

ADDENDUM NO.1

Wright Road Cross-Country Water Main Project
Ayer DPW

This addendum amends and/or supplements the bid documents as indicated below. Only these items alter the Bid Documents; any verbal discussions or responses are hereby declared null and void.

Sealed Bids for the General Contract will be received from General Contractors for the Wright Road Cross-Country Water Main Project at the Ayer DPW Office, 25 Brook Street, Ayer, MA 01432 until 2:00 PM on Wednesday, August 23, 2017 and at that time and place bids will be publicly opened and read aloud.

Bidder shall acknowledge receipt of this addendum on the Form for General Bid.

APPENDIX

1. Insert the attached Draft WPA Form 5 – Order of Conditions (OOC) and Special Conditions obtained from Ayer Conservation Commission into Appendix C of the Bid Document. Please note this is a draft version of the OOC.

Attachments:

Draft WPA Form 5 – Order of Conditions and Special Conditions



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:
 100-0401
 MassDEP File #
 eDEP Transaction #
 Ayer
 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: Ayer
 Conservation Commission

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

3. To: Applicant:

a. First Name Town of Ayer Department of Public Works b. Last Name -----

c. Organization 25 Brook Street

d. Mailing Address Ayer MA 01432

e. City/Town Ayer f. State MA g. Zip Code 01432

4. Property Owner (if different from applicant):

Alfred J. Bergin
 a. First Name b. Last Name

c. Organization 3 Wachusett Ave East

d. Mailing Address Ayer MA 01432

e. City/Town Ayer f. State MA g. Zip Code 01432

5. Project Location:

Wright Road to Sandy Pond Road Ayer
 a. Street Address b. City/Town

22 75, 76, 30, 48

c. Assessors Map/Plat Number ----- d. Parcel/Lot Number -----

Latitude and Longitude, if known: 42d, 33m, 40s 71d33m01s
 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):
 Middlesex Southern -----
 a. County b. Certificate Number (if registered land)
 65594 153
 c. Book d. Page

7. Dates: February 6, 2017 August 24, 2017 August 24, 2017
 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):
 Wright Road Cross-Country Water Main – NOI Site Plan
 a. Plan Title
 Ayer Department of Public Works Daniel Van Schalkwyk, P.E.
 b. Prepared By c. Signed and Stamped by
 January 2017 1" = 40'
 d. Final Revision Date e. Scale
 Wright Road Cross-Country Water Main – Details January 2017
 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) _____ 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	_____ b. square feet	_____ c. square feet	_____ d. square feet
	_____ e. c/y dredged	_____ f. c/y dredged		
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	_____	_____	_____ cu yd	_____ cu yd
	a. square feet	b. square feet	c. nourishment	d. nourishment
14. <input type="checkbox"/> Coastal Dunes	_____	_____	_____ cu yd	_____ cu yd
	a. square feet	b. square feet	c. nourishment	d. 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 _____ 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 100-0401 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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 _____ hereby finds (check one that applies):
 Conservation Commission
 - a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw	2. Citation
---------------------------------	-------------

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.
 - b. that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

1. Municipal Ordinance or Bylaw	2. Citation
---------------------------------	-------------
3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.
 The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):



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Provided by MassDEP:
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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.

 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.

 2. Number of Signers

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

Signatures:

 William Daniels, Chair

 Jessica Gugino, Clerk

 George Bacon

 Bonnie Tillotson

by hand delivery on

by certified mail, return receipt requested, on

 Date

 Date

F. Appeals

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

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



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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

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.

Ayer
 Conservation Commission

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

To:
 Ayer
 Conservation Commission

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

Wright Road to Sandy Pond Road 100-0401
 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:



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100-0401

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eDEP Transaction #

Ayer

City/Town

Instrument Number

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

Document Number

Signature of Applicant

DRAFT



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

Request for Departmental Action Fee
Transmittal Form

Provided by DEP

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

A. Request Information

1. Location of Project

a. Street Address

b. City/Town, Zip

c. Check number

d. Fee amount

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

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

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

Name

Mailing Address

City/Town

State

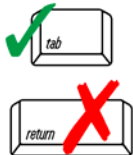
Zip Code

Phone Number

Fax Number (if applicable)

4. DEP File Number:

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 <http://www.mass.gov/eea/agencies/massdep/about/contacts/>).
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.

