



marked  
2/9/24

February 9, 2024

Certified Mail Return Receipt: 7015 0640 0003 2847 7600

Town of Harvard Department of Public Works  
Attn: Tim Kilhart  
47 Depot Road  
Harvard, MA 01451

**Re: Harvard waterline & booster pump station, Devens, MA Unified Permit D-23-095 Approval**

Dear Mr. Kilhart,

At its February 8, 2024 meeting, the Devens Enterprise Commission approved a Wetland Order of Conditions and a Unified Permit Record of Decision for the above-referenced project. Enclosed is the original signed Unified Permit Record of Decision (ROD) issued by the Devens Enterprise Commission (DEC) and the signed Wetland Order of Conditions.

Please note, prior to the commencement of work, the Wetland Order of Conditions must be recorded in the Worcester Registry of Deeds. Once recorded, please ensure you complete page 12 of 12 of the Order (G. Recording Information) and return it to the DEC office. The ROD will also need to be recorded in the Worcester County Registry prior to the commencement of any work. Please notify the DEC office of the Volume and Page number once the ROD has been recorded. Please also note, there is a 30-day appeal period that expires on March 10, 2024. Commencement of any approved activities within this period is at your own risk. A pre-construction meeting will be required prior to commencement of any site work so please contact our office when you are ready to schedule this meeting.

Thank you for your continued cooperation and feel free to contact me with any questions.

Sincerely,

Neil Angus, FAICP, LEED AP  
Director/Land Use Administrator

cc: Ayer Town Clerk  
Harvard Town Clerk  
Shirley Town Clerk  
Meg Delorier, MassDevelopment  
MA DEP Central Region  
Mary Danielson, PE, Tighe & Bond



DEVENS ENTERPRISE COMMISSION  
33 Andrews Parkway • Devens, MA 01434 • Phone: (978) 772-8831 • Fax: (978) 772.8831

**Record of Decision**  
**Devens-Harvard Water System Interconnection Project**  
**Devens (Harvard), MA**  
**Unified Permit**  
**February 8, 2024**

**1. Applicant:**

The Applicant is the Town of Harvard Public Works Department, 47 Depot Road, Harvard, MA 01451 and the owner is MassDevelopment Finance Agency, 33 Andrews Parkway, Devens, MA 01434.

**2. Premises and Proposed Project:**

The Applicant is seeking a Level 2 Unified Permit application including Site Plan approval and Wetland Notice of Intent for the construction of a water line extension, new Booster Pump Station, and associated site improvements for the interconnection of the Devens water system to the Town of Harvard, MA. Property located at 39 Sheridan Road (003.0-0099-0203.0) and 3 Marne Street (011.0-0019-0200.0) (Deed Reference: Bk: 17907 Pg: 1) Devens (Harvard), MA in the Special Use I and Open Space and Recreation Zoning Districts.

**3. Submission:**

The following is a list of exhibits included as part of the record for this Application:

1. Unified Permit Application - Level 2 Submittal package including the following:
  - Completed Level 2 Unified Permit Application form (D23-095) dated 12-14-23;
  - Cover letter from Tighe & Bond, dated 12-11-23;
  - Determination of Completeness Checklist (completed by applicant);
  - Town of Harvard Certified Abutters List
  - Notice of Intent and Completed WPA Form 3 – Notice of Intent (MA DEP File # 352-0049), dated 12-13-23, including cover letter and narrative;
  - Plans entitled: “TOWN OF HARVARD, MASSACHUSETTS HARVARD-DEVENS WATER SYSTEM, INTERCONNECTION PROJECT, CONTRACT NO. 1 / DWSRF 7285, PERMIT DRAWINGS, DECEMBER 2023; prepared by Tighe & Bond (41 Sheets);
  - Photographic Log
  - Stormwater Management Report, Harvard- Devens Water System Interconnection Project, Devens, MA, November 2023;
  - LONG-TERM POLLUTION PREVENTION AND STORMWATER MANAGEMENT SYSTEM OPERATION AND MAINTENANCE PLAN; November 2023
  - Massachusetts Historic Commission Notice of Project Change – negative determination; October 17, 2023;
  - Soil logs and soil suitability assessment; percolation test results
  - Green Building Rating System Project Checklist;
  - Project Checklist for Reducing Embodied Carbon;
  - Completed Industrial Performance Standards Checklist;
2. Determination of Completeness Issued 12/26/23;
3. Public Hearing Notice Memo to Town Clerks of Ayer, Harvard, Shirley, Lancaster and MassDevelopment, from Neil Angus, dated December 27, 2023;
4. Public Hearing Legal Notice e-mail to Nashoba Publications, from Neil Angus and Dawn Babcock, dated December 26, 2023 – to be published January 5 and 12, 2024;
5. Copies of Legal notices from January 5 and 12, 2024 from Nashoba Valley Voice;

