The logo for SWCA (Soil Water Conservation Agency) is positioned vertically on the left side of the page. It consists of the letters 'S', 'W', 'C', and 'A' in a large, stylized, light blue font, stacked one above the other.

Amended Notice of Intent for an Americans with Disabilities Act– Compliant Boardwalk, Oxbow National Wildlife Refuge, Devons, Massachusetts

NOVEMBER 2020

PREPARED FOR

**U.S. Fish and Wildlife Service
Devons Enterprise Commission
One Way Development, Inc.**

PREPARED BY

SWCA Environmental Consultants

**AMENDED NOTICE OF INTENT
AMERICANS WITH DISABILITIES ACT-COMPLIANT
BOARDWALK, OXBOW NATIONAL WILDLIFE REFUGE,
DEVONS, MASSACHUSETTS**

DEP FILE: 352-0052

Prepared for

U.S. Fish and Wildlife Service
Eastern Massachusetts National Wildlife Refuge Complex
73 Weir Hill Road
Sudbury, Massachusetts 01776

Devons Enterprise Commission
33 Andrews Parkway
Devons, Massachusetts 01434

One Way Development, Inc.
67 Kemble Street
Boston, Massachusetts 02119

Prepared by

SWCA Environmental Consultants
15 Research Drive
Amherst, Massachusetts 01002
(413) 256-0202
www.swca.com

SWCA Project No. 63817

November 2020



ENVIRONMENTAL CONSULTANTS

Sound Science. Creative Solutions.®

15 Research Drive
Amherst, Massachusetts 01002
Tel 413.256.0202 Fax 413.256.1092
www.swca.com

November 11, 2020

Mr. Neil Angus
Devons Enterprise Commission
33 Andrews Parkway
Devons, MA 01434

Re: DEP FILE: 352-0052
Amended Notice of Intent
ADA accessible Boardwalk
78 Hospital Road, Devons
Oxbow National Wildlife Refuge
SWCA File: 63817

Dear Mr. Angus:

SWCA Environmental Consultants (SWCA) has prepared this amended notice of intent (NOI) on behalf of the U.S. Fish & Wildlife Service and One Way Development for the proposed construction of ADA compliant ramps for the previously approved boardwalk within the Oxbow National Wildlife Refuge (Devons). We request that the Commission re-open the Public Hearing to consider the amended plan to allow compliance with the American Disabilities Act. We estimate this additional work will alter 18 square feet of Bordering Vegetated Wetlands for the installation of additional posts.

If you have any questions or require further information, please contact me at my direct line 413-531-7156 or at mmarcus@swca.com.

Sincerely,

Mickey Marcus
Professional Wetland Scientist #1635

cc: DEP, Central Region
Tom Eagle, USFWS
Kristen McNeil, One Way Development (contractor)



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 3 – Notice of Intent

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

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

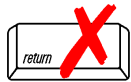
Devens

DEP file: 352-0052

City/Town

Important:

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



Note:
Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

A. General Information

1. Project Location (**Note:** electronic filers will click on button to locate project site):

78 Hospital Road

a. Street Address

Devens

b. City/Town

01434

c. Zip Code

Latitude and Longitude:

004.0-0399-0200.0

f. Assessors Map/Plat Number

42°32'26.4"N

d. Latitude

71°38'01.4"W

e. Longitude

0200.0

g. Parcel /Lot Number

2. Applicant:

Tom

a. First Name

Eagle

b. Last Name

United States Department of the Interior - US Fish and Wildlife

c. Organization

73 Weir Hill Road

d. Street Address

Sudbury

e. City/Town

MA

f. State

01776

g. Zip Code

978-579-4027

h. Phone Number

i. Fax Number

tom_eagle@fws.gov

j. Email Address

3. Property owner (required if different from applicant): ☐ Check if more than one owner

a. First Name

b. Last Name

U.S. Government (Managed by U.S. Fish and Wildlife Service)

c. Organization

300 Westgate Center Drive

d. Street Address

Hadley

e. City/Town

MA

f. State

01035

g. Zip Code

413-253-8200

h. Phone Number

i. Fax Number

j. Email address

4. Representative (if any):

Mickey

a. First Name

Marcus

b. Last Name

SWCA Environmental Consultants

c. Company

15 Research Drive

d. Street Address

Amherst

e. City/Town

MA

f. State

01002

g. Zip Code

413-531-7156

h. Phone Number

i. Fax Number

mmarcus@swca.com

j. Email address

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

0

a. Total Fee Paid

Exempt

b. State Fee Paid

NA - Federal Project

c. City/Town Fee Paid



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 3 – Notice of Intent

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

Provided by MassDEP:

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Devens

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City/Town

A. General Information (continued)

6. General Project Description:

Modification of the approved boardwalk to install ADA compliant sections of the installed boardwalk.
This is a modular low-impact dock and walkway system per the attached drawing and narrative.

7a. Project Type Checklist: (Limited Project Types see Section A. 7b.)

- | | |
|---|---|
| 1. <input type="checkbox"/> Single Family Home | 2. <input type="checkbox"/> Residential Subdivision |
| 3. <input type="checkbox"/> Commercial/Industrial | 4. <input checked="" type="checkbox"/> Dock/Pier |
| 5. <input type="checkbox"/> Utilities | 6. <input type="checkbox"/> Coastal engineering Structure |
| 7. <input type="checkbox"/> Agriculture (e.g., cranberries, forestry) | 8. <input type="checkbox"/> Transportation |
| 9. <input type="checkbox"/> Other | |

7b. Is any portion of the proposed activity eligible to be treated as a limited project (including Ecological Restoration Limited Project) subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

1. ☐ Yes ☒ No If yes, describe which limited project applies to this project. (See 310 CMR 10.24 and 10.53 for a complete list and description of limited project types)

2. Limited Project Type

If the proposed activity is eligible to be treated as an Ecological Restoration Limited Project (310 CMR 10.24(8), 310 CMR 10.53(4)), complete and attach Appendix A: Ecological Restoration Limited Project Checklist and Signed Certification.

8. Property recorded at the Registry of Deeds for:

Worcester

a. County

17907

c. Book

b. Certificate # (if registered land)

1

d. Page Number

B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- ☐ Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- ☒ Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.



Massachusetts Department of Environmental Protection
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B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Bank	1. linear feet	2. linear feet
b. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	18 (posts) 1. square feet	0 2. square feet
c. <input type="checkbox"/> Land Under Waterbodies and Waterways	1. square feet 3. cubic yards dredged	2. square feet

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
d. <input type="checkbox"/> Bordering Land Subject to Flooding	1. square feet 3. cubic feet of flood storage lost	2. square feet 4. cubic feet replaced
e. <input type="checkbox"/> Isolated Land Subject to Flooding	1. square feet 2. cubic feet of flood storage lost	3. cubic feet replaced
f. <input type="checkbox"/> Riverfront Area	Nashua River - inland (Devens is exempt) 1. Name of Waterway (if available) - specify coastal or inland	

2. Width of Riverfront Area (check one):

- ☐ 25 ft. - Designated Densely Developed Areas only
- ☐ 100 ft. - New agricultural projects only
- ☐ 200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project:

NA for Devens
square feet

4. Proposed alteration of the Riverfront Area:

a. total square feet b. square feet within 100 ft. c. square feet between 100 ft. and 200 ft.

