

**Massachusetts Department of Environmental Protection**  
**Bureau of Resource Protection - Wetlands**  
**WPA Form 5 – Order of Conditions**  
 Town of Franklin Wetlands Protection Bylaw, Chapter 181

Provided by MassDEP:  
 N/A  
 MassDEP File #  
 N/A  
 eDEP Transaction #  
 Franklin  
 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: Franklin  
Conservation Commission
2. This issuance is for  
 (check one): a. ☒ Order of Conditions b. ☐ Amended Order of Conditions
3. To: Applicant:

a. First Name 138 East Central Street, LLC b. Last Name \_\_\_\_\_  
 c. Organization 37 and 138 East Central Street  
 d. Mailing Address Franklin MA 02038  
 e. City/Town \_\_\_\_\_ f. State \_\_\_\_\_ g. Zip Code \_\_\_\_\_

4. Property Owner (if different from applicant):

Same as Applicant  
 a. First Name \_\_\_\_\_ b. Last Name \_\_\_\_\_  
 c. Organization \_\_\_\_\_  
 d. Mailing Address \_\_\_\_\_  
 e. City/Town \_\_\_\_\_ f. State \_\_\_\_\_ g. Zip Code \_\_\_\_\_

5. Project Location:

122-138 East Central Street Franklin  
 a. Street Address \_\_\_\_\_ b. City/Town \_\_\_\_\_  
286 27 and 28  
 c. Assessors Map/Plat Number \_\_\_\_\_ d. Parcel/Lot Number \_\_\_\_\_  
 Latitude and Longitude, if known: 42.08082 -71.39171  
 d. Latitude \_\_\_\_\_ e. Longitude \_\_\_\_\_



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**A. General Information (cont.)**

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

a. County

b. Certificate Number (if registered land)

c. Book

d. Page

7. Dates: 08/27/2023 10/05/2023 10/05/2023  
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):

Site Plan and corresponding Drawing Index

a. Plan Title

United Consultants Inc.

Carlos A. Quintal PE No 30812

b. Prepared By

c. Signed and Stamped by

09/25/2023

1"=20'

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

**B. Findings**

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

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

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

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

**Approved subject to:**

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



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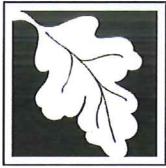
**B. Findings (cont.)**

Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. ☒ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 10  
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



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**B. Findings (cont.)**

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

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. $\frac{\text{cu yd}}{\text{nourishment}}$	d. $\frac{\text{cu yd}}{\text{nourishment}}$
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. $\frac{\text{cu yd}}{\text{nourishment}}$	d. $\frac{\text{cu yd}}{\text{nourishment}}$
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		
22. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet





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**B. Findings (cont.)**

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

23. ☐ Restoration/Enhancement \*:

a. square feet of BVW

b. square feet of salt marsh

24. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

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

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - a. The work is a maintenance dredging project as provided for in the Act; or
  - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
  - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 10/05/2026 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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**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                      N/A                      "
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

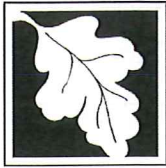
ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

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 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

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





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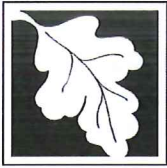
**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

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

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

See attached.

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



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

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No
2. The Franklin Conservation Commission hereby finds (check one that applies):

- 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:

Franklin Wetlands Protection Bylaw

Chapter 181

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 attached.



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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.

10/05/2023

1. Date of Issuance

4

2. Number of Signers

Signature

Jeff Livingstone

Printed Name

Signature

Meghann Hagen

Printed Name

Signature

Michael Rein

Printed Name

Signature

Mark LePage

Printed Name

Signature

Richard Johnson

Printed Name

Signature

Jeff Milne

Printed Name

Signature

Printed Name

Signature

Printed Name

☐ by hand delivery on

☒ by certified mail, return receipt requested, on

10/06/2023

Date

Date





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### **F. Appeals**

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

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

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





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**G. Recording Information**

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

Conservation Commission

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

To:

Conservation Commission

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

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for:

Property Owner

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

Book

Page

In accordance with the Order of Conditions issued on:

Date

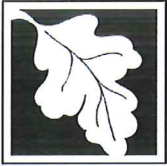
If recorded land, the instrument number identifying this transaction is:

Instrument Number

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

Document Number

Signature of Applicant



Massachusetts Department of Environmental Protection  
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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:

\_\_\_\_\_

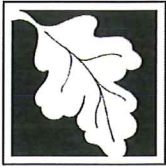
**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



### B. Instructions

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

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



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

**Request for Departmental Action Fee  
Transmittal Form**

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

DEP File Number: \_\_\_\_\_

Provided by DEP

**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.

**122-138 East Central Street****ATTACHMENT**  
**SPECIAL CONDITIONS****Table 1. List of Special Conditions**

All Conditions

Add	No.	Special Conditions
	19	Mitigation Planting Plan
X	20	Erosion Control Barriers
X	21	Extra Siltation Barriers
X	22	As-Built Plan
X	23	Written Conformance Reports, including information denoting the success of restoration area plantings, plant cover, and recommendations for corrective action as necessary
X	24	Work Performed According to Plan
X	25	Referencing Order of Conditions
X	26	Provision of Plans and Order of Conditions
X	27	Approved Changes
X	28	Notification Prior to Work
X	29	Right to Impose Additional Conditions
X	30	Errata as Changes
X	31	Compliance Contact Information
X	32	Weekly Monitor Reports
X	33	Use of Clean Fill
X	34	No Straw Bales
X	35	Stockpile Maintenance
X	36	Cleaning Vehicles
X	37	Remedy Upon Problem Identification
X	38	Barriers as Limit to Work
X	39	Limit of Work Marked
X	40	No Construction Materials
X	41	Inspections and Disposal of Sediment
X	42	No Rock Salt
	43	No Fertilizers
X	44	Removal of Barriers



	45	Dewatering Plan
X	46	Stockpile Location
X	47	Removal of Sediment
X	48	No Refueling
X	49	Emergency Repairs
X	50	Leaks and Spills
X	<u>51</u>	<u>Building Permit Sign Off</u>

**19. Mitigation Planting Plan:** If the project involves detention basins, drainage swales or other significant drainage structures, prior to the first pre-construction meeting, the Applicant shall submit a mitigation planting plan to the Conservation Department for review and approval. The mitigation planting plan shall use low shrub and tree species from the Franklin Best Development Practices Guide Book - specific for wildlife habitat - to be planted near the detention basin and altered swale.

**20. Erosion Control Barriers:** Erosion control barriers must be installed, inspected and approved by a professional engineer or licensed wetlands scientist. Before any work commences (including any land and/or vegetation cutting, removal, or disturbance) said professional shall submit to the Conservation Commission a written statement confirming the erosion control barriers are installed according to the approved plan. The statement shall be signed and stamped by said professional. All erosion control barriers must be biodegradable. This biodegradable requirement supersedes any details shown on the plan.

**21. Extra Siltation Barriers:** An extra 10% of the required biodegradable siltation barriers must be stored on site in the event of an emergency or storm.

**22. As-Built Plan:** If the Order of Conditions was based on a plan submitted and stamped by a licensed professional, then simultaneous with any written request for a Certificate of Compliance inspection, the Applicant will provide an as-built drawing plan stamped with the same license as the original plan. Any deviation from the approved plan must be demarcated and duly explained.

**23. Written Conformance Reports:** The Commission must receive a written report with respect to a project's conformance to Orders of Conditions every April and October from a professional consultant (e.g. engineer or wetland scientist) until a Certificate of Compliance is issued.

**24. Work Performed According to Plan:** Except where modified by the Commission, all work must be performed in accordance with the plans and the Order of Conditions. Any violation of these Orders of Conditions may result in the Applicant being subject to an Enforcement Order.

