



SO ESSEX #91 Bk:42486 Pg:185
12/16/2024 10:08 AM CONDN Pg 1/27

eRecorded



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:

002-1340

MassDEP File #

eDEP Transaction #

Amesbury

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: Amesbury
Conservation Commission

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

3. To: Applicant:

Michael

a. First Name

Dunn

b. Last Name

Dunn Construction Management Inc

c. Organization

65 Rowley Bridge Road

d. Mailing Address

Topsfield

e. City/Town

MA

f. State

01983

g. Zip Code

4. Property Owner (if different from applicant):

Matthew

a. First Name

Chapin

b. Last Name

c. Organization

54 Pleasant Valley Road

d. Mailing Address

Amesbury

e. City/Town

MA

f. State

01913

g. Zip Code

5. Project Location:

58 Pleasant Valley Road

a. Street Address

Amesbury

b. City/Town

111

c. Assessors Map/Plat Number

5

d. Parcel/Lot Number

Latitude and Longitude, if known:

42.82443Nd

m

s

-
70.94259Wd

m



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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
 41402
 c. Book
 b. Certificate Number (if registered land)
 83
 d. Page
 7. Dates: 10/15/24 12/2/24
 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 Dwelling Plan
 a. Plan Title
 Donohoe Survey, Inc
 b. Prepared By
 9/3/24
 d. Final Revision Date
 See Attachment to the Order of Conditions
 f. Additional Plan or Document Title
 Adam Paul Donohoe
 c. Signed and Stamped by
 1" = 10'
 e. Scale
 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. ☐ Public Water Supply b. ☐ Land Containing Shellfish c. ☒ Prevention of Pollution
 d. ☐ Private Water Supply e. ☐ Fisheries f. ☒ Protection of Wildlife Habitat
 g. ☒ Groundwater Supply h. ☒ Storm Damage Prevention i. ☒ Flood Control

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

Approved subject to:

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



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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. ☒ Bank	<u>15</u> a. linear feet	<u>15</u> b. linear feet	<u> </u> c. linear feet	<u> </u> d. linear feet
5. ☐ Bordering Vegetated Wetland	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
6. ☒ Land Under Waterbodies and Waterways	<u>99</u> a. square feet	<u>99</u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
	<u> </u> e. c/y dredged	<u> </u> f. c/y dredged		
7. ☒ Bordering Land Subject to Flooding	<u>917</u> a. square feet	<u>917</u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
Cubic Feet Flood Storage	<u> </u> e. cubic feet	<u> </u> f. cubic feet	<u> </u> g. cubic feet	<u> </u> h. cubic feet
8. ☐ Isolated Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet		
Cubic Feet Flood Storage	<u> </u> c. cubic feet	<u> </u> d. cubic feet	<u> </u> e. cubic feet	<u> </u> f. cubic feet
9. ☒ Riverfront Area	<u>1,839</u> a. total sq. feet	<u>1,839</u> b. total sq. feet		
Sq ft within 100 ft	<u>1,839</u> c. square feet	<u>1,839</u> d. square feet	<u> </u> e. square feet	<u> </u> f. square feet
Sq ft between 100-200 ft	<u>0</u> g. square feet	<u>0</u> h. square feet	<u> </u> i. square feet	<u> </u> 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. ☐ Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. ☐ Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. ☐ Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. ☐ Coastal Beaches	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
14. ☐ Coastal Dunes	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
15. ☐ Coastal Banks	a. linear feet	b. linear feet		
16. ☐ Rocky Intertidal Shores	a. square feet	b. square feet		
17. ☒ Salt Marshes	24 a. square feet	24 b. square feet	c. square feet	d. square feet
18. ☐ Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. ☐ Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. ☐ 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. ☐ Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		
22. ☒ Riverfront Area	1, 839 a. total sq. feet	1, 839 b. total sq. feet		
Sq ft within 100 ft	1, 839 c. square feet	1, 839 d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	0 g. square feet	0 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 _____ 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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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 002-1340 "
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 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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

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

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

See Attachment to Order of Conditions

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

- a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

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

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

Amesbury Wetlands Ordinance

AWO

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 Attachment to Order of Conditions



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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.