6. Public Hearing Notice emailed to Community Service Cable Committee, from Neil Angus/Dawn Babcock, dated December 27, 2023;
7. Memo dated December 27, 2023 from Neil Angus to Towns of Ayer, Harvard and Shirley Board of Selectman and Planning Board;(notification of Public Hearing on January 30, 2024 at 6:45PM), including return receipts);
8. Memo dated December 27, 2023 from Neil Angus to Abutters and Interested Parties, including return receipts;
9. Public Hearing Notice to Secretary of State, from Neil Angus, dated December 27, 2023;
10. Plan Circulation memo, dated December 26, 2023 to MassDevelopment, from Neil Angus, Re: Unified Permit Application – Town of Harvard Water Line and Pump Station;
11. Peer Review Comments: Nitsch Project Report #9419, Jan 12 2024
12. DEC MD Comments to Applicant 1-15-24;
13. DEC MD Nitsch Comments to Applicant 1-15-24;
14. Harvard Waterline Project call notes 1-23-24;
15. Harvard Booster Pump Station Permit Review Responses from Tighe & Bond, 1-25-24, including revised plans (299 pages);
16. Devens-Harvard Water System Interconnection Project NOI Staff Report 1.30.24;
17. Unified Permit - Public Hearing Slides 24.01.30 from Tighe & Bond;
18. Wetland Notice of Intent Extension Request signed, 1/22/24;
19. Response from Tighe & Bond (response to comments and revised plans) dated 2/2/24;
20. Nitsch Peer Review Comments 9419-Pump Station LTRReview2\_Final, dated 2/6/24;
21. Completed MA DEP WPA Form 5 – Draft, dated February 8, 2024;
22. Draft Record of Decision, dated February 8, 2024;
23. Mullin Rule Affidavit from Commissioner Lilly, dated 2/6/24
24. Mullin Rule Affidavit from Commissioner Seely, dated 2/5/24
25. Mullin Rule Affidavit from Commissioner Chapman, dated 2/2/24
26. E-mail correspondence as follows:

Date	From	To	Subject
12/20/23	Meg Delorier	Neil Angus	RE Document
12/28/23	CERO NOI@MassMail.state.ma.us	Neil Angus	MassDEP NOI File Number
6/7/23	Peter Lowitt	Neil Angus	Re: DEC Building Permit Fees
12/26/23	Mark Cohen	Neil Angus	RE: Harvard Waterline booster pump station Unified Permit
1/8/24	April Locke	Neil Angus	RE Harvard Unified Permit
1/22/24	April Locke	Neil Angus	RE NOI extension
2/1/24	Dawn Babcock	Coom. Seely, Lilly, and Chapman	Mullen Rule - 39 Sheridan Road Harvard Water Line
2/2/24	Mary Danielson	Neil Angus	Re_Harvard-Devens Interconnection Unified Permit Responses
2/2/24	Mary Danielson	Neil Angus	RE Permit Approval Timeline
1/16/24	Mary Danielson	Neil Angus	RE_Harvard Waterline_Booster Pump Station Levels 2 UP Review Comments
1/11/24	Neil Angus	Mary Danielson	RE Harvard Waterline project
1/31/24	John Marc-Aurele	Mary Danielson	RE_Harvard Booster Pump Station - Easement Questions
12/19/23	Neil Angus	April Locke	RE Harvard Abutters List
2/7/24	Neil Angus	April Locke	RE: Thursday Feb. 8th 7:30 AM Zoom Meeting

