





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:  
#090-1366  
MassDEP File #  
eDEP Transaction #  
Andover  
City/Town

### A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):  
Essex North  
a. County  
N/A  
c. Book  
b. Certificate Number (if registered land)  
N/A  
d. Page  
7. Dates: April 2, 2021 2/1/2022 2/22/2022  
a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance  
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):  
Collins Pond Dam Improvements  
a. Plan Title  
Pare Corporation  
b. Prepared By  
3/2021  
d. Final Revision Date  
Notice of Intent  
f. Additional Plan or Document Title  
Allen Orsi, P.E.  
c. Signed and Stamped by  
as Noted  
e. Scale  
4/2/2021  
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 checked="" type="checkbox"/> Bank                                 | 631<br>a. linear feet                              | 631<br>b. linear feet                    | 0<br>c. linear feet    | 0<br>d. linear feet    |
| 5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland          | 1041<br>a. square feet                             | 1041<br>b. square feet                   | 1350<br>c. square feet | 1350<br>d. square feet |
| 6. <input checked="" type="checkbox"/> Land Under Waterbodies and Waterways | 9863<br>a. square feet<br>77 +/-<br>e. c/y dredged | 9863<br>b. square feet<br>f. c/y dredged | 568<br>c. square feet  | 568<br>d. square feet  |
| 7. <input type="checkbox"/> Bordering Land Subject to Flooding              | _____ a. square feet                               | _____ b. square feet                     | _____ c. square feet   | _____ d. square feet   |
| Cubic Feet Flood Storage  | _____ e. cubic feet                                | _____ f. cubic feet                      | _____ g. cubic feet    | _____ h. cubic feet    |
| 8. <input type="checkbox"/> Isolated Land Subject to Flooding               | _____ a. square feet                               | _____ b. square feet                     |                        |                        |
| Cubic Feet Flood Storage  | _____ c. cubic feet                                | _____ d. cubic feet                      | _____ e. cubic feet    | _____ f. cubic feet    |
| 9. <input type="checkbox"/> Riverfront Area                                 | _____ a. total sq. feet                            | _____ b. total sq. feet                  |                        |                        |
| Sq ft within 100 ft   | _____ c. square feet                               | _____ d. square feet                     | _____ e. square feet   | _____ f. square feet   |
| Sq ft between 100-200 ft  | _____ g. square feet                               | _____ h. square feet                     | _____ i. square feet   | _____ j. square feet   |



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**B. Findings (cont.)**

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

|  | Proposed<br>Alteration  | Permitted<br>Alteration | Proposed<br>Replacement | Permitted<br>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                       | _____   | _____                   | _____ <sup>cu yd</sup>  | _____ <sup>cu yd</sup>   |
|  | a. square feet  | b. square feet          | c. nourishment          | d. nourishment           |
| 14. <input type="checkbox"/> Coastal Dunes                         | _____   | _____                   | _____ <sup>cu yd</sup>  | _____ <sup>cu yd</sup>   |
|  | 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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**WPA Form 5 – Order of Conditions**  
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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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City/Town

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

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

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

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



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

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 #090-1366  
 MassDEP File #  
 eDEP Transaction #  
 Andover  
 City/Town

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

- iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
- v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:
- i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and
  - ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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

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

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

1. Is a municipal wetlands bylaw or ordinance applicable?  Yes  No
2. The \_\_\_\_\_ 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):

\_\_\_\_\_

# COLLINS POND DAM IMPROVEMENTS

## Harold Parker State Forest

DEP FILE NO. 090-1366 SPECIAL CONDITIONS

1 FINDING - NOTICE OF JURISDICTION UNDER THE MASSACHUSETTS WETLANDS PROTECTION ACT, M.G.L.C. 131, S. 40. The Andover Conservation Commission hereby finds that all or part of the property on which the work authorized by this Order is proposed is subject to jurisdiction under the Massachusetts Wetlands Protection Act, M.G.L.C. 131, s. 40. The owner is hereby notified of his or her responsibility to comply with the provisions of that statute. This condition shall remain in effect in perpetuity and shall survive the issuance of a Certificate of Compliance.

