



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

NOT A N O T  
**Department of Environmental Protection**

OFFICIAL OFFICIAL  
100 Cambridge Street Suite 900 Boston, MA 02114 • 617-292-5500

Maura T. Healey  
Governor

Kimberley Driscoll  
Lieutenant Governor

Rebecca L. Tepper  
Secretary

Bonnie Heiple  
Commissioner

RECEIVED AND RECORDED  
NORFOLK COUNTY  
REGISTRY OF DEEDS  
DEDHAM, MA

April 5, 2024

In the Matter of  
Medway Grid, LLC

CERTIFY

*William P. O'Donnell*  
WILLIAM P. O'DONNELL, REGISTER

OADR Docket No. WET-2024-004  
MassDEP File No. SE 216-1035  
Medway, MA

**FINAL DECISION**

In accordance with the Adjudicatory Proceeding Rules at 310 CMR 1.01(14)(b), Bonnie Heiple, Commissioner of the Massachusetts Department of Environmental Protection ("MassDEP" or "the Department"), has designated me the Final Decision-Maker in this administrative appeal.<sup>1</sup>

I have reviewed the attached Joint Settlement Agreement signed on March 1, 2024 by the petitioner Medway Enumerated Parties' representative Paul Yorkis, by the applicant Medway Grid, LLC's representative Barry Fogel, Esq. and by MaryJude Pigsley, Central Regional Director for the Department. The Department issues this Final Decision incorporating the Joint Settlement Agreement and Final Order of Conditions Affirmation, which I have also reviewed.

Under the terms of 310 CMR 1.01(8)(c), this proceeding is dismissed with the parties waiving whatever rights they may have to further administrative review before the Department as well as appeal to court.

**MARGINAL REFERENCE**

34947 - 237  
BOOK 10210-268 PAGE  
34947 - 237  
39596 - 495

*Salvatore M. Giorlandino*  
Salvatore Giorlandino  
Chief Presiding Officer

<sup>1</sup> 310 CMR 1.01(14)(b) provides in relevant part that "[e]very final decision" in an administrative appeal "shall be in writing and shall be signed by the [Department's] Commissioner or a designee of the Commissioner."

This information is available in alternate format. Please contact Melixza Esenyie at 617-626-1282.

TTY# MassRelay Service 1-800-439-2370  
MassDEP Website: [www.mass.gov/dep](http://www.mass.gov/dep)

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OFFICE OF APPEALS AND DISPUTE RESOLUTION

In the Matter of:	)	Docket No. WET-2024-004
	)	MEDWAY
MEDWAY GRID, LLC	)	DEP File No. SE 216-1035
	)	

**JOINT SETTLEMENT AGREEMENT**

The Medway Enumerated Parties (“Petitioner”), Medway Grid, LLC (the “Applicant”), and the Department of Environmental Protection (the “Department”), (collectively the “Parties”), hereby agree that the appeal filed by the Petitioner may be settled and resolved upon issuance of a Final Decision and a Final Order of Conditions (“FOC”). This matter involves a Superseding Order of Conditions (“SOC”) that affirmed an Order of Conditions (“OOC”) issued by the Medway Conservation Commission (“Commission”) allowing the construction of a battery energy storage facility with a stormwater management system within the buffer zone of a Bordering Vegetated Wetland (“BVW”) and Riverfront Area. The Parties have agreed to one change to the OOC, as affirmed by the SOC, that will replace Special Condition #30 in Part II of the OOC in its entirety with the following text:

The Applicant shall install a system at the facility that allows for closure of the valves or gates on the stormwater lines leading from the deep sump catch basins and on the outlet control structure of the stormwater infiltration basin from a remote point, when manual closure at the valves or gates is not possible due to conditions during an emergency event at the facility.

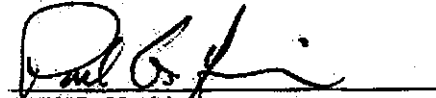
In all other respects, the FOC should adopt the OOC, as affirmed by the SOC. A copy of the FOC is attached.

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**MEDWAY-ENUMERATED PARTIES**  
O F F I C I A L  
C O P Y

By their representative,



Paul G. Yorkis  
7 Independence Lane  
Medway, MA 02053  
[pgvorkis@gmail.com](mailto:pgvorkis@gmail.com)

**MEDWAY GRID, LLC**  
By their attorney,

Barry P. Fogel, Esq.  
Keegan Werlin LLP  
99 High Street, Suite 2900  
Boston, MA 02110  
[bfogel@keeganwerlin.com](mailto:bfogel@keeganwerlin.com)

**DEPARTMENT OF ENVIRONMENTAL  
PROTECTION**  
By its representative,

MaryJude Pigsley, Regional Director  
MassDEP Central Regional Office  
8 New Bond Street  
Worcester, MA 01606

Date: March 1, 2024

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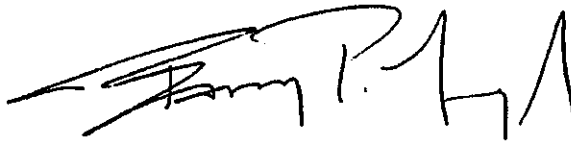
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**MEDWAY ENUMERATED PARTIES**

By their representative,

---

Paul G. Yorkis  
7 Independence Lane  
Medway, MA 02053  
[pgyorkis@gmail.com](mailto:pgyorkis@gmail.com)

**MEDWAY GRID, LLC**  
By their attorney,



---

Barry P. Fogel, Esq.  
Keegan Werlin LLP  
99 High Street, Suite 2900  
Boston, MA 02110  
[bfogel@keeganwerlin.com](mailto:bfogel@keeganwerlin.com)

**DEPARTMENT OF ENVIRONMENTAL  
PROTECTION**  
By its representative,

---

MaryJude Pigsley, Regional Director  
MassDEP Central Regional Office  
8 New Bond Street  
Worcester, MA 01606

Date: March 1, 2024

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**MEDWAY ENUMERATED PARTIES**  
C O P Y

By their representative,

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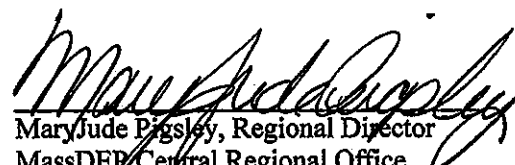
Paul G. Yorkis  
7 Independence Lane  
Medway, MA 02053  
[pgyorkis@gmail.com](mailto:pgyorkis@gmail.com)

**MEDWAY GRID, LLC**  
By their attorney,

---

Barry P. Fogel, Esq.  
Keegan Werlin LLP  
99 High Street, Suite 2900  
Boston, MA 02110  
[bfogel@keeganwerlin.com](mailto:bfogel@keeganwerlin.com)

**DEPARTMENT OF ENVIRONMENTAL  
PROTECTION**  
By its representative,



---

MaryJude Pigsley, Regional Director  
MassDEP Central Regional Office  
8 New Bond Street  
Worcester, MA 01606

Date: March 1, 2024



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**Massachusetts Department of Environmental Protection  
Bureau of Water Resources – Wetlands  
Final Order of Conditions - Affirmation  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40**

MassDEP  
File Number:

216-1035  
**Medway**

## A. General Information

From: **MassDEP - Central Region**

### To: Applicant:

Justin Adams, Medway Grid LLC

Name

988 Howard Avenue Suite 200

Mailing Address

Burlingame

CA

94010

City/Town

State

Zip Code

Project Location:

49, 53, 55 Milford Street

Street Address

46 & 56

Assessors Map

### Property Owner (if different from applicant):

Name

Mailing Address

City/Town

State

Zip Code

Medway

City/Town

55, 56, & 57 and 006

Parcel Number

### Final Approved Plans and Other Documents:

Medway Battery Energy Storage System NOI Plan Set

Title

Langen

6/8/2023

10/4/2023

Prepared by:

Date

Final Revision Date

Frank Holmes PE Civil #40203

Final Plans – Signed and Stamped by

Stormwater Management Report

Title

Langen

6/2023

10/4/2023

Prepared by:

Date

Final Revision Date

Frank Holmes PE Civil #40203

Report – Signed and Stamped by

**Project Description:** Construction of a battery energy storage facility with stormwater management in Buffer Zone and Riverfront Area.



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C O N D I T I O N S - A F F I R M A T I O N  
M A S S A C H U S E T T S  
W E T L A N D S  
P R O T E C T I O N  
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M. G. L. C. 131, §40

MassDEP  
File Number:

216-1035  
Medway

## B. Findings

MassDEP hereby approves the project as proposed.

In accordance with 310 CMR 10.05 (7) (i), this Final Order of Conditions affirms the Order of Conditions issued on November 14, 2023 by the Medway Conservation Commission for MassDEP File #216-1035. The Order of Conditions is attached and is incorporated by reference.

The proposed project is subject to the following conditions:

1. All work shall comply with the conditions contained in the attached Order of Conditions, subject to the following modifications:
  - a. The work shall comply with the plans referenced in this Final Order, if different from those listed in the Order of Conditions.
  - b. Requests for extensions in accordance with General Condition #5 shall be submitted to MassDEP.
  - c. Proof of recording in accordance with General Condition # 9 shall be submitted to MassDEP.
  - d. Requests for a Certificates of Compliance in accordance with General Condition # 12 shall be submitted to MassDEP, and wetland boundary flags shall remain in place pursuant to General Condition # 17 until a Certificate of Compliance has been issued by MassDEP.
  - e. MassDEP reserves the right to access the subject parcel for the assessment of compliance with this permit.
2. Special Condition #30 in Part II of the SOC is replaced in its entirety with the following text:
 

The Applicant shall install a system at the facility that allows for closure of the valves or gates on the stormwater lines leading from the deep sump catch basins and on the outlet control structure of the stormwater infiltration basin from a remote point when manual closure at the valves or gates is not possible due to conditions during an emergency event at the facility.

MassDEP makes no findings and imposes no conditions pursuant to a municipal bylaw or ordinance.

## C. Issuance

**Final Order of Conditions - Date of Issuance:** 1/25/2024

**Issued by:** Massachusetts Department of Environmental Protection

Signature

*Salvatore M. Girlanda, Chief Presidential Affairs*  
*MassDEP OADR*  
*04/05/2024*





Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Central Regional Office • 8 New Bond Street, Worcester MA 01606 • 508-792-7650

Maura T. Healey  
Governor

Rebecca L. Tepper  
Secretary

Kimberley Driscoll  
Lieutenant Governor

Bonnie Heiple  
Commissioner

CERTIFIED MAIL: 9589 0710 5270 1196 3139 19

January 25, 2024

Justin Adams  
Medway Grid LLC  
988 Howard Avenue, Suite 200  
Burlingame, CA 94010

Re: Wetlands-Medway  
MassDEP File #216-1035  
**Superseding Order of Conditions-  
Affirmation**

Dear Mr. Adams:

The Massachusetts Department of Environmental Protection ("MassDEP") has completed its review of an appeal of an Order of Conditions (the "Order") issued to Medway Grid LLC (the "Applicant") by the Medway Conservation Commission (the "Commission") on November 14, 2023. A Request for Departmental Action (the "Appeal") was filed in accordance with the Massachusetts Wetlands Protection Act, MGL Ch. 131 § 40 (the "Act") and its Regulations, 310 CMR 10.00 (the "WPA Regulations") by Medway Enumerated Parties (collectively, the "Appellant"), a citizen group, represented by Paul G. Yorkis.

The proposed project involves the construction of a battery energy storage facility with a stormwater management system within the 100-foot Buffer Zone to a Bordering Vegetated Wetland ("BVW"), and Riverfront Area. Erosion and sedimentation controls are proposed to be installed and maintained throughout construction. The Commission issued an Order approving and conditioning the project on November 14, 2023.

The Appeal states several concerns related to the stormwater system, air pollution, and the lack of an Emergency Response Plan ("ERP"). Further, the appellant asserts that the plan of record does not meet a decision requirement of the Department of Public Utilities (the "DPU"). MassDEP's Wetlands Program does not have the jurisdiction to review issues related to potential air pollution and concerns related to DPU approvals. The proposed stormwater system was designed to fully meet the ten standards set forth in the WPA Regulations and the Massachusetts Stormwater Handbook. It is MassDEP's opinion that the Commission included sufficient conditions in their Order to require an approved ERP prior to the installation of the battery packs and to address emergency response protocols before and after a thermal event. Specifically, Condition 30 requires the Applicant to investigate the feasibility of remote shut-off technologies

This information is available in alternate format. Please contact Melissa Esenyle at 617-626-1282.

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and install remote shut-off technologies if available. Condition 96 requires additional protective measures to prevent the migration of potentially contaminated discharges to wetland resource areas during a hazardous spill or thermal event.

Based on an evaluation of all information provided in the Notice of Intent, including additional information presented to all parties during the Appeal and site evaluation, MassDEP has determined that the proposed project meets the requirements of the Act and the WPA Regulations. It is MassDEP's opinion that potential impacts from the proposed work will be mitigated by the project's design and can be conditioned in a way to protect the interests of the Wetlands Protection Act. MassDEP hereby affirms the Order issued by the Commission in accordance with 310 CMR 10.05(7)(i).

Please be advised that the issuance of this Superseding Order of Conditions only indicates that the proposed project meets the requirements of the Massachusetts Wetlands Protection Act, MGL Ch. 131 S. 40. Approvals under the local bylaws are not granted by this action. Such approvals must be obtained from the local authority.

If you have any questions concerning this matter, please contact Kimberly Roth at (857) 291-0506 or me at (857) 263-0948.