By vote on 04/03/2023 the Amesbury Conservation Commission authorized the use of their electronic signatures pursuant to the certificate of vote recorded with the Essex south Registry of Deeds in Book 41530 Page 251. They intend for their typed names to serve as electronic signatures.

Amanda Jones

Amanda Jones (Dec 9, 2024 10:41:31)

Signature

Jamie McCarthy

Signature

Fred Zackon

Fred Zackon (Dec 3, 2024 12:25:52)

Signature

Signature

Signature

Signature

Signature

Signature

Amanda Jones

Printed Name

Jamie McCarthy

Printed Name

Fred Zackon

Printed Name

Printed Name

Printed Name

Printed Name

Printed Name

Printed Name

☐ by hand delivery on

Date

☒ by certified mail, return receipt requested, on

Date

12/6/24

7020 0090 0002 2111 2694



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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.

Amesbury

Conservation Commission

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

To:

Amesbury

Conservation Commission

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

58 Pleasant Valley Road

Project Location

002-1340

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for:

Matthew Chapin

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**

DEP File Number: _____

**Request for Departmental Action Fee
Transmittal Form**

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: _____

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.





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DEP File Number: _____

**Request for Departmental Action Fee
Transmittal Form**

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 <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.

ATTACHMENT TO ORDER OF CONDITIONS

Applicant: Michael Dunn – Dunn Construction Management Inc.

Project and Location: 58 Pleasant Valley Road
Map 111, Lot 5

DEP File #: 002-1340

Project Description

The project is to raze multiple existing structures including a single-family home (SFH) and to construct a new SFH. The proposed work also includes invasive species removal, installation of native plantings and restoration of bank by removing an existing pier structure and stabilization with plantings.

Site Description and Details

The site is located on a .12-acre lot with the Merrimack River located at the edge of the property to the south. An easement is also located on the project site which was granted in 1974 for “purposes of right of way for the benefit of the grantee and its heirs and assigns, with vehicles or otherwise from Pleasant Valley Road to the Merrimack River”. The easement was modified in 1990 which included but was not limited to:

- “...the area of the easement shall be reduced...by deleting therefrom a parcel of land with 7 feet of frontage on Pleasant Valley Road and 20 feet of frontage on the Merrimack River.”
- “...that the owner of 58 Pleasant Valley Road, his heirs, successors and assigns, shall have the sole and exclusive right to the use of the easement area for all legal purposes hereafter.”

The paved driveway and septic system for the property are located within the easement. Also located on the property and easement is a ramp and gangway to support two floats traversing across the tidal flats out to the river and old pier remains.

The entire site is located completely within the 200-foot Riverfront Area (RFA) associated with the Merrimack River. Other jurisdictional resource areas on the site include Inland Bank, Salt Marsh and Land Under Waterbody (labeled as Tidal flats on the approved plan) and Bordering Land Subject to Flooding (BLSF) at elevation 12.2. Resource impacts/alterations are noted below:

Resource Area Altered	Proposed Alteration	Proposed Replacement
BANK	15 (linear feet)	0 (linear feet)
LAND UNDER WATER BODY & WATERWAY	99 (square feet) 0 (Cubic yards)	0 (square feet) 0 (Cubic yards)
BORDERING LAND SUBJECT TO FLOODING	917 (square feet) 0 (Cubic feet)	0 (square feet) 0 (Cubic feet)
RIVERFRONT AREA	1839 (square feet)	0 (square feet)

Coastal Resource Areas

Resource Area Altered	Proposed Alteration	Proposed Replacement
SALT MARSH	24 (square feet)	0 (square feet)

Portions of the site along the Merrimack River are located within the boundaries of both Priority and Estimated Habitat of Rare Species as determined by MA Natural Heritage Endangered Species Program (NHESP). Since work is proposed within this area, a review of the application was required by NHESP. The ACC reviewed the letter submitted from Massachusetts Division of Fisheries and Wildlife, Natural Heritage Program and agrees with the finding that the project as amended will not adversely affect the actual Resource Area Habitat of state-protected wildlife species and will not result in a prohibited take of state-listed rare species pursuant to the WPA and MESA as long as certain conditions are met and incorporated in the Order of Conditions issued.

