



**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:  
 14-1346  
 MassDEP File #  
 \_\_\_\_\_  
 eDEP Transaction #  
 Danvers  
 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: Danvers  
 Conservation Commission

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

3. To: Applicant:  
Giuseppe and Ciro      Fodera  
 a. First Name      b. Last Name  
Harbor Property Group, LLC  
 c. Organization  
28 Harbor Street  
 d. Mailing Address  
Danvers      MA      01923  
 e. City/Town      f. State      g. Zip Code

4. Property Owner (if different from applicant):  
 \_\_\_\_\_  
 a. First Name      b. Last Name  
 \_\_\_\_\_  
 c. Organization  
 \_\_\_\_\_  
 d. Mailing Address  
 \_\_\_\_\_  
 e. City/Town      f. State      g. Zip Code

5. Project Location:  
28 Harbor Street      Danvers  
 a. Street Address      b. City/Town  
59      158  
 c. Assessors Map/Plat Number      d. Parcel/Lot Number  
 Latitude and Longitude, if known:      42.5558      -70.9208  
 d. Latitude      e. Longitude



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**A. General Information (cont.)**

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):  
 Southern Essex
- |           |  |
|-----------|--|
| a. County | b. Certificate Number (if registered land) |
| 35797     | 356  |
| c. Book   | d. Page                                    |
7. Dates:      2/14/2020                      8/13/2020                      8/14/2020  
 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):  
 Proposed Accessory Warehouse Building
- |                                      |   |                          |
|--------------------------------------|---|--------------------------|
| a. Plan Title                        | b. Prepared By                                | c. Signed and Stamped by |
| PDE Engineering                      | February 14, 2020                             | Giovanni G. Fodera       |
| d. Final Revision Date               | Notice of Intent Stormwater Management Report | e. Scale                 |
|                                      |   | 1" = 20'                 |
| f. Additional Plan or Document Title |   | g. Date                  |
|                                      |   | February 14, 2020        |

**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 checked="" 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) \_\_\_\_\_ 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	5,640 _____ a. total sq. feet	5,640 _____ b. total sq. feet		
	0 _____ c. square feet	0 _____ d. square feet	_____ e. square feet	_____ f. square feet
	5,640 _____ g. square feet	5,640 _____ h. square feet	0 _____ i. square feet	0 _____ j. square 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.)**

**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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### **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            14-1346            "
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):

- 
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>Town of Danvers Wetland Protection 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



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
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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.

1. Date of Issuance

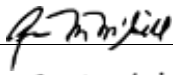
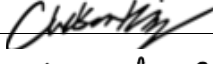
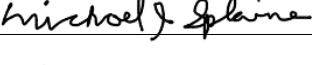
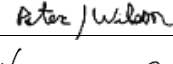
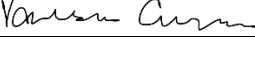
Please indicate the number of members who will sign this form.

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

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.

*These signatures are made in accordance with M.G.L. c.110G and pursuant to the Danvers Conservation Commission's electronic signature authorization vote recorded on August 12, 2020 in Book 38811, Page 549, of the Southern Essex Registry of Deeds.*

Signature 	Ann McGill
Signature 	Chelsea King
Signature 	Michael Splaine
Signature 	Peter Wilson
Signature 	Vanessa Curran
Signature _____	Printed Name _____
Signature _____	Printed Name _____
Signature _____	Printed Name _____

by hand delivery on

by certified mail, return receipt requested, on

Date \_\_\_\_\_

Date \_\_\_\_\_



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## F. Appeals

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

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

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



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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.

Danvers  
 \_\_\_\_\_  
 Conservation Commission

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

-----

To:

Danvers  
 \_\_\_\_\_  
 Conservation Commission

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

28 Harbor Street	14-1346
_____	_____
Project Location	MassDEP File Number

Has been recorded at the Registry of Deeds of:

South Essex	_____	_____	_____
County	_____	Book	Page

for: Giuseppe and Ciro Fodera  
 \_\_\_\_\_  
 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

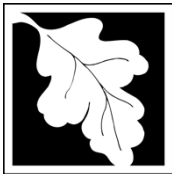
If registered land, the document number identifying this transaction is:

\_\_\_\_\_

Document Number

\_\_\_\_\_

Signature of Applicant



**Massachusetts Department of Environmental Protection**  
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**Request for Departmental Action Fee**  
**Transmittal Form**

DEP File Number:

\_\_\_\_\_  
Provided by DEP

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**A. Request Information**

1. Location of Project

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

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

\_\_\_\_\_

Name

\_\_\_\_\_

Mailing Address

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

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

\_\_\_\_\_

Name

\_\_\_\_\_

Mailing Address

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

4. DEP File Number:

\_\_\_\_\_

**B. Instructions**

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

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

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





Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

DEP File Number:

## Request for Departmental Action Fee Transmittal Form

\_\_\_\_\_  
Provided by DEP

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

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### B. Instructions (cont.)