DRAFT

ATTACHMENT A
SPECIAL CONDITIONS
Order of Conditions

**Wright Road to Sandy Pond Road, Ayer Assessor's Map 22, Parcels 75, 76, 30, 48
DEP File # 100-0401**

FINDINGS:

Under the Order of Conditions ("the Order") issued under MassDEP File Number 100-0401 to Town of Ayer Department of Public Works ("the Applicant"), the Ayer Conservation Commission ("the Commission") hereby finds that in addition to the preceding General Conditions #1-20, Special Conditions listed herewith are necessary to achieve Performance Standards set forth in the Wetlands Protection Act ("WPA") as codified in 310 CMR 10.00 ("the Regulations"). "Resource Areas" are enumerated under 310 CMR 10.02(1), and "Buffer Zone" is defined in 310 CMR 10.04, as amended. Any violation of these Conditions is considered a breach of the Wetlands Protection Act, which may make the Applicant subject to an Enforcement Order or a fine from this Commission and from MassDEP.

The Project involves the construction of a new water main from the terminus of Wright Road at Kohler Place proceeding cross-country to Sandy Pond Road in Ayer, MA. This new water main will create a loop in the Town's water system which will assist with water quality and fire protection by increasing flow and pressure in the area. The Project limits pass through two Bordering Vegetated Wetlands (BVW), and includes ground-disturbing activities within the 100-foot Buffer Zone to BVW. Additionally, NHESP Priority and Estimated Habitat for Blanding's Turtle is present. However, the Project proposes the use of Horizontal Directional Drilling (HDD) to install the water main underneath wetland resource areas, therefore, no wetland resource area impacts are proposed. In a letter from the Massachusetts Division of Fisheries and Wildlife dated May 19, 2017, the Division determined that the Project must be conditioned in order to avoid a prohibited Take of state-listed rare species. Conditions recommended by the Division to avoid a Take are therefore included in this Order.

The Commission orders that all work shall be performed in accordance with said General and Special Conditions, the referenced Notice of Intent, and all other relevant documents listed below in Special Condition 2. The Commission designates the "limit of work" under this Order as the erosion control barriers concurrent with the limit of work line depicted on the referenced plan(s) listed in Special Condition 2.

According to the Bylaws of the Town of Ayer, Article LIII (Enforcement), the Conservation Commission is considered an enforcement officer for Article XXVII (Wetlands Protection). While the Wetlands Bylaw does not specify a fine amount for a violation, Article LIII specifies the fine to be three hundred dollars per violation. Each day a violation exists shall constitute a separate offence.

ADMINISTRATIVE CONDITIONS

General Conditions 1-20 on the DEP WPA Form 5 are in force under this Order, and are all required for compliance, without exception. These Administrative Special Conditions are expanding upon General Condition 1.

1. All work must be in compliance with DEP General Conditions 1-20, and all Special Conditions from the Ayer Conservation Commission herein.
2. The work shall conform to the following plans and documents, unless otherwise specified in this Order. All of these plans will be submitted to the Conservation Administrator in an agreed upon electronic format, if that office does not possess them already:

a. WPA Form 3/Notice of Intent:

Submitted on behalf of: Town of Ayer Department of Public Works
Property Owner: Alfred J. Bergin

Project Location: Wright Road to Sandy Pond Road
Ayer, MA 01432

Prepared by: Town of Ayer Department of Public Works
Stamped by: Daniel Van Schalkwyk, P.E.

b. Site Plan: Wright Road Cross Country Water Main - NOI Site Plan

Final Rev. Date/Sheet Name: January 2017

Additional Plans:

- Wright Road Cross-Country Water Main - Details (Rev. January 2017)
- Horizontal Directional Drilling Drill Fluid Management and Contingency Release Plan Wright Road Cross Country Water Main
- Subsurface Conditions Report - Proposed Water Main Loop (Rev. March 15, 2017)
- Division of Fisheries and Wildlife NHESP File No. 17-36484 Project Review Checklist Response Letter (Dated May 19, 2017)
- Blandings Turtle Mortality Avoidance Plan (June 8, 2017)

The approved wetland boundaries pertaining to this Order are only valid for the particular project associated with DEP #100-0401, and not for any future projects.