**25. Referencing Order of Conditions:** This Order shall be referenced in all construction contracts, subcontracts, and specifications dealing with the proposed work and shall supersede any conflicting contract requirements. The Applicant shall ensure that all Contractors, Subcontractors, and other personnel performing the permitted work are fully aware of the permit's terms and conditions. Thereafter, the Contractor will be held jointly and independently

liable for any violation of the Order of Conditions, resulting from failure to comply with its conditions.

**26. Provision of Plans and Order of Conditions:** A copy of the plans and associated Order of Conditions must be provided to the contractor responsible for the project's construction and completion, *prior* to the commencement of work. The contractor must have a copy of this Order of Conditions on site at all times while activities regulated by this Order of Conditions are being performed.

**27. Approved Changes:** Any changes, alterations, or revisions in the submitted plans or Notice of Intent must be approved by the Commission prior to their implementation. Failure to comply with this condition may subject the Applicant to an Enforcement Order. If the Commission finds, by a majority vote, said changes to be significant and/or to deviate from the revised plans, Notice of Intent, or the Order of Conditions, then the Commission may require that the Applicant file a Request to Amend the Order of Conditions or a new Notice of Intent. All changes to the plan shall be in accordance with DEP Policy 85-4.

**28. Notification Prior to Work:** The Applicant must notify the Franklin Conservation Commission in writing one week before any activity, including vegetation removal, commences on the project site. Failure to comply with pertinent conditions may result in a directive to cease all activity. In the event that work ceases on the site for a period of time greater than five business days **and** inspections required by this Order are stopped, this condition shall again apply prior to recommencing work on the site. Compliance with this condition does not relieve the Applicant from complying with all other conditions. All conditions requiring additional information prior to commencing construction shall be met prior to submitting said notice.

**29. Right to Impose Additional Conditions:** If siltation, erosion, or other adverse impacts to any resource areas occur, the Commission reserves the right to impose additional conditions as necessary to protect the interests of the Wetlands Protection Act and the Franklin Wetlands Protection Act Bylaw.

**30. Errata as Changes:** Any errors found on the plans or in the information submitted by the Applicant shall be considered as changes, and the procedures and policies related to plan changes outlined above, shall be followed.

**31. Compliance Contact Information:** Prior to any work being performed on the site, the Applicant shall inform the Franklin Conservation Commission in writing of the names, addresses, and business and home phone numbers of both the project supervisor who will be responsible for ensuring on site compliance with the Order of Conditions, as well as his/her alternate. The Applicant shall notify the Commission in writing of any changes in this information as soon as practically possible.

**32. Weekly Monitor Reports:** At least every other week, beginning the first week of construction, in which construction activity occurs on site and for as long thereafter as the ground remains destabilized, the applicant, the applicant's representative, or the contractor must submit a written report to the Conservation Commission. The report must include weekly erosion control inspection logs, details of any remediation activities taken, and descriptions of any deviations from approved plans.



**33. Use of Clean Fill:** Any fill used in connection with this project shall be clean, meaning it contains 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.

**34. No Straw Bales:** In order to help prevent the spread of invasive plant species, the use of straw hay bales as a means of erosion control is prohibited.

**35. Stockpile Maintenance:** Any soil areas, including stockpiles, which will remain exposed for longer than thirty calendar days shall be mulched or covered with a short-lived annual herbaceous cover crop.

**36. Cleaning Vehicles:** In order to help prevent the spread of invasive plant species during construction, all vehicles entering or leaving the site will be thoroughly cleaned of accumulated soil or plant material.

**37. Remedy Upon Problem Identification:** If any unforeseen problems occur during construction that affect any of the statutory interests identified in MGL c. 131 §40 and 310 CMR 10.00, and/or the Town of Franklin Wetlands Bylaw, the Applicant shall immediately notify the Conservation Commission, and a meeting shall be held shortly thereafter between the Conservation Commission, the Applicant, the Applicant's licensed professionals, the Contractor, and any other concerned parties, to determine corrective measures to be taken. The Applicant shall then implement the agreed upon corrective measures. In the event of a dispute between the meeting participants, the Commission's judgment shall prevail.

**38. Barriers as Limit of Work:** The sedimentation barriers will also serve as the limit of work, and no work, disturbance, or alteration shall occur on the resource area side of the barrier except as depicted on the approved plans.

