

Appendix I
City of Waltham Conservation Commission
Order of Conditions, DEP FILE # 316-0820

Waltham Conservation Commission

119 School Street
Waltham, Massachusetts 02451
(781) 314-3845
conservation@city.waltham.ma.us



October 25, 2024

Kathleen Pearson
MWRA
2 Griffin Way
Chelsea, MA 02150

Re: ORDER OF CONDITIONS, MWRA WASM3 Water Main Rehabilitation, Linden St. ROW, Waverley Oaks Rd. ROW (DEP File #316-0820)

Dear Ms. Pearson,

Enclosed find the signed original of the WPA Form 5 – Order of Conditions (“OOC”) generated as a result of your filing a WPA Form 3 – Notice of Intent (“NOI”) with the Waltham Conservation Commission. A copy will be kept on file while another will be sent to the Massachusetts DEP Wetlands Program regional office.

Your NOI was originally discussed at the 8 June, 2023 meeting of the Commission. The Commission voted to issue this Order at the 24 October, 2024 meeting. A video recording of these meetings will be made available at wcac.org. The minutes will be posted on the City of Waltham web site once they have been approved by the Commission.

The OOC lists standard requirements imposed on all approved projects within Wetlands Protection Act (MGL c. 131, s. 40) jurisdiction in Massachusetts. The OOC also includes the Standard Special Order of Conditions (SSOOC, v1.4, February 2022) issued to all approved projects in the City of Waltham. Any site-specific conditions unique to your filing will be listed on page 7 of the SSOOC in section 26.

Please note all conditions stipulated in the OOC and SSOOC and ensure that you and your contractor follow them accordingly. Failure to comply with these conditions may result in enforcement action. Note that some conditions continue in perpetuity and may require regular correspondence with the Commission to remain in compliance.

Unless explicitly specified, any work authorized by this OOC must be completed within 3 years of the issue date. An extension, if necessary, must be applied for no less than 30 days before this OOC expires. This Order is set to expire on October 25, 2027.

This OOC must be recorded with the Registry of Deeds before any work can begin. It is the applicant's responsibility to complete this and provide the recording information to the Commission.

Upon completion of the work authorized by this OOC, you are required to submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission. Delays in recording the OOC

or requesting a COC can result in the delay or denial of future permits or cause problems with the title of the affected parcel.

You have the right to appeal this OOC to the state Department of Environmental Protection. The form for this is included as part of the WPA 5.

Sincerely yours,



Meghan Sullivan, Conservation Agent

CC (by email): Kathleen Pearson, MWRA Sr. Program Manager, Engineering & Construction (Kathleen.pearson@mwra.com), Julianne Sullivan, MWRA Project Manager, Environmental Permitting (julianne.Sullivan@mwra.com), Ryan Stackpole, Stantec, PE (Ryan.Stackpole@stantec.com)

Attached: OOC for MWRA Waverly Oaks Rd.-Linden St. ROW (DEP File #316-0820)



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:

MassDEP File #

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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: Waltham
 Conservation Commission

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

3. To: Applicant:

John

a. First Name

Colbert

b. Last Name

MWRA

c. Organization

2 Griffin Way

d. Mailing Address

Chelsea

e. City/Town

MA

f. State

02150

g. Zip Code

4. Property Owner (if different from applicant):

a. First Name

b. Last Name

City of Waltham

c. Organization

610 Main Street

d. Mailing Address

Waltham

e. City/Town

MA

f. State

02452

g. Zip Code

5. Project Location:

Linden St ROW, Waverley Oaks Rd ROW

a. Street Address

Waltham

b. City/Town

Project beginning: 42-21-59.3N 71-15-02.95W

Project end: 42-23-02.05N 71-12-33.43W

Latitude and Longitude, if known:

d

m

s

d

m

s

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):

N/A

a. County

b. Certificate Number (if registered land)

c. Book

d. Page

7. Dates: 5/22/2023 10/24/2024 10/25/2024
 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):

MWRA WASM3 Construction Package 2, Rehabilitation of Water Main Section W10 Plan Set (66 Sheets)