5. Has an alternatives analysis been done and is it attached to this NOI? ☐ Yes ☒ No

6. Was the lot where the activity is proposed created prior to August 1, 1996? ☒ Yes ☐ No

3. ☐ Coastal Resource Areas: (See 310 CMR 10.25-10.35)

Note: for coastal riverfront areas, please complete **Section B.2.f.** above.



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B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users:
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
a. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below	
b. <input type="checkbox"/> Land Under the Ocean	1. square feet _____ 2. cubic yards dredged _____	
c. <input type="checkbox"/> Barrier Beach	Indicate size under Coastal Beaches and/or Coastal Dunes below	
d. <input type="checkbox"/> Coastal Beaches	1. square feet _____	2. cubic yards beach nourishment _____
e. <input type="checkbox"/> Coastal Dunes	1. square feet _____	2. cubic yards dune nourishment _____
	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
f. <input type="checkbox"/> Coastal Banks	1. linear feet _____	
g. <input type="checkbox"/> Rocky Intertidal Shores	1. square feet _____	
h. <input type="checkbox"/> Salt Marshes	1. square feet _____	2. sq ft restoration, rehab., creation _____
i. <input type="checkbox"/> Land Under Salt Ponds	1. square feet _____	
	2. cubic yards dredged _____	
j. <input type="checkbox"/> Land Containing Shellfish	1. square feet _____	
k. <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	
	1. cubic yards dredged _____	
l. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	1. square feet _____	
4. <input type="checkbox"/> Restoration/Enhancement		
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.2.b or B.3.h above, please enter the additional amount here.		
a. square feet of BVW _____	b. square feet of Salt Marsh _____	

5. ☐ Project Involves Stream Crossings

a. number of new stream crossings _____

b. number of replacement stream crossings _____



Massachusetts Department of Environmental Protection
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C. Other Applicable Standards and Requirements

- ☐ This is a proposal for an Ecological Restoration Limited Project. Skip Section C and complete Appendix A: Ecological Restoration Limited Project Checklists – Required Actions (310 CMR 10.11).

Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to http://maps.massgis.state.ma.us/PRI_EST_HAB/viewer.htm.

- a. ☐ Yes ☒ No **If yes, include proof of mailing or hand delivery of NOI to:**

Natural Heritage and Endangered Species Program
Division of Fisheries and Wildlife
1 Rabbit Hill Road
Westborough, MA 01581

August 1, 2017

b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.c, and include requested materials with this Notice of Intent (NOI); *OR* complete Section C.2.f, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

- c. Submit Supplemental Information for Endangered Species Review*

1. ☐ Percentage/acreage of property to be altered:

(a) within wetland Resource Area

percentage/acreage

(b) outside Resource Area

percentage/acreage

2. ☐ Assessor's Map or right-of-way plan of site

2. ☒ Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work **

(a) ☒ Project description (including description of impacts outside of wetland resource area & buffer zone)

(b) ☒ Photographs representative of the site

* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <http://www.mass.gov/eea/agencies/dfg/dfw/natural-heritage/regulatory-review/>). Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

** MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



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C. Other Applicable Standards and Requirements (cont'd)

- (c) ☐ MESA filing fee (fee information available at http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/ mesa/ mesa_fee_schedule.htm).
Make check payable to "Commonwealth of Massachusetts - NHESP" and **mail to NHESP** at above address

Projects altering 10 or more acres of land, also submit:

- (d) ☐ Vegetation cover type map of site
- (e) ☐ Project plans showing Priority & Estimated Habitat boundaries
- (f) OR Check One of the Following
1. ☐ Project is exempt from MESA review.
Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/ mesa/ mesa_exemptions.htm; the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)
 2. ☐ Separate MESA review ongoing. a. NHESP Tracking # _____ b. Date submitted to NHESP _____
 3. ☐ Separate MESA review completed.
Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.
3. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?
- a. ☒ Not applicable – project is in inland resource area only b. ☐ Yes ☐ No

If yes, include proof of mailing, hand delivery, or electronic delivery of NOI to either:

South Shore - Cohasset to Rhode Island border, and the Cape & Islands:

Division of Marine Fisheries -
Southeast Marine Fisheries Station
Attn: Environmental Reviewer
836 South Rodney French Blvd.
New Bedford, MA 02744
Email: DMF.EnvReview-South@state.ma.us

North Shore - Hull to New Hampshire border:

Division of Marine Fisheries -
North Shore Office
Attn: Environmental Reviewer
30 Emerson Avenue
Gloucester, MA 01930
Email: DMF.EnvReview-North@state.ma.us

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.



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Provided by MassDEP:

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City/Town

C. Other Applicable Standards and Requirements (cont'd)

Online Users:

Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

4. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?
- a. ☒ Yes ☐ No If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.
- Squannassit ACEC
- b. ACEC
5. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?
- a. ☐ Yes ☒ No
6. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?
- a. ☐ Yes ☒ No
7. Is this project subject to provisions of the MassDEP Stormwater Management Standards?
- a. ☐ Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:
1. ☐ Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)
 2. ☐ A portion of the site constitutes redevelopment
 3. ☐ Proprietary BMPs are included in the Stormwater Management System.
- b. ☐ No. Check why the project is exempt:
1. ☐ Single-family house
 2. ☐ Emergency road repair
 3. ☐ Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

D. Additional Information

- ☐ This is a proposal for an Ecological Restoration Limited Project. Skip Section D and complete Appendix A: Ecological Restoration Notice of Intent – Minimum Required Documents (310 CMR 10.12).

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

Online Users: Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

1. ☐ USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
2. ☐ Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.



Massachusetts Department of Environmental Protection
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D. Additional Information (cont'd)

3. ☐ Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.

4. ☐ List the titles and dates for all plans and other materials submitted with this NOI.

Oxbow National Wildlife Refuge ADA Access Ramp

a. Plan Title

FWM, Inc.

not stamped

b. Prepared By

c. Signed and Stamped by

07-24-2020

1"=20'

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

5. ☐ If there is more than one property owner, please attach a list of these property owners not listed on this form.
6. ☐ Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.
7. ☐ Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.
8. ☐ Attach NOI Wetland Fee Transmittal Form
9. ☐ Attach Stormwater Report, if needed.

E. Fees

1. ☒ Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

NA

2. Municipal Check Number

3. Check date

NA

4. State Check Number

5. Check date

US Fish and Wildlife Service Federal Project

6. Payor name on check: First Name

7. Payor name on check: Last Name



Massachusetts Department of Environmental Protection
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City/Town

F. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

THOMAS EAGLE

Digitally signed by THOMAS EAGLE
Date: 2020.10.23 10:00:47 -04'00'

1. Signature of Applicant

2. Date

3. Signature of Property Owner (if different)

4. Date

Mickey Marcus

Digitally signed by Mickey Marcus
DN: cn=Mickey Marcus, o=SWCA Environmental
Consultants, ou, email=mmarcus@swca.com, c=US
Date: 2020.10.23 10:52:49 -04'00'

5. Signature of Representative (if any)

6. Date

For Conservation Commission:

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

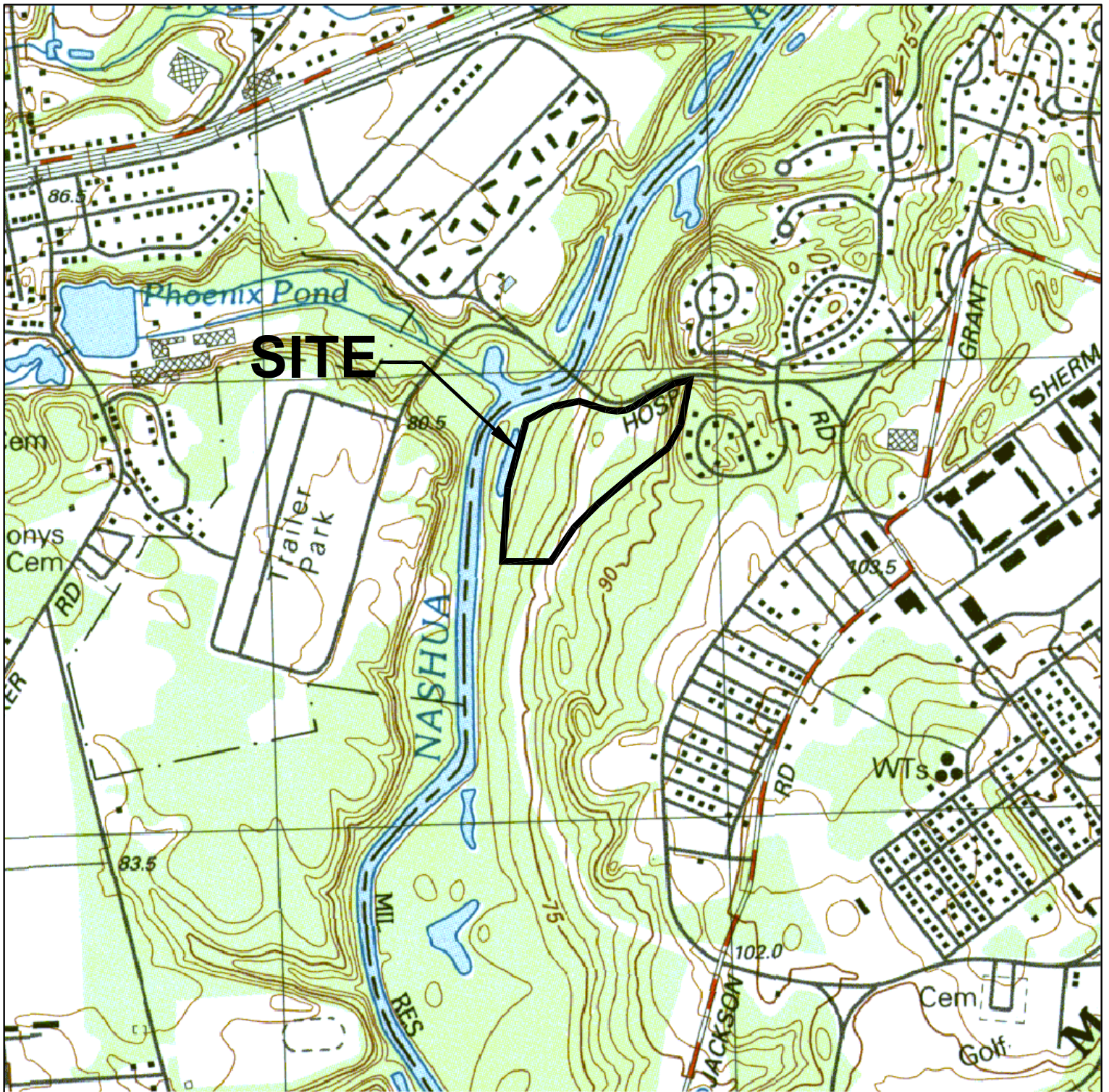
For MassDEP:

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a copy of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

Other:

If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.



PLAN
NORTH

GRAPHIC SCALE:



CHECK SCALE BEFORE USING

13 Sep, 2011 - 2:24pm
C:\Dfile\20603.20-USGS.dwg

SCALE: AS NOTED
DATE: 9-12-11

SHEET: 1 of 1

USGS MAP

OXBOW NATIONAL
WILDLIFE REFUGE

U.S. FISH & WILDLIFE SERVICE
SITE IMPROVEMENTS
HARVARD, MASSACHUSETTS

DESIGNED BY: SES
DRAWN BY: JFO
CHECKED BY: SES
PROJECT: 20603.20

OAK POINT
ASSOCIATES



ARCHITECTURE • ENGINEERING • PLANNING
231 Main Street, Bldford, Maine 04005 (T) 207.283.0193 (F) 207.283.4283
www.oakpoint.com

1 INTRODUCTION

SWCA Environmental Consultants (SWCA) has prepared this amended Notice of Intent (NOI) on behalf of the U.S. Fish and Wildlife Service (USFWS), the Devons Enterprise Commission, and One Way Development (site contractors) to modify the Order of Conditions for Massachusetts Department of Environmental Protection (DEP) file 352-0052. The proposed project modification is to build Americans with Disabilities Act (ADA)–compliant boardwalk sections to make the previously approved boardwalk fully accessible to all persons. The Applicant therefore requests that the Conservation Commission re-open the public hearing to review this minor plan revision to the previously approved project.

We estimate that the new work will result in an alteration of approximately 18 square feet of Bordering Vegetated Wetlands (BVW) for the installation of additional boardwalk support posts.

We have provided copies of the existing Order of Conditions, the approved site plans, and the proposed minor plan modifications for review by the Commission.

There are no filing fees associated with an amended Order of Conditions, and the USFWS is exempt from these fees.

Once the date of the public hearing for the project is set, the Devons Enterprise Commission will notify the owners of properties within 100 feet of the project area and place an advertisement announcing the hearing in the local newspaper at least 5 days prior to the hearing.

Proposed Work

The installation of the elevated walkway will be installed using modular aluminum sections that require only basic hand tools for installation. Heavy equipment and machinery are not required for the walkway installation, thereby avoiding direct wetland impacts. A summary of the material is provided below.

The Massachusetts Wetlands Protection Act permits the installation of boardwalks and similar structures as a Limited Project under 10.53(j) as follows:

The construction and maintenance of catwalks, footbridges, wharves, docks, piers, boathouses, boat shelters, duck blinds, skeet and trap shooting decks and observation decks; provided, however, that such structures are constructed on pilings or posts so as to permit the reasonably unobstructed flowage of water and adequate light to maintain vegetation.

The proposed ADA ramps are to be installed on raised piers allowing the unobstructed flowage of water, and the ramps will be constructed of open-cell material (Figure 1) to allow adequate light to maintain vegetation. The following open cell is from the manufacturer’s specifications (Legacy ThruFlow Decking) showing significant light penetration to the ground beneath the decking surface:

- Material: Fiberglass Reinforced Polypropylene
- Surface Light Availability 84% with a deck height of 60 inches
- Surface Light Available 61% with a deck height of 18 inches