Sincerely,

John B. Smith

**Judith Schmitz**  
Wetlands Section Chief  
Bureau of Water Resources

**Enclosures:** Superseding Order of Conditions-Affirmation  
Summary of Appeal Rights and Time Limits  
Adjudicatory Hearing Fee Transmittal Form  
Communication for Non-English Speaking Parties

cc: Medway Conservation Commission via [bgraziano@townofmedway.org](mailto:bgraziano@townofmedway.org)  
 Marc Bergeron, Epsilon Associates via [mbergeron@epsilonassociates.com](mailto:mbergeron@epsilonassociates.com)  
 Paul G. Yorkis, Medway Enumerated Parties via [pgyorkis@gmail.com](mailto:pgyorkis@gmail.com)



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**Massachusetts Department of Environmental Protection  
Bureau of Water Resources - Wetlands  
Superseding Order of Conditions - Affirmation  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40**

MassDEP  
File Number:

216-1035  
Medway

## A. General Information

From: **MassDEP - Central Region**

### To: Applicant:

Justin Adams, Medway Grid LLC

Name

988 Howard Avenue Suite 200

Mailing Address

Burlingame

CA

94010

City/Town

State

Zip Code

Project Location:

49, 53, 55 Milford Street

Street Address

46 & 56

Assessors Map

### Property Owner (if different from applicant):

Name

Mailing Address

City/Town

State

Zip Code

Medway

City/Town

55, 56, & 57 and 006

Parcel Number

### Final Approved Plans and Other Documents:

Medway Battery Energy Storage System NOI Plan Set

Title

Langen

6/8/2023

10/4/2023

Prepared by:

Date

Final Revision Date

Frank Holmes PE Civil #40203

Final Plans - Signed and Stamped by

Stormwater Management Report

Title

Langen

6/2023

10/4/2023

Prepared by:

Date

Final Revision Date

Frank Holmes PE Civil #40203

Report - Signed and Stamped by

**Project Description:** Construction of a battery energy storage facility with stormwater management in Buffer Zone and Riverfront Area.



**Massachusetts Department of Environmental Protection  
Bureau of Water Resources – Wetlands  
Superseding Order of Conditions Affirmation  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40**

MassDEP  
File Number:

216-1035  
Medway

## B. Findings

MassDEP hereby approves the project as proposed.

In accordance with 310 CMR 10.05 (7) (I), this Superseding Order of Conditions affirms the Order of Conditions issued on November 14, 2023 by the Medway Conservation Commission for MassDEP File #216-1035. The Order of Conditions is attached and is incorporated by reference.

The proposed project is subject to the following conditions:

1. All work shall comply with the conditions contained in the attached Order of Conditions, subject to the following modifications:
  - a. The work shall comply with the plans referenced in this Superseding Order, if different from those listed in the Order of Conditions.
  - b. Requests for extensions in accordance with General Condition #5 shall be submitted to MassDEP.
  - c. Proof of recording in accordance with General Condition # 9 shall be submitted to MassDEP.
  - d. Requests for a Certificates of Compliance in accordance with General Condition # 12 shall be submitted to MassDEP, and wetland boundary flags shall remain in place pursuant to General Condition # 17 until a Certificate of Compliance has been issued by MassDEP.
  - e. MassDEP reserves the right to access the subject parcel for the assessment of compliance with this permit.

MassDEP makes no findings and imposes no conditions pursuant to a municipal bylaw or ordinance.

## C. Issuance

**Superseding Order of Conditions - Date of Issuance: 1/25/2024**

**Issued by: Massachusetts Department of Environmental Protection**

Signature

*Judith B. Schmitz*

Judith Schmitz  
Wetlands Section Chief  
Bureau of Water Resources

1/25/2024

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**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:  
216-1035

MassDEP File #

eDEP Transaction #

Medway

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

3. To: Applicant:

<u>Justin</u>	<u>Adams</u>
a. First Name	b. Last Name
<u>Medway Grid LLC</u>	
c. Organization	
<u>988 Howard Avenue Suite 200</u>	
d. Mailing Address	
<u>Burlingame</u>	<u>CA</u>
e. City/Town	f. State
	<u>94010</u>
	g. Zip Code

4. Property Owner (if different from applicant):

<u></u>	<u></u>
a. First Name	b. Last Name
<u></u>	
c. Organization	
<u></u>	
d. Mailing Address	
<u></u>	<u></u>
e. City/Town	f. State
	g. Zip Code

5. Project Location:

<u>49, 53, 55 Milford Street</u>	<u>Medway</u>
a. Street Address	b. City/Town
<u>46 and 56</u>	<u>55, 56 &amp; 57 and 006</u>
c. Assessors Map/Plat Number	d. Parcel/Lot Number
Latitude and Longitude, if known:	<u>42d8m40.2s</u>
d. Latitude	<u>71d26m51.72s</u>
	e. Longitude





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Bureau of Resource Protection - Wetlands      C I A L

WPA Form 5 – Order of Conditions

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

Provided by MassDEP:  
216-1035

MassDEP File #

eDEP Transaction #

Medway

City/Town

## 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) 25  
a. linear feet

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input checked="" type="checkbox"/> Riverfront Area	9910	9910		
	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	0	0	0	0
	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	9910	9910	0	0
	g. square feet	h. square feet	i. square feet	j. square feet



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**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:  
216-1035  
MassDEP File # \_\_\_\_\_  
eDEP Transaction # \_\_\_\_\_  
**Medway**  
City/Town

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

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





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D E P A R T M E N T                      D E P A R T M E N T  
O F                      O F  
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**WPA Form 5 – Order of Conditions**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:  
216-1035

MassDEP File #

eDEP Transaction #

Medway  
City/Town

## 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 11/14/26 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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 R E S O U R C E                      R E S O U R C E  
 P R O T E C T I O N                      P R O T E C T I O N  
 W E T L A N D S                      W E T L A N D S

**WPA Form 5 – Order of Conditions**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:  
 216-1035

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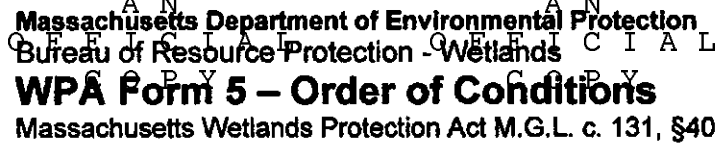
City/Town

**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                      216-1035                      "
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.

N O T



City/Town

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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P R O T E C T I O N                      P R O T E C T I O N  
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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 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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

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

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

**See attached for Findings and Conditions adopted under the MA Wetlands Protection Act (MGL. Ch. 131 S. 40) & the Medway General Wetlands Protection Bylaw (Article 21).**

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 Medway Conservation Commission hereby finds (check one that applies):
  - 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:
 

<u>Medway General Bylaw</u>	<u>Article 21 and 26</u>
1. Municipal Ordinance or Bylaw	
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 attached for Findings and Conditions adopted under the MA Wetlands Protection Act (MGL. Ch. 131 S. 40) & the Medway General Wetlands Protection Bylaw and the Stormwater Bylaw (Article 21 and 26).



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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.

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

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

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.