Santec

Ryan J. Stackpole

b. Prepared By

c. Signed and Stamped by

September 2024

1"=40'

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (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) 7.5
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 checked="" type="checkbox"/> Bordering Land Subject to Flooding	21,837 temporary	21,837 temporary	21,837 c. square feet	21,837 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	28,693 a. total sq. feet	28,673 temp. +20 perm.		
Sq ft within 100 ft	21,000 c. square feet	21,000 d. square feet	21,000 e. square feet	21,000 f. square feet
Sq ft between 100-200 ft	7,693 g. square feet	7,693 h. square feet	7,693 i. square feet	7,673 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	a. square feet	b. square feet	c. ^{cu yd} nourishment	d. ^{cu yd} nourishment
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. ^{cu yd} nourishment	d. ^{cu yd} nourishment
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		
22. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



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B. Findings (cont.)

* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. ☐ Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

24. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 10/25/2027 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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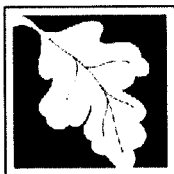
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C. General Conditions Under Massachusetts Wetlands Protection Act

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

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
 "File Number 316-0820 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

see attached

- 20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☐ Yes ☒ No
2. The _____ 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:

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):



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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.

10/25/2024
1. Date of Issuance

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

7
2. Number of Signers

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

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

By Vote on 11/16/23, the individuals listed below have accepted the provisions of M.G.L. c.110G regarding electronic signatures and that its members will henceforth execute documents either with electronic signatures or with wet ink signatures and that both will carry the same legal weight and effect. This was recorded with the Middlesex South Registry of Deeds in Book 82492 Page 563.

The names typed below represent the electronic signatures of the Conservation Commission/

Signatures:

/ Alexander Shordone /

/ William Doyle /

/ Michael Donovan /

/ Gerard Dufromont /

/ Philip Moser /

/ Louis Andrews /

/ Gloria Champion /

Meghan Sullivan
Meghan Sullivan, Conservation Agent

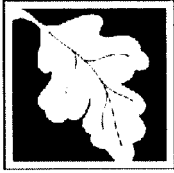
☐ by hand delivery on

☒ by certified mail, return receipt requested, on

Date

Date

10/25/24



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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.

Conservation Commission

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

To:

Conservation Commission

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

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for:

Property Owner

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

Book

Page

In accordance with the Order of Conditions issued on:

Date

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

Instrument Number

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

Document Number

Signature of Applicant



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

DEP File Number:

316-0820

Provided by DEP

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

A. Request Information

1. Location of Project

a. Street Address

b. City/Town, Zip

c. Check number

d. Fee amount

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

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

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

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

4. DEP File Number:

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



B. Instructions

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

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



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

DEP File Number:

316-0820

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.



Waltham Conservation Commission
119 School Street
Waltham, MA 02451-4596

SPECIAL ORDER OF CONDITIONS (v1.4)
AS ISSUED BY THE WALTHAM CONSERVATION COMMISSION

DEP File Number: 316-0820
Applicant: John Colbert - MWRA
Location: Linden St ROW, Waverley Oaks Rd ROW
Date of Issuance: 10/25/2024

Findings of Fact:

1. The subject site is within the public rights of way of Waverly Oaks Road between Linden Street and Beaver Street. The area currently consists of a paved road accompanied by a grass strip and sidewalk north of the roadway and a grass strip of mostly mature oak trees and other vegetation south of the roadway. The perennial river, known as Beaver Brook, is located south of the roadway and along most of the project locus. The northern portion of the project extends just into the Clematis Brook watershed.
2. The following jurisdictional areas have been identified and verified on the site under this Order:
 - a. Bordering Land Subject to Flooding has been identified as a Resource Area subject to protection under 310 CMR 10.57.
 - b. Riverfront Area has been identified as a Resource Area subject to protection under 310 CMR 10.58.
 - c. Bordering Vegetated Wetlands have been identified as a jurisdictional area subject to protection under 310 CMR 10.55.
 - d. 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands has been identified as a jurisdictional area subject to review under 310 CMR 10.02(2)(b).
3. This project is subject to provisions of the MassDEP Stormwater Standards, the Riverfront General Performance Standards (310 CMR 10.58(4)), and the Bordering Land Subject to Flooding Performance Standards (310 CMR 10.57(4)). The Commission finds that this project, as conditioned, meets all standards.
4. The project involves rehabilitation of sections of the existing MWRA Weston Aqueduct Supply Main 3 (WASM3) within the Waverly Oaks Road right of way. Rehabilitation includes replacement of sections of water main and appurtenances (valves, meters), cleaning and cement lining, removal of tree roots, and vegetation that could undermine structural integrity of subsurface pipes, and clearing of vegetation along the existing alignment where pipe is targeted through construction.

5. To replace the existing steel pipe, installed in the 1920s, temporary excavation for pipe section installation and access pits for cleaning and lining will be required and restored in-kind by pavement or loam and seed. There will be no loss of flood storage capacity or permanent alteration to Bordering Land Subject to Flooding.
6. The only permanent alteration within the Riverfront Area is from installation of 5 new manholes which total at 20 square feet.
7. Construction-term stormwater will be managed through the implementation of appropriate BMPs. All disturbed areas will be returned to their pre-existing conditions.
8. From Linden Street to Beaver Street, 60 trees of six native species are proposed by MWRA to replace the 20 removed during construction. Of the 60 plantings, 29 are proposed within Riverfront Area and 31 are proposed just outside. MWRA is also giving the City Tree Warden 245 trees for a neighborhood located in northwest Waltham. This totals 305 trees to replace the 20 removed during construction. Tree Warden will water 305 trees after they are planted and trees have a 1-year warranty.
9. The approved plan submitted with the Notice of Intent is entitled "Massachusetts Water Resource Authority, Weston Aqueduct Supply Main 3 Construction Package 2, Rehabilitation of Water Main Section W10, Waltham, MA (66 Sheets)" prepared by Stantec, Signed and stamped by Ryan J. Stackpole, dated June 2023, final revision September 16, 2024. 1" =40' Scale.
10. This project was originally heard at the June 8, 2023 meeting of the Commission, and continued to June 22, 2023. Between June 22, 2023 and November 2, 2024, the project was continued several times but no new information was presented or discussed. MWRA was then expected to readvertise for their public hearing and did so for the October 10, 2024 meeting of the Commission with revised plans. The hearing was then continued to the October 24, 2024 meeting, when the Commission voted to close the public hearing and issue an Order of Conditions.
11. No other work is approved by this Order.

Violation of any condition stated herein may result in Enforcement Action.

21. RECORDING AND ADMINISTRATION

A. Prior to any work on the site, or within six (6) weeks of the date of this Order, whichever comes first, this Order of Conditions and relevant attachments shall be recorded at the Middlesex Registry of Deeds or Land Court, and notice filed with the Commission, pursuant to General Condition 9. Failure to do so shall be deemed cause to revoke this Order.

B. In advance of any work on this project, the applicant shall notify the Commission, and at the request of the Commission, shall arrange an on-site conference among the Commission, the contractor, and the applicant to ensure that all of the conditions of this Order are understood. For projects located within the Cambridge surface water supply watershed, the applicant shall also notify Cambridge Water Department.

C. This Order shall be made a part of all contracts and subcontracts dealing with the work proposed, and shall supersede all other conflicting contract requirements. Except where modified by the following Conditions, all work shall be performed in accordance with the plans and the Notice of Intent. Where a conflict exists between the referenced plans and these Conditions, the Conditions will govern.

D. This Order shall apply to and be binding upon the applicant, its employees, and all successors and assigns in interest or control.

E. Prior to any work being done on the project site, the applicant shall inform the Waltham Conservation Commission in writing of the names, email and mailing addresses, and business and mobile phone numbers of both the project supervisor who will be responsible for ensuring on-site compliance with this order and his/her alternate. The applicant shall also notify the Commission in writing of any changes in this information.