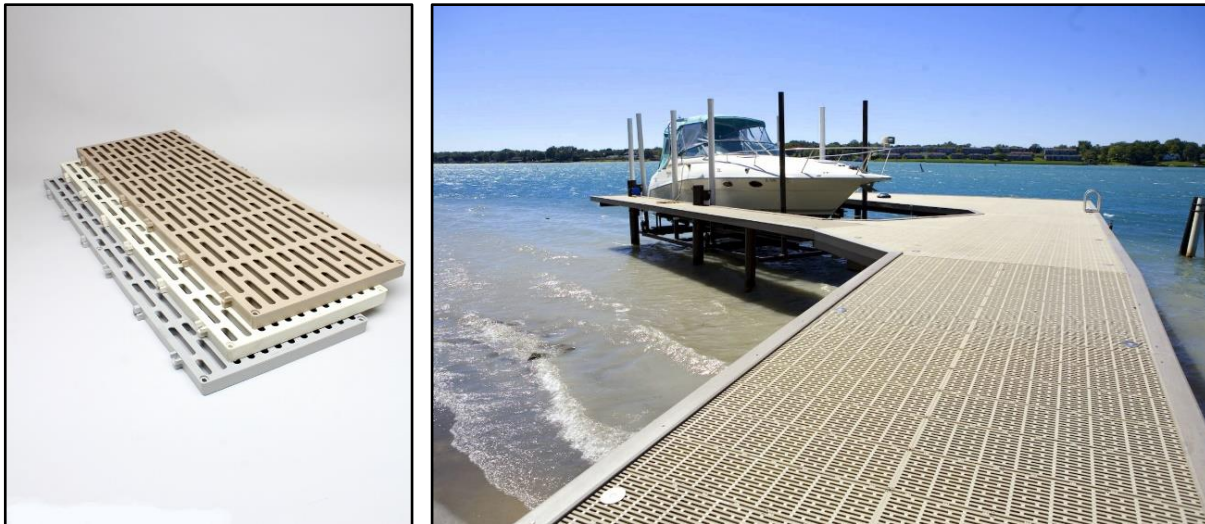


Figure 1. Legacy flow thru decking detail, and photograph of a boat dock using these materials.

Erosion and Sediment Control

The project area plans include erosion and sediment controls to separate the limits of disturbance in the buffer zone.

As required by Condition #2, the Applicant must submit for the Commission's approval a sequencing plan for construction and implementation of erosion and sediment controls, with supporting plans and details as appropriate. We recommend the following:

- Survey stakeout of the limits of work, including the construction staging area
- Installation of straw wattles staked at 5-foot intervals
- Review and approval of erosion controls by the Commission or Agent
- Installation of silt fencing around any temporary soil storage area.

In accordance with Special Condition #4, should de-watering or a settling basin needed to control site runoff during construction be required, these will be set into a stone-lined sump surrounded by staked bales of straw, and located 100 feet or more from the wetlands.

There are nine Special Conditions Under Erosion Control, and these do not require modification. The required erosion controls will be in place prior to construction, and additional erosion controls may be required on an as-needed basis; leaving the work site stable at the end of each work day; no cement wash out into wetlands; leaving the erosion controls in place until the site is fully stable; long-term and short-term site stabilization; dewatering; and maintaining on-site extra erosion control materials.

Stormwater

There are no changes to stormwater management from the approved site plans and Conditions. Annual stormwater inspections reports are required to be submitted to the Commission, and the stormwater system is required to be maintained in accordance with the approved site plans.

Construction

There are seven construction-related Special Conditions. There are no changes necessary for the proposed construction work or the existing conditions. However, we are requesting that the Commission delete Special Condition #6.

The support piers for a boardwalk is a Limited Project under 10.53 (j), and we request that the Conservation Commission delete Special Condition #6, which requires that compensatory flood storage be constructed prior to any filling of Bordering Land Subject to Flooding. The installation of support piers is not considered “fill” under federal wetland guidelines, and this compensation may be waived by the Commission for Limited Projects under the Wetlands Protection Act. Deleting this condition would save tree clearing and upland buffer excavation for a project which only fills 0.5 cubic feet of water for every 1 foot rise in floodwater.

Wetland Replication

There is no proposed wetland filling, other than the installation of 18 support piers. No wetland replication is proposed.

Operations and Maintenance

An operations and maintenance (O&M) plan has been submitted with the NOI stormwater plan. We request that the maintenance of the stormwater management system, parking lot, and related facilities be permitted as a non-expiring Condition. Additionally, we request that the control of invasive plant species, and site stabilization be permitted as a long-term non-expiring Condition.

Invasive Species

The original NOI did not address in the proposed work plan or the long term Operation & Maintenance plan to remove non-native and invasive plant species. As part of the management plan for the wildlife refuge, the removal of invasive plants is a long-term goal to promote native flora and fauna. Funding for invasive plant control is always problematic, but the Refuge requests in this permit application the ability to manage invasive species on an as-needed basis. Special Condition #1c of the Perpetual Conditions does not permit herbicide use within the wetlands unless approved by the Commission.

Invasive Species Control Methods. Herbaceous species such as purple loosestrife and immature woody invasive species seedlings are proposed to be managed with a foliar herbicide application. Foliar treatments will be conducted by using a low-pressure backpack sprayer or handheld sprayer to apply an herbicide solution to the leaves of the target species. All foliar management will be conducted as spot treatments where individual target plants are selected for treatment. Foliar applications require the use of a non-ionic surfactant to provide successful control. SWCA proposes the use of a non-ionic surfactant approved for use within wetland areas for this project. For all foliar applications, a 2% solution of Rodeo (glyphosate) or 2.56 ounces of herbicide per gallon of water will be applied with 1% or 1.33 ounces of the surfactant. Following successful control of herbaceous populations and other target plants, dead invasive species material will be removed and disposed offsite.

Target invasive trees, shrubs, and vines encountered within the project limits will be managed with cut-stem herbicide treatments. Cut-stem treatments will involve the use of hand tools (chainsaws, pruners, loppers, etc.) to cut the stem or vine followed by a spray or wipe application of herbicide solution to the

exposed stem surface. All cuts will be made within 6-inches of the ground and the cut material will be removed and disposed. Invasive vines such as Oriental bittersweet encountered climbing on trees will be cut and removed to the greatest extent feasible. Special care will be taken to avoid damages to the native canopy during removal. Following cutting, a 50% solution of Rodeo or 64 ounces of herbicide per gallon of water will be applied to the freshly cut surface. The herbicide solution will be applied using a handheld sprayer or a brush/swab.

All invasive species management will be conducted during the summer months while the target plants are actively growing. Multiple treatments are expected to be separated by at-least two weeks. To be effective we recommend at least two herbicide treatments should be scheduled per season for at-least two years following initiation of project work. As regulated by the label for the products, the applicator will not apply more than 8 quarts of Rodeo per acre, per year at the project site. A marking dye will be used to help the applicators identify the treated plant materials as they are working and to minimize overspray onto non-target species during the herbicide applications.

We anticipate that the control of invasive species at the Oxbow Refuge will be a long-term endeavor and will require multiple years to bring the invasive species population under control. We will therefore request that the Devons Commission approve the control of invasive species as part of the long term O&M plan, and to be a non-expiring Condition. We anticipate that year end reports by the Certified Applicator will be provided to the Commission.

Restoration and Stabilization of Disturbed Areas. All disturbed areas are proposed to be stabilized following construction activities. For bare soil in the upland areas, we will use native seed mixes for site stabilization. The New England Conservation/Wildlife Mix (available from New England Wetland Plants) is a suitable native seed mix for both erosion control and wildlife habitat. The rate of application is 1 lb/1750 square feet. The mix contains the following species: Virginia Wild Rye (*Elymus virginicus*), Little Bluestem (*Schizachyrium scoparium*), Big Bluestem (*Andropogon gerardii*), Red Fescue (*Festuca rubra*), Switch Grass (*Panicum virgatum*), Partridge Pea (*Chamaecrista fasciculata*), Panicleleaf Tick Trefoil (*Desmodium paniculatum*), Indian Grass (*Sorghastrum nutans*), Blue Vervain (*Verbena hastata*), Butterfly Milkweed (*Asclepias tuberosa*), Black Eyed Susan (*Rudbeckia hirta*), Common Sneezeweed (*Helenium autumnale*), Heath Aster (*Aster pilosus*/Symphyotrichum pilosum), Early Goldenrod (*Solidago juncea*), and Upland Bentgrass (*Agrostis perennans*).