Restoration and mitigation elements/efforts will occur on the site and within the easement for the project. These activities have been designed to minimize impacts to the wetland resource areas and improve their function and value and include:

- Constructing the new SFH further from the resource areas than the existing structure
- Reducing alteration within the Riverfront Area resulting in a net decrease of 32 s.f. of pervious area and 221 s.f. of impervious area
- Elevating portions of the new dwelling on piles allowing flood waters to flow without obstruction
- Removal of a structure within the local 25-foot and 35-foot buffer zones to Inland Bank and Salt Marsh
- Removal of a structure within the local 50-foot buffer zone to Inland Bank and Salt Marsh
- The implementation of an Invasive Species Management Plan to remove and eradicate Japanese Knotweed
- Removal of debris and pier remains along the river
- Restoring bank with native vegetation to improve breeding habitat and wildlife habitat and to improve the water carrying capacity of the existing channel
- Implementing of a Shoreline Stabilization Plan and Native Species Planting Plan.

All new construction is located completely within previously degraded areas and lawn. No natural vegetation exists within this footprint. A Shoreline Stabilization Plan, Invasive Species Management Plan & Native Species Planting Plan have all been detailed and described in significant detail and in depth in the NOI application, accompanying plans and the supplemental Invasive Species Management Plan.

Performance Standards pursuant to the WPA and the Amesbury Ordinance have also been described in compliance with these standards in the application, with the exception to the reestablishment of lawn in the 25-foot buffer zone once the open sided structure is removed under the Ordinance (Section 21.3 Landscaping). A waiver request was submitted to allow this activity stating that as the removal of an impervious structure and replacement of lawn serves as an improvement over existing conditions and is in line with the intent of the Ordinance. Additionally, a substantial restoration plan will be implemented that will improve the areas of the site closest to the resource areas. Also, as required under the WPA and Amesbury Ordinance, an Alternative Analysis was submitted for work within Riverfront Area and described in the Notice of Intent.

Erosion and Sedimentation controls are proposed around the limit of work consisting of Groundscapes Filtermitt or equivalent and an erosion control Jute Blanket on the slope to prevent erosion and to help stabilize the bank. Additionally, a 20" coir log secured with duckbill anchors will be installed to support and stabilize the shoreline/bank for the work.

Pursuant to Massachusetts Wetlands Protection Act (M.G.L. chapter 131, §40) and its implementing regulations (310 CMR, § 10.00) and the City of Amesbury Wetlands Ordinance and its implementing regulations, the ACC finds that the proposed project as described and referenced herein protects the interests of *the Act* and *the Ordinance* and meets the Performance Standards for the resource areas located on the site.

Therefore, on December 2, 2024, the ACC voted unanimously to accept the local waiver and issue this Order of Conditions approving the work.

All work shall conform to the following Plans and Documents:

Notice of Intent filed by: DeRosa Environmental Consulting, Inc.
150 Newburyport Turnpike, suite C-9
Rowley, MA 01969

Prepared for (Applicant): Michael Dunn
Dunn Construction Management Inc.
65 Rowley Bridge Road
Topsfield, MA 01983

On Behalf of (Owner): Matthew Chapin
54 Pleasant Valley Road
Amesbury, MA 01913

Site Plans and Documents

Proposed Dwelling Plan
58 Pleasant Valley Road
Amesbury, MA
Prepared by: Donohoe Survey, Inc.
Dated: September 3, 2004