**39. Limit of Work Marked:** The limit of work area shall be clearly marked in the field with said indicators being spaced at intervals no greater than 50 feet.

**40. No Construction Materials:** No construction materials, debris, leaves, or other materials shall be deposited outside the limits of work.

**41. Inspections and Disposal of Sediment:** To assure the continued effective removal of sediments, the Contractor shall inspect the barriers weekly and after each rainfall event to determine its condition. At the time of these inspections, accumulated sediments will be removed from the barriers and damaged barriers will be repaired or replaced as necessary. In no event shall silt be allowed to accumulate to a height greater than one-half the height of the barriers. Any removed sediment will be moved to and disposed of at a suitable location.

**42. No Rock Salt:** No rock salt (sodium chloride) can be used on paved surfaces within one hundred feet of wetland resource areas. Other de-icing chemicals may be used with the prior written approval of the Conservation Commission, and only after a formal review of the proposed substance. Signs, submitted to and approved by the Conservation Commission, shall be posted at the site stating this is a no-salt zone. The Conservation Commission shall not grant a perpetual use of any salt alternative chemical for the site. This condition will be noted on the Certificate of Compliance and will continue in perpetuity.

**43. No Fertilizers:** Pesticides, herbicides, and fungicides will not be used within the 100-foot buffer zone resource area. Fertilizers may be used if it is a slow release fertilizer and has been approved in advance by the Conservation Commission. This Condition will be noted on the Certificate of Compliance and will continue in perpetuity.

**44. Removal of Barriers:** No sedimentation barrier may be removed without the prior approval of the Commission or its staff.

**45. Dewatering Plan:** Prior to any excavation dewatering activity, the applicant must submit a dewatering plan to the Conservation Commission for approval. The dewatering plan must clearly indicate the location of the dewatering discharge and the measures used to prevent discharge of silt or sediment into the stormwater system or a wetland resource area. The dewatering plan must also include a contingency plan for emergency dewatering requirements. The contingency plan will provide for the pumped water to be contained in a settling basin prior to discharge. No dewatering will take place without the prior written approval of the Conservation Commission. No direct discharge to wetland resource areas will be allowed. Subsequent to dewatering, accumulated sediments will be removed to a secure location.

**46. Stockpile Location:** No debris, fill, or excavated material shall be stockpiled within 25 linear feet of the limit of work, unless approved beforehand by the commission. At no time shall any debris or other material be buried or disposed of within wetland resource areas or the 100-foot buffer zone resource areas, other than fill that is allowed by this Order of Conditions and as shown on the above-referenced plan.

**47. Removal of Sediment:** Any debris, sediment, or other material that falls into or otherwise enters the wetland resource area during the construction period must be immediately removed by hand.

**48. No Refueling:** No refueling of equipment or trucks shall occur within 100 linear feet of any wetland resource area.

**49. Emergency Repairs:** There shall be no more than a total of 50 gallons of fuel (other than what is in vehicles) or maintenance chemicals stored on any jurisdictional site at any one time. No routine servicing of vehicles used for this project will be permitted on the site. The Conservation Commission will be notified prior to initiating any emergency repairs to vehicles that must take place on the site.

**50. Leaks and Spills:** Any leaks or spills of hazardous material must be cleaned up immediately and disposed of at an appropriate off-site location in accordance with all federal, state, and local requirements and regulations. The Contractor must notify the Conservation Commission within 24 hours of any spillage or leakage of hazardous material, and must maintain an appropriate amount of absorbent on site.

**51. Building Permit Sign Off:** No land alteration, except for installation of erosion control, may begin and no building permit will be signed by the Conservation Office until such time as stipulations 9 and 20 are complied with and evidence of said compliance is received by the Conservation Office.



**122-138 East Central Street**

**ATTACHMENT**  
**SPECIAL CONDITIONS**

Additional Special Conditions:

52: The Applicant shall provide an invasive species management plan to the Conservation Agent prior to the start of work to ensure that the knotweed is management in a way that facilitates the establishment of native vegetation.