



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:
SB# 075-1144
MassDEP File #

eDEP Transaction #
Truro
City/Town

A. General Information

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

1. From: Truro
Conservation Commission
2. This issuance is for
(check one): a. Order of Conditions b. Amended Order of Conditions
3. To: Applicant:

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

a. First Name _____ b. Last Name _____
See page 1A
c. Organization _____
d. Mailing Address _____
e. City/Town _____ f. State _____ g. Zip Code _____

4. Property Owner (if different from applicant):

See Page 1B
a. First Name _____ b. Last Name _____
c. Organization _____
d. Mailing Address _____
e. City/Town _____ f. State _____ g. Zip Code _____

5. Project Location:

Old Country Road Truro
a. Street Address b. City/Town
59 66, 108
c. Assessors Map/Plat Number d. Parcel/Lot Number
Latitude and Longitude, if known: d m s d m s
d. Latitude e. Longitude

WPA Form 3 Attachment A - Project Location Latitude and Longitude

WELLFLEET

Chequessett Neck Road Bridge.....Lat: 41°55'52.07"Long: 70°03'51.64"
MC WCS.....Lat: 41°55'59.49"Long: 70°03'26.49"
High Toss RoadLat: 41°56'37.15"Long: 70°03'26.62"
Low-Lying Roads and CulvertsLat: 41°56'52.52"Long: 70°02'39.88"
Chequessett Yacht and Country ClubLat: 41°56'01.19"Long: 70°03'07.41"
Way #672Lat: 41°56'33.02"Long: 70°03'12.73"
M-F LLP.....Lat: 41°56'59.87"Long: 70°04'10.52"

TRURO

Low-Lying Roads and CulvertsLat: 41°57'59.87"Long: 70°03'58.77"

WPA Form 3 Attachment B - Applicants

Town of Wellfleet
c/o Charles Sumner
Interim Town Administrator
300 Main Street
Wellfleet, MA 02667
Tel. 508-349-0300
Fax. 508-349-0305
Email: Charles.Sumner@wellfleet-ma.gov

Cape Cod National Seashore
c/o Brian Carlstrom
Superintendent
99 Marconi Site Drive
Wellfleet, MA 02667
Tel. 508-771-2144
Fax. 508-349-9052
Email: brian_carlstrom@nps.gov