11/14/2023  
1. Date of Issuance

4  
2. Number of Signers

Signature Dayna Gill

Signature Michael Hardin

Signature [Signature]

Signature David A. Trivelpiece

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Printed Name Dayna Gill

Printed Name MICHAEL HARDIN

Printed Name James Dacore

Printed Name David A Trivelpiece

Printed Name \_\_\_\_\_

Printed Name \_\_\_\_\_

Printed Name \_\_\_\_\_

Printed Name \_\_\_\_\_

☐ by hand delivery on

Date

☒ by certified mail, return receipt requested, on

Date

11/14/2023

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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

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### F. Appeals

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

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

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



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**Massachusetts Department of Environmental Protection**  
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## G. Recording Information

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

Conservation Commission

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

To:

Conservation Commission

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

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for: Property Owner

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

Book

Page

In accordance with the Order of Conditions issued on:

Date

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

Instrument Number

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

Document Number

Signature of Applicant



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- f) Furthermore, the Medway Conservation Commission hereby finds that the proposed project is:

**Approved, subject to the findings and conditions contained herein.**

- A. The Medway Conservation Commission based its decision to approve the proposed project upon the information provided in the Notice of Intent referenced in the WPA Form 5 – Order of Conditions (“Part I”) issued concomitantly with this Part II OOC for the project, together with all of its contents and attachments, including the plans and documents identified in Part I, Sec. A, para. 8, the findings and conditions contained in this Part II, and the information presented and discussed at the public hearing, including updated and supplemental information filed by the Applicant and comments from peer review consultants providing input to the Commission.
- B. The Medway Conservation Commission further finds the following:
1. Wetland Resource Areas and Boundaries: The site contains the following wetland resource areas protected by the Massachusetts Wetlands Protection Act and the Medway Wetlands By-Law:
    - i. 25'- 100' buffer zone of Bordering Vegetated Wetlands
    - ii. 0-100' Riverfront Area (stormwater management system and restoration only)
    - iii. 100'- 200' Riverfront Area
  2. Additional General Findings:
    - i. This Order protects the interests specified in the Wetlands Protection Act and the Medway Wetlands By-Law. The Wetland resource areas on the lot are identified on the Plan.
    - ii. The Commission accepts the resource areas as depicted on the above-referenced Plan and as described in the Notice of Intent Project Narrative.
  3. Wildlife Habitat: The Commission finds that the project area is currently not within an estimated habitat for state-listed rare wetland wildlife as depicted on the most recent Estimated Habitat Map provided by the Natural Heritage and Endangered Species Program. The Commission further finds that the project is not within an Area of Critical Environmental Concern.
  4. Stormwater Management: The Commission finds that the project is subject to the Department of Environmental Protection’s Stormwater regulation and policy.
  5. In addition to the General Conditions and Findings stated in Parts I, II, and III of the Order of Conditions for this project, the General and Special Conditions below are necessary to comply with the Medway Wetlands By-Law, Article 21

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Term Operations and Maintenance Plan" Appendix A within Stormwater Report titled, "Stormwater Management Report for Medway Grid Energy Storage Project" by Langan, dated October 2023 (hereafter referred to as LTPEP), document titled, "Draft Stormwater Pollution Prevention Plan" Appendix L within Stormwater Report titled, "Stormwater Management Report for Medway Grid Energy Storage Project" by Langan, dated October 2023 (hereafter referred to as SWPPP), and document titled, "Spill Prevention, Control, and Countermeasure (SPCC) Plan for the Medway Grid Energy Storage Project" by Langan, dated August 23, 2023 (hereafter referred to as SPCC Plan) and the conditions of this Order. Copies of the applicable documents listed above shall be kept on site at all times while the site is under construction.

10. This document shall be included in all construction contracts, subcontracts, and specifications dealing with the work proposed and shall supersede any conflicting contract requirements. The applicant shall ensure that all contractors, subcontractors and other personnel performing the permitted work are fully aware of this Order's terms and conditions. Thereafter, the Applicant, the contractors, and subcontractors will be held jointly liable for any violation of this Order resulting from failure to comply with its conditions. The Applicant shall ensure that all contractors, subcontractors and other personnel performing the permitted work are fully aware of this OOC's terms and conditions. Nothing in this paragraph shall limit or restrict the liability of the Applicant for violations of this OOC.
11. If any changes are made in the approved plan(s) which may or will alter an area subject to protection under the Wetlands Protection Act or any change(s) in activity subject to regulations under G.L. Ch. 131 §40 or the Medway General Bylaw Article XXI, the applicant shall inquire from this Commission in writing, prior to their implementation in the field, whether the change(s) is significant enough to require the filing of a new Notice of Intent, or a Request To Amend this Order of Conditions. Any errors in the plans or information submitted by the applicant shall be considered changes and the above procedures shall be followed.
12. The Commission reserves the right to amend this Order of Conditions after a legally advertised public hearing if plans or circumstances are changed or if new conditions or information so warrant.
13. Should issuance of additional permits result in a change in the project, the provisions of condition #12 apply, regarding the process for plan amendments.
14. All waste products, refuse, debris, construction materials, etc. shall be contained and then post-construction, deposited at an appropriate off-site facility.
15. There shall be no underground storage of fuel, oil, or hazardous substance on the property within the buffer zones or Wetland Resource Areas.
16. Removal and storage of hazardous substances, hazardous waste, or hazardous material if in an area subject to protection under Massachusetts Wetlands Protection Act:
  - a. Shall be conducted only when approved and directed by the Department of Environmental Protection, Environmental Protection Agency or other applicable state or federal agency under which removal or remedial activities are directed and shall be conducted in the manner specified in the Notice of Intent and appropriate agency directives.
  - b. All hazardous materials, hazardous substances, and hazardous waste

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- Substitute <sup>A N</sup>MassDEP VPH/EPH for <sup>A N</sup>TPH allowed
- pH
- Priority Pollutant 13 Metals (total) <sup>C O P Y</sup>Sb, As, BA, Be, Cd, Cr, Pb, Ni, Se, Ag, Ti, V, Zn.
- Any other analyses determined by the Conservation Commission, MassDEP, or the LSP necessary to properly characterize the soil for relocation.

#### Exceptions:

Washed Stone Materials (The Commission may elect to require sampling of these materials if materials are suspect when inspected by the Commission or its Agent)

#### Alternative Sampling Plans:

The Commission may consider alternative sampling plans or soil materials at its sole discretion. Approval of the commission or its agent is required for alternate plans. These may include management of soils consistent with MassDEP WSC#-13-500, Similar Soils Provision Guidance. These may also include originating facilities that are known to the Commission based on previous certifications, historical operations, and sampling to produce soils below RCS-1.

19. The Commission may require shipping documentation for all materials brought to the site. The documentation shall include point of origin, trucking contractor, truck/trailer registration, date and time loaded, volume or weight, and date and time delivered. This shall be supplied to the Commission upon request.
20. The applicant shall supply all costs associated with services provided by a Consulting Engineer for the review and oversight related to, but not limited to, the following construction services and all site work related to the construction of the stormwater management system by the Town's Consulting Engineer is required. The Consulting Engineer will document compliance with the OOC and report findings to the Commission. The Applicant shall pay a construction services/consultant peer review fee to the Town of Medway for such inspections. The amount shall be determined by the Medway Conservation Commission based on an estimate provided by the Town's Consulting Engineer based on the scope of the project. The Applicant shall provide supplemental payments to the Town of Medway for reasonable additional construction services upon invoice from the Medway Conservation Commission, until the road construction and stormwater drainage system and other utilities are completed and the as-built and a Certificate of Compliance has been granted determining the infrastructure to be satisfactory in compliance with this Order. Funds for such account shall be replenished upon notice from the Conservation Commission and/or Agent. If funds are not replenished within fourteen (14) days of request all work within jurisdictional areas shall be suspended until such time when it is replenished.

