

OFFICE OF THE

# CONSERVATION COMMISSION

13 AYER ROAD HARVARD, MA 01451 978-456-4106 EXT.3 FAX: 978-456-1119



April 21, 2010

Bruce Leicher  
Bare Hill Pond Watershed Management Committee  
Town of Harvard  
13 Ayer Road  
Harvard, MA 01451

Dear Mr. Leicher:

Enclosed please find the original Order of Conditions for your project on Pond Road & Mass Avenue, Harvard (DEP#177-575). The Order is valid for three (3) years from the date of its issuance. An extension can be requested in writing by the applicant at least thirty (30) days prior to the expiration date of the Order.

Upon completion of the work, a written request by the applicant for a Certificate of Compliance is required (see Article XI of the Harvard Wetland Bylaws Rules for instruction) along with the state application WPA Form 8A Request for a Certificate of Compliance.

If you have any questions, please feel free to call me at the above number.

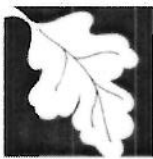
For the Commission,

A handwritten signature in cursive script, appearing to read "Liz Allard", is written over the printed name.

Liz Allard

Land Use Administrator/  
Conservation Agent

Cc: File



# 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

Code of the Town of Harvard Wetland Protection Bylaw, Chapter 119

Provided by MassDEP:

MassDEP File #:177-0575

eDEP Transaction #:299568

City/Town:HARVARD

Harvard#0310-01

BARE HILL POND  
STORMWATER  
MANAGEMENT  
ASSESSMENT  
FINAL

HORSLEY WHITTEN  
GROUP, INC.

June 2, 2008

## B. Findings

### 1. Findings pursuant to the Massachusetts Wetlands Protection Act

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

Check all that apply:

- |   |  |   |
|---|--|---|
| a. <input checked="" type="checkbox"/> Public Water Supply  | b. <input type="checkbox"/> Land Containing Shellfish          | c. <input checked="" type="checkbox"/> Prevention of Pollution        |
| d. <input checked="" type="checkbox"/> Private Water Supply | e. <input type="checkbox"/> Fisheries                          | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input checked="" type="checkbox"/> Ground Water Supply  | h. <input checked="" type="checkbox"/> Storm Damage Prevention | i. <input checked="" type="checkbox"/> Flood Control                  |

2. Commission hereby finds the project, as proposed, is:

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.

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 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 interests of the Act, 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 Bank or Bordering Vegetated Wetland boundary

25'  
a. linear feet

### Inland Resource Area Impacts:(For Approvals Only):

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	<u>                    </u> a. linear feet	<u>                    </u> b. linear feet	<u>                    </u> c. linear feet	<u>                    </u> d. linear feet

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

**Coastal Resource Area Impacts:**

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	<u>                    </u> a. square feet	<u>                    </u> b. square feet		
	<u>                    </u> c. c/y dredged	<u>                    </u> d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. c/y nourishment	<u>                    </u> d. c/y nourishment
14. <input type="checkbox"/> Coastal Dunes	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. c/y nourishment	<u>                    </u> d. c/y nourishment
15. <input type="checkbox"/> Coastal Banks	<u>                    </u> a. linear feet	<u>                    </u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u>                    </u> a. square feet	<u>                    </u> b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>



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18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet	c. square feet	d. square feet
	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			
	c. c/y dredged	d. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		

22.

☐ Restoration/Enhancement (For Approvals Only)

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 & d or B.17.c & d above, please entered the additional amount here.

a. square feet of BVW

b. square feet of Salt Marsh

23.

☐ Streams Crossing(s)

If the project involves Stream Crossings, please enter the number of new stream crossings/number of replacement stream crossings.

a. number of new stream crossings

b. number of replacement stream crossings

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

The following conditions are only applicable to Approved projects

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - a. the work is a maintenance dredging project as provided for in the Act; or
  - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.



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6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not exceed the issuance date of the original Final Order of Conditions.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
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 : "177-0575"
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 Mass DEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

**NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS**

19. The work associated with this Order(the "Project") is (1) ☐ is not (2) ☒ subject to the Massachusetts Stormwater Standards. If the work is subject to 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 Pollutant Discharge Elimination System Construction General





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Permit as required by Stormwater Standard 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.

- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that: *i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures; *ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized; *iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10; *iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition; *v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- 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 19(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 Pollutant 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.
- 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.