WPA Form 3 Attachment C Property Owner and Recording Information

Element*	Street Address - WELLFLEET	Map/Pcl	Book / Page	Certificate	Owner	Mailing Address	City	State	Zip
MCWCS	575 Old Chequessett Neck Rd	19-6		178899	N/F Wellfleet Conservation Trust	PO Box 84	Wellfleet	MA	02667
LLR	1000 Old County Rd	2-3	30946 / 130		N/F Michael Packard & Julie Monger	1000 Old County Rd	Wellfleet	MA	02667
LLR	360 Cole's Neck Rd	7-27		209956	N/F Stephen R & Theresa A Ayotta	74 Westleigh Drive	Harwinton	CT	06791
LLR	370 Coles Neck Road	7-28	N/A N/A		Town of Wellfleet Transfer Station	300 Main Street	Wellfleet	MA	02667
LLR	0 Cole's Neck Rd	7-48	8969 / 132		N/F Wellfleet Conservation Trust	PO Box 84	Wellfleet	MA	02667
LLR	0 Bound Brook Island Rd	7-49	8969 / 129		N/F Wellfleet Conservation Trust	PO Box 84	Wellfleet	MA	02667
LLR	0 Bound Brook Island	7-50		137L147601	Town of Wellfleet	300 Main Street	Wellfleet	MA	02667
LLR	0 Bound Brook Island Rd	7-51	10589 / 287		N/F Wellfleet Conservation Trust	PO Box 84	Wellfleet	MA	02667
LLR	0 Cole's Neck Rd	7-51-1	8969 / 131		N/F Wellfleet Conservation Trust	PO Box 84	Wellfleet	MA	02667
LLR	0 Bound Brook Island Rd	7-52	8969 / 129		N/F Wellfleet Conservation Trust	PO Box 84	Wellfleet	MA	02667
LLR	0 Bound Brook Island Rd	7-53	10552 / 332		N/F Wellfleet Conservation Trust	PO Box 84	Wellfleet	MA	02667
LLR	0 Pole Dike Rd	7-54	8979 / 277		N/F Wellfleet Conservation Trust	PO Box 84	Wellfleet	MA	02667
LLR	339 Cole's Neck Rd	7-56-1		152721	N/F Marnie Crawford Samuelson Revocable Trust	PO Box 45	Chatham	MA	02633
LLR	0 Cole's Neck Rd	7-62	8969 / 131		N/F Wellfleet Conservation Trust	PO Box 84	Wellfleet	MA	02667
LLR	0 Cole's Neck Rd	7-63	8969 / 131		N/F Wellfleet Conservation Trust	PO Box 84	Wellfleet	MA	02667
LLR	0 Pole Dike Road	7-65	25980 / 134		Town of Wellfleet	300 Main Street	Wellfleet	MA	02667
LLR	1136 Brown's Neck Rd	7-69	10171 / 206		N/F P. Reed Larson	161 Clinton Road	Brookline	MA	02446
LLR	0 Pole Dike Rd	7-76	11065 / 231		N/F Wellfleet Conservation Trust	PO Box 84	Wellfleet	MA	02667
LLR	1200 Bound Brook Island Rd	7-602	33812 / 58		N/F Lisa Brown & Belinda Brown Carrier	1200 Bound Brook Isl Rd	Wellfleet	MA	02667
LLR	730 Bound Brook Island Rd	6-4		218437	N/F Thomas J Whitman & Mira Rabin	720 Westview Street	Philadelphia	PA	19119
LLR, M-F	695 Bound Brook Island Rd	6-6	24096 / 71		N/F Carl Frederiksen & Tatiana F Miller	1873 Pound Lane	Santa Cruz	CA	95062
LLR	145 Pole Dike Road	12-224	23195 / 308		Town of Wellfleet Sand PR	300 Main Street	Wellfleet	MA	02667
W672	25 Way #672	12-235	27725 / 9		N/F Jonathan H Hirsch & Robert P Meak	165 Sigelow Street	Brighton	MA	02135
W672	27 Way #672	12-235-1	10981 / 176		N/F Judith Anne Ellis	25 High Toss Road	Wellfleet	MA	02667
CYCC	680 Chequessett Neck Rd	19-81-0		78460	N/F Chequessett Yacht & Country Club	PO Box 779	Wellfleet	MA	02667
Element	Street Address - TRURO	Map/Pcl	Book & Page	Certificate	Owner	Mailing Address	City	State	Zip
LLR	133 Old County Road	59-66	5158 / 339		Town of Truro	PO Box 2030	Truro	MA	02666
LLR	125 A Old County Road	59-108	1456 / 768+		Franje Lewis Sanders	PO Box 96	Truro	MA	02666

N/F = Now or Formerly

Various federally-owned parcels within Cape Cod National Seashore was shown on plans.

* There is no work beyond the ROW at Chequessett Neck Road Bridge & Water Access Facility or at High Toss Road, except on property owned by the Applicants.

National Park Service and Town of Wellfleet
Herring River Restoration Project, Phase 1
Wetlands Protection Act Notice of Intent



Massachusetts Department of Environmental Protection
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 eDEP Transaction # _____
 Truro
 City/Town

A. General Information (cont.)

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

Barnstable
 a. County 5158 & 1456 b. Certificate Number (if registered land) 339 & 768+
 c. Book _____ d. Page _____

7. Dates: March 23, 2022 June 6, 2022 June 24, 2022
 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):

Engineering Design to Elevate Low-Lying Roadways and Replace Associated Culverts
 a. Plan Title AG Clayton Carlisle
 b. Prepared By November 17, 2021 c. Signed and Stamped by Varies
 d. Final Revision Date _____ e. Scale _____
 f. Additional Plan or Document Title _____ g. Date _____

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

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

- a. Public Water Supply
- b. Land Containing Shellfish
- c. Prevention of Pollution
- d. Private Water Supply
- e. Fisheries
- f. Protection of Wildlife Habitat
- g. Groundwater Supply
- h. Storm Damage Prevention
- i. Flood Control

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

Approved subject to:

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



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

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Truro
 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 checked="" type="checkbox"/> Bank	12(T) 58(T) a. linear feet	12(T) 58(T) b. linear feet	_____ c. linear feet	_____ d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	4,524(T) 2,957(P)	4,524(T) 2,957(P)	_____ c. square feet	_____ d. square feet
6. <input checked="" type="checkbox"/> Land Under Waterbodies and Waterways	35(T) 180(P) e. c/y dredged	35(T) 180(P) 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 checked="" type="checkbox"/> Riverfront Area	3, 102 (T) 9, 439 (P)	3, 102 (T) 9, 439 (P)		
Sq ft within 100 ft	_____ c. square feet	_____ d. square feet	_____ e. square feet	_____ f. square feet
Sq ft between 100-200 ft	_____ g. square feet	_____ h. square feet	_____ i. square feet	_____ j. square feet



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

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SE# 075-1144

MassDEP File #

eDEP Transaction #

Truro

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	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	a. c/y dredged	b. c/y dredged		
21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	8,061(T) 22,632(P)	8,061(T) 22,632(P)		
22. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



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SE# 075-1144

MassDEP File #

eDEP Transaction #

Truro

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 10/24/2025 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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Bureau of Resource Protection - Wetlands**

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

Provided by MassDEP:

SE# 075-1144

MassDEP File #

eDEP Transaction #

Truro

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 SE#075-1144 "
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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Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

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

Provided by MassDEP:

SE# 075-1144

MassDEP File #

eDEP Transaction #

Truro

City/Town

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;



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:
 SE# 075-1144
 MassDEP File #

eDEP Transaction #
 Truro
 City/Town

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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Bureau of Resource Protection - Wetlands**

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MassDEP File #

eDEP Transaction #

Truro

City/Town

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):

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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Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

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

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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 Truro 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:

Truro Conservation Bylaw

Chapter 8

1. Municipal Ordinance or Bylaw

2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

See page 10A, 10B, 10C & 10D

TOWN OF TRURO—ORDER OF CONDITIONS

Old County Road; Map 59, Parcel 66 and 108

DEP file # SE 75-1144

Town of Wellfleet and Cape Cod National Seashore, APPLICANT/OWNER

DOCUMENTS

1. WPA form 3; Notice of Intent with attachment
2. WPA form 3; Notice of Intent appendix A: Ecological Restoration Limited Project checklists dated 3/23/2022
3. USGS resource area maps showing: Significant natural resources: Natural Heritage and endangered species program areas of estimated and priority habitats; Wellfleet Harbor ACEC; FEMA Flood zones and LSCSF; and Shellfish suitability areas.
4. Abutter notification, certified list of abutters and affidavit of service;
5. Evidence of Notice in Environmental Monitor.
6. Introductory letter of the project from the Cape Cod National Seashore, Superintendent Brian Carlstrom, dated 2/23/2022;
7. DEP notice of file number
8. Project Binder includes: Agency Correspondence; Habitat restoration and monitoring plan; list of permits required by project; wetland delineations; 401 water quality certifications; stream crossing photos; operation and maintenance plans; stormwater reports; hydrodynamic studies; groundwater studies; herring river adaptive management plan; design alternatives; design alternatives for Class 1 elements; Inland Wetlands Restriction Order
9. PROJECT DESIGN PLANS: Herring River Restoration Project engineering design to elevate low-lying roadways and replace associated culverts, dated November 17, 2021 prepared by WSP Plans showing: general notes, project locations, existing and proposed conditions plan and profile, resource impacts, cross sections, civil details, planting plan and notes. Drawings: G01-G03;T01-T03;CO1-C85.
10. Public Comment file- includes comments in support of the project in emails and letters from Agencies and individuals who recognized the various community, environmental and economic benefits of the project