Proposed Dwelling Plan
58 Pleasant Valley Road
Amesbury, MA
Figure 2b. Project Elements Plan
Prepared by: Donohoe Survey, Inc. &
DeRosa Environmental Consulting, Inc.
Signed and stamped by: Michael DeRosa, PWS
Dated: October 7, 2024

Proposed Dwelling Plan
58 Pleasant Valley Road
Amesbury, MA
Figure 2c. Shoreline Stabilization Concept
Prepared by: DeRosa Environmental Consulting, Inc.
Dated: October 7, 2024

Letter to Address DEP Comments
Prepared by DeRosa Environmental Consulting, Inc.
Dated: October 30, 2024

**Letter from the Division of Fisheries & Wildlife
Dated: October 29, 2024**

**E-mail Correspondence from Misty-Anne Marold, Senior
Endangered Species Review Biologist to DeRosa
Environmental Consulting, Inc.
Dated: November 22, 2024**

**Invasive Species Management Plan Japanese Knotweed
Prepared by DeRosa Environmental Consulting, Inc.
Dated: November 2024**

GENERAL CONDITIONS

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 of Conditions ("Order").
2. Approval of this application does not constitute compliance with any law or regulation other than MGL Chapter 131, Section 40, Wetlands Regulations CMR 10.00 and Amesbury Wetlands Protection Ordinance ("Ordinance") and its implementing regulations ("Regulations") as promulgated by the City of Amesbury Conservation Commission (ACC).
3. This Order shall apply to any successor in interest or successor in control of the property.
4. The work authorized hereunder shall be completed within three (3) years from the date of this Order.
5. **To avoid adverse effects to the Resource Area Habitats and to avoid a prohibited Take of state-listed species, this authorization of work is valid for five (5) years from the date of issuance with NHESP. Work may be completed at any time during this 5-year period in compliance with the conditions herein. Thereafter, the Applicant must re-file an application pursuant to the MESA.**
6. This Order may be extended by the issuing authority for one or more periods of up to one year each upon application to the issuing authority at least thirty (30) days prior to the expiration date of the Order.
7. The Amesbury Conservation Commission (ACC) reserves the right to impose additional conditions on this project including but not limited to additional or modified erosion control / siltation controls during construction, if it deems that site conditions warrant such measures to mitigate potential impacts.
8. A copy of this Order and the plans approved in this Order shall be available on site at all times when work is in progress.
9. This Order shall be made part of all construction-related documents for this project.
10. All Contractors employed to work on the project site shall be provided a copy of this Order.
11. If the subject parcel is sold or the development rights are transferred to any other person, the applicant shall be required to submit to the ACC a signed and notarized letter of acknowledgement from the buyer or their assignees stating that they have been provided copies of all permits associated with the proposed project, including this Order, and that they understand their responsibility associated with the construction of this project under those permits, including this Order.