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- 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:**

SEE APPENDIX A PAGES 7A & 7B AND THE ATTACHED "SPECIAL CONDITIONS" PAGES 8A - 8D

## APPENDIX A

### Special Conditions:

- 1) A detailed Operation & Management Plan in accordance with the recommendations made by Horsley Whitten Group, Inc. in the Bare Hill Pond Stormwater Management Assessment Final, dated June 2, 2008, shall be drafted and submitted to the Commission for review and approval prior to the issuance of a Certificate of Compliance.
- 2) An annual maintenance report shall be provided to the Conservation Commission by December 1<sup>st</sup> of each year reporting on the maintenance and operation procedures which have been met for that year as detailed in the above mentioned Operation & Maintenance Plan. This condition shall be noted on the Certificate of Compliance (COC) and shall continue during the expected lifetime of the storm water management structures.
- 3) During construction, all drainage structures shall be inspected regularly and cleaned as necessary.
- 4) To ensure improved water quality into Bare Hill Pond and the proper function of the systems, water testing shall be conducted on the outflow every three years. Initial results are to be compared to previous testing completed by the Bare Hill Pond Watershed Management Committee as a condition of Order of Conditions, DEP file#177-551. Test parameters shall at a minimum include phosphorus. Results shall be submitted to the Conservation Commission. This condition shall be noted on the Certificate of Compliance (COC) and shall continue during the expected lifetime of the storm water management structures.
- 5) If, over time, the water quality in the samples differs significantly from what may be expected as a result of overall changes in the watershed, the Bare Hill Pond Watershed Committee shall meet with the Commission to determine what additional measures should be implemented to restore water quality to Bare Hill Pond.
- 6) During the first two years after the installation of the systems the Bare Hill Pond Committee shall present to the Commission an annual report.
- 7) There shall be no sedimentation into the wetlands or Bare Hill Pond from discharge pipes or surface runoff leaving the site during construction.
- 8) Upon the installation or improvement of any drainage structure or swale hay bales shall be set and staked around the inlet and silt sacks installed in the structures to prevent sediment from entering the system.



- 9) The Conservation Commission shall be notified in writing when any maintenance functions that may impact the wetlands, such as, but not limited to placing of backfill and repairing drains and terraces, removing accumulated sediments at the outfall pipe, are to be preformed.
- 10) Any stock pile of material in place for duration longer than one week shall be covered.
- 11) Silt socks shall be used in the place of hay bales
- 12) The Construction of BHP-4 shall be conducted between June 15<sup>th</sup> and September 15<sup>th</sup>.
- 13) All testing results and/or reports to be submitted to the engineer shall be submitted to the Conservation Commission as well.
- 14) See Attached "Special Conditions" pages 8a – 8d.



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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 Conservation Commission hereby (check one that applies):

- a. ☐ DENIES the proposed work which 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 or Conditions is issued. Which are necessary to comply with a municipal ordinance or bylaw:

- b. ☒ APPROVES the proposed work, subject to the following additional conditions.

1. Municipal Ordinance or Bylaw \_\_\_\_\_

WETLAND  
PROTECTION  
BYLAW

2. Citation CHAPTER 119

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:

SEE "SPECIAL CONIDITIONS" PAGES 8A - 8D

These special conditions are written to cause the applicant to take steps that will result in having only clean water leave the work site and in maintaining the integrity of the wetlands. The Harvard Conservation Commission shall have the right to inspect the site before, during and after all demolition/construction to ensure compliance with this Order and the **Harvard Wetland Protection Bylaw** under which Bylaw this Order is also issued as a **Permit**

Note that General Condition no. 8 on page 4 of the Order of Conditions does not permit any work to take place until the order has been recorded in the Registry of Deeds or the Land Court. **The Harvard Conservation Commission will act to record this Order of Conditions immediately after completion of the Appeal Period.**

### **AUTOMATIC STOP WORK ORDER**

If before work commences or before work is complete, the property changes ownership there shall be considered an automatic Stop Work Order in place until the new owner meets with the Commission at a regular public meeting to review this order of conditions. This is to ensure that the new owner understands what this order requires. It is the responsibility of the new owner to contact the Commission to arrange this meeting. Following the meeting the Stop Order is withdrawn unless action is taken by the Commission.

