

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:
 14-1307
 MassDEP File #

eDEP Transaction #
 Danvers
 City/Town

A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
 Southern Essex
- | | |
|---------------------------------------|--------------------------------------------|
| a. County | b. Certificate Number (if registered land) |
| 105 Dayton St. = Book 27220, Page 453 | 115 Dayton St. = Book 25373 Page 353 |
| c. Book | d. Page |
7. Dates: 1/24/2018 3/22/2018 3/30/2018
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
 Plan to Accompany a Notice of Intent for Stormwater Management System Improvements
 105 & 115 Dayton St., Danvers, MA prepared for 115 Dayton St., LLC
- | | |
|-------------------------------------------------------|--------------------------|
| The Morin-Cameron Group, Inc. | Scott P. Cameron |
| b. Prepared By | c. Signed and Stamped by |
| 1/24/2018 | 1" = 40' |
| d. Final Revision Date | e. Scale |
| Technical Report in Support of Definitive Subdivision | 12/20/2017 |
| f. Additional Plan or Document Title | g. Date |

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- | | | |
|-------------------------------------------------------------|----------------------------------------------------------------|-----------------------------------------------------------------------|
| a. <input checked="" type="checkbox"/> Public Water Supply | b. <input type="checkbox"/> Land Containing Shellfish | c. <input checked="" type="checkbox"/> Prevention of Pollution |
| d. <input checked="" type="checkbox"/> Private Water Supply | e. <input checked="" type="checkbox"/> Fisheries | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input checked="" type="checkbox"/> Groundwater Supply | h. <input checked="" type="checkbox"/> Storm Damage Prevention | i. <input checked="" type="checkbox"/> Flood Control |

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



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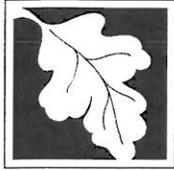
B. Findings (cont.)

Denied because:

- b. the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 70' +/-
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 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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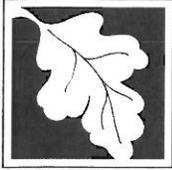
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B. Findings (cont.)

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

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	_____	_____		
	a. square feet	b. square feet		
	_____	_____		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	_____	_____	_____ cu yd	_____ cu yd
	a. square feet	b. square feet	c. nourishment	d. nourishment
14. <input type="checkbox"/> Coastal Dunes	_____	_____	_____ cu yd	_____ cu yd
	a. square feet	b. square feet	c. nourishment	d. nourishment
15. <input type="checkbox"/> Coastal Banks	_____	_____		
	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	_____	_____		
	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	_____	_____		
	a. square feet	b. square feet		
	_____	_____		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
20. <input 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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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):

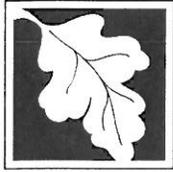
a. number of new stream crossings

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 3/30/2021 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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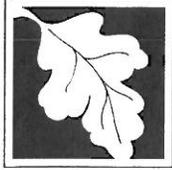
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C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
 "File Number 14-1307 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
- (1) is subject to the Massachusetts Stormwater Standards
- (2) is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



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

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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

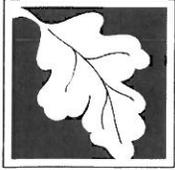
- g) The responsible party shall:
 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission (“Commission”) upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.

- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

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

See attached.

- 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 Danvers _____ hereby finds (check one that applies):
 Conservation Commission
- a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw	2. Citation
---------------------------------	-------------

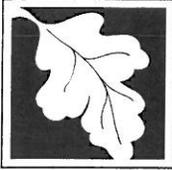
Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

<u>Danvers Wetland Bylaw</u>	<u>Ch. XXVI</u>
1. Municipal Ordinance or Bylaw	2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):
 See attached.



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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.