12. Any modification to the approved plans shall require review and approval by the ACC. Prior to consideration of any such request, the resource areas shall be re-flagged or the originally approved flagging shall be established in the field. The applicant shall be required to submit the modification request in writing along with all the necessary forms and supporting documents in a timely manner for the Commission's consideration. The ACC may require all modification requests to be reviewed by its peer review consultant and the applicant shall submit the necessary funds to the ACC for the consultant services. The ACC shall review the request and decide if an Amended Order is required.
13. Any change that requires modification of approved plans within the jurisdictional area or changes to the erosion control plan or to the stormwater management system shall require an Amended Order unless the Commission decides otherwise at its regularly posted public meeting. If the ACC decides that a change is of sufficient magnitude that it shall require the imposition of additional conditions to ensure adequate protection of the resource area and/or the interests covered under the Ordinance and Regulations, an Amended Order shall be required and a new public hearing shall be required.
14. Any requests for modification or amendment of the Order shall not be considered or reviewed if the Order has expired or there is an outstanding Enforcement Order on the subject parcel.
15. Approval of this application does not constitute compliance with any law or regulation other than MGL Chapter 131, Section 40, Wetlands Regulations CMR 10.00, and the City of Amesbury Wetlands Protection Ordinance.
16. Approved plans under this Order of Conditions must be consistent with those of the City of Amesbury Planning Board and all permits issued by the City of Amesbury, Office of Inspectional Services and all federal, state and local entities.
17. No work shall be undertaken until all administrative appeal periods pursuant to MGL ch. 131 §40 and the Amesbury Wetlands Ordinance from this Order have elapsed or, if such an appeal has been filed, until all proceedings before the Department or Court have been completed.
18. The Applicant shall inform all contractors and subcontractors of the conditions and provisions of this Order. This Order shall be included in all construction contracts and subcontracts dealing with the work and shall supersede other contract requirements.
19. A copy of the recorded Order shall be provided to the Building Inspector at the time of making application for Building Permit along with a set of approved plans.

PRIOR TO CONSTRUCTION CONDITIONS

20. A sign shall be displayed at the site not less than two (2) feet or more than three (3) square feet in size bearing the words, "**DEP File Number 002-1340**".
21. **This Order shall be recorded by the applicant at the Registry of Deeds immediately after the expiration of all appeal periods. 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.** 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 on the Land Court Certificate of Title of the owner of the land upon which the proposed work is to be done. **The recording information shall be submitted to the Amesbury Conservation Commission or Department on the form at the end of this Order prior to commencement of the work. Any Order not recorded by the applicant before work commences may be recorded by the ACC at the applicant's expense.**

22. Prior to construction, the applicant shall provide appropriate information to the Planning office that a Wetlands and Floodplain Special Permit with The Planning Board is not required. It is the responsibility of the applicant to procure all other applicable federal, state and local permits and approvals associated with this project.
23. Prior to the pre-construction meeting and commencement of any activity on this site, the boundaries of all wetland resource areas shall be identified by flagging, spaced at intervals not greater than 25-feet apart. Wetland flags shall be checked and replaced as necessary and maintained until a Certificate of Compliance is issued for the project.
24. Prior to the pre-construction meeting and commencement of any activity on this site, all erosion control devices approved under this Order shall be properly installed as shown on approved plan. The ACC and/or its Agent shall inspect and approve such installation at a pre-construction meeting. The erosion control devices must remain in place until the Commission or its Agent has authorized their removal. All workers must be instructed not to work beyond this limit.
25. Once the above mentioned pre-construction requirements are complete, the applicant shall contact the Conservation office prior to site preparation or construction and shall arrange an on-site **PRE-CONSTRUCTION MEETING** with a representative from the ACC and/or its agent, the project supervisor, the contractor responsible for work, the engineer, the wetland scientist (if applicable), and the applicant to ensure all of the Conditions of this Order are understood. Please contact the Amesbury Conservation office at **(978) 388-8110 ext. 504** at least seventy-two (72) hours prior to any activity to arrange the pre-construction meeting.

DURING CONSTRUCTION CONDITIONS

26. Accepted engineering and Best Management Practices for construction standards shall be followed in the conduct of all work. All site improvements shall be installed as per the approved plans and engineering details shown on them. Any modifications or deviations from approved plans shall only be made upon approval from the Commission.
27. The applicant shall designate an 'Environmental Monitor' such as a Registered Professional Engineer or Professional Wetland Scientist, who has relevant experience in wetland impact / assessment and erosion / sedimentation control measures to oversee any emergency placement of controls and regular inspection or replacement of sedimentation control device. The name and phone number of the Environmental Monitor must be provided to the ACC in the event that this person has to be contacted, due to an emergency at this site, during any 24-hour period, including weekends. **This person shall be given the authority to stop construction should there be unlawful erosion, silt and sedimentation entry into the wetland resources areas and/or for erosion control purposes.** The Environmental Monitor will be required to inspect all such devices and oversee cleaning and the proper disposal of waste products. Cleaning shall include removal of any entrapped silt. **The Environmental Monitor shall conduct site inspections on site for compliance with this Order at a minimum of once every week and during or immediately after rainstorms of 0.5 inches or more.** The selection of the Environmental Monitor shall be subject to the approval of the ACC.

