

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

and Andover Wetlands Protection By-law

Provided by MassDEP:

090-1281

MassDEP File #

eDEP Transaction #

Andover

City/Town

A. General Information

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

1. From: Andover
Conservation Commission

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

3. To: Applicant:
R. Marc Fournier
a. First Name b. Last Name

Town of Andover -Municiple Services
c. Organization

397 Lowell Street
d. Mailing Address

Andover MA 01810
e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

a. First Name b. Last Name

c. Organization

d. Mailing Address

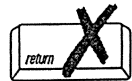
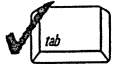
e. City/Town f. State g. Zip Code

5. Project Location:
10 Ledge Road Andover
a. Street Address b. City/Town

Map 147 Lots 2,4,4D and 7 and Map148
Lots 7,8,9,10A, 11, 11A, 12A and 13 , 4E
d. Parcel/Lot Number

Latitude and Longitude, if known: 42.6714 71.1912
d. Latitude e. Longitude

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



This document contains 26 pages.



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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):
North Essex (please see attached)

a. County	b. Certificate Number (if registered land)
<u>13971</u>	<u>71</u>
c. Book	d. Page

7. Dates: November 22, 2016 May 11, 2016 May 23, 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):

Ledge Road Landfill Closure Project - 100% Corrective Action Design Submittal

a. Plan Title	c. Signed and Stamped by
<u>CDM Smith Inc.</u>	<u>Daniel Guglielmi</u>
b. Prepared By	e. Scale
<u>April 26, 2017</u>	<u>1" = 40'</u>
d. Final Revision Date	g. Date
<u>See list in Special Conditions</u>	
f. Additional Plan or Document Title	

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

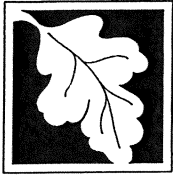
Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act).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

- | | | |
|---|--|---|
| a. <input checked="" type="checkbox"/> Public Water Supply | b. <input type="checkbox"/> Land Containing Shellfish | c. <input checked="" type="checkbox"/> Prevention of Pollution |
| d. <input checked="" type="checkbox"/> Private Water Supply | e. <input checked="" type="checkbox"/> Fisheries | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input checked="" type="checkbox"/> Groundwater Supply | h. <input checked="" type="checkbox"/> Storm Damage Prevention | i. <input checked="" type="checkbox"/> 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) 0
 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	270 perm 130 temp a. linear feet	270 lf perm 130 lf temp b. linear feet	550 new 130 rest c. linear feet	550 lf new 130 lf rest d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	3,610 perm 23,700 temp a. square feet	3,610 sf perm 23,700 sf c. square feet	18,210 repl 23,700 rest c. square feet	18,210 sf repl 23,700 sf rest d. square feet
6. <input checked="" type="checkbox"/> Land Under Waterbodies and Waterways	3,970 perm 7,710 temp a. square feet	3,970 sf perm 7,710 sf temp b. square feet	830 repl 7,710 rest c. square feet	830 repl 7,710 rest d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	290 e. c/y dredged	 f. c/y dredged		
Cubic Feet Flood Storage	a. square feet	b. square feet	c. square feet	d. square feet
8. <input checked="" type="checkbox"/> Isolated Land Subject to Flooding	22,300 sf permanent a. square feet	22,300 sf permanent b. square feet		
Cubic Feet Flood Storage	31,420 c. cubic feet	31,420 d. cubic feet	32,910 e. cubic feet	32,910 f. cubic feet



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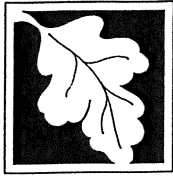
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- | | | | | |
|---|-------------------|-------------------|----------------|----------------|
| 9. <input type="checkbox"/> Riverfront Area | _____ | _____ | | |
| | a. total sq. feet | b. total sq. feet | | |
| Sq ft within 100 ft | _____ | _____ | _____ | _____ |
| | 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 |