## II. Prior to Construction

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- that, on-site operations shall comply with the Department of Public Utilities, June 30, 2023 decision which orders Medway Grid, LLC to minimize use of de-icing chemical on site both during operation and construction. Additionally, the applicant shall submit monthly records of amounts of de-icing chemical used on site during the months of November - April of every year. These records shall be submitted to the Medway Conservation Commission monthly during these designated times.
- that, the applicant/owner shall comply with the Department of Public Utilities, June 30, 2023 decision which order Medway Grid, LLC to develop the Emergency Response Plan (ERP) or other emergency response plans, which detail and require that no fire firefighting water contained within the stormwater system or basins shall be discharged outside the basin or be allowed to infiltrate into the ground. Applicant shall submit reports to the Medway Conservation Commission 48 hours post thermal event detailing how this requirement was met.

This condition shall remain in perpetuity.

29. The applicant shall submit all required emergency response team personnel information 30 days prior to battery packs being brought on to the site. This shall include, but not limited to, facilities manager, compliance manager, and any personnel noted in the LTPPP, ERP, and the SPCC Plan. The Commission shall be provided with any updated contacts within these documents, during and post-construction within 48 hours of the change.
30. Prior to commencement of work the applicant shall investigate the option for remote shut off valve and submit documentation whether it is feasible to have remote shut off valve installed instead of a manual shut off valve. This information shall be reviewed by the Conservation Commission at a public meeting. If the installation is feasible, the applicant shall install remote valves at MH 2A, 4A, 6A, 8A, and the infiltration basin outlet control structure.
31. Immediately after the Pre-Construction Meeting, all erosion controls and limits of work lines shall be installed along the approved and staked line. Erosion controls and limits of work lines shall be installed with minimal disturbance to vegetation. Where possible, erosion controls should go *around* trees, shrubs, and other vegetation, on the uphill side.
32. Immediately after installation of erosion controls, the Conservation Commission shall be contacted in order to conduct a follow-up inspection to ensure that erosion controls and limits of work lines have been properly installed. No work shall be conducted in any jurisdictional area of the site until the Commission or its Agent has inspected and approved of the installation of the erosion controls.
33. Prior to commencement of construction on site, the Bordering Vegetated Wetlands lines shall be flagged with surveyor's tape numbered to correspond to the wetland delineation on the approved plans and shall remain in place during construction.
34. Immediately after installation of erosion controls (consisting of 10"-12") compost socks and trenched siltation fencing), the Conservation Commission shall be contacted in order to conduct a follow-up inspection to ensure that erosion controls and limits of work lines have been properly installed. No work shall be conducted in any jurisdictional area of the site until the Commission or its Agent has inspected and approved the installation of the erosion controls.

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- B. Erosion control inspections. At least once every two weeks and within 24 hours of a rain event of ~~>0.5~~ <sup>>0.1</sup> inch within any 24-hour period, the designated Erosion Control Inspector shall conduct a thorough inspection of the site. At a minimum, each inspection shall include a visual inspection of all erosion control barriers, visual inspection of all temporary sediment traps and other erosion control measures, inspection of all stockpile areas, inspection of any ongoing activities within the Commission's jurisdiction.
- C. Precipitation Monitoring: The applicant shall obtain and maintain in good working order at the site a precipitation gauge. The applicant shall maintain a daily log of precipitation at the site and make the log available for inspection.
- D. Inspection reports. Within one week of the completion of an inspection, the Erosion Control Inspector shall submit a report of findings to the Medway Conservation Commission. The contents of this report shall include, but are not limited to, the following:
- a. Summary of site status with respect to construction phases and erosion control measures.
  - b. Summary of erosion control measure maintenance and additions conducted during the period since the last inspection.
  - c. A list of any and all recommended measures for maintenance, repair, or improvement of erosion control measures.
  - d. The results in tabular form of turbidity monitoring.
  - e. Each inspection report shall contain the following certification signed by the Erosion Control Inspector:  
 "With only the following exception(s) noted herein, it is my professional opinion that:
    1. Work on the site is being conducted in compliance with the Order of Conditions and other regulatory requirements and approvals related to environmental protection.
    2. The erosion control barriers and other erosion control measures are functioning as intended, are being maintained adequately, and are in a condition to continue to function as intended.
    3. I observed no impacts of sedimentation, physical disturbance, or other alteration of wetland resource areas, including open water areas and vegetated wetlands, on the site.

#### IV. Phasing

40. Prior to the commencement of work, the Contractor/Project Supervisors shall submit the proposed Phasing and Construction sequence which shall comply with all approved plans and documents.
41. The applicant shall construct the temporary stormwater management basin in the first phase of the project in accordance with the SWPPP.

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and/or the Towns National Pollutant Discharge Elimination System MS4 permit.

49. The temporary sedimentation basin constructed within the proposed location of the final constructed infiltration basin shall be lined, as shown on the approved plans, to prevent infiltration of fine sediments and silts from construction into the basin. The Professional Engineer of Record (applicant's Engineer) and the Towns Consulting Engineer shall approve the proposed liner used in the basin prior to its installation. Once the temporary basin is no longer required, the liner shall be removed. The liner shall not be removed without the approval of the Agent and/or the Towns Consulting Engineer.
50. During construction all stormwater management systems shall be inspected after a 0.5" rain fall and bi-monthly during construction. Structures shall be maintained and cleaned as prescribed within the SWPPP and LTPPP.
51. All construction and post-construction stormwater management shall be conducted in accordance with the plans and specifications approved by the Commission in this Order of Conditions, including final plans, Operation and Maintenance Plan, LTPPP, NPDES SWPPP, and the Department of Environmental Protection Stormwater Management Standards.
52. During construction, all drainage structures shall be inspected on the same schedule as the erosion controls and cleaned as necessary.
53. The Conservation Commission shall be notified in writing, when any maintenance functions that may impact the wetlands, such as, but not limited to, replacing backfill and repairing drains and terraces, are to be performed.
54. All Stormwater best management practices shall be maintained as specified in the SWPPP and the LTPPP submitted with the Notice of Intent and incorporated in the Order of Conditions. Evidence of maintenance of the Stormwater Management system shall be provided to the Commission on a semi-annual basis during construction.
55. The Town Consulting Engineer may require additional inspections of the stormwater management system. All inspections shall be scheduled per the requirements of the Town Consulting Engineer to ensure the system is installed and constructed as approved under the approved site plan and stormwater management report.
56. The applicant shall comply with all the requirements of the National Pollutant Discharge Elimination System (NPDES) any violation of the NPDES permit can be considered a violation of this Order by the Commission and/or the Agent.
57. Beginning with the construction of the drainage system, and continuing in perpetuity thereafter, the applicant shall maintain the facility access roadways and stormwater system in accordance with the following schedule:
  - a. **Access Road and snow plowing** – Access roadways within the facility shall be swept, preferably with a vacuum sweeper, in the early spring immediately after snow melt.
  - b. **Deep Sump Catch basins** - Accumulated sediments shall be removed from sumps and floatable wastes shall be removed from the surface of every catch basin at least two times per year. Sediments and wastes shall be disposed of in accordance with all



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cleaned on a quarterly basis. Post-construction all inspection and cleaning dates shall be provided to the Commission. A written confirmation that the inspections and cleanings were conducted, this shall be provided annually. This condition shall be noted on the Certificate of Compliance and shall continue in perpetuity.