F. Any errors found in the plans or information submitted by the applicant shall be considered as changes, and the procedures outlined in General Condition 14 shall be followed.

G. In conjunction with the sale of any portion of the site covered by this Order of Conditions, the applicant shall submit to the Commission a signed statement by the buyer that he/she is aware of outstanding Orders of Conditions.

H. The Commission may authorize its designated agent to act on its behalf in determining compliance.

22. PRIOR TO COMMENCEMENT OF WORK

The following conditions, in addition to 21A, 21B, 21C, and 21E, are requirements prior to the commencement of work:

A. Prior to any work on site, the wetland resource area delineation, limit of work delineation, tree protection measures, and erosion controls shall all be in place. The applicant shall notify the Conservation Commission when all of these controls are in place, and, if requested by the Commission, shall arrange an on-site conference among the Commission, the contractor, and the applicant to review same. For projects located within the Cambridge surface water supply watershed, the applicant shall also notify Cambridge Water Department.

B. The wetland, riparian, and floodplain resource areas and proposed limit of work shall be clearly marked with stakes, flags or fencing. Such markers will be maintained until all construction on the site's perimeter is complete. All workers shall be informed that no construction activity is to occur beyond this line at any time.

C. The applicant shall preserve and protect all sizeable (DBH of 6 in. or greater) trees, including root systems, that are located in whole or in part within resource areas, 100 ft. buffer zones, or 200 ft. riparian zones, during the demolition and construction phases of this project, except where one or both of the following exceptions are met:

i. Explicit permission has been granted by the Conservation Commission to remove such trees.

ii. The entire tree including root systems is outside the limit of work and therefore already protected by the limit-of-work stakes, flags, or fencing.

For sizeable trees that are to be preserved, the applicant shall strap protective boards around the trunk from ground level to a height of at least 8 feet. The applicant shall install fencing below the perimeter of the crown of the tree, or at a distance of at least 18 in. from the trunk for each inch of trunk diameter, whichever is greater, to prevent damage to roots or compaction of soil around roots. Such measures shall be maintained until all construction, earthwork, and grading is complete, and then shall be removed and legally disposed of off-site. Trees that are approved for removal shall be cut off near ground level; no removal of stumps or roots shall occur without written approval of the Conservation Commission.

D. Erosion controls as shown on the approved plans and described herein shall be installed.

i. Perimeter protection consisting of an erosion control barrier of a filter fabric fence backed by a row of double-staked straw bales (not hay), straw wattles, filter socks, or other approved perimeter protection described in the NOI and shown in the referenced plans, shall be placed between all construction activities and wetland areas or rivers, in accordance with Erosion and Sedimentation Guidelines for Urban and Suburban Areas, Mass. DEP, March 1997 or current version. Silt fencing (if proposed) shall be entrenched 4 in. into the ground and double staked.

ii. Stormwater catch basins located adjacent to the site that may receive stormwater runoff from the site shall be protected. These protections shall be installed in accordance with the plans approved by this Order and/or per the direction of the Waltham Conservation Commission. Silt sacks (not filter fabric) installed and properly maintained generally meet this requirement. Where curb inlets are present, curb inlet filters shall also be provided. Silt sacks, if required for the project, shall be emptied at least once every two weeks and whenever silt and debris have collected to a level that is affecting the functionality of the silt sack and/or catch basins. Silt sacks shall be maintained in good working order and shall be repaired or replaced when damaged.

iii. The applicant shall regularly clean the closest catch basins in every direction of the construction site, and regularly clean the city streets between the site and said catch basins, for the duration of construction. The cleaning shall be sufficiently thorough and frequent to prevent dirt tracked into the pavement from muddying the stormwater during rainfall.

iv. Upon completion of the project, the applicant shall remove and legally dispose of off-site all temporary erosion controls and other materials determined to be detrimental to the resource areas if left in place permanently.