2 FINDING – ANDOVER WETLANDS PROTECTION BY-LAW. The Conservation Commission finds that the Andover Wetlands Protection Bylaw is not applicable to this State project. **Note: A sequence of construction must be submitted and approved by Conservation staff prior to beginning work.**

3 FINDING – LIMITED PROJECT. The Andover Conservation Commission hereby finds that the proposed project meets the criteria for Limited Projects under the Wetlands Protection Act in conformity with the provisions of 310 CMR 10.53(3)(i) which reads as follows: (“*The maintenance, repair and improvement (but not substantial enlargement except when necessary to meet the Massachusetts Stream Crossing Standards) of structures, including dams and reservoirs and appurtenant works to such dams and reservoirs, buildings, piers, towers, headwalls, bridges, and culverts which existed on the effective date of 310 CMR 10.51 through 10.60 (April 1, 1983).*”).

4 WORK AUTHORIZED UNDER THIS ORDER - Only work explicitly described in documents and materials that were partially relied upon by the Andover Conservation Commission to issue this Order of Conditions may be permitted. If necessary, direction or clarification may be sought from the Conservation Agent or the designated Environmental Monitor.

### Documents

March 2021

Notice of Intent application, prepared by Pare Corporation, dated March 2021, and accompanying documents and appendices.

January 12, 2022

Notice of Intent – Resubmission of Amended Materials, prepared by Pare Corporation, dated January 12, 2022, and accompanying documents and appendices.

February 2021

Stormwater Management Report, Collins Pond Dam Improvements, Harold Parker Road, Andover, MA, prepared by Pare Corporation, dated February 2021, revised December 2021, and accompanying documents and appendices including stormwater Operations and Maintenance Plan, revised rip rap

apron calculations, and revised HydroCAD modeling.

March 2021 Wetland Impact Plan, Collins Pond Dam Improvements, Andover, MA, prepared by Pare Corporation, dated March 2021, revised October 2021.

**Site Plan(s)**

March 2021 Site Plan entitled “Massachusetts Department of Conservation and Recreation – Collins Pond Dam Improvements”, prepared by Pare Corporation, dated March 2021.

December 2021 Revised Site Plan: Staging Area Restoration Plan (5.0), prepared By Pare Corporation, dated December 2021.

December 2021 Revised Site Plan: West Staging Area and Parking Improvements Plan (5.1), prepared by Pare Corporation, dated December 2021.

December 2021 Revised Site Plan: East Parking Improvements Plan (5.2), prepared by Pare Corporation, dated December 2021.

September 2021 Revised Site Plan: Wetland Replication Plan (7.0), prepared by Pare Corporation, dated September 2021, revised October 2021.

December 2021 Revised Site Plan: Civil Details (8.0), prepared by Pare Corporation, dated December 2021.

December 2021 Revised Site Plan: Miscellaneous Details (8.2), prepared by Pare Corporation, dated December 2021.

5 RELIANCE UPON PEER REVIEW - The Andover Conservation Commission is in partial reliance upon a peer review of the filing and documents completed by **Janet Bernardo, P.E. and Amy Ball, P.W.S., C.W.S, of the Horsley Witten Group.** The documentation for this review is included in the following three letter reports:

- 1<sup>st</sup> Peer Review Letter, from Janet Bernardo and Amy Ball of the Horsley Witten Group, dated August 9, 2021.
- 2<sup>nd</sup> Peer Review Letter, from Janet Bernardo and Amy Ball of the Horsley Witten Group, dated October 14, 2021.
- 3<sup>rd</sup> Peer Review Letter, from Janet Bernardo and Amy Ball of the Horsley Witten Group, dated December 30, 2021.