62. Infiltration Basin after 0.5" storm event and on a weekly basis during construction. Post-Construction then twice annually in the spring and fall. The amount of hours it takes for water to infiltrate after a storm should be monitored and recorded. Any water remaining over 72 hours suggests there is a clog in the system. Sediment shall be removed as needed. This condition shall be noted on the Certificate of Compliance and shall continue in perpetuity.
63. There shall be no sedimentation into wetlands or water bodies from discharge pipes or surface runoff leaving the site.
64. The applicant shall not plow snow and other materials into any wetland resource, buffer zone, Riverfront, and shall not plow snow or other materials into the stormwater management components. This Condition shall remain in perpetuity.
65. The property owner and its successors shall submit annual reports of inspections and cleanings by December 1<sup>st</sup> of every year for all stormwater management structures as prescribed in the Long-Term Pollution Prevention Plan to the Conservation Commission, Planning and Economic Development Board and DPW. This condition shall remain in perpetuity.
66. The applicant and its successors, upon the completion of the entire project, prior to submitting a Request for Certificate of Compliance shall provide to the Commission and/or its Agent receipts of all inspections to the stormwater management system as prescribed under the Long-Term Pollution Prevention Plan. These receipts shall refer to but are not limited to catch basin cleaning, vegetation management, and inspection and cleaning of any components of the stormwater management system.
67. At the time of filing for a Request for Certificate of Compliance, there shall be no illicit discharges.

#### **VI. During Construction**

68. The applicant shall not place stockpiles closer than 25' to any wetland resource and/or within 100' of Riverfront Area and all stockpiles shall be within the limit of work approved by the Commission.
69. If unforeseen problems occur during construction which may affect the statutory interests of the Wetlands Protection Act, upon discovery by either the Conservation Commission, its agent, or the applicant, the Commission shall immediately be notified, and an immediate meeting shall be held between the Commission or its agent, the applicant, and other concerned parties to determine the correct measures to be employed. The applicant shall then act to correct the problems using the corrective measures agreed upon. After resolution, the activity and resulting actions shall be documented in writing.
70. All equipment shall be operated, parked, and maintained so as to limit impacts to resource area and buffer zone to those areas clearly identified on the plans and demarcated in the field by the flagging and construction barriers installed. No equipment

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discharged toward the wetland resource areas. With the exception of dewatering effluent discharged into a detention basin, no discharge of water is allowed directly or indirectly into an area subject to jurisdiction of the Wetlands Protection Act. If emergency dewatering requirements arise, the applicant shall submit a contingency plan to the Commission for approval, which provides for the pumped water to be contained in a settling basin, to adequately reduce turbidity prior to discharge into a resource area. Additional monitoring requirements may be imposed on any such discharge approved, to ensure adequacy of the sediment removal measures.

78. 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 approved erosion control barriers.
79. The Commission 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. For example, installation of erosion control measures may be required in areas not shown on the plan(s) referenced in this Order of Conditions. Should such installation be required by the Commission, they shall be installed within 48 hours of the Commission's request.
80. Within thirty days of completion of construction on any given portion of the project, all disturbed areas in the completed portion of the site shall be permanently stabilized with rapidly growing vegetative cover, using sufficient top soil, or the proposed surface treatments as indicated on the approved plans to assure long-term stabilization of disturbed areas. Where necessary, the loam and seeding shall be held in place with fiber jute netting. Outside of the growing season, exposed soil finish grade surfaces shall be stabilized with a layer of mulch hay until climate conditions allow for seeding. During construction, any area of exposed soils that will be left idle for more than 30 days shall be stabilized with a layer of mulch hay or other means approved by the Conservation Commission. Temporary stabilization methods may include, but not be limited to, hydro-seeding, straw mats, jute netting, sod, or other Commission approved method. A minimum of four to six inches of organic top soil, and a USDA Natural Resource Conservation Service-approved seed mixture should be used in accordance with the measures outlined in "Vegetative Practices in Site Development: Massachusetts Conservation Guide, Volume II", or other stabilization method the Commission deems acceptable. Continued maintenance of this area in a manner which assures permanent stabilization and precludes any soil erosion shall be the responsibility of the applicant.
81. Subsequent to seeding, disturbed areas will be covered with a hay mulch, erosion control blanket or netting or other suitable material in order to provide an adequate surface protection until seed germination. Preference should be given to erosion control netting with biodegradable stitching.
82. All existing and proposed catch basins and oil traps on the site that receive runoff from the project site and/or within Medway shall be protected by Silt Sacks or equivalent to prevent sediment from entering the drainage system. Silt Sacks shall be maintained and regularly cleaned of sediments until all areas associated with the work permitted by this Order have been permanently stabilized and the Commission and/or its Agent has formally approved their removal.

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and November 1) that at a minimum identifies the species found and removed and provides details on the condition of native plantings and the progress on the establishment of this Parā (photos to be included). The monitoring and removal of invasive species from the restoration area shall begin within one month of installation and continue at a minimum of twice per growing season until a Certificate of Compliance is issued.

94. The approved/installed restoration area shall not be altered from restoration area to any other use not consistent with natural buffer zone/Riverfront. This conditions shall remain in perpetuity.

#### **VIII. Emergency Response/In Perpetuity**

95. The applicant shall provide to and require that any companies and personnel managing the site maintain records of the following documents and plans, and all updated versions of these documents. All personnel responsible for implementation and the execution of the ERP and the SPCC Plan shall provide a written statement acknowledging the receipt of all of these documents (including this Order as well) and shall execute their responsibilities listed within these documents.

- a. Approved site plan titled, "Medway Battery Energy Storage System NOI Plan Set", by Langan, dated October 4, 2023
- b. Stormwater Report titled, "Stormwater Management Report for Medway Grid Energy Storage Project" by Langan, dated October 2023
- c. Document titled, "Long Term Operations and Maintenance Plan" Appendix I within Stormwater Report titled, "Stormwater Management Report for Medway Grid Energy Storage Project" by Langan, dated October 2023
- d. Document titled, "Spill Prevention, Control, and Countermeasure (SPCC) Plan for the Medway Grid Energy Storage Project" by Langan, dated August 23, 2023
- e. Document titled, "Supplemental Filing #1 – Notice of Intent/Land Disturbance Permit – Medway Grid Energy Storage Project" by Epsilon" Attachment I Draft Emergency Response Plan, dated August 24, 2023

96. The following shall be implemented during a hazardous spill or thermal event.

- a. Hazardous spills shall require the manual or remote closure of shut off valves within catch basins (MH2A, 4A, 6A, and 8A). These valves shall be shut by Emergency Response Personnel during a hazardous waste spill.
- b. Thermal event shall require the closure of the shut off valve within the outlet control structure for the infiltration basin. Additionally, any water resulting from the thermal event shall be sampled and pumped out of the basin within 24 hours, unless deemed unsafe to do so by emergency response personnel. Firefighting water contained within the stormwater system or basins shall not be allowed to infiltrate or discharge to wetlands. The soils at the bottom of the basin shall be tested for contaminants of concern as listed in Condition #18. All reports and testing requested and generated by the Licensed Site Professional shall be submitted to the Medway Conservation Commission within 48 hours of receipt.
- c. All requirements of the DPU decision dated June 30, 2023 and more stringent requirements listed in the Order shall be executed during these events.

