



WPA Form 5 – Order of Conditions

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

B. Findings

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. Check all that apply:

- Public Water Supply
- Land Containing Shellfish
- Prevention of Pollution
- Private Water Supply
- Fisheries
- Protection of Wildlife Habitat
- Groundwater Supply
- Storm Damage Prevention
- Flood Control

Furthermore, this Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- the following conditions which are necessary, in accordance with the performance standards set forth in the wetlands regulations, to protect those interests checked above. 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.

Denied because:

- the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations to protect those interests checked above. 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 these interests, and a final Order of Conditions is issued.
- 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).

General Conditions (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.



Massachusetts Department of Environmental Protection
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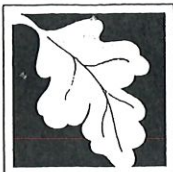
DEP File Number:

SE 32-1625
Provided by DEP

B. Findings (cont.)

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.
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.
6. 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.
7. 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.
8. 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 this 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.
9. 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, "MA DEP"]
"File Number SE 32-1625"
10. 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 DEP.
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
12. The work shall conform to the plans and special conditions referenced in this order.
13. Any change to the plans identified in Condition #12 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.
14. 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.



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B. Findings (cont.)

15. 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.

16. 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.

17. 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.

Findings as to municipal bylaw or ordinance

Furthermore, the Harwich hereby finds (check one that applies):
Conservation Commission

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

Municipal Ordinance or Bylaw

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.

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

Municipal Ordinance or Bylaw

Citation

The Commission orders that all work shall be performed in accordance with the said additional 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.



TOWN OF HARWICH CONSERVATION COMMISSION
ORDER OF CONDITIONS

RE: Orders of Conditions DEP File SE #32-1625

NAME: JAMES ARGIR

LOCATION: 2 MASHPA ROAD

PLAN TITLE: POND ACCESS & PIER AT LONG POND FOR JIM ARGIR AND JOSEPH
LUCIANO

DATE: Revised 1/7/2003

SIGNED/STAMPED BY: Martin E. Moran, P.E.

RESOURCE: INLAND BANK - BORDERING VEGETATED WETLAND

This permit allows for the construction of an access walkway, a platform and a seasonal pier and float according to the approved plan.

The provision of the Harwich By-Law Article VII which also applies is hereby certified to be complied with and is part of this ruling.

General Conditions 1 - 17 issued by the State Department of Environmental Protection on the preceding pages should be read and followed.

GENERAL CONDITIONS

1. No work shall commence on this project until the ten (10) business day appeal period has passed. This period shall begin on the day the Order of Conditions is hand delivered or postmarked, as appropriate.
2. The Order must be registered at the Barnstable County Registry of Deeds prior to commencement of any work and notice filed with the Commission.
3. The applicant or representative shall inform the Commission in writing of the name, address, and telephone number of the project contractor who will be responsible for on-site compliance with this order at least 72 hours in advance.

4. Members and Agent of the Harwich Conservation Commission shall have the right to enter and inspect the premises to evaluate compliance with the conditions stated in this Order, the Act, and 310 CMR 10.00.
5. This Order of Conditions applies only to the work permitted by this Order.
6. If any alteration of the Wetland/Resource Area does occur, the Commission shall impose measures, as it finds necessary to protect and restore those areas.
7. The construction site shall be left in a stable condition at the close of each day. Construction refuse and debris shall be controlled daily. Erosion and sedimentation controls shall be inspected, maintained, and reinforced if necessary daily.
8. Erosion and sediment control measures, as set forth in the referenced plan, shall be installed and kept in place for the duration of construction on the site and until permanent vegetative cover is established.
9. It is the responsibility of the applicant to procure all other applicable federal, state and local permits and approvals associated with this project.
10. Any refuse material from the site shall be disposed of at an approved location, and in no case will these materials be buried or disposed of in or near a Resource Area/Wetland.
11. This Order of Conditions shall apply to any successor in interest or assigns of the property.
12. This Order of Conditions shall expire on 1.22.2006 . For an extension to be granted, the Commission must receive a written request 30 days prior to the expiration of this Order.
13. All work will be done in strict conformity with the plans approved by the Commission under this Order of Conditions. Failure to file an amended plan and obtain the Commission's approval before deviating in any way from the approved plans shall constitute a violation of this Order of Conditions and permit. The Commission in its discretion may require a new hearing if any deviations or alterations from the approved plans are deemed significant.
14. If any unforeseen problem occurs during construction which affects any of the statutory interests of the Wetland Protection Act or Harwich By-Law Article VII, upon discovery, the Conservation Commission, or its Agent shall notify the developer immediately to determine the correct measures to be employed.
15. Failure to comply with all the conditions of this Order shall result in enforcement action by the Harwich Conservation Commission, which may include fines not to exceed \$200.00 per day/per violation.

SPECIAL CONDITIONS

1. The access area is to be restored to its original condition and stabilized and re-vegetated in the first planting season.

2. Non-leaching wood preservatives must be used for any wooden portion of the structure below mean high water.
3. Construction must be performed in such a way that debris is not introduced into the water and/or any resource area.
4. All work to be done by hand - NO MACHINES.
5. All work within the area of statutory interest shall be performed so as to create minimum disturbance to the existing vegetative cover and contours.
6. Disturbed areas shall be covered with hay mulch, jute matting or other suitable materials to provide surface protection until seed germination.
7. The notes on the plan are incorporated into this Order of Conditions.
8. Prior to requesting a Certificate of Compliance, an "as-built" plan shall be prepared.
9. Winter storage of the pier and float will be on the approved platform, no storage will be permitted on any resource area.



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B. Findings (cont.)

Additional conditions relating to municipal ordinance or bylaw:

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Date January 22, 2003 expires January 22, 2006

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 (see Appendix A) and the property owner (if different from applicant).

Signatures:

Shester Berg
Charles Patrick
Marcy Ford
Quincy Stode

On 21st Day of January 2003 Month and Year

before me personally appeared

Shester Berg

to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

Carol A. Genatossio July 14, 2006
Notary Public My Commission Expires

This Order is issued to the applicant as follows:

by hand delivery on

by certified mail, return receipt requested, on

Date CAROL A. GENATOSSIO Date 1/22/2003
Notary Public

MASSACHUSETTS
My Commission Expires July 14, 2006



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

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C. 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 DEP 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 Appendix E: Request of Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

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.

D. Recording Information

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 Page 7 of Form 5 shall be submitted to the Conservation Commission listed below.

Town of Harwich Conservation Commission
Conservation Commission