3/30/18
 1. Date of Issuance

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

3

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

2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

[Handwritten signatures]

by hand delivery on

by certified mail, return receipt requested, on

3/30/18

Date

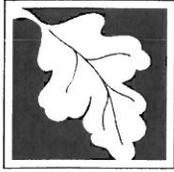
Date

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 of 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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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



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

DEP File Number:

Provided by DEP

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

A. Request Information

1. Location of Project

a. Street Address	b. City/Town, Zip
c. Check number	d. Fee amount

2. Person or party making request (if appropriate, name the citizen group's representative):

Name

Mailing Address

City/Town	State	Zip Code
Phone Number	Fax Number (if applicable)	

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

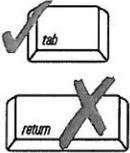
Name

Mailing Address

City/Town	State	Zip Code
Phone Number	Fax Number (if applicable)	

4. DEP File Number:

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



B. Instructions

1. When the Departmental action request is for (check one):

- Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- Superseding Determination of Applicability – Fee: \$120
- Superseding Order of Resource Area Delineation – Fee: \$120



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

DEP File Number:

Provided by DEP

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

B. Instructions (cont.)

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection
Box 4062
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/>).
4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

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**ORDER OF CONDITIONS, DEP FILE #14-1307
APPLICANT: 115 DAYTON ST. LLC
CONSTRUCTION OF STORMWATER MANAGEMENT SYSTEM IMPROVEMENTS
105 & 115 DAYTON STREET
MARCH 30, 2018**

***Please refer to Conditions #1-20 of DEP's General Conditions**

ADDITIONAL GENERAL CONDITIONS:

21. Should issuance of additional permits result in a change in the project, the provisions of DEP's Standard Condition under Section C. General Condition 13 and General Condition 14 shall apply, regarding the process for plan changes.
22. The Order as issued under the Chapter XXVI of the Town of Danvers General Bylaws, the Wetlands Protection Bylaw, can only be extended for one, one-year period. If, at the end of this one-year extension, the project has not received a Certificate of Compliance, a new Notice of Intent is to be submitted and acted upon. Note: This is in addition to DEP's Standard Condition under C. General Condition 5.
23. Any Order not recorded as specified in DEP's Standard Condition under C. General Condition 9 may be recorded by the Commission at the applicant's expense.
24. The sign displayed according to C. General Condition 10 must say **DEP & DCC File No. 14-1307**. This sign shall not be attached to a living tree.
25. The proposed activity shall comply with all referenced plan(s) except as shall be conditioned herein. No substantial or material change shall be made without a formal approval action taken by the Conservation Commission. Determination of whether proposed changes are substantial or material must be made by the agent for the Conservation Commission before action is taken. The Commission will make no ruling on any proposed changes until the applicant has submitted a written request for the Commission to make a formal determination on whether the change will require filing a new Notice of Intent. A copy of this request shall be sent to the Department of Environmental Protection's Northeast Regional Office. A new Public Hearing, at the expense of the applicant, will then be required to amend this Order or if necessary to issue a new Order. No work involving the change(s) shall be done until approved by the agent for the Conservation Commission or a new or amended Order has been issued and all appeal periods have expired. It is the responsibility of the Applicant to make sure that any changes accepted by or required by the Conservation Commission are reflected in plans held by other Town departments. Any errors in the plans or information submitted by the applicant shall be considered changes and the above procedures shall be followed. Note: This is in addition to DEP's Standard Condition under C. General Condition 13.
26. This Order may be deemed invalid if any of the information provided to the Commission is found to be incorrect.
27. Until a Certificate of Compliance to this Order is issued, a Conservation Commissioner, agent of the Commission or the Department of Environmental Protection reserves the right to enter and inspect the property at all reasonable times to evaluate compliance with this Order and may require any information,

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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 the Commissioner, agent or DEP determines that any of the work is not in compliance with this Order. Work shall not resume until the Commission is satisfied that the work will comply, and has so notified the applicant in writing. Note: This is in addition to DEP's Standard Condition under C. General Condition 15.

28. This Order shall apply to any successor in control or successor in interest of the property described in the Notice of Intent and accompanying plans and to any contractor or other person performing work conditioned by this Order. These obligations shall be expressly stated in all deeds to succeeding owners of all or portions of the property. Note: This is in addition to DEP's Standard Condition under C. General Condition 16.
29. The term "Applicant" as used in this Order of Conditions shall refer to the owner, any successor in interest 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. The Commission shall be provided with the name, address and telephone number of the new owner.
30. 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 assure that all contractors, subcontractor and other personnel performing the permitted work are fully aware of the permit's terms and conditions. Thereafter, the contractor will be held jointly liable for any violation of this Order resulting from failure to comply with its conditions.
31. It is the responsibility of the Applicant, Owner, and/or successor(s) to ensure that all Conditions of this Order of Conditions are complying always. All project engineers and contractors are to be provided with a copy of this Order of Conditions and referenced documents before commencement of construction.
32. If unforeseen problems occur during construction which may affect the statutory interests of the Wetlands Protection Act or the Town of Danvers Wetlands Protection Bylaw, 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.
33. The owners of the project and their successors in title, in the event they proceed to alter areas subject to the Commission's jurisdiction under the Order, agree that the Order does not in itself impose upon the Town of Danvers any responsibility to maintain the proposed drainage system and that said Town shall not be liable for any damage in the event of failure. By acceptance of this Order and commencement of work authorized herein, the applicant, owner, and their respective agents, assign, and successors in title agree to indemnify and hold harmless the Town and its residents for any damages that occur on or off the subject property, or any legal claims which are the result of any alterations undertaken or construction attributable to alterations undertaken on this property pursuant to the Order. Maintenance of the drainage system, if accepted by the Town as part of a public way, becomes the