For stabilization on slopes, we recommend the use of a 100% biodegradable erosion control blanket to be installed over the seeding. The blanket should be 70% straw and 30% coir in a biodegradable (non-plastic) netting.

In locations where the invasive species removal results in vegetation gaps, we recommend reseeding the herbaceous areas with a native (upland or wetland) seed mix. Restoration in shrub or forested areas will use native shrubs and small trees for filling gaps. The species to be installed will be dependent on the locations to be replanted, but shall be native species, similar to the existing habitat.

We therefore recommend the following, which we request be incorporated into the Perpetual Conditions:

- Physical control of invasive species may be permitted by pulling or cutting
- A Massachusetts certified aquatic applicator must be used for herbicide applications
- To control woody vegetation, cut woody stems and immediately apply Environmental Protection Agency (EPA) and DEP approved herbicide for use in wetland areas (e.g., Rodeo). Woody material shall be removed from the wetlands.

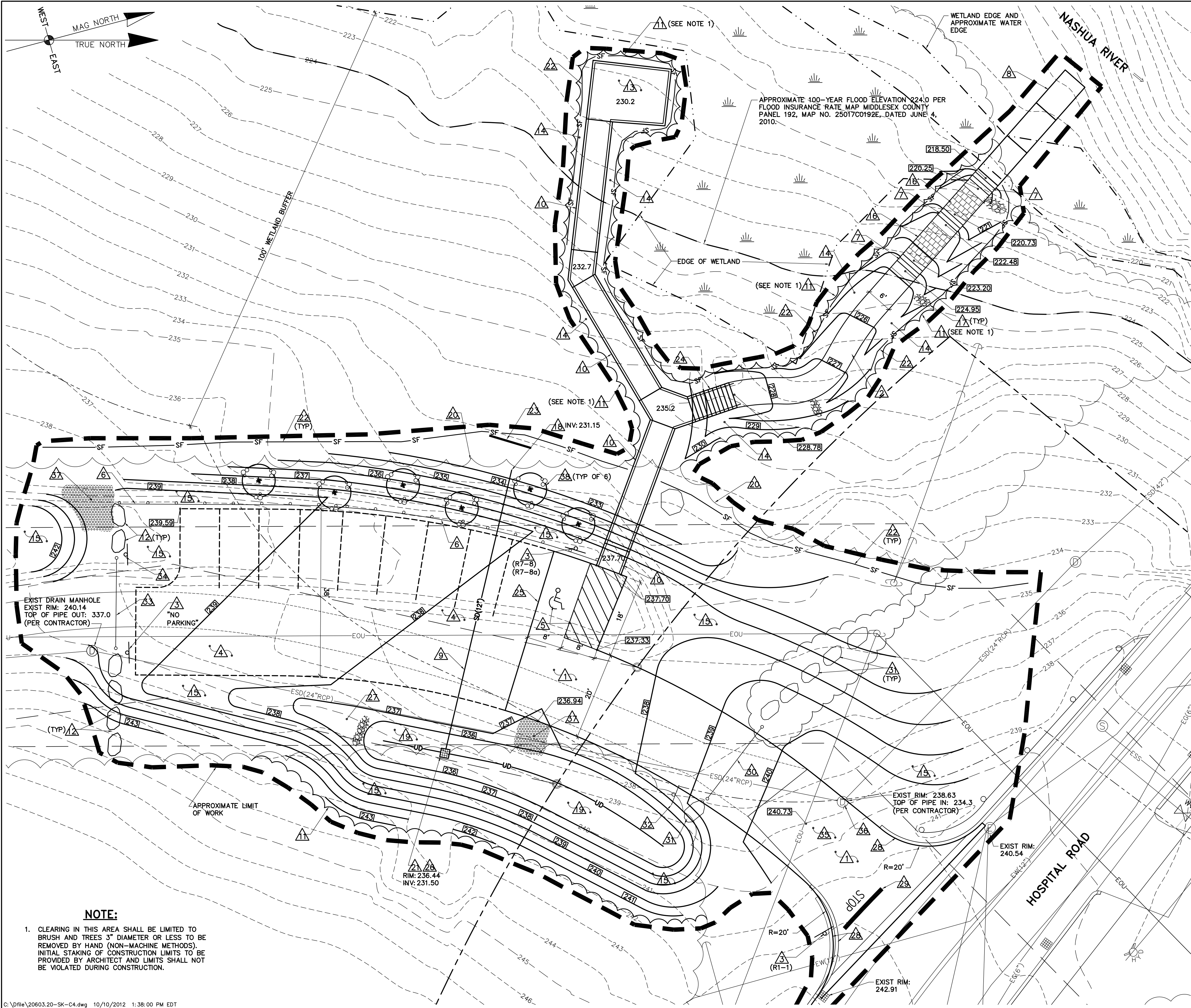
- To control herbaceous vegetation, use EPA and DEP approved foliar applied herbicide for use in wetland areas (e.g., Rodeo). Use dye to target invasive species.
- For biological control, the use of leaf beetles (*Galerucella* spp.) to control purple loosestrife (*Lythrum salicaria*) may be used with the U.S. Department of Agriculture’s approval.
- Provide the Commission with a year-end summary for any year in which invasive species control has been initiated.
- Use only native seed mixes and erosion control blankets to stabilize slopes and bare soils.
- Use only native trees and shrubs for revegetation purposes.

Summary

This amended NOI is to permit the installation of ADA-compliant boardwalk sections to the previously approved project. We recommend several minor changes to the Order of Conditions to permit this work as a Limited Project, and to ensure that invasive plant species may be controlled within the project area.

APPENDIX A

Plans and Figures



KEYNOTES:

- 1 ASPHALT CONCRETE PAVEMENT. **4** C502
- 2 GRAVEL TRAIL SECTION. **2** C503
- 3 TRAFFIC SIGN AND SIGN POST (SIGN TYPE INDICATED W/KEYNOTE). **2** C505 **3** C505
- 4 GRAVEL PARKING. **3** C503
- 5 PAVEMENT MARKING - HANDICAP ACCESSIBLE PARKING STALL AND LEGEND. **5** C505 (SIM)
- 6 WOOD GUARD RAIL. **8** C505
- 7 GRANITE STEPS. **6** C503
- 8 KAYAK LAUNCH. **5** C503
- 9 12" STORM DRAIN LINE. **1** C506
- 10 WOOD BOARDWALK. **1** SK-A7
- 11 EDGE OF TREES. (LIMIT OF CLEARING)
- 12 REINSTALL BOULDERS. **1** C505
- 13 OBSERVATION PLATFORM. **1** AE104 **2** AE104
- 14 6" PLANTING SOIL, SEMI-SHADE WOODLAND EDGE SEED MIX.
- 15 6" PLANTING SOIL, NATIVE GRASS AND WILDFLOWER MEADOW SEED MIX.
- 16 COBBLESTONE WALK. **4** C503
- 17 STONE CHECK DAM. **2** C501
- 18 CULVERT OUTLET, 6" L x 4" W. COORDINATE LOCATION TO AVOID REMOVAL OR DAMAGE TO EXISTING TREES. **3** C506
- 19 BIORETENTION AREA. BOTTOM ELEVATION: 235.77 BOTTOM AREA: 740 SQ. FT. **4** C506
- 20 EXISTING TREELINE TO REMAIN. NO CLEARING OR DISTURBANCE BEYOND THIS POINT.
- 21 CATCH BASIN. **2** C506
- 22 SILT FENCE. **1** C501
- 23 LEVEL SPREADER. COORDINATE LOCATION TO AVOID REMOVAL OR DAMAGE TO EXISTING TREES. **7** C506
- 24 WOOD STAIR. **5** SK-A7 **6** SK-A7
- 25 LIMIT OF PAVEMENT.
- 26 CATCH BASIN INLET PROTECTION. **1** C502
- 27 SEDIMENT FOREBAY. **5** C506
- 28 REMOVE AND RESET EXIST VERTICAL GRANITE CURB. **8** C502
- 29 PAVEMENT MARKING - STOP BAR AND LEGEND. **4** C505
- 30 REMOVE EXIST 20'± WIDE x 3'± HIGH SINGLE LEAF METAL PIPE SWING GATE AND STORE FOR REINSTALLATION.
- 31 REMOVE EXIST BOULDERS. (STORE FOR REUSE)
- 32 REMOVE EXIST SIGN AND STORE FOR REINSTALLATION.
- 33 REINSTALL EXIST 20'± WIDE x 3'± HIGH SINGLE LEAF METAL PIPE SWING GATE.
- 34 REINSTALL EXIST SIGN. **2** C505 (SIM)
- 35 REMOVE EXIST ASPHALT CONCRETE PAVEMENT.
- 36 RESET EXIST RIM TO FINISHED GRADE.
- 37 RIP RAP. D50=3", 6" MIN THICKNESS
- 38 TREE PLANTING ON SLOPE. **2** L501 **6** L501

NOTE:

1. CLEARING IN THIS AREA SHALL BE LIMITED TO BRUSH AND TREES 3" DIAMETER OR LESS TO BE REMOVED BY HAND (NON-MACHINE METHODS). INITIAL STAKING OF CONSTRUCTION LIMITS TO BE PROVIDED BY ARCHITECT AND LIMITS SHALL NOT BE VIOLATED DURING CONSTRUCTION.

GRAPHIC SCALE

1"=10'

10' 5' 0' 10' 20'

CHECK SCALE BEFORE USING

OAK POINT ASSOCIATES

ARCHITECTURE ■ ENGINEERING ■ PLANNING

85 Middle Street, Portsmouth, NH 03801 (T) 603.431.4849 (F) 603.431.1870
www.oakpoint.com

DESIGNED BY: SJT
DRAWN BY: WAL
CHECKED BY: SJT
PROJECT: 20603.20

EASTERN MASSACHUSETTS NWR COMPLEX
OXBOW VISITOR
CONTACT STATION
Project No. 5R-MA-OXB-1.0
HARVARD, ME

REVISED SITE LAYOUT, GRADING,
DRAINAGE, AND EROSION
CONTROL PLAN
RIVERFRONT ACCESS AREA

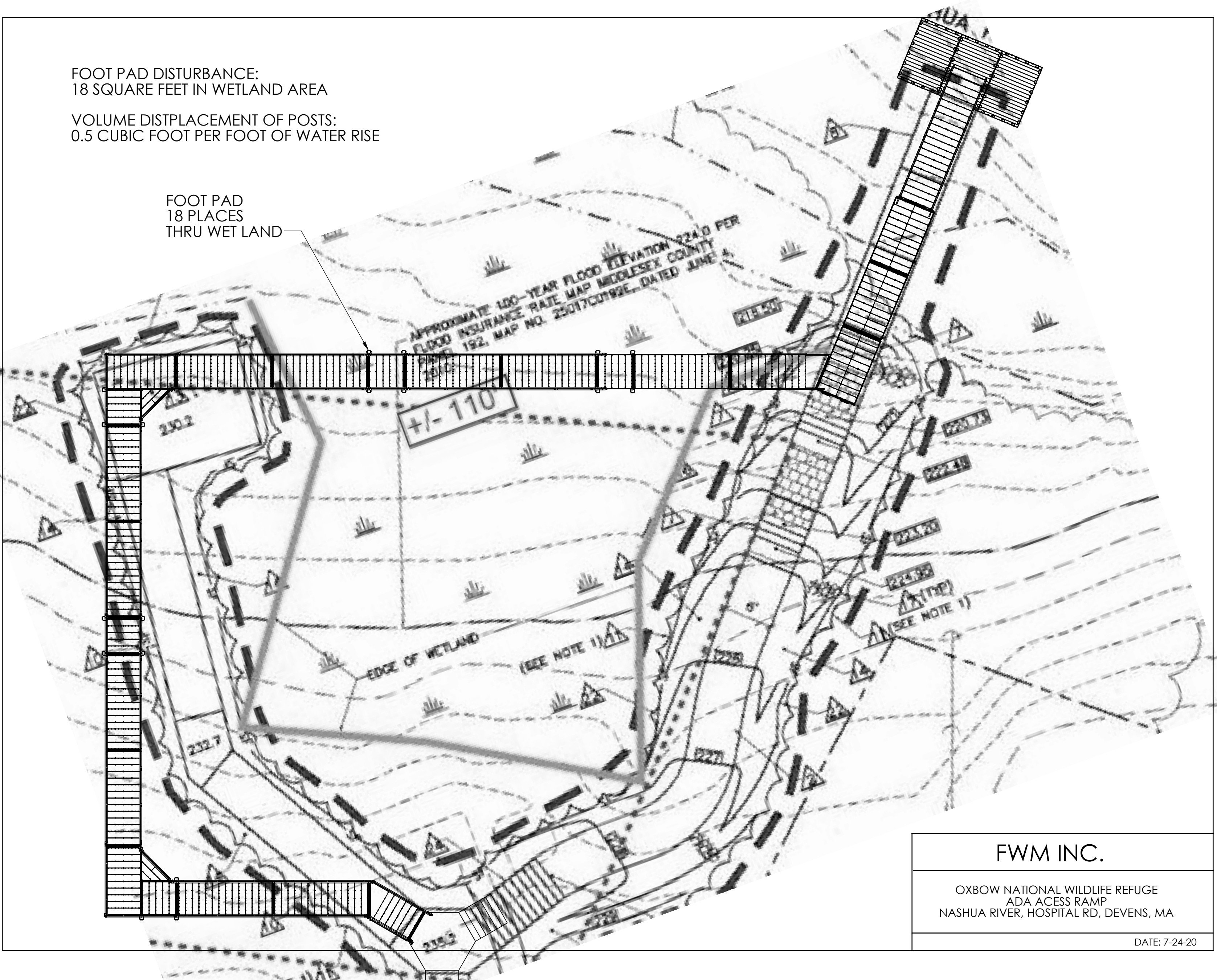
SCALE: 1"=10'
DATE: 11/13/12
REV: 12/7/12

REV: **SK-C4**
REVISION
SKETCH

FOOT PAD DISTURBANCE:
18 SQUARE FEET IN WETLAND AREA

VOLUME DISPLACEMENT OF POSTS:
0.5 CUBIC FOOT PER FOOT OF WATER RISE

FOOT PAD
18 PLACES
THRU WET LAND



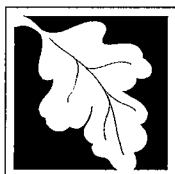
FWM INC.