3. This Order shall apply to any successor(s) in interest or successor(s) in control and shall survive the issuance of the Certificate of Compliance. All future deeds shall reference this Order and the recording information for the same in the following format "This property may be subject to an Order of Conditions issued by the Town of Ayer Conservation Commission, which Order is recorded with the Middlesex South District Registry of Deeds in Book _____, Page _____, of which some conditions therein survive the issuance of a Certificate of Compliance". Within ten (10) calendar days inclusive of the transfer of ownership of the subject parcel, in whole or in part, including lots or buildings conveyed under individual deeds, the Commission shall be notified in writing by the seller of the name and address of the new owner.

Within ten (10) calendar days inclusive of such transfer, a written and notarized affidavit signed by the Seller and Buyer shall be filed with the Commission by the seller, stating that:

- The Seller has provided the Buyer with a copy of this Order of Conditions and the Buyer has read this Order of Conditions;
- The Buyer certifies that the Buyer understands all terms applicable to the project site;
- The Buyer certifies that the Buyer understands that any work within Resource Areas and Buffer Zones pursuant to definitions in 310 CMR 10.00, as amended, requires a permit from the Conservation Commission;
- In addition, this affidavit shall include the following sentence: "I, _____, the new owner of _____, understand that any work within Resource Areas and Buffer Zones pursuant to definitions in 310 CMR 10.00, as amended, requires approval by the Ayer Conservation Commission and that dumping of yard waste, brush, or other materials in said areas is not allowed.";
- This affidavit shall also include a plan of the lot indicating the wetland boundary, building(s), and any other features.

All current and future new tenants shall be provided with a copy of this Order and a signed affidavit as described above acknowledging receipt shall be provided to the Commission. ***This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be referred to in all future deeds to this property.***

5. Any violation of these Conditions will make the Applicant subject to an Enforcement Order or a fine.
6. Members and agents of the Commission shall have the right to enter and inspect the premises at reasonable times, in reasonable intervals, with reasonable notification to the Site Supervisor, to evaluate compliance with the Conditions, up to such a time that the Certificate of Compliance is issued. The Commission may require the submittal of additional data (such as work or data logs, purchase receipts, or product specifications) reasonably deemed necessary by the Commission to determine whether the project is in compliance with the Conditions. Potential violations of perpetual Conditions shall not grant the Commission or its agents' passage over private property.
7. **The Applicant (or Applicant's representatives, who in this instance may be any of the Environmental Monitor, Site Superintendent, the Contractor, or design project Engineer) is responsible for the Project's completion in accordance with the Plans and these Conditions, and shall have on site at all times a copy of this Order, including all referenced documents, while activities regulated by this Order are being performed.**
8. Any change in the Plans approved under this Order, including those due for review by other boards or resulting from the aforementioned conditions, must be submitted to the Commission in writing for approval prior to implementation. The Commission will then decide whether the change is substantial enough to require a new Notice of Intent filing or a request for an amendment to this Order of Conditions. Any errors found in the Plans or information submitted by the Applicant shall be considered as changes. If any

unforeseen problem occurs during construction of the Project which affects any of the seven statutory interests of the WPA, the Applicant shall notify the Commission, and shall convene an immediate meeting between the Commission and/or the Agent, the Applicant (or the Applicant's representative(s) which may include the Environmental Monitor, Engineer, Site Supervisor, or Contractor), and other invited parties to determine and agree upon the appropriate corrective measures. In the event of a dispute amongst the participants of any meeting, the Commission's view shall prevail.

9. The Site Supervisor is responsible for ensuring all parties on site abide by the Conditions set forth in this Order. This oversight responsibility extends to any sub-contractors, and persons delivering items or materials to the project.
10. No proposed earthen embankment in the buffer zone shall have a slope steeper than 2:1 (horizontal : vertical) without prior written approval of the Commission.
11. Pumps, generators, or other stationary equipment containing fuel, oil, hydraulic fluid, or other potential contaminants shall not be stored or operated within the wetland resource area, wetland buffer zone, or riverfront area without written approval of the Commission, the Agent, or a Commission-approved consultant/contractor. Equipment shall be located in a containment area on an impervious barrier. The barrier shall be of light color to allow observation of any liquid spillage. If spillage is observed, the equipment shall be taken out of service immediately.
12. All inorganic debris shall be removed from the site, including pre-existing and construction related debris. The Applicant or his designee shall be responsible for removing and disposing of such materials and surplus soils promptly and properly to an off-site disposal area which complies with all federal, state, and local requirements and regulations. Records as to the destination of all materials, including stumps, brush, and excess fill, shall be kept on file by the Contractor and supplied to the Commission if requested.
13. No oil, calcium chloride, or other salt shall be used within Resource Areas or Buffer Zones during any construction phase for the control of dust.
14. Non-organic fertilizers, pesticides, and herbicides shall not be used. Organic fertilizers used shall be slow-release. Additionally, soil and plant fertilization must be done in accordance with the Act Relative to the Regulation of Plant Nutrients (Act) (330 CMR 31.00). The Act includes, but is not limited to, the following provisions:
 - a. Phosphorous-containing fertilizer may only be applied when a soil test indicates that it is needed or when a lawn is being established, patched or renovated;
 - b. Do not apply plant nutrients to sidewalks or other impervious surfaces. Plant nutrients that land on these surfaces must be swept back onto the grass or cleaned up.
 - c. No applications of plant nutrients shall be made: – between December 1 and March 1; – to frozen and/or snow covered soil; – to saturated soil, or soils that are frequently flooded; – within 20 feet of waterways if using a broadcast method, or 10 feet if using a more targeted application method, such as a drop spreader; – within a Zone I of a public water supply well or within 100 feet of surface waters that are used for public drinking water supply.