**4. Unified Permit Components and Actions:**

The Unified Permit request includes a Wetland Order of Conditions and Site Plan approval for the construction of a water line extension, new Booster Pump Station, and associated site

improvements for the interconnection of the Devens water system to the Town of Harvard, MA in the Special Use I and Open Space and Recreation Zoning Districts.

**5. Process:**

Town of Harvard submitted a Level 2 Permit application package, including the application, Wetland Notice of Intent, project description, stormwater report, and plans on December 14, 2023. A Determination of Completeness was issued on December 26, 2023. Copies of the application were received by the surrounding Towns on December 28, 2023. Legal notices were placed in Nashoba Valley Voice on January 5 and 12, 2024. Certified Mail notice was sent to all abutters on December 26, 2023. The 30-day Town comment period expired on January 28, 2024. No comments were received. The Public Hearing opened on January 30, 2024, was continued to February 8, 2024, and closed at that same meeting.

**6. Waivers**

No waivers were requested or granted as part of this Unified Permit.

**7. Findings**

The DEC made the following findings:

1. The booster pump station is an accessory municipal use in the Open Space and Recreation Zoning District.
2. The Applicant has incorporated measures to avoid impacts to the adjacent wetland resource areas.
3. Regarding the approval criteria listed in 974 CMR 3.03(2):
  - (a) The Plan complies with 974 CMR 3.00 and with the applicable provisions of the By-Laws.
  - (b) The development lies on a parcel of land that is recorded at the Registry of Deeds;
  - (c) The application is Complete.
  - (d) The project design will provide for safe vehicular and pedestrian travel.
  - (e) Access will enable prompt fire, police, and emergency response.
  - (f) Adequate capture, treatment, infiltration and discharge of stormwater and surface water runoff and compliance with applicable portions of the "Devens Stormwater Pollution Prevention Plan", has been included in the design.
  - (g) There are no changes to utility, power and communication systems.
  - (h) Facilities required under the Water Resources Protection Bylaw and the related Design Standards have been included.
  - (i) The plans are in compliance with the Landscaping Design Standards 974 CMR 3.04(8).
  - (j) A Wetlands Order of Conditions has been issued for this project.
  - (k) The Devens Fire Department has reviewed the application.

- (l) The project is in compliance with the Devens Industrial Performance Standards.
- (m) No parking is required as part of this project.
- (n) Traffic control measures are not required for this project.
- (o) The project is exempt from the Devens transportation management association.
- (p) Domestic water needs have been met for this project.
- (q) There are no alterations to sanitary sewers as part of this project.
- (r) The building, with conditions, will comply with the design standards as established by Mass Development for the district in which the project is located.
- (s) The project will comply with the Devens Soil Management Policy.
- (t) The development has been designed with due consideration for public health.
- (u) Adequate climate change mitigation, adaptation and greenhouse gas emissions mitigation measures have been incorporated in accordance with 974 CMR 4.11.