OXBOW NATIONAL WILDLIFE REFUGE
ADA ACCESS RAMP
NASHUA RIVER, HOSPITAL RD, DEVENS, MA

DATE: 7-24-20

APPENDIX B

Orders of Condtnions



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:

352-0052
MassDEP File #

eDEP Transaction #

Devens

City/Town

A. General Information

Please note:
this form has
been modified
with added
space to
accommodate
the Registry
of Deeds
Requirements

1. From: Devens Enterprise Commission
Conservation Commission
2. This issuance is for
(check one): a. ☒ Order of Conditions b. ☐ Amended Order of Conditions

3. To: Applicant:

Elizabeth

a. First Name

Herland

b. Last Name

U.S. Fish and Wildlife Service

c. Organization

73 Weir Hill Road

d. Mailing Address

Sudbury

e. City/Town

MA

f. State

01776

g. Zip Code

4. Property Owner (if different from applicant):

U.S. Government (managed by the U.S. Fish and Wildlife Service)

c. Organization

300 Westgate Center Drive

d. Mailing Address

Hadley

e. City/Town

MA

f. State

01035

g. Zip Code

5. Project Location:

Hospital Road

a. Street Address

4

c. Assessors Map/Plat Number

Devens

b. City/Town

399-200

d. Parcel/Lot Number

Latitude and Longitude, if known:

d. Latitude

m

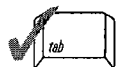
s

e. Longitude

d

m

s





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:

352-0052

MassDEP File #

eDEP Transaction #

Devens

City/Town

A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

Worcester

a. County

b. Certificate Number (if registered land)

c. Book

d. Page

7. Dates: 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):

Oxbow visitor contact station and parking area

a. Plan Title

Oak Point Associates

Stephen J. Townsend

b. Prepared By

c. Signed and Stamped by

9-12-2011

1" = 20'

d. Final Revision Date

e. Scale

9-12-2011

f. Additional Plan or Document Title

g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

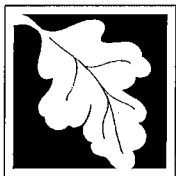
Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act).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



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:

352-0052

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Devens

City/Town

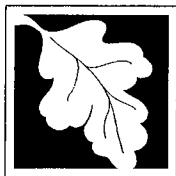
B. Findings (cont.)

Denied because:

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

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	<u> </u> a. linear feet	<u> </u> b. linear feet	<u> </u> c. linear feet	<u> </u> d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	<u> </u> a. square feet	<u> </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. <input type="checkbox"/> Bordering Land Subject to Flooding	<u> </u> a. square feet	<u> </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. <input type="checkbox"/> 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. <input checked="" type="checkbox"/> Riverfront Area	<u>11,060</u> a. total sq. feet	<u>11,060</u> b. total sq. feet		
Sq ft within 100 ft	<u>2,230</u> c. square feet	<u>2,230</u> d. square feet	<u> </u> e. square feet	<u> </u> f. square feet
Sq ft between 100-200 ft	<u>8,830</u> g. square feet	<u>8,830</u> h. square feet	<u> </u> i. square feet	<u> </u> j. square feet



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:

352-0052

MassDEP File #

eDEP Transaction #

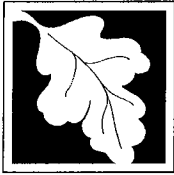
Devens

City/Town

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	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> 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	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. nourishment	<u> </u> d. nourishment
14. <input type="checkbox"/> Coastal Dunes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. nourishment	<u> </u> d. nourishment
15. <input type="checkbox"/> Coastal Banks	<u> </u> a. linear feet	<u> </u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u> a. square feet	<u> </u> b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> 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			
	<u> </u> a. c/y dredged	<u> </u> b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	<u> </u> a. square feet	<u> </u> b. square feet		



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

Provided by MassDEP:

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City/Town

B. Findings (cont.)

* #22. 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.

22. ☐ Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

23. ☐ Stream Crossing(s):

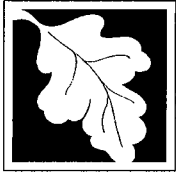
a. number of new stream crossings

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.
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. 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.
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.



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:

352-0052

MassDEP File #

eDEP Transaction #

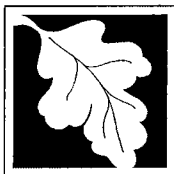
Devens

City/Town

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

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 352-0052"
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.
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.



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:

352-0052

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

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.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order (the "Project") is (1) ☒ is not (2) ☐ 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;
- 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.



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

- 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

Special Wetland Conditions for USFWS Wetland Order of Conditions

1. MA DEP File number shall be submitted to the DEC prior to commencement of any activity.
2. Submit for the Commission's approval a sequencing plan for construction and implementation of erosion and sedimentation controls, with supporting plans and details as appropriate.
3. Submit to the DEC Director for review and approval, details for any de-watering
4. operations. Dewatering plan details shall include sequencing of settling basin construction (basin, inlets/outlets and erosion controls) and a contingency plan, should an emergency situation arise which settling basins cannot handle, to ensure reduced turbidity prior to any indirect discharge to a Wetland.

During Construction

1. At least once during each month in which work is performed on Site and for as long thereafter as the ground remains unstabilized, the Applicant shall submit a report from a professional wetland scientist to the Commission certifying that, to the best of his knowledge and belief based on a careful Site inspection, all work is being performed in compliance with this Order.
2. A copy of this Order, final approved and endorsed site plans, and copies of any other local, state and federal permits shall be on Site at all times during construction for contractors to view and adhere to.
3. All equipment shall be operated, parked, and maintained so as to avoid adverse impacts to Wetlands. No equipment may enter or cross Wetlands at any time unless the location of disturbance is marked on the plans referenced in this Order and flagged in the field.
4. Any permanent stormwater management facilities utilized for temporary sedimentation basins must be cleaned out, repaired and properly stabilized prior to issuance of a COC.
5. Equipment for fuel storage and refueling operations shall be located outside all Wetlands unless indicated otherwise on the approved plans.
6. Compensatory flood storage shall be constructed prior to any filling of Land Subject to Flooding.
7. After the completion of each phase, the Applicant may request in writing from the Commission a partial COC. At that time, the Commission will conduct a final inspection of that phase to be sure that all conditions in the Order pertinent to the phase have been met.

Erosion Control

1. Appropriate erosion controls shall be in place prior to the beginning of any phase of construction and shall be maintained throughout construction. Additional or modified erosion controls may be required by the Commission at any time before, during and after construction.
2. The area of work shall remain in a stable condition at the close of each work day. The erosion controls should be inspected after every storm event and maintained, repaired, reinforced or replaced as necessary.
3. Cement trucks shall not be washed out in Wetlands and the runoff shall not flow into any part of the stormwater management system. Any cement truck washout area(s) shall be designated outside of Wetlands and be cleaned out daily. Excess cement may not be buried.
4. Erosion controls shall remain in place and function properly until all exposed soils have been stabilized with final vegetative cover and the Commission and/or its agent has authorized their removal.