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responsibility of the Town. Issuance of this Order does not in any way imply or certify that the subject property or downstream or adjacent properties will not be subject to flooding, storm damage, or any other form of water damage that might result from alterations undertaken or construction performed on the subject property pursuant to this Order of Conditions.

34. 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.
35. This permit is also issued pursuant to the Town of Danvers Wetlands Protection Bylaw Chapter XXVI, and is required in addition to the state Wetlands Protection Act permit to conduct work.
36. This Order shall pertain to the construction of stormwater management system improvements.
37. Any damage caused as a direct result of this project to any wetland resource areas shall be the responsibility of the applicant to repair, restore and/or replace. Sedimentation or erosion into these areas shall be considered damage to wetland resource areas. If sediment reaches these areas the Commission shall be contacted and a plan for abatement of the problem and proposed restoration/mitigation measures shall be submitted for approval and implementation.

PRE-CONSTRUCTION CONDITIONS:

38. Prior to commencing any work on the site under this Order, the applicant shall submit the following to the Conservation Commission:
 - A **statement** signed by, the applicant, owner of the property and the person responsible for the construction of the project that such individuals understand the terms and conditions as specified in the Order and that such persons agree to comply with the provisions of the Wetlands Protection Act, local Bylaw and this Order.
 - A set of **photographs** depicting the project site in pre-construction condition.
 - A **project/construction-sequencing plan**
39. Prior to commencing construction, the applicant shall have informed the Commission, in writing, of the names, addresses, and business telephone numbers of the project supervisor and his/her alternate.
40. **The Conservation Commission shall be notified by written notice or by telephone, by the applicant or a duly authorized representative, 48 hours prior to the commencement of any excavation or construction activity on the site.** Said notice shall be confirmed by the Conservation Commission and/or Staff through the scheduling of a pre-construction meeting. Failure to comply with pertinent Conditions shall result in a directive to cease any activity. If work ceases on the site for a period greater than 30 consecutive days and inspections required by this Order are stopped, this Condition shall again apply prior to recommencing work on the site. Compliance with this Condition does not relieve the applicant from complying with all other Conditions. All Conditions requiring additional information prior to commencing construction shall be met prior to submitting this notice.
41. **Prior to the installation of erosion control devices and prior to the start of any excavation or construction, a pre-construction conference shall be held on the**

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site, involving the contractor conducting the work, the site engineer, the applicant, the environmental monitor and a member or agent of the Conservation Commission, to ensure that the requirements of this Order are understood by all parties.

42. Prior to commencing any work on the site, the **proposed limit of work**, as defined by the plans referenced in this Order and as may be amended by the Order, shall be clearly marked with stakes, markers, fencing and/or flags or with the required sediment barriers. Workers shall be informed that, except as may be allowed by this order, no activity, such as storage of materials or machinery or the stockpiling of soils, is to take place beyond this limit of work. Note: This is in addition to DEP's Standard Condition under C. General Condition 18.
43. All stockpiled soils on the site shall be stockpiled at least 50 feet from resource areas or as far away from resource area as possible.