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system to contain any spills or effluent water from a thermal event. This list shall be supplied to the Commission annually, no later than December 1<sup>st</sup> of every year. ***This condition shall remain in perpetuity.***

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105. If the property is sold to a successor, the successor shall be provided with all information regarding conditions in perpetuity and shall contact the Conservation Commission within 30 days of the sale to discuss the operations with regards to thermal events, the ERP, SPCC Plan, LTPPP and wetland resource protection. ***This condition shall remain in perpetuity.***
106. Snow storage areas shall be clearly marked on site and all snow removal operators shall be made aware of approved locations on site for storage. Excess snow shall be removed from the site and disposed of in accordance with applicable regulations. ***This condition shall apply in perpetuity.***
107. Upon completion of construction and final soil stabilization, the applicant shall submit the following to the Conservation Commission to request a Certificate of Compliance (COC):
  - (1) A Completed Request for a Certificate of Compliance form (WPA Form 8A)
  - (2) A letter from a Registered Professional Engineer certifying compliance of the property with this Order of Conditions, and detailing any deviations that exist, and their potential effect on the project. A statement that the work is in "substantial compliance" with no detailing of the deviations shall not be accepted.
  - (3) An "As-Built" plan or plans signed and stamped by a Registered Professional Engineer or Land Surveyor showing post-construction conditions within all areas under the jurisdiction of the Massachusetts Wetlands Protection Act. This plan shall include at a minimum:
    - (a) All wetland resource area boundaries with associated buffer zones and regulatory setback areas taken from the plans approved in this Order of Conditions;
    - (b) Locations and elevations of all stormwater management conveyances, structures and best management designs, including foundation drains, constructed under this Order within any wetland resource area or buffer zone;
    - (c) Distances from any structures constructed under this Order to wetland resource areas - "structures" include, but are not limited to, all buildings, septic system components, wells, utility lines, fences, retaining walls, and roads/driveways;
    - (d) A line delineating the actual limit of work - "work" includes any filling, excavating and/or disturbance of soils or vegetation, whether or not approved under this Order;
    - (e) The limit of work approved under this Order.
  - (4) Post-construction photographs demonstrating compliance with this Order, including established vegetation where required.
108. If the completed work differs from that in the original plans and/or conditions listed in this Order, a report must be submitted to the Commission thirty (30) days prior to completion specifying how the work differs, at which time the applicant shall first request a

119. Snow storage shall be done according to the LTPPP (in perpetuity) and the SWPPP (during construction). Snow storage areas shall be clearly marked on site and all snow removal operator shall be made aware of approved locations on site for storage.
120. Any deicing chemicals stored on site must be stored in a covered location, outside the 100' buffer zone, the Riverfront Area, and all areas where stormwater BMP's are located.

- a) The Commission hereby finds that the work proposed for construction of a 345 kV electric substation on a 10.6 acre site, stormwater management, access road, buffer zone and Riverfront restoration (Section 23 Wetlands Bylaw), connection to an existing transmission line and stormwater was presented at a public hearing where the applicant has presented evidence sufficient to demonstrate that the proposed activity meets the provisions under Medway General Bylaw Article 26.
- b) It was noted that all conditions of this Order must be met in order to meet the above-mentioned provisions. The Commission additionally finds that the work must be conditioned to ensure that all the performances standards of the Medway General Stormwater Bylaw Article 26 are met.

1. A Conservation Commissioner, agent of the Commission reserves the right to enter and inspect the property at all reasonable times to evaluate compliance with this Order of Conditions, the Medway Stormwater Bylaw Article 26 and may acquire any information, measurements, photographs, observations, and/or materials, or may require the submittal of any data or information deemed necessary by the Commission for that evaluation. Further, work shall be halted on the site if a Commissioner, agent determines that any of the work is not in substantial compliance with this Order of Conditions. Work shall not resume until the Commission is satisfied that the work will comply, and has so notified the applicant in writing.
2. The term "Applicant" as used in this Order of Conditions shall refer to the owner, any successor in interest, title or successor in control of the property referenced in the Notice of Intent, supporting documents and this Order of Conditions. The Commission shall be notified in writing within 30 days of all transfers of title of any portion of property that take place prior to issuance of the Certificate of Compliance.
3. It is the responsibility of the applicant to procure all other applicable federal, state and local permits and approvals associated with this project.
4. With respect to all conditions, the Conservation Commission designates the Conservation Agent as its agent with full powers to act on its behalf in administering and enforcing this Order.
5. All work shall be conducted in accordance with the approved site plan titled, "Medway Battery Energy Storage System NOI Plan Set", by Langan, dated October 4, 2023 (hereafter referred to as the approved Site Plan), Restoration Plan titled, "Medway Battery Energy Storage System NOI Plan Set", by Langan, dated October 4, 2023, Sheet LP 101 and LP 501 (hereafter referred to as Restoration Area), Stormwater Report titled, "Stormwater Management Report for Medway Grid Energy Storage Project" by Langan,

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dated October 2023 (hereafter referred to as Stormwater<sup>A N</sup> Report), document titled, "Long Term Operations<sup>I</sup> and Maintenance Plan" Appendix<sup>I</sup> within Stormwater<sup>A N</sup> Report titled, "Stormwater Management Report for Medway Grid Energy Storage Project" by Langan, dated October 2023 (hereafter referred to as LTPPP), document titled, "Draft Stormwater Pollution Prevention Plan" Appendix L within Stormwater Report titled, "Stormwater Management Report for Medway Grid Energy Storage Project" by Langan, dated October 2023 (hereafter referred to as SWPPP), and document titled, "Spill Prevention, Control, and Countermeasure (SPCC) Plan for the Medway Grid Energy Storage Project" by Langan, dated August 23, 2023 (hereafter referred to as SPCC Plan) and the conditions of this Order. Copies of applicable documents listed above shall be kept on site at all times while the site is under construction.

6. This LD Permit is also subject to the following conditions that are set forth in Part II of the Order of Conditions, which are incorporated into this LD Permit and are enforceable as conditions of this LD Permit: Conditions numbers 2, 3, 7, 8, 18-20, 27, 41, 43-47, 48-67, and 75.