**8. Conditions:**

The DEC voted to impose the following conditions:

- 1) Wherever "Applicant" is referenced in the Conditions set forth herein, it refers to the Applicant, its successors and assigns. Wherever "DEC" is referenced, it shall refer to the Devens Enterprise Commission, its successors, and assigns.
- 2) Plans shall meet Worcester Registry of Deeds recording requirements. Once the appeal period has expired, the Applicant shall submit final approved plans to the DEC for endorsement. The Applicant shall file the endorsed plans and the final Record of Decision with the Registry of Deeds and proof of recordation shall be submitted to the DEC prior to issuance of a building permit.
- 3) All applicable federal, state, and local permits necessary for this project must be obtained. Copies of permits issued by those other than the DEC must be filed with the DEC.
- 4) This approval is subject to the MA DEP File #352-0049 Wetland Order of Conditions, issued on February 9, 2024.
- 5) Prior to commencement of construction, a preconstruction meeting shall be held with the contractor performing the work, including DEC Staff and MassDevelopment Staff. No construction shall take place without prior authorization from MassDevelopment (property owner).
- 6) Limits of clearing shall be marked in the field and reviewed by DEC staff prior to any vegetation removal or ground disturbance. No activity is permitted within 25 feet of the wetland resource areas.
- 7) In accordance with the Devens By-Laws, Article III, Section K 1. a., no soil, loam, sand, gravel, or other earth materials shall be permanently removed from any lot within Devens, except in accordance with the Devens Soil Management Policy, compliance with 974 CMR 407, and approval from the DEC.

- 8) Prior to commencing any intrusive earth work within Devens (due diligence, construction of otherwise) all personnel to be on site shall view an Unexploded Ordinance/Munitions of Explosive Concern (UXO/MEC) video briefing provided by the Devens Fire Department.
- 9) Areas of rip rap shall be confined to those areas shown on the referenced site plan. Natural stabilization methods (vs. rip rap) shall be employed where feasible.
- 10) The Applicant shall undertake the necessary improvements to the former tank trail/access road to ensure emergency access is not hindered. This includes ensuring a stable and compact surface that can accommodate the largest emergency vehicle that will need to access this site. Any additional work beyond the 16' gravel drive will need to be reviewed by the DEC to ensure any adjacent resource areas are not impacted.
- 11) No outdoor storage is permitted other than what is shown on the plans.
- 12) The Applicant shall file annual reports to the DEC in October of each year indicating how they are maintaining their on-site stormwater management facilities. This is an on-going condition once construction is completed.
- 13) A copy of the final Operations and Maintenance Plan/Agreement for the facility shall be provided to the DEC to ensure responsible parties and roles are clearly identified between Devens and Harvard.
- 14) The Applicant shall contact the Natural Heritage Endangered Species Program to determine if any additional authorization is required for the proposed improvements to the access road.
- 15) The Applicant shall obtain a design review approval letter from MassDevelopment prior to issuance of a building permit.
- 16) Site lighting shall be no greater than 3000K and fully shielded to prevent off-site glare. Due to the secluded nature of this location, any lighting required to remain on overnight (11PM-7AM), should be minimized through the use of lighting controls (timers, photocells, etc.).
- 17) The Applicant shall provide As-Built Plans for all site improvements in accordance with the DEC As Built Policy, prior to issuance of a final Certificate of Occupancy.
- 18) Prior to endorsement by the DEC, the final plans shall be modified to include the following:
  - a. Update C-200 to include:
    - i. notes referencing the construction period erosion, sedimentation, and pollution prevent plan.
    - ii. the location of material stockpiling areas within existing limits of disturbance and as far away from wetland with appropriate controls surrounding.
    - iii. include note that some stockpiled materials will be stored at the Harvard Department of Public Works yard on Depot Road and outside of any 100-foot buffer zone.
    - iv. note in bold that no soils are to leave the site without review and approval from the DEC and MassDevelopment in accordance with the Devens Soil Management Policy.
    - v. Identify where steep slopes are and where erosion control blankets are needed (note and/or hatch).



9. **Decision:**

The DEC closed the hearing on February 8, 2024 and voted to approve the Wetland Order of Conditions and to issue findings, including that the application complied with Approval Criteria in 974 CMR 3.03(2), to impose conditions, and to approve the Level 2 Unified Permit application including Site Plan approval and Wetland Notice of Intent for the construction of a water line extension, new Booster Pump Station, and associated site improvements for the interconnection of the Devens water system to the Town of Harvard, MA.