B. Findings (cont.)

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

- | | Proposed Alteration | Permitted Alteration | Proposed Replacement | Permitted Replacement |
|--|---|----------------------|-------------------------|-------------------------|
| 10. <input type="checkbox"/> Designated Port Areas | Indicate size under Land Under the Ocean, below | | | |
| 11. <input type="checkbox"/> Land Under the Ocean | _____ | _____ | | |
| | a. square feet | b. square feet | | |
| | _____ | _____ | | |
| | c. c/y dredged | d. c/y dredged | | |
| 12. <input type="checkbox"/> Barrier Beaches | Indicate size under Coastal Beaches and/or Coastal Dunes below | | | |
| 13. <input type="checkbox"/> Coastal Beaches | _____ | _____ | _____ | _____ |
| | a. square feet | b. square feet | c. nourishment
cu yd | d. nourishment
cu yd |
| 14. <input type="checkbox"/> Coastal Dunes | _____ | _____ | _____ | _____ |
| | a. square feet | b. square feet | c. nourishment
cu yd | d. nourishment
cu yd |
| 15. <input type="checkbox"/> Coastal Banks | _____ | _____ | | |
| | a. linear feet | b. linear feet | | |
| 16. <input type="checkbox"/> Rocky Intertidal Shores | _____ | _____ | | |
| | a. square feet | b. square feet | | |
| 17. <input type="checkbox"/> Salt Marshes | _____ | _____ | _____ | _____ |
| | a. square feet | b. square feet | c. square feet | d. square feet |
| 18. <input type="checkbox"/> Land Under Salt Ponds | _____ | _____ | | |
| | a. square feet | b. square feet | | |
| | _____ | _____ | | |
| | c. c/y dredged | d. c/y dredged | | |
| 19. <input type="checkbox"/> Land Containing Shellfish | _____ | _____ | _____ | _____ |
| | a. square feet | b. square feet | c. square feet | d. square feet |
| 20. <input type="checkbox"/> Fish Runs | Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above | | | |
| | _____ | _____ | | |
| | a. c/y dredged | b. c/y dredged | | |
| 21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage | _____ | _____ | | |
| | a. square feet | b. square feet | | |



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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 090-1281 "
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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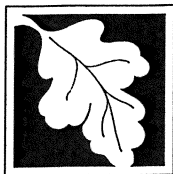
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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

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;



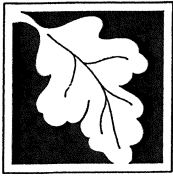
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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- 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):

Please 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 Andover 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:

Article XIV, Andover Wetlands Protection By-Law _____ By-Law _____
 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):
 Please see attached

LEDGE ROAD LANDFILL CLOSURE PROJECT

DEP FILE NO. 090-1281 SPECIAL CONDITIONS

Findings:

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. **This finding shall remain in effect in perpetuity and shall survive the issuance of a Certificate of Compliance.**
2. FINDING - NOTICE OF JURISDICTION UNDER THE ANDOVER WETLAND PROTECTION BYLAW. 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 Andover Wetlands Protection Bylaw, Article 14. 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. **This finding shall remain in effect in perpetuity and shall survive the issuance of a Certificate of Compliance.**
3. OTHER JURISDICTIONS. The project is subject to the 310 CMR 19: Massachusetts Solid Waste Regulations and accordingly is subject to Massachusetts Department of Environmental Protection (MassDEP) Division of Solid Waste Approval. In addition, remediation of arsenic-impacted wetland soils is subject to 310 CMR 40: the Massachusetts Contingency Plan (MCP) and must be performed under the direction of a Licensed Site Professional (LSP). The project shall proceed in accordance with MassDEP and LSP approvals.
4. FINDING – ANDOVER WETLAND PROTECTION BYLAW. The Andover Conservation Commission finds that all conditions set forth in this Order of Conditions are necessary to protect the interest described in the Andover Wetland Protection Bylaw. The Commission makes the Finding that the proponent has provided the Commission with a suitable notification (in the form of a Notice of Intent, Stormwater report, and other documents cited in this Order). Furthermore, the Commission makes the Finding that the proposed work reviewed by the Commission and their peer reviewers, and approved by this Order conforms to performance standards and design specifications in the regulations adopted by the Commission.
5. WORK AUTHORIZED UNDER THIS ORDER – Only work explicitly described on the Plans referenced on Page 2, Section A.8. of the Order of Conditions and to the following documents and materials that were partially relied upon by the Commission to issue this Order of Conditions. As described in these documents, the limits of work to remediate the wetlands is subject to field verification and may expand. As such, the permitted resource area impacts include a 15% allowance above what is shown on the plans. Expansion of resource area impacts up to the permitted amount is authorized under this order and subject to the Administrative Protocol included in the Response to Second Notice of Intent Peer Review Comments (CDM