### **PRE-CONSTRUCTION CONDITIONS**

- a. The contractor employed to execute filling and/or grading activities within the Resource Areas or the Buffer Zone must be provided with a copy of this Order and thereafter said contractor will be held jointly responsible for any violation and the penalties under the law for such violation.
- b. This Order of Conditions shall be incorporated into all construction contracts for this project. All contractors working at the site shall be made aware of the provisions contained within this Order of Conditions and shall adhere to the special provisions contained herein.
- c. The applicant shall hold a pre-construction meeting with the person or persons responsible for work at the project site, the design engineer, and the erosion control monitor to review the Conditions of this Order and to insure understanding and compliance therewith.
- d. This Order shall apply to any persons or entity in partial or full control, whether by ownership or otherwise, and to any successor in control or successor in interest, of the property described in the Notice of Intent and accompanying plans and any revisions thereof.
- e. Book, page and date of mandatory recording of this Order is to be received by the Harvard Conservation Commission before work commences.

### **EROSION AND SEDIMENTATION CONTROL**

- a. Prior to any work on the site, the site engineer or a construction foreman shall be designated as the erosion control monitor to oversee the placement of erosion controls and/or the regular inspection or replacement of erosion and sedimentation control devices. The name and phone number of this person must be provided to the Conservation Commission so that person can be contacted in the event of an emergency at the site, during any 24 hour period including weekends. This person shall be given the authority to stop construction for erosion control purposes. The erosion control monitor will be required to inspect all such controls and devices and to oversee cleaning and the proper disposal of sediment and waste products,
- b. **The erosion control monitor shall provide brief written reports to the Commission at the following times: 1. Once per month; and 2. Immediately following any storm that totals one inch of rain within any 24-hour period.**

- c. Prior to commencement of construction on the site, erosion and sedimentation control measures adequate to ensure that no siltation or erosion shall occur in wetland areas will be implemented and maintained in effect throughout the entire construction phase, and until the site has become stabilized. Erosion and sedimentation control shall be located as shown on the site plans.
- d. Hay bale erosion control barriers shall be securely double-staked (using 1" X 1" wooden stakes) with their ends butted one against another without leaving appreciable space for sediment to travel through the barrier.
- e. **Hay bale barrier is the limit of work area.** There is to be no construction activity on the wetland side of the barrier.
- f. An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and shall include materials to repair silt fences, hay bales, stone-rip rap, filter dikes or any other devices planned for use during construction.
- g. The areas of construction shall remain in stable condition at the close of each construction day. Erosion controls shall be monitored at this time, and maintained or reinforced if necessary.
- h. Following construction, any exposed upland areas will be mulched and re vegetated with a suitable ground cover.
- i. Erosion controls between construction areas and wetlands will in place until a ground cover is established, or until permission to remove erosion controls is given by the Commission.
- j. The Conservation Commission may require additional erosion control in areas where it deems necessary.

### EROSION BARRIER INSPECTION

Before any clearing, grading, filling or any other construction activity, a continuous Erosion and Sedimentation control barrier shall be built according to Article IX 9§147-32A(1), unless otherwise approved by the Commission to control potential surface water flow from the work area. **Once the E&S barrier is in place call Liz Allard, Conservation Agent, for the Harvard Conservation Commission at 978 456 4106 Extension 3 for inspection and approval to proceed. Please allow 5 working days for scheduling an inspection. No other work may be undertaken until this approval is complete. The inspection will also include other pre construction conditions such as the posting of the DEP file number etc.**

Following erosion barrier approval, no storage of materials, tree or brush cuttings, or any construction activity may take place outside, on the wetlands side, of the diked area. Downgrade of the erosion control barrier is considered the **"limit of disturbance and activity"**. This condition **shall remain in force permanently and shall not expire with the issuance of a Certificate of Compliance.**

**Immediately after each rain storm, within 1 day, the erosion barrier shall be inspected and replaced or repaired as needed. Any material accumulated behind the barrier shall be removed promptly and placed appropriately in the work area, not in the wetland or buffer zone; or trucked off site and deposited in an approved upland fill site. Any accidental damage to the erosion barrier must be repaired immediately, within 1 day, and no work may proceed on the site until damage to the barrier is corrected. No work will take place during or immediately after rain storms.**