10. **Building Permit**

The Building Commissioner, along with the Electrical and Plumbing Inspectors, must review architectural/structural drawings and specifications and approve them in writing, prior to issuance of a building permit. All requirements in the Massachusetts Building Code, the Massachusetts Sanitary Code, and the Devens Fire Chief must be met. When this approval is obtained, the building permit may then be integrated with this Record of Decision; together they will constitute the Unified Permit for this project and in turn, allow building construction to commence.

11. **Permit Duration**

In accordance with 974 CMR 1.10, unified permits shall remain in effect so long as the approved activities are commenced within six months of the date of the DEC's written decision and completed within two years. It is further noted that a thirty-day "reconsideration period" during which an applicant, a Town, or an aggrieved person may request the DEC reconsider its action (By-Laws, Article IV, Sections C through F). Work performed during this period, which begins on February 9, 2024 and terminates March 10, 2024, is "at risk".

Approved by:

Date: February 8, 2024

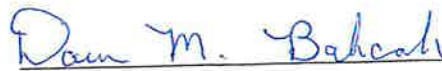
  
Neil Angus, FAICP, LEED AP, Director  
Devens Enterprise Commission


**Certification**

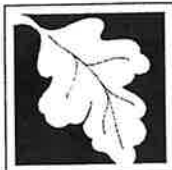
*Middlesex, SS*

I certify the above is a true action and record of the Devens Enterprise Commission and that Neil Angus, Devens Land Use Administrator/Director, is empowered by the Devens Enterprise Commission to sign this Record of Decision on its behalf.

February 8, 2024  
Date

  
Dawn Babcock, Notary  
My Commission expires 3/2/2029

 **DAWN M BABCOCK**  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
March 2, 2029



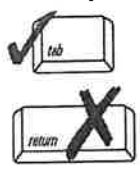
**Massachusetts Department of Environmental Protection**  
**Bureau of Resource Protection - Wetlands**  
**WPA Form 5 – Order of Conditions**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:  
 352-0049  
 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

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



1. From: Devens Enterprise Commission  
Conservation Commission

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

3. To: Applicant:  
Tim      Kilhart  
 a. First Name      b. Last Name

Town of Harvard Department of Public Works  
 c. Organization

47 Depot Road  
 d. Mailing Address

Harvard      MA      01451  
 e. City/Town      f. State      g. Zip Code

4. Property Owner (if different from applicant):

Meg      Delorier  
 a. First Name      b. Last Name

MassDevelopment Finance Agency  
 c. Organization

33 Andrews Parkway  
 d. Mailing Address

Devens      MA      01434  
 e. City/Town      f. State      g. Zip Code

5. Project Location:  
39 Sheridan Road and 3 Marne Street      Devens  
 a. Street Address      b. City/Town

NA      NA (Road ROW)  
 c. Assessors Map/Plat Number      d. Parcel/Lot Number

Latitude and Longitude, if known:      d      m      s      d      m      s  
 d. Latitude      e. Longitude





**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
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**A. General Information (cont.)**

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):  
 Worcester  
 a. County Worcester b. Certificate Number (if registered land) 1  
 17907 c. Book 1 d. Page 1

7. Dates: 12/14/23 2/8/24 2/9/24  
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):  
 Harvard-Devens Water System Interconnection Project  
 a. Plan Title Harvard-Devens Water System Interconnection Project  
 Tighe & Bond b. Prepared By Mary Danielson, PE  
 2/2/24 c. Signed and Stamped by 1"= 15'  
 d. Final Revision Date 2/2/24 e. Scale 1"= 15'  
 Town of Harvard Water Line Booster Pump Station Unified Permit g. Date 2/2/24  
 Application Response to Comments