6 FINDING - 25 FOOT PERMANENT BUFFER STRIP PROTECTED. **Unless specifically mentioned in the Notice of Intent, shown on the approved plans, or referenced in this Order of Conditions, no work within the 25 foot No-Disturbance Zone may take place.** The Andover Conservation Commission hereby finds that the “25’ NON-DISTURBANCE ZONE” depicted on the approved plan (a copy of which is attached to and made part of this Order) shall remain in effect in perpetuity. No building or alteration is to occur in this restricted area.

7 FINDING – STOCKPILING OF MATERIAL WITHIN THE JURISDICTIONAL 100 FOOT BUFFER ZONE. The Conservation Commission finds that there shall be no stockpiling of material within the 100 foot buffer zone except as specifically allowed under this order. Stockpiled soils and materials shall be protected with erosion/sediment controls and covered as detailed in Special Condition #11.

8 FINAL APPROVED PLAN AND OTHER DOCUMENTS. Work shall conform to the plans referenced on Page 1 of this Order and to the other materials submitted by the Applicant and the peer review consultants and which are on file with the Andover Conservation Commission.

9 WORK AUTHORIZED UNDER THIS ORDER. Only work explicitly described in the above-referenced plans and Notice of Intent is authorized under this Order of Conditions.

10 INSTALLATION OF EROSION CONTROL. Prior to commencement of work the applicant shall retain the services of the design professional or a Professional Land Surveyor to stake out the location of the proposed erosion/sediment controls. The applicant shall then install **appropriate** sediment controls in accordance with the above-referenced plans **that have been approved by an Agent for the Commission and are specific to site conditions**. The Notice of Intent application narrative and approved site plans document the placement of straw bales, silt fence, compost filter tubes, turbidity curtains, crushed stone construction entrances, and dewatering basins to be utilized.

A written request for inspection of the erosion control shall be submitted to the Conservation Commission, and a satisfactory inspection performed before any land-disturbing activity may commence. The Conservation Commission or its agents may require other sediment controls as field conditions warrant. The siltation control device shall be the Limit of Construction beyond which no earth-disturbing activity shall occur or heavy equipment shall be allowed. All siltation and erosion controls shall be maintained in a state of good repair. The siltation control devices shall not be removed until the commission or its agent has reviewed and found satisfactory the stabilization of the disturbed area.

11 STORMWATER MANAGEMENT. The Applicant or his successors in interest shall be responsible in perpetuity to maintain all drainage and stormwater management features, including stormwater best management practices (BMPs) in good working order. The

Conservation Commission reserves the right to enter upon the property and make independent examination of these BMP measures, and to require the Applicant or his successors in interest to perform such maintenance as is needed in its judgment. The Conservation Commission shall provide prior notice to the property owner of its intent to perform such inspection not less than forty-eight hours prior to such inspection. **This condition shall remain in effect in perpetuity and shall survive the issuance of a Certificate of Compliance.**

12 CERTIFICATE OF COMPLIANCE. Not more than thirty days following completion of the project, the applicant shall submit to the Commission and the Commission's Site Monitor with their request for a Certificate of Compliance, an affidavit prepared by a professional engineer or land surveyor registered in the Commonwealth of Massachusetts, stating that the site has been developed in accordance with the requirements of this Order of Conditions, based upon an on-site inspection and the referenced site plan. This affidavit should include a listing of any deviations from the approved plan.

An as-built drawing, prepared by a Professional Land Surveyor or Professional Engineer, registered in the Commonwealth of Massachusetts, and depicting the final and actual condition of all areas within the jurisdiction of the Massachusetts Wetlands Protection Act shall accompany such request.

13 EXCAVATION DEWATERING. In the event that excavation dewatering is required within any area subject to jurisdiction of the Wetlands Protection Act the applicant shall notify the Conservation Commission and the Commission's Site Monitor in advance of such work, and shall be responsible to ensure that such water is free of suspended solids before being discharged into either a wetland or into any storm water drainage system. This condition applies to all forms of dewatering, including pumping and trenching.