PROJECT DESCRIPTION

1. The Herring River system is a 1,100-acre tidally restricted estuary located within the Towns of Wellfleet and Truro. The river itself was diked in 1909 and in recent decades has been the subject of ecological and hydrologic studies that have led to the proposed plans to incrementally restore tidal flow to the system by replacing the causeway and tidal control structure on Chequessett Neck Road across the mouth of the river. A new bridge and sluice gate system will be added to re-establish tidal flow with an adaptive management approach designed to protect potentially vulnerable structures such as roads and homes while monitoring the ecological shifts in the system.
2. In its current state the Herring River itself is listed as an "impaired water" under the Clean Water Act, and the current tide gate on Chequessett Neck Road has been designated as a point-source for bacterial contamination.
3. The Notice of Intent was filed jointly by the Town of Wellfleet and the Cape Cod National Seashore, who are working together under a memorandum of understanding to facilitate implementation of the project to restore the system. The project will be monitored extensively to detect any unexpected or undesirable responses that can then be addressed with appropriate adaptive management actions.
4. The project will result in significant improvements to water quality, rare species habitat, fisheries and recreational opportunities throughout the Herring River system while improving its resiliency and ability to adapt to the effects of climate-change.

5. Phase 1 of the project will restore approximately 570 acres in the flood plain; 12 acres are located within the Town of Truro. No tidally forced water will enter the Bound Brook system until after Phase 1.
6. Old County Road serves as an emergency access road, and an alternative to Route 6.
7. The overarching goal of the project is to restore a degraded wetland resource area and the development of water control infrastructure and mitigation activities will protect wetlands through best management of construction.
8. Work in Truro consists of mitigation that includes elevating 3 low-lying road segments of Old County Road that total 617 linear feet and replacing 2 culverts that pass under those road segments. Two of these road segments abut either Town-owned or Cape Cod National Seashore property; one segment at 125A Old County Road abuts private property and an easement has been granted to allow the proposed mitigation work to be done at that location.
9. Wetland resources in this area include Bordering Vegetated Wetlands, Riverfront and Land Subject to Coastal Storm Flowage.
10. Sections of old County Road will be both widened and elevated resulting in an overall increase in impervious area and associated runoff. The project proposes along with these roadway modifications to add vegetated convenience Swales where site conditions permit which will provide better management of roadway drainage and mitigate the effects of the increases in impervious surface associated with widening the road widths. The proposed plans and profile sheets for proposed elevation of the low-lying roads indicate the travel lane widths will be increased from 10.5 feet to 11 feet with 3-foot unpaved shoulders to enhance safety.
11. All water control and mitigation elements, include consistent use of best practices for environmental mitigation actions during construction; specifications for site restoration and replanting; native seed mix specifications and application rates; channel and embankment stabilization measures; planting notes and details; and details regarding Stormwater, sediment, soils, vegetation, and debris management.

FINDINGS:

1. The Conservation Commission finds that the Herring river wetland system has been shown to be degraded and the proposed restoration will improve the natural wetland functions, restore native vegetation and improve habitat for native species. Restoration will enhance natural coastal processes and functions and will improve habitat for native plant and wildlife species.
2. The Conservation Commission finds that the proposed tidal restoration and mitigation activities will improve drainage of floodwaters following storm events.
3. The Massachusetts Wetlands Protection regulations include a definition of ecological restoration: *A project whose primary purpose is to restore or otherwise improve the natural capacity of a Resource Area to protect and sustain the interests identified in MGL ch. 131 s. 40 when such interests have been degraded or destroyed by anthropogenic influences.* Ecological restoration projects include infrastructure replacements to remove tidal restrictions in projects that will restore fish passage and shellfish and rare species habitat. The Conservation Commission finds that the project is consistent with the ecological restoration definition in that it is a project whose primary purpose is to restore the natural capacity of a resource area to protect and sustain public interest that happen degraded or destroyed by anthropogenic influences.

4. The Conservation Commission finds that this project offers a unique opportunity to restore and reverse the negative effects of development on a floodplain system and its natural beneficial functions.
5. The Conservation Commission finds that the existing elevations of old County Road as noted in the plans make them vulnerable to high tide water levels, and that elevation of these roadways with upgraded culverts will improve water movement and provide ecological benefits.
6. The Conservation Commission finds that the use of best practices will minimize disturbance of natural areas during construction and promote short term stabilization and long-term restoration of native riparian vegetation.

On June 6, 2022 the Truro Conservation Commission approved the findings as stated above, and determined that the project could be permitted subject to the following special conditions. 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.