15. No vehicles or equipment are to enter or cross a Resource Area or Buffer Zone outside of the limits of work, unless the location of disturbance is marked on the Plans referenced in this Order, submitted for review to the Commission with a plan for restoration of the Resource Area disturbance, and approved by the Commission prior to the entry or crossing. Equipment is considered anything motorized, or that may potentially leak harmful materials such as fuels or lubricants into Resource Areas or Buffer Zones.
16. The Commission reserves the right to require additional conditions if deemed necessary to protect the Resource Areas, Buffer Zones, and environmental interests as defined in MGL Chapter 131 Section 40 (310 CMR 10.00) with proper notification of all parties.

PRE-CONSTRUCTION CONDITIONS: These Pre-Construction Special Conditions are an expansion of General Conditions 8, 9, and 10.

17. Prior to commencement of any work on site:
 - a. The wetland boundaries shall be clearly marked. All re-flagging, as needed, shall be made with biodegradable flags/stakes so that said areas are clearly distinguishable, and shall be confirmed by the Commission or its Agent. Degradable, photodegradable, UV-degradable, oxo-degradable, or oxo-biodegradable flags/stakes are not acceptable and shall not be used. **The Applicant shall maintain wetland flagging until the Certificate of Compliance is issued.**
 - b. The Applicant shall submit in writing to the Commission the names, addresses, and telephone numbers (both business and 24-hour emergency numbers) of the person(s) responsible on-site for compliance with this Order and his/her alternate. The Applicant shall also notify the Commission in writing of any changes to this information.
 - c. The Applicant, or designee, shall hold a pre-construction meeting with the Agent, Environmental Monitor, Engineer, Site Superintendent, and Contractor (if different), prior to the start of any work to ensure this Order is fully understood by all parties. At this meeting, a Method of Procedures (MOP) shall be outlined, discussed, and written down for submission to the Commission. The MOP shall address protocols and contingencies for protecting Resource Areas during construction, responding to unforeseen conditions, and reporting back to the Commission. This MOP shall be established therewith and implemented throughout construction.
 - d. **All erosion and sedimentation control measures shall be installed for inspection and approval by the Commission or its Agent.** The Commission must be notified at least 7 days in advance of the need for an inspection of work, for scheduling purposes.
 - e. Proof of recording of this Order at the South Middlesex Registry of Deeds must be presented to the Commission or its Agent.

- f. The approved Limits of Work (LOW) from the Plans shall be survey-located and approved by the Commission or its Agent prior to the commencement of work. The LOW should be demarcated using orange construction snow fence staked in the ground to ensure that work is contained to the locations approved on the Plans throughout the duration of the Project construction.
- g. The Applicant or designee shall assign an Environmental Monitor (EM) company or individual who will report to the Commission throughout the duration of the Project construction. The EM shall submit a report via email to the Commission prior to the commencement of construction, every seven (7) days during construction, and for as long thereafter as the ground remains unstable, as well as upon completion of the project. These reports shall include the status of the erosion controls, status of stormwater management structures, status of wetland replication areas, construction activity within Resource Areas and Buffer Zones, and anticipated work to occur within the upcoming week. The EM should ensure that the work in the field matches the work permitted on the plans, and any deviations should be reported to the Commission. The Commission email is concom@ayer.ma.us.