E. The applicant shall have on hand at the start of any soil disturbance, removal or stockpiling, a minimum of 20% additional straw bales, straw wattles, filter socks, silt fencing, or other approved perimeter protection

system, in good condition, and sufficient stakes for installation. Said items shall be used only for the control of emergency erosion problems and shall not be used for the normal control of erosion described in Condition "D".

23. DURING WORK

A. Accepted engineering and construction standards and procedures for protection of the resource area shall be followed in the completion of this project.

B. A copy of this Order of Conditions, all construction plans, and wetland replication plans if applicable, shall be maintained on site for the duration of any site work and made available to any person doing work on the site.

C. Site grading and construction shall be scheduled to avoid periods of high water. Once begun, grading and construction shall move uninterrupted to completion to avoid erosion and sedimentation of wetlands.

D. Any dewatering or drawdown activities on the project shall not directly discharge into a resource area or as surface flow. All discharges, including those to a storm drainage system, shall make use of a sedimentation tank or similar device to remove sediment before the water is released.

E. As soon as possible during construction, all disturbed areas in the resource areas or 100 ft. buffer zone shall be brought to final finished grade and stabilized permanently against erosion. This shall be done either by sodding, or by loaming, seeding, and mulching according to Natural Resources Conservation Service (formerly USDA) Soil Conservation Service Guidelines. If the latter course is chosen, stabilization will be considered completed once the surface shows complete vegetative cover. Bare, graded ground that cannot be permanently stabilized within thirty (30) days shall be stabilized by temporary measures. Stockpiled ground shall be stabilized as described in Condition 23.G below.

F. No earthen embankment in the resource areas or 100 ft. buffer zone shall have a post-construction slope steeper than 2:1 unless engineered slope stabilization is provided.

G. There shall be no stockpiling of soil, sand, or similar unconsolidated material within the resource areas or 100 ft. buffer zone, unless otherwise authorized by these Conditions or by the Waltham Conservation Commission. Any stockpile of soil, sand, or similar materials that is permitted within said areas shall be enclosed within a line of entrenched and staked erosion control socks or silt fence in addition to the perimeter erosion controls for the site. In the event that all earthwork ceases for more than 15 days or if inclement weather is imminent, all exposed stockpiled soils shall be stabilized with a temporary vegetative cover, tarp, or other erosion control acceptable to the Waltham Conservation Commission.

H. There shall be no discharge or spillage of fuel, oil, or other pollutants (including but not limited to: paint stripper, soap, detergent, other cleaning chemicals, industrial solvents, strong acids and bases, etc.) into any resource areas or 100 ft. buffer zone. The applicant shall take all reasonable precautions to prevent the release of pollutants by ignorance, accident, or vandalism. No fueling or maintenance of vehicles shall be allowed within resource areas or 100 ft. buffer zone, unless otherwise authorized by the Conditions or the Waltham Conservation Commission.

I. No plants, shrubs, or trees listed on the latest Massachusetts Department of Agricultural Resources Prohibited Plant List (invasive species) may be brought onto or planted anywhere on the property. (Plant List is available at <http://www.mass.gov/eea/agencies/agr/farm-products/plants/massachusetts-prohibited-plant-list.html>).

J. Planting within the resource areas and 100 ft. buffer zone shall be limited to species that are native to Massachusetts.

24. POST CONSTRUCTION

Within 1 year of completion of construction, final soil stabilization, and planting, but in no case later than the expiration date on the Order of Conditions, the Applicant shall:

A. Submit the following to the Waltham Conservation Commission to request a Certificate of Compliance (COC):

- i. A completed Request for Certificate of Compliance – WPA Form 8A;
- ii. An as-built plan and a signed letter from a licensed professional certifying that the work has been completed in substantial compliance with the approved plans and the Order of Conditions.

B. Remove temporary erosion controls (silt fence and straw wattles), unless specifically directed otherwise by the Conservation Commission, and legally dispose of offsite.