Smith, 2017d). To the extent that the information contained in the reports and on the plans differ, the plans control. If necessary, direction or clarification may be sought from the Conservation Agent or the designated Monitor.

- 5.1 CDM Smith, 2016a. Notice of Intent, Andover Ledge Road Closure Project, November 15, 2016.
 - 5.2 CDM Smith, 2016b. Supplemental Information RE Boundary of Isolated Land Subject to Flooding (ILSF) Notice of Intent - Ledge Road Landfill Closure Project (November 15, 2016), November 23, 2016.
 - 5.3 CDM Smith, 2016c. Withdrawal of Waiver Request, Notice of Intent, DEP File No. 090-1281, December 27, 2016.
 - 5.4 Email response from applicant dated January 17, 2017 to public inquiry from Ms. Stacey Albuquerque dated January 7, 2017.
 - 5.5 Email response from CDM Smith on behalf of applicant dated January 29, 2017 to questions from Commissioner Alix Driscoll dated January 9, 2017.
 - 5.6 CDM Smith, 2017a. Response to Peer Reviews, February 20, 2017.
 - 5.6a CDM Smith, 2017b. Response to LEC's Comments, February 20, 2017.
 - 5.6b CDM Smith, 2017c. Response to Initial Stormwater Peer Review Comments, February 20, 2017.
 - 5.7 Email response from applicant dated February 22, 2017 to public comments received by the Andover Conservation Commission on January 3, 2017 from Mr. Keith Saxon.
 - 5.8 CDM Smith, 2017d. Response to Second Notice of Intent Peer Review Comments, March 31, 2017.
 - 5.9 CDM Smith 2017e. Responses to Conservation Commission Comments, April 4, 2017.
 - 5.10 CDM Smith, 2017f. Final Stormwater Management Report, Ledge Road Landfill Closure and Post-Closure Use, Andover, Massachusetts, September 2016, Revised April 13, 2017.
 - 5.11 Andover Department of Municipal Services Christopher Cronin Letter dated May 8, 2017.
6. FINDING – RELIANCE UPON PEER REVIEW. The Conservation Commission is in partial reliance upon a peer review of the filing completed by Thomas Peragallo, CPSS of LEC Environmental Consultants, Inc. (LEC) and Daniel MacRitchie, PE of D. C. MacRitchie Inc. (MacRitchie). The documentation for this review is comprised of the following letter reports and/or their representations at Working Sessions held on February 2, 2017 and April 13, 2017 or during Public Hearings.

- 6.1 LEC Notice of Intent Peer Review dated January 24, 2017.
- 6.2 MacRitchie Initial Peer Review and Recommendations dated January 24, 2017
- 6.3 LEC Notice of Intent Peer Review dated March 6, 2017.
- 6.4 MacRitchie Second Peer Review and Recommendation March 9, 2017
- 6.5 LEC Email Correspondence dated April 3, 2017.
- 6.5 LEC Email Correspondence dated April 25, 2017.
- 6.6 LEC Notice of Intent Peer Review dated May 3, 2017.
- 6.7 MacRitchie Final Peer Review May 3, 2017.

The Commission and its consultants, in evaluating the Notice of Intent submittal and supporting documents, have relied solely upon the data and representations made by the Applicant and its representatives.