EROSION CONTROL:

44. Erosion control devices and/or orange construction fencing shall act as the limit of work and any change will act as a modification to the plan.
45. Erosion control devices shall include a silt sock and silt sock/silt fence combination, which must be staked and properly backfilled at least 3”.
46. Appropriate erosion control devices shall be in place prior to the beginning of any phases of construction, and shall be maintained during construction. The erosion control specifications provided in the Notice of Intent and the erosion control provision in the Order will be the minimum standards for this project; additional measures may be required by the Commission. The erosion control devices will be maintained until the engineer and a member or agent of the Conservation Commission agree that they are no longer needed, at which time they will be removed, using mutually satisfactory removal procedures.
47. All existing and proposed catch basins and oil traps on the site or on the streets adjacent to the project shall be protected by Silt Sacks 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 Staff has formally approved their removal.
48. An adequate stockpile of erosion control materials shall be on site always for emergency or routine replacement and shall include materials to repair or replace silt fences, hay bales, erosion control blankets, stone riprap, filter berms or any other devices planned for use during construction.
49. The areas of construction shall remain in a stable condition at the close of each construction day. Erosion controls should be inspected at this time, and repaired, reinforced or replaced as necessary.
50. The Commission reserves the right to require additional erosion and/or damage prevention controls if deemed necessary. These may be required by the Conservation Staff, or the Commission at any time when deemed appropriate.
51. After seeding, disturbed areas will be covered with hay mulch, erosion control blanket, netting, or other suitable material to provide an adequate surface protection

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until seed germination. Preference should be given to erosion control netting with biodegradable stitching.

POLLUTION CONTROL (INCLUDING REFUELING OPERATIONS):

52. During and after work on this project, there shall be no discharge or spillage of fuel, oil, or other pollutants. If there is a spill of any kind and any quantity on the site, the applicant shall immediately notify the Conservation Commission. This condition shall be noted on the Certificate of Compliance and remain in perpetuity.
53. If, during construction and excavation, visible or other evidence of oil or hazardous materials as defined in 310 CMR 40.0000, is encountered, the site supervisor shall immediately cease all activity in the location and contact the Conservation Staff. Written documentation shall thereafter be provided, within twenty-one days, documenting the proper handling of these materials.

STORMWATER MANAGEMENT AND DRAINAGE STRUCTURES:

54. All discharges of storm water from sedimentation basins, detention ponds or other manmade water management facilities will conform to Grade B water quality standards or higher prior, as per the Surface Water Quality Standards Regulations under MGL Chapter 21 Section 27(314 CMR 4.00), to entering natural wetlands on the site. This is a minimum standard for all work allowed under this Order. In addition, the quality of water at the point of discharge should not be significantly less than the quality of the receiving waters. If at any time the stormwater being discharged into wetland or waterways is found to be of a significantly lower quality, the Commission may require mitigation as needed to protect the resource areas(s) in question.
55. The installation of all drainage structures shall be witnessed by a Registered Professional Engineer (Civil). The engineer shall submit documentation to the Conservation Commission stating that he witnessed the installation of the drainage components and that each was installed correctly and in accordance with the manufacturer's specifications.
56. All construction and post-construction stormwater management shall be conducted in accordance with supporting documents submitted with the Notice of Intent, the Department of Environmental Protection Stormwater Management Policy and as approved by the Commission in this Order of Conditions.
57. All **stormwater best management practices shall be maintained** as specified in the Operation & Maintenance and Pollution Prevention Plan 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.
58. Catch basins shall be inspected and cleaned on a semi-annual basis. After each inspection and cleaning, the inspector shall provide to the Commission written confirmation that the inspection and cleaning were conducted.
59. The applicants, owners, and their successors and assignees shall maintain all culverts, collection basins, traps, retention and detention ponds, outlet structures, and other elements of drainage systems, unless put into an easement to the Town of Danvers, to avoid blockages and siltation which might cause failure of the system

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and/or detrimental impacts to on-site or off-site resource areas, and shall maintain the integrity of vegetative cover on the site. This condition shall be noted on the Certificate of Compliance and remain in perpetuity.

MONITORING:

60. The applicant shall provide the person's phone number who has been designated to act as an Environmental Monitor (EM).
61. The EM shall be a Professional Engineer, Professional Land Surveyor or wetland scientist as applicable.
62. The EM will be present on site during and after storm events so as to take responsibility for the proper functioning of drainage and erosion control systems for the project.
63. The EM shall inspect the site regularly whenever construction in or within 100 feet to wetland resource areas is in progress and will supervise the contractor when working in critical areas.
64. At least every other week, beginning the first week of construction, in which construction activity occurs on site and for as long thereafter as the ground remains unstabilized, the applicant shall submit a written report to the Commission signed and stamped (if applicable) from the Environmental Monitor. He shall certify that, to the best of his knowledge and belief based upon careful site inspections (conducted during work hours at the site not less than weekly) all work is being performed in compliance with this Order of Conditions. If the work is not in compliance, the EM will note where a deviation from the Order occurred
65. The EM shall include in the required report:

Site Name and DEP Number, Date of Inspection, the EM's Name, Time of Inspection (Arrival/Departure); Report Number, Summary of current activity on site, Compliance review

- The status of the project construction efforts
- The integrity of the erosion control barriers and any breaches of the barriers resulting from construction and/or erosion from the site,
- Recommend any modification in erosion controls based on site conditions,
- Any remedial action required by the site contractor to repair any breaches of the erosion controls

GRADING/LANDSCAPING/SLOPE:

66. Site grading and construction shall be scheduled to avoid periods of high surface water. Once begun, grading and construction shall move diligently to completion to avoid erosion and siltation of the wetlands.
67. Final grading of the site shall not direct additional runoff onto the property of others. This project shall not increase the rate of runoff, nor cause flood or storm damage, to abutters or the property of others. It shall be incumbent upon the applicant to assure

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compliance with this Condition. The project applicant shall be solely liable for any damage to other properties as a result of this construction. This condition shall be specifically addressed and certified by a Registered Professional Engineer in the Certificate of Compliance request.

68. After construction, all disturbed areas, slopes and proposed landscape areas under the jurisdiction of the Conservation Commission shall be loamed and seeded or stabilized with erosion control blankets or other approved means. All disturbed areas will be graded, loamed and seeded prior to November 1 of each year. No disturbed areas or stockpiled material will be left unprotected or without erosion controls during the winter.
69. No invasive plant species shall be used during the replanting and landscaping of the disturbed site.
70. Pesticides, herbicides, fungicides, and fertilizers shall not be used within 100 feet of the wetlands, within the riverfront area, and within bordering land subject to flooding. Organic pesticides, herbicides, fungicides and fertilizers may be used subject to the review and approval of the Conservation Commission. This shall be noted in the Certificate of Compliance.

CERTIFICATE OF COMPLIANCE:

71. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance by using WPA Form 8A to the Conservation Commission.
72. The request for a Certificate of Compliance shall be submitted using WPA Form 8A. The Conservation Commission will not consider issuing a Certificate of Compliance until the following items are submitted to, and accepted by, the Commission:
 - a. A written narrative, prepared and stamped by a registered professional engineer, certifying compliance with the conditions and approved plans and Order of Conditions, setting forth 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. No deviation from the Order is permitted without formal action being taken by the Commission approving the change. If the completed work differs from that in the original plan(s) and conditions, the report must specify how the project differs.
 - b. Two sets of as-built site plans for the project must be submitted showing date/s of fieldwork done to prepare the plan, grades, utilities, and landscaping, grade elevations, distances to all structures and alterations within 100 feet of any resource area and any other elevations or distances the Commission may specify to ensure compliance with this Order and contain the following certification signed and sampled by a Registered Professional Engineer or Registered Professional Land Surveyor:

"I certify that these plans conform with the criteria and conditions as submitted and approved. I further certify that these plans represent an as-built condition."

- c. Failure to submit a complete set of as-built plans, as specified in the Order, shall be grounds to deny the Certificate of Compliance.

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- d. Post-construction photographs demonstrating compliance with this Order including established vegetation where required.
73. The original Certificate of Compliance signed by the Commission must be recorded at the South Essex County Registry of Deeds.
74. 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 modification to the Order. Upon review and approval by the Commission, the applicant may request in writing a Certificate of Compliance as described above.
75. After receipt of the Certificate of Compliance all erosion and sedimentation control barriers still in place shall be removed from the site. Prior to the removal of erosion and sedimentation control barriers, the Conservation Commission shall be notified and will inspect the site to verify the appropriateness of siltation barrier removal. No erosion control barriers will be removed from the site unless approved by the Conservation Commission or Conservation Commission staff.

PLAN AND DOCUMENT LIST:

- 1) Notice of Intent dated January 24, 2018
- 2) Plan to accompany the Notice of Intent

Title: Plan to Accompany a Notice of Intent for Stormwater Management System Improvements 105 & 115 Dayton St., Danvers, MA prepared for 115 Dayton St., LLC

Final Revision Date: January 24, 2018

- 3) Technical Report in Support of Definitive Subdivision dated December 20, 2017