DURING CONSTRUCTION CONDITIONS: INVASIVE SPECIES MANAGEMENT

18. Any fill brought on site must be clean, debris-free, and be devoid of invasive plants, their parts, or their seeds.
19. All construction vehicles must be cleaned of accumulated soil or plant matter from other sites prior to entering the site, through washing, brooming, or other method approved in advance by the Commission.
20. In order to prevent the spread of invasive species from one portion of the project site to another, construction vehicles may not enter locations infested with invasive species. If this is unavoidable, vehicles shall be washed or cleaned prior to leaving the infested portion of the site.
21. Resource Areas and Buffer Zones within the designated work area are not to be used for overnight parking of any vehicles.

DURING CONSTRUCTION CONDITIONS: SEDIMENT AND EROSION CONTROLS

These During Construction Special Conditions are an expansion of General Condition 18.

22. Soil erosion and deposition into wetland resource areas shall be prevented at all times by effective control methods. The Applicant shall implement the methods indicated in the referenced Notice of Intent and as specified below:
 - a. The *minimum* required erosion control barriers shall consist of a staked compost filter sock/wattle, as inspected and approved by the Commission or its Agent before work commences. Temporary erosion and sediment control

products that are not fully biodegradable should be promptly removed upon issuance of the Certificate of Compliance.

- b. Erosion control measures shall be installed and maintained in accordance with the Plans listed in Special Condition 2.
- c. The limit of work shall be the staked orange snow fencing, beyond which no work shall occur. These limits are laid out in the approved plan set listed in Special Condition 2.
- d. The Commission may require the Applicant to employ additional erosion and/or damage prevention measures as it reasonably deems necessary. Supplemental erosion controls deemed necessary shall be implemented in accordance with the Massachusetts Erosion & Sediment Control Guidelines for Urban and Suburban Areas (2003).
- e. Erosion controls shall be inspected weekly and immediately following storm events. Damaged or non-functioning erosion control devices shall be maintained, reinforced, or replaced as necessary.
- f. Upon the discovery of any failure of erosion control measures resulting in deposition of soils into Resource Areas, the incident shall be **immediately** reported to the Commission at (978) 772-8249 and to concom@ayer.ma.us.
- g. The Applicant shall take steps as soon as reasonably practical to control any erosion that occurs on site that impacts areas under jurisdiction of the Wetlands Protection Act and the Ayer Wetlands Bylaw and Regulations.
- h. Any sedimentation that takes place beyond the limit of the erosion control barriers shall be removed using hand tools. The cause of the erosion/sedimentation shall be addressed as soon as reasonably practical with reasonable measures.
- i. All accumulated sediment shall be removed from the face of the erosion control barriers using hand tools (e.g. shovels, rakes, and wheelbarrows) whenever the level of sediment is within six (6) inches of the top of the barrier.
- j. The Applicant shall maintain a reserve of the approved erosion control product(s) equal to at least 15% of the maximum extent of erosion control materials used on site. This reserve shall be easily accessible for the duration of the project, and be explicitly dedicated to emergency repairs.
- k. Soil, sediment, debris, or other material removed during maintenance or repair of erosion control barriers, or remediation of erosion damage, shall be disposed of outside the wetlands or riverfront buffer zone.
- l. Exposed soils shall be stabilized as soon as practical following disturbance. Slopes and other disturbed areas not subject to construction activities shall be stabilized (either temporarily or permanently) immediately following

excavation/grading. Temporary stabilization shall consist of seeding with **annual oats** or other approved species, or the use of erosion control products that meet the requirements set forth in Special Condition 17(a).

- m. As soon as reasonably practical following any storm event, or significant warming period when snow/ice is present on the ground, the Applicant shall inspect all stabilized areas for erosion, wash-out, rills, or other damage caused by flowing water. Any noted damage shall be repaired as soon as reasonably practicable using the original stabilization method, or a pre-approved alternative method.

- 23. Erosion control devices and wetland flags shall remain in place until all disturbed surfaces have been permanently stabilized and a Certificate of Compliance is signed by the Commission. The erosion control devices may only be removed once the Applicant has submitted a Request for a Certificate of Compliance AND the Commission and/or its Agent has conducted a site visit and granted permission to do so. Biodegradable erosion controls may be broken up and spread on site, but not within any wetland resource area(s) or Conservation Easement. Any non-biodegradable material approved for use must be removed and discarded off-site.