5. Within fifteen (15) days of completion of work on any given area of the project, all disturbed areas shall be permanently stabilized with rapidly growing vegetation cover, using sufficient top soil to assure long-term stabilization of disturbed areas. A minimum of four (4) to six (6) inches of organic top soil, if necessary, and a Natural Resources Conservation Service-approved native New England seed mixture shall be used in accordance with the measures outlined in the Erosion Control Guidelines or other acceptable stabilization methods as approved by the Director. Continued maintenance of this area, in a manner which assures permanent stabilization and precludes soil erosion, shall be the responsibility of the Applicant.
6. Dewatering activities shall be conducted as shown on the approved plans and shall be monitored daily to ensure that sediment-laden water is appropriately settled prior to discharge toward the Wetlands.
7. At any time before, during or after work on the Site, and until the issuance of a COC, the Commission or its agent may require the Applicant to modify, augment, restore or maintain erosion controls on the Site.
8. If upland soils are to be disturbed for longer than 30 days, a temporary cover of New England Conservation Seed Mix or other approved native seed mix shall be established to prevent erosion and sedimentation. If the season is not appropriate for plant growth, exposed surfaces shall be stabilized by other appropriate erosion controls, firmly anchored, to prevent soils from being washed into Wetlands.
9. An adequate stockpile of erosion control materials shall be on the Site at all times for emergency or routine replacement and shall include materials to repair or replace silt fences, hay bales, erosion control blankets, stone rip rap, filter berms or any other devices planned for use during work on the Site.

Stormwater Management

1. The Applicant shall maintain, in accordance with the Operations and Maintenance Plan, (a) all elements of the stormwater management system not in the public roadway, in order to avoid blockages and siltation which might cause failure of the system and/or detrimental impacts to on-site or off-site Wetlands, and (b) the integrity of vegetative cover on the Site. Annual stormwater inspection reports, in a prescribed form to be provided by the DEC, shall be submitted by the Applicant to the DEC in February of each year.
2. In the event that the DEC determines that the Applicant has materially failed in its obligation to maintain the stormwater management system in accordance with the Operations and Maintenance Plan, the DEC or its agent shall have the right, upon written notice to the Applicant, and the Applicant's failure to remedy the maintenance issue within thirty (30) days of notice thereof, to enter upon the Site to perform the required maintenance. All costs incurred by the DEC in connection with its performance of such required maintenance on the Site shall be reimbursed by the Applicant within forty-five (45) days of Applicant's receipt of the DEC's invoice for such costs.

Wetland Replication [If applicable]

1. Following construction of the replication area and prior to other work on the Site, the wetland scientist shall certify to the Commission that the area has been constructed in compliance with the Order. Such certification shall be accompanied by a plan showing the limits of the replication area and final grades as surveyed by a licensed land surveyor, which meet grades shown on the plans approved in this Order.

2. In the event that the seed base within any permitted Wetland alteration and/or restoration does not readily germinate (within one month during the growing season), the area must be seeded with a native New England wetland seed mix approved by the DEC or its agent.
3. The Applicant shall ensure that work authorized or required by this Order, including the long-term monitoring and maintenance program, shall be supervised by a professional wetland scientist.
4. The wetland scientist shall submit regular inspection reports to the DEC prior to and during construction in accordance with the criteria listed in Appendix 4 of the 2002 MA DEP Wetland Replication Guidelines.
5. The wetland scientist shall submit monitoring inspection reports to the DEC on a monthly basis as the project remains active. The final long-term monitoring report shall confirm whether or not the 75% of the surface of the replacement has been reestablished with indigenous wetland plant species. If the 75% requirement is not met, the Applicant shall provide additional native plantings to meet this requirement or extend the monitoring period until the 75% requirement is met.
6. In order to ensure full compliance with the wetland replication performance criteria listed in 310 CMR 10.55(4)(b), the following items shall be completed prior to issuance of a COC:
 - a. An as-built plan stamped by a R.L.S. or P.E. shall be submitted that documents the construction of the replication area. The size of the replication area should be documented as consistent with the size proposed.
 - b. Any remaining invasive species colonized in the replication area shall be eliminated.
 - c. All erosion controls shall be removed and any soils disturbed by their removal stabilized.
 - d. All new drainage culverts shall be checked to ensure a free-flow. Any clogging from sediments, trash or other impediments shall be remediated and any exposed areas properly stabilized.
7. To ensure proposed work within Land Under Water Bodies and Waterways meets the performance criteria as per 310 CMR 10.56(4), the wetland scientist shall oversee and confirm, in writing to the DEC, the following:
 - a. Construction activities were implemented so as not to impair the water carrying capacity within the defined channel.
 - b. Construction activities were implemented to ensure no negative impacts to ground and surface water quality;
 - c. Construction activities and final work have not permanently altered the capacity of said land to provide breeding habitat, escape cover and food for fisheries; and the capacity of said land to provide important wildlife habitat functions.
8. Additional controls measures shall be implemented at the discretion of the DEC or the wetland scientist to ensure compliance.

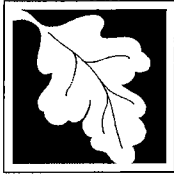
Prior to Obtaining A Certification of Compliance

1. After the completion of one or more phases of the work authorized by this Order, the Applicant may request a partial COC. At that time, the Commission will conduct a final inspection of that phase to ensure that all conditions have been met.
2. To receive a partial or complete COC the Applicant shall complete the work authorized under this Order for the phase or for the entire Site as applicable and submit the following to the Commission:

- a. A letter requesting a COC and a completed Request for COC form (WPA Form 8A).
- b. A signed and stamped written statement from a registered professional engineer of the Commonwealth certifying that the work has been conducted as shown on the plan(s) and documents referenced above, and as conditioned by the Commission.
- c. An "as-built" plan signed and stamped by a registered professional engineer or land surveyor of the Commonwealth.
- d. A signed letter from a professional wetland scientist indicating that all wetland replication activities were conducted in accordance with the approved plans. Such letter shall indicate any unexpected conditions that may have been encountered during replication and the approved measures that were undertaken to resolve these issues. Such letter shall include any follow-up inspection and maintenance requirements.

Perpetual Conditions

1. The Applicant shall comply with the following conditions all of which shall be perpetual:
 - a. Maintenance of the stormwater management system in accordance with the Operations and Maintenance Plan and use of best management practices except for those components of the stormwater management system that are in a public roadway;
 - b. Maintenance of stabilized slopes as shown on the plans and/or as required by a condition of this Order;
 - c. Inorganic, non-native pesticides, herbicides, fungicides, and fertilizers are prohibited in Wetlands unless approved by the Commission;
 - d. De-icing chemicals (e.g. sodium, potassium, and calcium chloride) are prohibited within Wetlands unless otherwise authorized by this Order;
 - e. There shall be no dumping of leaves, grass clippings, brush, or other debris into the Wetlands.



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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.

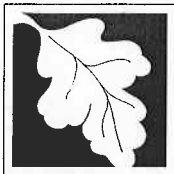
- b. ☐ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

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.

9-27-2011

1. Date of Issuance

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

9

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

2. Number of Signers

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

Signatures:

[Signature]
[Signature]
[Signature]
☐ by hand delivery on

[Signature]
[Signature]
[Signature]
[Signature]
☒ by certified mail, return receipt requested, on

October 5, 2011

Date

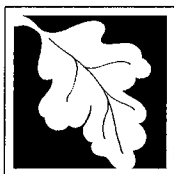
Date

F. Appeals

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

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

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



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G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Conservation Commission

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

To:

Conservation Commission

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

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for: Property Owner

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

Book

Page

In accordance with the Order of Conditions issued on:

Date

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

Instrument Number

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

Document Number

Signature of Applicant