25. UPON COMPLETION OF WORK

A. No underground storage of fuel oil or other petroleum products shall be allowed within the resource areas or 100 ft. buffer zone. There shall be no storage of petroleum products within the resource areas or 100 ft. buffer zone on the site at any time, except to the extent reasonably necessary for the ordinary uses of the occupants and maintenance staff of the property (e.g., enclosed storage of fuel for landscaping and snow removal equipment for use on the property, and the fuel and oil contained within vehicles, where alternate storage and parking locations outside the resource areas or 100 ft. buffer zone are not practicable).

B. [not used].

C. [not used].

D. Sand used for winter traction in paved areas shall be removed periodically during the winter and by May 1st of each year. Records of cleaning shall be maintained on site.

E. There shall be no discharge or spillage of fuel, oil, or other pollutants (including but not limited to: paint stripper, soap or detergent, other cleaning chemicals, industrial solvents, strong acids and bases, etc.) into any resource areas or 100 ft. buffer zone. The applicant shall take all reasonable precautions to prevent the release of pollutants by ignorance, accident, or vandalism. No fueling or maintenance of vehicles shall be allowed within a resource area or 100 ft. buffer zone unless otherwise authorized by the Conditions or the Waltham Conservation Commission.

F. [not used].

G. Following the completion of construction and grading, all exposed soils within the resource areas or 100 ft. buffer zone must be adequately stabilized and maintained in a stable condition. Gradients of 3 units horizontal to 1 unit vertical or steeper shall be stabilized with a permanent vegetative cover, unless engineered slope stabilization is provided. Bark mulch or wood mulch may in appropriate circumstances (e.g., those not subjected to erosion from concentrated flow) be used to provide adequate stabilization on slopes with a gradient

less than 3:1.

H. All stormwater infrastructure, green infrastructure, and infiltration devices must be maintained per manufacturer specifications and an approved Operations and Maintenance plan, or Long-Term Pollution Protection Plan. The plan shall include inspection by the applicant no less than once every six months, and cleaning and maintenance as needed based on inspection. The approved Operations and Maintenance Plan shall be included in the Order of Conditions recorded at the Registry of Deeds. Records of said inspection and cleaning shall be maintained on site and made available to the Commission upon request.

I. Any fencing within a resource area or 100 ft. buffer zone shall have a continuous gap, interrupted only at main support posts, between the bottom of the fence and the ground. The bottom edge shall be free of sharp edges and sharp protrusions. The gap shall be at least 6 in., except where a hazard to small children (e.g., falling or drowning hazard) exists on the other side of the fence, in which case the gap shall be at least 4 in.

J. Any plantings within a resource area or 100 ft. buffer zones, or as part of any mitigation plan, shall be maintained and successfully established. Replanting shall be provided in case of significant failure, defined as greater than 25% mortality of any strata.

K. Sealers containing coal tar pitch shall not be used in maintenance of asphalt pavement. Asphalt-based sealers are permissible.

26. SITE-SPECIFIC CONDITIONS

- A. Twenty-nine (29) trees are to be planted in the jurisdictional riverfront area of the project, as shown in applicant's "Proposed Restoration Plan" (drawings L-104, L-105) dated September 2024. Selection of trees to be coordinated by the applicant with the City of Waltham tree warden (referencing drawing L-502, June 2023).
- B. The Applicant's proposed project results in disturbance of greater than 1 acre of land. As a result, the project requires coverage under the EPA's NPDES Construction General Permit (CGP). Concurrent with submission of the Notice of Intent (NOI) to EPA, the applicant shall submit to the Commission a copy of the applicant's or contractor's ("operator", as defined in the CPG) NOI, and a copy of EPA's acknowledgement of their receipt of the completed NOI at least ten (10) days prior to commencing construction activity.
- C. Sediment controls will consist of compost filter tubes, and in areas where the work is located within 50 feet of a wetland or waterway, silt fencing and a double row of sediment controls will be used in order to meet the conditions of the EPA's NPDES Construction General Permit (CGP) Buffer Compliance condition.
- D. All construction site inspections and reporting shall be performed according to the requirements and schedules of CGP. A violation of any of the requirements of the CGP, or a failure of the operator to take required corrective actions as required by the CGP, shall constitute a violation of these Conditions.