the name, fax and telephone numbers, email address and mailing address of the representative; If a ten residents group, the same information for the group's designated representative.
- (c) If the Appeal Notice is filed by a ten (10) resident group, then a demonstration of participation by at least one resident in the previous proceedings that led to this Reviewable Decision;
- (d) If the Appeal Notice is filed by an aggrieved person, then a demonstration of participation in the previous proceedings that lead to this Reviewable Decision and sufficient written facts to demonstrate status as a person aggrieved;
- (e) The names, telephone and fax numbers, email addresses, and mailing addresses of all other interested parties, if known;
- (f) A clear and concise statement of the alleged errors contained in MassDEP's decision and how each alleged error is inconsistent with 310 CMR 10.00 and does not contribute to the protection of the interests identified in the Wetlands Protection Act, M.G.L. c. 131 sect 40, including reference to the statutory or regulatory provisions that the party filing the Appeal Notice alleges has been violated by MassDEP's decision, and the relief sought, including any specific desired changes to MassDEP's decision.

- (g) a copy of MassDEP's Reviewable Decision that is being appealed and a copy of the underlying Conservation commission decision if the Reviewable Decision affirms the Commission decision;
- (h) a statement that a copy of the request has been sent by certified mail or hand delivery to the applicant and Commission;
- (i) If asserting a matter that is Major and Complex, as defined at 310 CMR 10.04 (1), a statement requesting that the Presiding Officer make a designation of Major and Complex, with specific reasons supporting the request.

Filing Fee and Address

A copy of the Appeal Notice along with a MassDEP Fee Transmittal Form and a valid check or money order payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100) must be mailed to:

Commonwealth of Massachusetts  
Massachusetts Department of Environmental Protection  
Commonwealth Master Lockbox  
P.O. Box 4062  
Boston, Massachusetts 02211

The request will be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver. The filing fee is not required if the appellant is a city or town (or municipal agency), county, district of the Commonwealth of Massachusetts, or a municipal housing authority. MassDEP may waive the adjudicatory hearing filing fee pursuant to 310 CMR 4.06 (2) for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file an affidavit setting forth the facts believed to support the claim of undue financial hardship together with the hearing request as provided above.

## 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 this page shall be submitted to MassDEP listed below.

Regional Office of the Massachusetts Department of Environmental Protection

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

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To:

Northeast Regional Office

Regional Office of the Department of Environmental Protection

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

Hammond Pond, Newton  
Project Location

239-0659  
MassDEP File Number

Has been recorded at the Registry of Deeds of:

South Middlesex  
County

Book

Page

for:

Property Owner

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

Book

Page

In accordance with the Order of Conditions issued on:

Date

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

Instrument Number

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

Document Number

Signature of Applicant