CONDITIONS

A. Pre-construction

1. Notice of work start dates shall be given to the Commission in writing at least 48 hours prior to the commencement of work. The applicant or contractor shall provide the name and contact information of the person responsible on site for compliance with this Order.
2. A pre-construction site meeting shall be scheduled by the applicant's representative and include the project Contractor and the Conservation Agent. During this site visit the Order of Conditions, construction protocols, work limit, access plans and site plan details shall be reviewed.

B. Construction & Revegetation

1. The contractor shall take all steps necessary to ensure that the proposed activities will be conducted in a manner that will minimize and avoid impacts
2. Construction specifications and best management practices included in the notes and detail sections of plans are incorporated into these special conditions. Project contractors will be required to abide by best construction management practices necessary for compliance with permit conditions
3. Long-term (> 1 week) stock piling of excavated soil in wetland buffer zones shall be avoided. Topsoil will be separated and retained for restoration purposes.
4. Soil management and erosion control construction notes in the plans address temporary stabilization, suitable planting date ranges, and other relevant construction best practices, and are included as a special condition.

C. General Conditions

1. Prior to the commencement of work or pre-construction site meeting, the form provided at the end of this Order (part G. "Recording Information") shall be completed and stamped at the appropriate Registry of Deeds, after the expiration of the 10-day appeal period and if no request for appeal has been filed with the Department of Environmental Protection.
2. This document shall be included in all construction contracts, subcontracts, and specifications dealing with the work proposed and shall supersede any conflicting contract requirements. It is the responsibility of the Applicant, Owner, General Contractor and/or

successor(s) to ensure that all Conditions of this Order of Conditions are complied with. A copy of this Order shall be available at the work site, during normal work hours, or posted, until the work is complete.

3. Work shall be halted on the site if the Commission, Conservation Agent or DEP determines that any of the work is not in compliance with this Order of Conditions. Work shall not resume until the Commission is satisfied that the work will comply and has so notified the applicant in writing.
4. **Any changes** in the work described in the Notice of Intent or in the plans and specifications submitted to the Commission shall be submitted to the Commission in writing for a determination of whether the change is significant enough to the interests of the Act to require a new Notice of Intent. **No changes shall be made or implemented in the field** prior to the Commission's determination. Should issuance of additional permits result in a change in the project, the applicant shall promptly submit such changes to the Commission for evaluation under this provision.
5. Members of the Commission, its Agent or the Department of Environmental Protection (DEP) reserve the right to enter and inspect the property at all reasonable times, until a Certificate of Compliance is issued, to evaluate compliance with this Order of Conditions, the Act, 310 CMR 10.00 and Town regulations, and may acquire any information, measurements, photographs, observations, and/or materials, or may require the submittal of any data or information deemed necessary by the Commission for that evaluation.
6. This Order shall apply to any successor in control or successor in interest of the property described in the Notice of Intent and accompanying plans. These obligations shall be expressed in covenants in all deeds to succeeding owners of portions of the property.
7. **Upon completion of this project the applicant shall submit a request to the Conservation Commission to receive a Certificate of Compliance.** The Applicant or Owner shall certify in writing that the work was completed as shown on the plans and documents referenced above. The applicant is required to submit an as-built plan from a registered professional Engineer, Land surveyor or Sanitarian certifying that the work has been conducted as shown on the plan(s) and documents referenced above and as conditioned by the Commission for the public record.



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:
 SE# 075-1144
 MassDEP File #

eDEP Transaction #
 Truro
 City/Town

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.

June 24, 2022
 1. Date of Issuance

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

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

4
 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.

[Signature]
 Signature

AMY WOLFF
 Printed Name

[Signature]
 Signature

DIANE MASSINGER
 Printed Name

[Signature]
 Signature

CAOL GONCALVES
 Printed Name

[Signature]
 Signature

Luís Nogueira
 Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

by hand delivery on

by certified mail, return receipt requested, on

Date

June 24, 2022
 Date



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:

SE# 075-1144

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Truro

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

WPA Form 5 – Order of Conditions

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

Provided by MassDEP:

SE# 075-1144

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eDEP Transaction #

Truro

City/Town

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.

Truro

Conservation Commission

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

To:

Truro

Conservation Commission

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

Old County Road

Project Location

SE# 075-1144

MassDEP File Number

Has been recorded at the Registry of Deeds of:

Barnstable

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

June 24, 2022

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