14 NOTIFICATION OF COMMENCEMENT OF WORK. The applicant shall notify the Conservation Commission and the Commission's Site Monitor, in writing, 48 hours before any activity commences on the project site and shall advise the Conservation Commission and the Commission's Site Monitor of the name(s) and telephone number(s) of the person(s) responsible on site for compliance with this Order. This list shall be resubmitted if any changes are made to it.

The project applicant(s), proponent(s), and contractor(s) responsible for the project's completion shall be notified of, and understand, the requirements of this Order of Conditions. The project applicant(s), proponent(s), and contractor(s) shall acknowledge receipt of the Order of Conditions by submitting a letter to that effect to the Conservation Commission. A copy of this Order, as well as copies of the above-mentioned documents, plans, and reports shall be on-site while activities regulated by this Order are being performed.

This Order of Conditions shall be made part of all construction documents 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 all the Special Conditions contained herein. The applicant, or his/her designee, shall, at all times, have a copy of the Final Order of Conditions at the site and shall monitor compliance with the provisions of this Order.

15 CONSTRUCTION OVERVIEW BY DESIGN ENGINEER / REPORTS. In accordance with Massachusetts General Laws Chapter 44, §53G, the Conservation Commission requires that the applicant provide funds **prior to commencement of work** to the Commission for the reasonable fees of a consultant with professional credentials to be selected by the Commission to review and/or approve the inspection of work thereunder. Such fees shall be an estimate of inspections which shall take place during once every 7 calendar days and within 24 hours of the end of a storm event having ½ inch of rainfall or greater within a twenty-four hour period, throughout the duration of the project. This period shall begin when erosion/siltation controls are installed, and shall end with issuance of a Certificate of Compliance. **Since the fees are an estimate, additional fees may be required pending the duration of the project and/or overpayment returned to the applicant upon the issuance of a Certificate of Compliance.**

**The Town of Andover Conservation Commission's Staff and the Environmental Monitor will monitor project progress and adherence to these Special Conditions through site monitoring and active communication with project personnel. Project personnel shall inform Town of Andover Conservation Commission's Staff and the Environmental Monitor of project milestones and activities.**

The weekly logs/reports shall be submitted on a monthly basis to the Andover Conservation Commission and shall state whether such work is in his or her opinion in compliance with the Order of Conditions. The Conservation Commission reserves the right to require submission of such reports on a more frequent interval. **The Conservation Commission also reserves the right to authorize the consultant to reduce the number of weekly inspections submitted on a monthly basis at their discretion.**

The applicant must request approval for temporary cessation of reports in writing prospectively. **This request must have the prior approval of an Agent for the Commission.** Failure to submit satisfactory reports shall be deemed sufficient cause for revocation of this permit without further review.

16 PRE-CONSTRUCTION MEETING. Not more than 2 weeks prior to the commencement of work, a **Pre-Construction Meeting** shall be held with the Conservation Agent and the Andover Conservation Commission's Environmental Monitor, and the Applicant's On-Site Construction Manager, Project Engineer and/or Wetland Scientist to review and discuss the Order of Conditions, construction procedures, methods, and erosion controls. Prior to requesting the pre-construction meeting, the applicant shall submit the following to the Andover Conservation Commission:

- a. The names and 24-hour, 7 days/week phone numbers of the on-site construction manager(s) who are responsible to coordinate the construction and ensure compliance with this Order. This list shall be resubmitted if any changes are made to it; and
- b. A statement signed by the Applicant and the person responsible for the construction of the project that such individuals understand the terms and conditions as specified in the Order and that such persons agree to comply with the referenced provisions.

17 **CLEAN FILL.** All fill used in connection with this project shall be clean borrow. The following shall be prohibited: chemically contaminated material; concrete and asphalt rubble; stumps and other solid waste.