28. The Environmental Monitor shall **submit a written report to the ACC at least ONCE A WEEK**, or otherwise arranged by the ACC in which construction activities occurs on site and for as long thereafter as grounds remains exposed. The Environmental Monitor must certify that, to the best of his / her knowledge and belief based on a careful site inspection, all work is being performed in compliance with this Order of Conditions. The **Environmental Monitor must visually inspect all sedimentation / erosion control measures** and assume responsibility for their **maintenance on a weekly basis** and that they are functioning as intended. In addition, all wetland resources areas must be visually inspected for siltation, turbidity, and / or other water quality impacts. The reports shall include what work is anticipated to be complete over the next reporting period (this will update the construction sequence); current conditions of the erosion controls; description of any erosion or sedimentation repair and / or replacement; and describe any erosion problems and mitigation measures implemented. Such reports shall continue until the applicant has requested a less frequent reporting schedule or an end of to the reports, which has been approved in writing by the Conservation Commission or its Agent.
29. Erosion control devices shall be inspected regularly; and immediately after 0.5 inches of precipitation. Any entrapped silt shall be removed to an area outside of the buffer zone and wetland resource areas; erosion controls shall be replaced as necessary.
30. No alteration or activity shall occur beyond the limit of work as shown on the approved plans. **Further, no work or alteration of soil, surface, or vegetation shall occur outside of the limits of work shown on the approved plans unless otherwise approved in writing in advance by the Division of Fisheries & Wildlife.**
31. To avoid long-term impacts to sturgeon benthic habitat, the use of helical anchors and flexible, low-impact moorings systems ("conservation moorings") for the two floats is required. Specifically, the use of helical anchors with a rope system that will ensure that the mooring ropes or chains do not contact the bottom of the river during all water elevations. If bedrock is encountered and the Conservation Commission assents, the helical anchors refused by bedrock can be replaced with permanent bottom mooring attachments (e.g. pipe driven and mortared into rock with a "eye" for attachment) after written notification to the Division of Fisheries & Wildlife.
32. To protect the Sturgeon species, machine driving of the duckbill anchors for the shoreline stabilization components shall not occur between March 15 and November 1, unless the tide line is at least 2 feet away from the anchor site.
33. Unless otherwise approved in writing by the Division of Fisheries and Wildlife and the ACC respectively, all seed and plantings used for the shoreline stabilization and any wetland mitigation areas shall be native to Essex County, Massachusetts, as provided in the vascular Plants of Massachusetts: A county Checklist, first Revision (Dow Cullina, Connolly, Sorrie & Somers, 2011).
34. The planting list provided on Figure 2b. Project Elements Plan has been approved and accepted by the ACC and NHESP **with exception to *Rudbeckia hirta* (Black-eyed Susan)** which was not found to be a native species. **Therefore, this plant species shall not be used as part of the planting plan and shall be swapped out with another native species to be approved by the ACC and NHESP prior to implementation.**
35. A two-year full growing season monitoring period (April 15 - October 15) following the installation of the restoration plantings shall be required. The Environmental Monitor shall document the viability and health of the plantings on submitted reports. The approved restoration plantings shall be documented to be in good condition throughout the two full growing seasons. Plantings that fail to thrive must be replaced prior to the submission of a Request for a Certificate of Compliance.