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

Department of Environmental Protection  
Box 4062  
Boston, MA 02211

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

**Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
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**ORDER OF CONDITIONS, DEP FILE #14-1346  
APPLICANT: GIUSEPPE AND CIRO FODERA  
PROJECT: ADDITION TO WAREHOUSE BUILDING  
ADDRESS: 28 HARBOR STREET  
DATE: 8/14/2020**

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

**General Conditions**

1. The work authorized hereunder shall be completed within three (3) years from the date of this Order unless either of the following applies:
  - a) 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.
  - b) 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
  
20. The proposed activity shall comply with the plan titled "Proposed Accessory Warehouse Building." Prepared by PDE Engineering. Signed and stamped by Giovanni Fodera. Dated February 14, 2020.
  
21. **Any changes to the plans shall be made with a formal approval action taken by the Conservation Commission.** 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 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.
  
22. No soil or other materials shall be stockpiled within any resource area. Soil may be stockpiled in a buffer zone(s) to a resource area.
  
23. If the Commission and/or its administrator finds discrepancies, error or omission in any plan, calculation, or other data, that was presented to the Commission, all work on site shall stop until said discrepancies, error or omission is rectified to the Commission's satisfaction.



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24. The Commission shall be notified within ten (10) days of any instance where an individual, partnership or trust, transfers, in whole or part, its title and interest to the land which is subject to this Order or corporate transfer of more than fifty (50) percent of its stock of controlling entity. Such individuals or business entities shall notify the Commission of the name, address and telephone number of the new owner. Such new owners or new controlling interest, in the case of a corporation, shall forthwith furnish the Commission with a statement as called for in Condition #1(f).
25. The Agent or members of the Conservation Commission 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.
26. 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.

**Pre-Construction Review**

27. **In advance of any work on this project, with the exception of items below, the applicant shall notify the Commission and arrange an on-site conference between the Commission and/or its agent, applicant and contractor. The purpose of this conference is to ensure that all of the Conditions and plans are understood.**

Prior to this pre-construction conference, the applicant shall have completed the following:

28. No work shall be undertaken until the final Order 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.
29. 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 registered land, the Final Order shall also be noted in the Land Court Certificate of Title of the owner of the land upon which the proposed work is to be done.
30. The recording information shall be submitted to the Commission on the form at the end of this Order.
  - a) A sign shall be displayed at the entrance of the site visible to passers by, no less than two (2) square feet in size, bearing "**DEP and D.C.C., File #14-1346**". Said sign shall not be nailed, bolted or otherwise attached to any living tree.
  - b) The Commission will be provided with 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 Bylaw and this Order.
  - c) The applicant shall have informed the Commission, in writing, of the names, addresses business and home telephone numbers of the project supervisor and his/her alternate.

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31. 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.
32. It is the responsibility of the Applicant, Owner, and/or successor(s) to ensure that all Conditions of this Order of Conditions are in compliance at all times. All project engineers and contractors are to be provided with a copy of this Order of Conditions and referenced documents before commencement of construction.
33. The Conservation Commission and/or its administrator shall be contacted, in writing, within 48 hours in the advance of commencement of work.

**Erosion Controls**

34. 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.
35. The erosion control devices shall be installed by hand unless otherwise approved by the Commission. The applicant shall provide written evidence from a Professional Engineer or Land Surveyor, that the erosion control devices have been installed according to the referenced plans.
36. All disturbed areas within the jurisdiction of the Commission shall be stabilized immediately as defined below in this condition and revegetated within thirty (30) days after being disturbed. Bare ground and disturbed areas that cannot be permanently revegetated within 30 days shall be stabilized by a method approved by the Commission. Temporary stabilization shall include, but not be limited to: hydroseeding, straw mats, jute netting, sod, or another means approved by the Commission prior to its use. Where a slope is steeper than 3:1, temporary stabilization shall be staked or otherwise affixed to the slope. If the season is not appropriate for plant growth, exposed surfaces shall be stabilized by other appropriate erosion control measures, firmly anchored, to prevent soils from being washed by rain or flooding.
37. Within thirty (30) 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 to assure long-term stabilization of disturbed areas. A minimum of four to six inches of organic top soil, if necessary, and a USDA Natural Resource Conservation Service-approved seed mixture should be used in accordance with the measures outlined in "Massachusetts Erosion and Sediment Control Guidelines For Urban and Suburban Areas", or other acceptable stabilization method. Continued maintenance of this area, in a manner, which assures permanent stabilization and precludes any soil erosion, shall be the responsibility of the applicant. This condition will not expire with the issuance of a Certificate of Compliance.