18 **GRADING AND STABILIZATION.** Grading shall conform to the plans and data referenced above. In all cases final grades shall have a minimum of two inches of topsoil (measured in place) over all disturbed areas. In all cases exposed soil areas shall be stabilized with vegetation, e.g., grass or some form of ground cover plant. In no case shall wood chips, mulch, or similar covering be acceptable on sloping ground in lieu of vegetation.

19 **CONTROL OF CONSTRUCTION DEBRIS.** No construction debris (paper, wood, metal, concrete, etc.) may be allowed to enter the wetland resource areas at any time. Windblown material shall be promptly removed from wetland resource areas.

20 **DAMAGES TO RESOURCE AREAS.** Any damage caused as a direct result of this project to any wetland resource areas, beyond that authorized by the Order, is the responsibility of the applicant to repair, restore or replace. Sedimentation or erosion into these areas shall be considered damage to wetland resource areas. The Conservation Commission shall be promptly notified of any damage to wetland resource areas. Following notification, the applicant must submit a plan for abatement of the problem and restoration. This plan must be approved by the Andover Conservation Commission prior to implementation.

21 **SURPLUS EARTH MATERIALS.** It shall be the responsibility of the Applicant to ensure that any and all surplus materials that are not needed for use on the project are lawfully disposed of outside any area subject to protection under M.G.L.c 131, s. 40, unless such disposal area and activity are regulated under either a valid Order of Conditions or Determination of Applicability.

22 **FINDING – RESOURCE AREA ALTERATIONS.** As listed on Page 3 of the updated/revised WPA Form 3 – Notice of Intent document provided by the applicant, the Andover Conservation Commission finds that the project will result in the following temporary and permanent resource area alterations.

| <b>Resource Area</b>                    | <b>Size of Proposed Alteration</b>  | <b>Proposed Replacement (if any)</b>  |
|---|---|---|
| <b>Bank</b>                             | 631 linear feet (312 permanent, 319 temporary)                                | None  |
| <b>Bordering Vegetated Wetland</b>      | 1,041 square feet (387 permanent, 654 temporary)                              | 1,350 square feet   |
| <b>Land Under Waterbodies/Waterways</b> | 9,863 square feet (3,864 permanent, of which 337 is loss; 5,999 is temporary) | 568 square feet (removal of fish hatchery building – net gain of 231 square feet) |

23 **WAIVER – RESOURCE AREA IMPACTS/ALTERNATIVES ANALYSIS.** The Andover Conservation Commission finds that a further alternatives analysis for resource area

impacts is not required due to the information provided in the NOI application and the approved project plans.

24 WAIVER – WILDLIFE HABITAT ANALYSIS. While the linear footage threshold for a Wildlife Habitat Evaluation for the inland bank resource area has been met, the Andover Conservation Commission finds that a Wildlife Habitat Evaluation is not necessary in light of this project’s status as a limited project under 310 CMR 10.53(3)(i).

25 OVERSIGHT OF WETLAND MITIGATION. The entire process of construction of the wetland mitigation area(s) shall be overseen by a qualified wetland professional. The qualifications of the wetland professional(s) shall be provided to the Andover Conservation Commission and the Andover Conservation Agent prior to the start of wetland replication activities. The Andover Conservation Commission, the Andover Conservation Agent, and the Horsley Witten Group (the peer review consultant) all recognize the need for field adjustments for wetland mitigation projects. Field adjustments shall be discussed in advance – when feasible– with the Andover Conservation Agent and the designated site monitor.

26 WETLAND RESTORATION PLANTINGS. As summarized in the Notice of Intent application, *“at least 75% of the surface of the replacement area shall be reestablished with indigenous wetland plant species within two growing seasons, and prior to said vegetated reestablishment any exposed soil in the replacement area shall be temporarily stabilized to prevent erosion in accordance with standard US Natural Resource Conservation Service methods... .”* Wetland restoration activities, including the planting plan, shall conform to the approved plans listed in this Order.