36. Upon completion of the installation of the plantings, appropriate protection measures shall be implemented and secured around the plantings to protect against mowing activities and other human caused disturbances.
37. All work conducted along bank and the shoreline shall be completed only during periods of low tide.
38. Invasive species management of the Japanese Knotweed shall be conducted in accordance with the approved Management Plan referenced herein.
39. Unless approved by the Commission for the control of invasive species, chemicals, pesticides, herbicides, hazardous materials, etc. shall not be used or stored within 100' of a wetland resource area.
40. The areas of construction shall remain in a stable condition at the close of each construction day.
41. Any unanticipated impact, preventable or otherwise, shall be fully remediated to restore the impacted area to its pre-impact condition or to a better condition. Any unanticipated impacts shall be reported to the ACC immediately and a plan developed in conjunction with the Conservation Commission or Conservation Agent and implemented forthwith to remediate those impacts.
42. Any damage caused as a direct result of the construction 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 and/or its agents shall be contacted by telephone, with follow-up in writing, and a plan for abatement of the problem and proposed restoration / mitigation measures shall be submitted for approval and implementation. If the applicant fails to address the failure or damage as required by the Commission in a timely manner, it shall be deemed as a violation under the Regulations.
43. The project shall not cause an increase in run-off onto adjacent properties, either during construction or when completed. Appropriate measures shall be taken to prevent washout of silt or the creation of pollution on neighboring properties, into the town stormwater drainage system, or into a wetlands resource area.
44. All waste generated by, or associated with, the construction activity shall be contained within the construction area, and away from the resource area. There shall be no stump dumps, burying of stumps or any material onsite. The applicant shall maintain a dumpster (or other suitable means) at the site for the storage and removal of such construction material off-site. **Any onsite trash dumpster shall be located as far away from the resource areas as possible.**
45. The Agent or the ACC shall have the right to enter and inspect the premises at reasonable hours to evaluate compliance with the conditions stated in this Order and may require the submittal of any data deemed necessary for that evaluation.
46. The Commission reserves the right to impose additional conditions on portions of the project to mitigate any impacts which could result from site erosion, or any noticeable degradation of surface water quality discharging from the site and to temporarily halt the project until adequate measures have been taken.

AFTER CONSTRUCTION CONDITIONS

47. Upon completion of the project, the applicant shall submit the following to the Amesbury Conservation Commission to Request for a Certificate of Compliance (COC):
- a. WPA Form 8A- Request for a Certificate of Compliance.
 - b. A letter from the applicant requesting the Certificate of Compliance with the following information included:
 - i. The name and address of the current landowner
 - ii. The name and address of the individual or other entity to whom the COC is to be issued
 - iii. The street address and lot number for the project and the DEP file #
 - iv. "As-Built" plans stamped and signed by a professional engineer for review and approval by the ACC
 - v. A detailed letter outlining deviations from the approved site plan or any conditions along with supporting documents showing modifications were approved by the ACC
48. Erosion control devices shall remain in place and functioning properly until all exposed soils have been stabilized with final vegetative cover and the Commission and / or its Agent has authorized their removal.
49. The work is not considered complete until the site includes all structures, grading, landscaping, and all other details shown on the approved plans and in all documents filed with the Commission.
50. Upon completion of the project, all disturbed upland areas shall be permanently and appropriately stabilized.
51. Prior to issuance of the Certificate of Compliance, the applicant shall be required to pay in full any outstanding invoices from the Commission's Environmental Monitor/Consultant.

PERPETUAL CONDITIONS

The following conditions are ongoing and do not expire with the issuance of the Certificate of Compliance:

52. Water quality to the adjacent jurisdictional resources shall not differ significantly following the completion of the project from the pre-development conditions. There shall be no sedimentation into the resource areas from discharge pipes or surface runoff leaving the site. This shall be a continuing condition in perpetuity.
53. Fertilizer use shall be limited to those of <5% nitrogen, slow release.
54. No use of herbicides or pesticides is allowed within 100 ft. from jurisdictional resources.

Appendix
Approved Plans
58 Pleasant Valley Road
DEP 002-1340