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38. 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.
39. The Commission reserves the right to impose additional conditions on portions of this project to mitigate any impacts which could result from site erosion, wetland alteration or replication activities, 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.
40. Subsequent to seeding, disturbed areas will be covered with hay mulch, erosion control blanket, 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.
41. The release of any final approval by the Commission will be dependent upon permanent non-wetlands vegetation growing for at least five consecutive months during the growing season. The growing season for cultivated vegetation is considered to be from April 1 to October 31. The Commission shall make their final approval when the permanent cover is adequate to prevent erosion and sedimentation. The Commission may consider issuing a Partial Certificate of Compliance prior this time, however, no request for the full release of the Certificate of Compliance shall be considered if a full growing season has not elapsed.

**DURING CONSTRUCTION:**

42. A copy of the plan on record, Order of Conditions, specific sequence of construction, and instructions shall be kept at the work site whenever work is in progress.
43. No alteration of activity shall occur beyond the limit of work as defined by the siltation barriers shown on the approved plan(s).
44. All waste products, slash, construction materials etc. shall be deposited at least 100 feet from the wetland resource areas and 200 feet from riverbanks.
45. During and after work on this project, there shall be no discharge or spillage of fuel, oil, or other pollutants. In the event that there is a spill of any kind and any quantity on the site, the applicant shall immediately notify the Conservation Commission.
46. Equipment refueling operations shall be situated in an upland area at a horizontal distance greater than 100 feet from the resource area.
47. Cleaning of equipment, including the washing/rinsing of concrete transports shall not be permitted within 100 feet of the resource area unless the Commission has formally approved a location for such activity.
48. No fuel, oil, or other pollutants shall be stored in any resource area or the buffer zone thereto, unless specified in this Order of Conditions. There shall be no more than a total of fifty (50) gallons of fuel or maintenance chemicals relating to this construction stored on the site at any one time. No routine servicing of vehicles used for this project shall be permitted on the site. The Commission shall be notified prior to initiating any emergency repair on the site.

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49. Commercial refuse container units/dumpsters brought to the site during construction shall not be located within 100 feet of the resource areas. Dumpsters shall be covered at night and shall be regularly emptied such that materials do not spill onto the ground.
50. If, during construction and excavation, visible or other evidence of oil or hazardous materials as defined in 310 CMR 40.000, animal hides, debris, or similar material 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.

**ISSUANCE OF CERTIFICATE OF COMPLIANCE**

51. 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.
52. 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 discussing each condition, 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. The narrative shall list each condition and what evidence constitutes the certification of compliance with the condition. If the completed work differs from that in the original plan(s) and conditions, the report must specify how the project differs.
  - b. One hardcopy and one electronic copy 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.
  - d. Post-construction photographs demonstrating compliance with this Order including established vegetation where required.

53. The original Certificate of Compliance signed by the Commission must be recorded at the South Essex County Registry of Deeds.

54. 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

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modification to the Order. Upon review and approval by the Commission, the applicant may request in writing a Certificate of Compliance as described above.

55. 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.

**Special Conditions:**

1. A revised plan shall be submitted to the Conservation Commission that shows the designated contractors yard area removed from plan. This shall be submitted prior to construction or clearing activities.
2. The previously proposed contractors yard area shall be loamed and seeded and shall be vegetated.
3. There shall be no storage of snow in the 200' riverfront area.
4. The applicant shall designate a site liaison that staff may contact for issues relative to the site during construction. The contact information for the liaison shall be provided prior to construction.
5. The applicant is required to maintain a maintenance schedule for the stormwater system to ensure the systems are inspected on a routine basis.

**PLAN AND DOCUMENT LIST:**

Notice of Intent dated February 14, 2020  
Plan to accompany NOI dated February 14, 2020