## **II. Stormwater Management**

7. Prior to construction the contractor/project supervisor shall provide plans showing the proposed locations of the temporary sedimentation basins. These shall be approved by the Town Consulting Engineer and/or the Conservation Agent. Once approved the contractor shall construct a temporary stormwater management basin as prescribed by the Stormwater Pollution Prevention Plan and/or the Towns National Pollution Discharge Elimination System MS4 permit.
8. The applicant shall install the proposed stormwater management system as prescribed on the Approved Site Plan and the Approved Stormwater Report conforming to the Massachusetts Stormwater Management Standards.
9. The Towns Consulting Engineer shall be contacted with the appropriate time (no less than 5 business days) to schedule inspections for inspection of the bottom excavation for the sub-surface infiltration system. The Commission reserves the right to require the information documenting or showing the system was installed as designed if the applicant did not follow the above requirement of oversight by the Town Consulting Engineer. The may include excavation of the installed system.
10. The applicant shall comply with all the requirements of the National Pollution Detection Elimination System (NPDES) any violation of the NPDES permit can be considered a violation of this Order by the Commission and/or the Agent.
11. All Stormwater best management practices shall be maintained as specified in the approved SWPPP, LTPPP, and incorporated in the Order of Conditions. Evidence of maintenance of the Stormwater Management system shall be provided to the Commission on a semi-annual basis during construction.

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year. Sediments and wastes shall be disposed of in accordance with all applicable federal, state, and local laws. Any component of a catch basin that becomes damaged shall be repaired or replaced immediately upon discovery.

g. **Outlet control structure and spillway** – The outlet structures for the detention basin shall be inspected at least twice annually for evidence of clogging, scouring, slumping, erosion or other problems and shall be cleaned and repaired as needed to maintain proper functioning. The outlet shall also be inspected at least annually during a heavy rain storm to detect any problems in function. Any problems shall be corrected.

h. **Infiltration System** – until the site is stabilized the system shall be inspected after every significant storm (> 0.5 inches). Once the site is stable inspections may be performed at a minimum twice annually. Infiltration basin shall be inspected and cleaned at least two times annually and inspected quarterly, beginning in the early spring after snow melt. Accumulated sediments, leaves, branches, and other debris shall be removed and disposed of in accordance with all applicable federal, state, and local laws. Vegetation shall be mowed at least twice a year to prevent the growth of woody species or when grasses and herbaceous vegetation has grown taller than 6", slope vegetation shall be maintained between 3"-6". Sediment shall be removed when 6" or greater. Water level shall be measured and corrective action taken if water does not drain in 72 hours following a storm.

All maintenance of stormwater management units shall be conducted as prescribed under SWPPP and the Long Term Pollution Prevention Plan. The Conservation Commission members and the Commission Agent shall have the right to enter the roadway parcel and drainage easement area to inspect for compliance with all sub conditions of this condition.

22. Catch basins shall be equipped with sumps, oil and gas traps, and shall be inspected and cleaned as outlined in the stormwater operation and maintenance plan submitted with the NOI. After each inspection and cleaning, the inspector shall provide to the Commission written confirmation that the inspection and cleaning were conducted.
27. All stormwater BMP's maintenance logs as prescribed under the Appendix I- LTPPP shall be kept on site and shall be provided to the Conservation Commission upon request and annually or Planning Board upon request.
28. All Stormwater best management practices shall be maintained as specified in the SWPPP the LTPPP submitted with the Notice of Intent and incorporated in the Order of Conditions. Evidence of maintenance of the Stormwater Management system shall be provided to the Commission on an annual basis post construction, but Stormwater BMP's shall be checked and cleaned according to the schedule prescribed within the O & M Plan. This condition shall be noted on the Certificate of Compliance and shall continue in perpetuity.
29. Deep Sump Catch Basins shall be inspected after a 0.5" storm event and on a weekly basis during construction. Post- Construction: the catch basins shall be inspected and cleaned on a quarterly basis. Post- construction inspection and cleaning dates shall be



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immediate meeting shall be held between the Commission or its agent, the applicant, and other concerned parties to determine the correct measures to be employed. The applicant shall then act to correct the problems using the corrective measures agreed upon. After resolution, the activity and resulting actions shall be documented in writing.

40. All equipment shall be operated, parked, and maintained so as to limit impacts to resource area and buffer zone to those areas clearly identified on the plans and demarcated in the field by the flagging and construction barriers installed. No equipment is to enter or cross wetland resource areas at any time unless the location of disturbance is marked on the plans referenced in this Order and flagged in the field.
41. During construction, personnel shall exercise extreme care when onsite fueling is underway during construction or storms. Spill kits as required herein shall be maintained at the fueling system during all stages of construction. Any spill of fuel shall be immediately reported to the Medway Fire Department, Police Department and Conservation Commission.
42. A copy of this Order of Conditions, construction plans, and copies of the documents and reports cited in this Order shall be on the site upon commencement and during any site work for contractors to view and adhere to.

Erosion Control:

43. 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 designee shall inspect the erosion controls on a daily basis and shall remove all sediment when accumulated to a depth of two inches or greater. The applicant shall immediately control all erosion on the site, and shall immediately notify the Commission of any breaches of the erosion control barriers by sediment or silt-laden water. The Commission 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.
44. Dewatering activities shall be conducted in accordance with best management practices and with a plan to be submitted to the Commission and/or its Agent for approval prior to any dewatering activity on the site. Dewatering activities shall be monitored daily to ensure that sediment laden water is not discharged toward the wetland resource areas. With the exception of dewatering effluent discharged into a detention basin, no discharge of water is allowed directly or indirectly into an area subject to jurisdiction of the Wetlands Protection Act. If emergency dewatering requirements arise, the applicant shall submit a contingency plan to the Commission for approval, which provides for the pumped water to be contained in a settling basin, to adequately reduce turbidity prior to discharge into a resource area. Additional monitoring requirements may be imposed on any such discharge approved, to ensure adequacy of the sediment removal measures.
45. An adequate covered 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 approved erosion control barriers. Stockpiles of erosion control materials shall be stored under cover in specified location on site during construction for any issues that may arise requiring the maintenance of erosion controls.
46. The areas of construction shall remain in a condition that is protected by erosion control

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53. Erosion and sedimentation control devices shall be inspected after each storm event and repaired or replaced as necessary. Any silt adjacent to the barriers shall be removed when it accumulates to two inches in depth.

54. All stockpiles of soils existing for more than seven days shall be surrounded by a row of staked straw bales, compost socks or entrenched silt fence, and shall be covered. The applicant shall cover and surround all soil piles with erosion controls prior to a rain event of 0.5 inches or greater. The Commission reserves the right to require any stockpiles be covered during rain events, as directed through the Agent and/or a Commissioner.

Grading/Landscaping/Slope:

55. Grading shall be accomplished so that runoff shall not be directed to the property of others outside the project area without mitigation as described in the project plans. This project shall not increase runoff, nor cause flood or storm damage, to abutters or the property of others outside the project area.
56. Landscaping shall not include exotic invasive species identified on the most current listing of the Massachusetts Division of Fisheries and Wildlife.
57. Slopes that are 2:1 shall be stabilized using erosion control blankets where slope is seeded prior to erosion control blanket placement with a native seed mix approved by the Conservation Commission and/or its Agent prior to application.

Placement of Riprap and Stone:

58. All stone aggregate and riprap material shall be clean and free of trash, tree stumps, roots, and other deleterious material.

**VII. After Construction / In Perpetuity**

59. Upon completion of construction and final soil stabilization, the applicant shall submit the following to the Conservation Commission:
- a. final As-Built Plan with a letter from the Engineering stating that all work was completed in conformance with the approved plans, this permit and the Medway Stormwater Bylaw Article 26.