DURING CONSTRUCTION CONDITIONS: SOIL STOCKPILES AND FILL STORAGE

- 24. At no time shall debris or other material be buried or disposed of within the buffer zone, other than that fill which is explicitly allowed by this Order and as shown on the referenced plans.
- 25. All fill not drawn from the site itself, stumps, brush, logs, rubbish, construction debris, excavated materials, construction equipment and vehicles, and construction materials (i.e. gravel, bentonite, etc.), if permitted to be stored on-site, shall be stored in a designated location approved by the Commission.
- 26. Stockpiled earth and other materials shall be piled outside the 100-foot Buffer Zone and/or the 200-foot Riverfront Area, and shall be stabilized to prevent erosion into wetland resource areas and/or prevent any runoff off-site.
- 27. Any soil stockpiles that will remain on site for longer than thirty (30) days must be seeded with the same mixture of seeds already intended for use within the replication area and/or the upstream area that will be seeded in accordance with Special Condition 22(l).

DURING CONSTRUCTION CONDITIONS: STORMWATER MANAGEMENT

- 28. There shall be no direct discharge of stormwater runoff into streams or other wetland resource areas. Runoff from the site shall be directed overland to maximize groundwater recharge and cleansing of the runoff through contact with natural soils and vegetation.
- 29. The Applicant or his designee shall report any runoff problems/concerns immediately upon discovery of such conditions to the Ayer Conservation Commission office at (978) 772-8249 and via email to concom@ayer.ma.us.

END OF CONSTRUCTION CONDITIONS:

30. Upon completion of this project the owner or his designee shall submit the following to the Conservation Commission to receive a Certificate of Compliance per Condition 12:
- a. A letter from the owner or his designee requesting a Certificate of Compliance for DEP File # 100-0401.
 - b. A written statement from a registered professional engineer of the Commonwealth of Massachusetts certifying that the work has been completed in compliance with this Order of Conditions and the approved plans referenced herein (or approved revisions). Any discrepancies shall be noted. Phrases such as: "*The project has been completed in general compliance...*" will NOT be acceptable. If the work completed differs significantly from the work proposed in the Notice of Intent and approved by the Commission, the Commission may require the Applicant implement measures necessary to comply with this Order.
 - c. An as-built topographic plan signed and stamped by a registered professional land surveyor of the Commonwealth of Massachusetts, for the public record. This plan will include as-built elevations of all drainage ways constructed within 100 feet of any wetland or 200 feet of a perennial stream, and distances to all structures and elevations within 100 feet of wetlands and 200 feet of perennial streams.

PROJECT SPECIFIC CONDITIONS:

31. Prior to the commencement of work, a qualified biologist shall submit to the Division of Fisheries and Wildlife inclusive of the Natural Heritage and Endangered Species Program ("Division") a detailed protection plan for the Blanding's Turtle for review and written approval. This plan shall consider the timing and structural means to avoid impacts to Blanding's Turtles, with particular emphasis on the areas of disturbance and vehicle traffic at both ends of the pipe route.
32. Drill fluid release or any impact to a Resource Area:
- a. The HDD Drill Fluid Management and Contingency Release Plan ("Contingency Plan") shall be implemented as described in the approved plan.
 - b. The Contingency Plan shall either be modified to specifically list the Division and the qualified biologist as notified parties or a rider/addendum attached with a specific contact list including the Division, with relevant phone numbers and emails. The final document shall be included in the contractor's packet and made available onsite at all times during work.
 - c. Should the Project result in direct Resource Area impacts beyond those already described in the NOI, the Division retains the right to require the full restoration of impacted areas and, at the Division's sole discretion, an "after-the-fact" Conservation and Management Permit pursuant to 321 CMR 10.23 (CMP). In such a circumstance, the Applicant will be required to meet the performance standard to achieve a long-term Net Benefit. Projects resulting in

a Take of state-listed species may only be permitted if they meet the performance standards for a CMP. The proponent must demonstrate that the Project has avoided, minimized, and mitigated impacts to state-listed species consistent with the following performance standards: (a) the Applicant has adequately assessed alternatives to both temporary and permanent impacts to state-listed species; (b) an insignificant portion of the local population would be impacted by the Project; and (c) the Applicant agrees to carry out a conservation and management plan that provides a long-term Net Benefit to the conservation of the state-listed species impacted.