27 WETLAND RESTORATION PLANTINGS: C-SERIES AND P-SERIES WETLANDS. The Andover Conservation Commission finds that the plan presented by the Applicant for manually aerating and re-seeding temporarily disturbed areas of BVW in the C-Series and P-Series Wetlands is sufficient for these two areas. In lieu of placing restoration plantings in these wetlands, plantings shall be placed in alternative locations within the wetland buffer. These alternative planting locations shall be discussed and approved with the Andover Conservation Agent and the designated site monitor.

28 LONG-TERM MONITORING PLAN/REPORTS. As part of the wetland mitigation plan authorized by this Order of Conditions, a long-term monitoring plan and accompanying reports shall be submitted to the Andover Conservation Agent. These monitoring reports may be filed in conjunction with reporting requirements as dictated by the Massachusetts Department of Environmental Protection and the U.S. Army Corps of Engineers.

29 OPERATIONS AND MAINTENANCE PLAN. As required under 310 CMR 10.53(7), an Operations and Maintenance Plan for the reconstructed Collins Pond Dam shall be implemented in perpetuity. 310 CMR 10.53(7) reads as follows: *“The Notice of Intent for any projects involving the construction, repair, replacement or expansion of public or private infrastructure shall include an operation and maintenance plan to ensure that the infrastructure will continue to function as designed. Implementation of the operation and maintenance plan as approved by the Issuing Authority shall be a continuing condition that shall be set forth in the*

*Order of Conditions and the Certificate of Compliance.*” The Andover Conservation Commission finds that the Operations & Maintenance Plan for the Collins Pond Dam be attached to this Order of Conditions and duly recorded at the Registry of Deeds.

30 ADDITIONAL PERMITS. Copies of additional permits required under other local, state and/or federal agencies for this project shall be submitted to the Andover Conservation Agent for their project files.

31 STORMWATER POLLUTION PREVENTION PLAN. The stormwater pollution plan for this project shall be provided to the Andover Conservation Agent a minimum of 14 days prior to the occurrence of any land disturbance at the beginning of the project.

32 STORMWATER BASIN INSPECTIONS. In addition to the requirements listed in the stormwater-specific Operations and Maintenance Plan, the Andover Conservation Commission requires inspections of the stormwater basins after 1-inch storm events and/or monthly inspections during the first three months after construction of the stormwater basin(s) to ensure their proper operation and functionality.



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:  
 #090-1366  
 MassDEP File #  
 eDEP Transaction #  
 Andover  
 City/Town

### E. Signatures

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

2/22/2022  
 1. Date of Issuance

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

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

6  
 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.

2/15/2022

Donald Cooper  
 Signature

Donald Cooper  
 Printed Name

Thomas Brady  
 Signature

Thomas Brady  
 Printed Name

Ellen Townson  
 Signature

Ellen Townson  
 Printed Name

Kevin J. Porter  
 Signature

Kevin Porter  
 Printed Name

Jon Honea  
 Signature

Jon Honea  
 Printed Name

Floyd Greenwood  
 Signature

Floyd Greenwood  
 Printed Name

Alix Driscoll  
 Signature

Alix Driscoll  
 Printed Name

Signature

Printed Name

by hand delivery on

by certified mail, return receipt requested, on

Date

February 22, 2022  
 Date



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

## WPA Form 5 – Order of Conditions

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

Provided by MassDEP:

#090-1366

MassDEP File #

eDEP Transaction #

Andover

City/Town

### F. Appeals

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

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

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



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

Provided by MassDEP:  
 #090-1366  
 MassDEP File #  
 eDEP Transaction #  
 Andover  
 City/Town

## G. Recording Information

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

Andover  
 Conservation Commission

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

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To:

Andover  
 Conservation Commission

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

Project Location MassDEP File Number

Has been recorded at the Registry of Deeds of:

County Book Page

for: Property Owner

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

Book Page

In accordance with the Order of Conditions issued on:

Date

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

Instrument Number

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

Document Number

Signature of Applicant