**B. Findings**

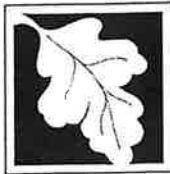
1. Findings pursuant to the Massachusetts Wetlands Protection Act:  
 Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant 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**  
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**B. Findings (cont.)**

Denied because:

- b.  the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c.  the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
- 3.  Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 26  
a. linear feet

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet e. c/y dredged	b. square feet f. c/y dredged	c. square feet	d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



**Massachusetts Department of Environmental Protection**  
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**B. Findings (cont.)**

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

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	<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 cu yd	<u>                    </u> d. nourishment cu yd
14. <input type="checkbox"/> Coastal Dunes	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. nourishment cu yd	<u>                    </u> d. nourishment cu yd
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		
22. <input type="checkbox"/> Riverfront Area	<u>                    </u> a. total sq. feet	<u>                    </u> b. total sq. feet		
Sq ft within 100 ft	<u>                    </u> c. square feet	<u>                    </u> d. square feet	<u>                    </u> e. square feet	<u>                    </u> f. square feet
Sq ft between 100-200 ft	<u>                    </u> g. square feet	<u>                    </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:  
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 Devens  
 City/Town

**B. Findings (cont.)**

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

23.  Restoration/Enhancement \*:  
 a. square feet of BVW \_\_\_\_\_ b. square feet of salt marsh \_\_\_\_\_
24.  Stream Crossing(s):  
 a. number of new stream crossings \_\_\_\_\_ b. number of replacement stream crossings \_\_\_\_\_

**C. General Conditions Under Massachusetts Wetlands Protection Act**

The following conditions are only applicable to Approved projects.

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



**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:  
 352-0049  
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 Devens  
 City/Town

**C. General Conditions Under Massachusetts Wetlands Protection Act**

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

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]  
 "File Number            352-0049 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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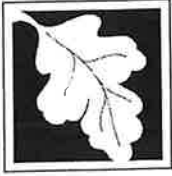
**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

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

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

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





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

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

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

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

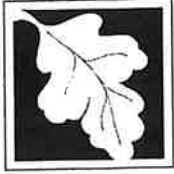
i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

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

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

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

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



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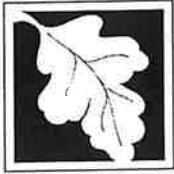
**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

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

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

**Project is subject to Devens Enterprise Commission Unified Permit #D23-095 conditions of approval, issued on 2/8/24.**

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



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**D. Findings Under Municipal Wetlands Bylaw or Ordinance**

1. Is a municipal wetlands bylaw or ordinance applicable?  Yes  No
2. The Devens Enterprise Commission 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:

Devens Rules and Regulations: Wetland Protection	974 CMR
1. Municipal Ordinance or Bylaw	4.06

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):

Project is subject to Devens Enterprise Commission Unified Permit #D23-095 conditions of approval, dated 2/8/24.



**Massachusetts Department of Environmental Protection**  
**Bureau of Resource Protection - Wetlands**  
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### E. Signatures

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

Please indicate the number of members who will sign this form.  
 This Order must be signed by a majority of the Conservation Commission.

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

2/9/24  
 1. Date of Issuance  
 \_\_\_\_\_  
 2. Number of Signers

The Devens Enterprise Commission

<u><i>Neil Angus</i></u> Signature	<u>NEIL ANGUS</u> Printed Name
_____ Signature	_____ Printed Name
_____ Signature	_____ Printed Name
_____ Signature	_____ Printed Name
_____ Signature	_____ Printed Name
_____ Signature	_____ Printed Name
_____ Signature	_____ Printed Name
_____ Signature	_____ Printed Name

by hand delivery on \_\_\_\_\_  
 Date


by certified mail, return receipt requested, on 2/9/24  
 Date


**CERTIFICATE**

The Devens Enterprise Commission authorizes Neil Angus, Land Use Administrator/  
Director to endorse plans and other certificates on behalf of the Commission.