33. Within thirty (30) days of work, the Applicant shall submit a brief written report including photographs showing previous and final conditions with emphasis on compliance with Special Conditions 31 and 32. The report shall be submitted to both the Commission and the Division of Fisheries and Wildlife.
34. Upon filing for any renewal, extension, or amendment of the Order of Conditions or Water Management Act Permit, the Applicant shall contact the Division of Fisheries and Wildlife regarding compliance with MESA and obtain input from the Division's Fisheries program.

PERPETUAL CONDITIONS:

Special Condition 4 is also a perpetual condition.

35. No alterations to soil, waterbodies, or vegetation both alive and deceased, except as approved by the Commission and shown on approved plan(s), shall be conducted within any wetland resource area, wetland buffer area, or riverfront area. ***This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.***
36. No vehicles or equipment are to enter or cross a Resource Area or Buffer Zone, unless the location of the disturbance is first marked on a plan and approved by the Commission. ***This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.***
37. Any runoff resulting from washing of vehicles or equipment shall neither be directed to, nor dumped into, any on-site drainage system, Resource Area or Buffer Zone. Runoff shall be managed in accordance with the stormwater management plan developed for this project. ***This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.***
38. Equipment fuel storage, refueling, and lubrication operations shall be situated in an upland area outside Resource Areas and Buffer Zones. The Commission shall be notified immediately of any leakage of contaminants from this area and all fueling operations shall be suspended. ***This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.***

39. Pumps, generators, or other stationary equipment containing fuel, oil, hydraulic fluid, or other potential contaminants shall not be stored or operated within Resource Areas or Buffer Zones without written approval of the Commission, its Agent, or a Commission approved consultant/contractor. *This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.*
40. No debris may be deposited within Resource Areas or Buffer Zones. This includes concentrated stockpiles of soils, vegetation, cuttings, leaves, or otherwise “natural” materials that would impede natural ecological functions. *This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.*
41. No oil, calcium chloride, or other salt shall be used for the control of dust. *This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.*
42. Non-organic fertilizers, pesticides, and herbicides shall not be used. Organic fertilizers used shall be slow-release. Additionally, soil and plant fertilization must be done in accordance with the Act Relative to the Regulation of Plant Nutrients (Act) (330 CMR 31.00). The Act includes, but is not limited to, the following provisions:
- a. Phosphorous-containing fertilizer may only be applied when a soil test indicates that it is needed or when a lawn is being established, patched or renovated;
 - b. Do not apply plant nutrients to sidewalks or other impervious surfaces. Plant nutrients that land on these surfaces must be swept back onto the grass or cleaned up.
 - c. No applications of plant nutrients shall be made: – between December 1 and March 1; – to frozen and/or snow covered soil; – to saturated soil, or soils that are frequently flooded; – within 20 feet of waterways if using a broadcast method, or 10 feet if using a more targeted application method, such as a drop spreader; – within a Zone I of a public water supply well or within 100 feet of surface waters that are used for public drinking water supply.
- This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.*
43. No underground storage of fuels is allowed within Resource Areas or Buffer Zones. *This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.*
44. The Commission shall be notified in writing when any maintenance functions that may impact Resource Areas are to be performed, such as, but not limited to, replacing leach fields, repairing drains, road maintenance/repaving, and cleaning of stormwater appurtenances. *This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.*

45. The Applicant/current owner or his designee shall maintain all elements of the drainage systems within any areas subject to the Commission's jurisdiction under 310 C.M.R. 10.00 and M.G.L. Chapter 131, Section 40, as amended, unless put into an easement to the Town of Ayer, in order to avoid blockages and siltation which might cause failure of the system. Vegetative cover shall also be maintained on-site to ensure the proper functioning of the drainage system. This Condition shall in no way impede the control of invasive species, should a conflict arise. ***This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.***
46. No plants listed on the Massachusetts Invasive Plant Advisory Group's "Invasive", "Likely Invasive", or "Potentially Invasive" lists; New York's "Prohibited & Regulated Invasive Species List"; or on New Jersey's "Target Species Spotlight", within the Invasive Species fact sheet library, or on the "Do Not Plant" List; may be brought onto or planted anywhere on the property. ***This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.***

Invasive Species List Websites:

MA lists (<http://www.massnrc.org/mipag/index.htm>);

NY List: (http://www.dec.ny.gov/docs/lands_forests_pdf/islist.pdf)

NJ Lists: (<http://www.njisst.org/target-species-spotlight.asp>),

(<http://www.njisst.org/fact-sheets.htm>),

(<http://www.njisst.org/documents/DoNotPlantList.pdf>)