**ON-SITE CONSTRUCTION CONDITIONS**

- a. During construction for this project, the on-site foreman, directing engineer, designated construction manager and environmental professional shall have a copy of this Order and the plans referenced to herein at the site, shall familiarize themselves with the conditions of this permit. and shall adhere to said conditions, The excavating contractor shall also have a copy of this Order at the site, shall familiarize him or herself with the conditions of this permit and shall adhere to said conditions. Any member or agent of the Conservation Commission may, at any time while on the site, ask to see the Orders of Conditions from the individuals listed above. Failure to present the Orders of Conditions as requested shall be sufficient cause to stop the project.
- b. Construction material and equipment shall be stored in a manner and location that will minimize the compaction of soils, and the concentration of runoff and/or siltation.
- c. No overnight storage of excavated material, fill, debris, stumps, building materials, etc. is allowed within 100 feet of the wetland boundary, with the exception of soils necessary for the creation of the wetland replication area. All materials shall be stored at least 100 feet from any wetland or resource area at a location suitable to prevent sediment from surface runoff from entering the wetlands.
- d. Servicing of equipment (fueling, changing, adding or applying lubricants or hydraulic fluids) must be done outside the 100 ft buffer zone. Equipment must be maintained to prevent leakage or discharge of such pollutants. Overnight storage of equipment must be a minimum of 100 feet from the wetland boundary.
- e. Used petroleum products resulting from the maintenance of construction equipment, and construction debris, shall be collected and properly disposed of off-site. No on-site disposal of these items is allowed,
- f. All waste products, construction materials, etc. shall be deposited at an approved landfill and shall not be in any manner incorporated into the project site.
- g. At no time shall any debris or other material be buried or disposed of in or within 100 feet of a wetland resource other than fill permitted explicitly in this order. The burial of stumps within 100 feet of the wetland is prohibited.
- h. The fording of streams with equipment is prohibited. All haul roads and temporary access roads shall not be within any wetland or on the wetland side of any erosion barrier.
- i. Natural vegetation within 100 feet of the wetland shall be retained when practical.

**STABILIZATION**

Fill within 100 feet of the wetland shall be stabilized by one of the following methods:

- a. Topsoil and seeding.
- b. If not in growing season, by jute mesh.

Upon completion of the project all disturbed areas shall be permanently stabilized with rapidly growing cover with sufficient topsoil to assure long term stabilization of disturbed areas.

**FERTILIZERS (PERMANENT CONDITION)**

Within the 100-foot buffer zone, only low nitrogen, low phosphorus fertilizers shall be used during and after work. **This is a permanent condition.**

**CERTIFICATE OF COMPLIANCE**

Upon submittal of a request for a Certificate of Compliance, the applicant shall submit 'as built' plans of the site including the locations of underground utilities and drainage structures. The plans shall be prepared and signed by a professional engineer. In addition, no Certificate of Compliance shall be issued until all non-biodegradable erosion control has been removed from the site. Any permanent conditions shall be recorded on the Certificate.

**Wetland Protection Bylaw Rules, The Code of the Town of Harvard, Chapter 119-13 APPEAL**

Any person aggrieved by the decision of the Conservation Commission, whether or not previously a party to the preceding, may appeal according to the Massachusetts General Laws.

The appeal shall be made within 10 days of the signing and/or issuance of said decision, whichever is the later. Notice of the appeal and a copy of the complaint shall be sent by Certified Mail, or hand delivered, to the Commission, its authorized representative or assigns, and the Town Council so as to be received within 10 days.

The appeal shall contain any facts pertinent to the issue, a copy of the decision being appealed, bearing the date of filing thereof, the complete name and address of the attorney, if any, representing the person filing the appeal and the relief being sought.

If the complaint is filed by some person or persons other than the original applicant, appellant or petitioner, such original applicant, appellant and all members of the Conservation Commission shall be named as parties defendant.





**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:  
MassDEP File #:177-0575  
eDEP Transaction #:299568  
City/Town:HARVARD

Code of the Town of Harvard Wetland Protection Bylaw, Chapter 119

Harvard#0310-01

## E. Signatures

This Order is valid for three years from the date of issuance, unless otherwise specified pursuant to General Condition #4. If this is an Amended Order of Conditions, the Amended Order expires on the same date as the original Order of Conditions.

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.

4/15/2010

1. Date of Original Order

4

2. Number of Signers

Signatures:

*Patricia Walcott*  
*Janet Walcott*  
*Paul Horn*

☒ by hand delivery on

April 15, 2010

Date

*Patrick Doherty*

☐ by certified mail, return receipt requested, on

Date

## F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request 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  
Code of the Town of Harvard Wetland Protection Bylaw, Chapter 119

Provided by MassDEP:  
MassDEP File #:177-0575  
eDEP Transaction #:299568  
City/Town:HARVARD

Harvard#0310-01

## G. Recording Information

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

HARVARD

Conservation Commission

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

To:

HARVARD

Conservation Commission

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

POND ROAD & MASSACHUSETTS AVENUE

Project Location

177-0575

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

Rev. 3/9/2010