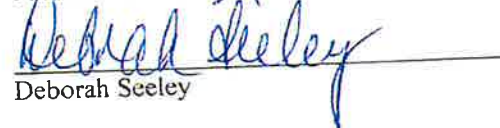
  
\_\_\_\_\_  
William P. Marshall, Chairman

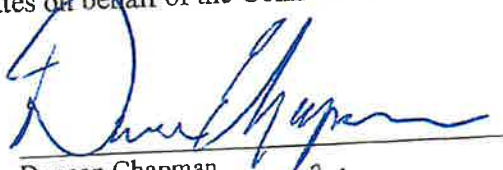
  
\_\_\_\_\_  
Dix Davis


  
\_\_\_\_\_  
Robert Gardner


  
\_\_\_\_\_  
Jim Pinard

  
\_\_\_\_\_  
Paul Routhier

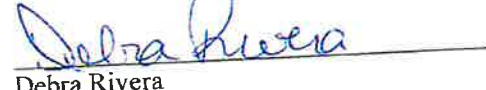
  
\_\_\_\_\_  
Deborah Seeley

  
\_\_\_\_\_  
Duncan Chapman

  
\_\_\_\_\_  
Melissa Fetterhoff

  
\_\_\_\_\_  
Christopher Lilly

  
\_\_\_\_\_  
Martin Poutry

  
\_\_\_\_\_  
Debra Rivera

June 27, 2023

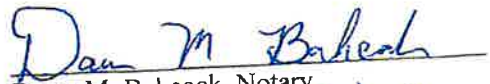
  
\_\_\_\_\_  
Neil Angus  
Land Use Administrator/ Director

Worcester, SS

Certification

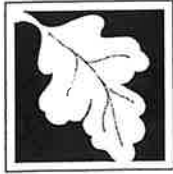
I certify the above is a true action and record of the Devens Enterprise Commission.

6/27/23  
Date

  
\_\_\_\_\_  
Dawn M. Babcock, Notary  
My Commission expires 3/2/29



**DAWN M BABCOCK**  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
March 2, 2029



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
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City/Town

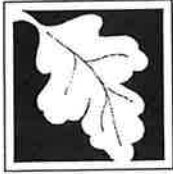
## F. Appeals

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

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

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





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

Devens Enterprise Commission  
 Conservation Commission

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

-----

To:

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

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

\_\_\_\_\_  
 Project Location \_\_\_\_\_  
 MassDEP File Number

Has been recorded at the Registry of Deeds of:

\_\_\_\_\_  
 County \_\_\_\_\_  
 Book \_\_\_\_\_  
 Page

for: \_\_\_\_\_  
 Property Owner

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

\_\_\_\_\_  
 Book \_\_\_\_\_  
 Page

In accordance with the Order of Conditions issued on:

\_\_\_\_\_  
 Date

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

\_\_\_\_\_  
 Instrument Number

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

\_\_\_\_\_  
 Document Number

\_\_\_\_\_  
 Signature of Applicant



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee  
Transmittal Form**

Provided by DEP

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

**A. Request Information**

1. Location of Project

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

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

\_\_\_\_\_

Name

\_\_\_\_\_

Mailing Address

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

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

\_\_\_\_\_

Name

\_\_\_\_\_

Mailing Address

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

4. DEP File Number:

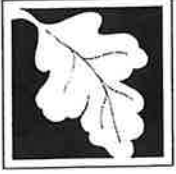
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**B. Instructions**

1. When the Departmental action request is for (check one):
- Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
  - Superseding Determination of Applicability – Fee: \$120
  - Superseding Order of Resource Area Delineation – Fee: \$120

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





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

DEP File Number:

**Request for Departmental Action Fee  
Transmittal Form**

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

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

**B. Instructions (cont.)**

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

Department of Environmental Protection  
Box 4062  
Boston, MA 02211

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