7. FINDING - BORDERING VEGETATED WETLAND. The Conservation Commission finds that the site contains a Bordering Vegetated Wetland and relied upon an Order of Resource Area Delineation (DEP File # 090-1255) issued by the Commission on December 7, 2015 approving the boundary of Bordering Vegetated Wetland as shown on an ANRAD Plans Ledge Road Landfill Closure Project, Existing Conditions Sheets C-1 – C-5 prepared by CDM Smith Inc. date stamped and signed by Andrew B. Miller, P.E.. Additional BVW was delineated as part of the NOI Application and the Commission relied upon a Wetland Boundary Peer Review conducted by Thomas A. Peragallo to review/modify and confirm the accuracy of the BVW as depicted on the site plans.
8. FINDING - INTERMITTENT STREAM. The Conservation Commission finds that the site contains Bank and Land Under Waterway associated with intermittent streams and relied upon an Order of Resource Area Delineation (DEP File # 090-1255) issued by the Commission on December 7, 2015 confirming the streams are intermittent and relied upon additional review as part of the NOI Application conducted by Thomas A. Peragallo to review/modify and confirm the accuracy of Bank and Land Under Waterway as depicted on the site plans.
9. FINDING –ISOLATED LAND SUBJECT TO FLOODING. The Conservation Commission finds that the site contains Isolated Land Subject to Flooding (ILSF) and relied upon an Order of Resource Area Delineation (DEP File # 090-1255) issued by the Commission on December 7, 2015 to confirm the limits of ILSF.
10. FINDING – BVW, BANK, LAND UNDER WATER AND ILSF/IVW IMPACTS. The Andover Conservation Commission finds that the Applicant proposes to alter a total of up to 27,310 square feet (sf) of BVW (3,610 permanent + 23,700 temporary), 400 linear feet of Bank (270 permanent + 130 temporary), 11,680 (sf) of Land Under Water (3,970 permanent + 7,710 temporary) and 31,420 cubic yards (cy) of ILSF flood storage, and 22,300 sf of IVW for closure of the landfill and removal of contaminated soils within the BVW and Intermittent stream.

The BVW impacts will be mitigated through the remediation and restoration of 23,700 sf of currently degraded wetlands (due to landfill related arsenic and iron contaminants), which will constitute a temporary impact to BVW, and the creation of a 18,210 sf Wetland Replication Area. The Bank impacts will be mitigated through restoration of 130 linear feet of Bank and creation of 550 linear feet of Bank in the Wetland Replication Area, resulting in a net increase of 280 linear feet of Bank. The temporary LUW impacts will be mitigated by restoration of 7,710 sf of degraded LUW (due to landfill related arsenic and iron contaminants) and creation of 830 sf of LUW in the Wetland Replication Area. Permanent impacts to LUW will not be fully mitigated resulting in a net loss of 3,140 sf of LUW. The temporary loss of 31,420 cy of ILSF will be mitigated by restoring 32,910 cy of ILSF storage capacity. Mitigation for loss of the 22,300 sf of IVW will be mitigated through permanent upland preservation as more clearly described below in Special Condition 11.

The Commission finds that the above mitigation is an appropriate approach to providing restoration, replication, and/or mitigation to offset these impacts based on the circumstances of this project, the mitigation provided, the functions and values of the Freshwater Wetland, and the site constraints particular to this site.

The above impact calculations include a 15% contingency for impacts to BVW, Bank, and Land Under Water (LUW) to be field verified during construction. For resource areas outside those shown on the project plans, the applicant shall adhere to the Administrative Protocol included in the Response to LEC's Comments (CDM Smith, 2017d).

11. FINDING – LIMITED PROJECT. The Commission finds that the Proposed Project qualifies as a Limited Project in accordance with 310 CMR 10.53 (3) (p) and (q) of the Wetlands Protection Act Regulations and Section 4 (4) of the Andover Wetland Protection Regulations and Section 4 (4) of the Andover Wetland Protection Regulations. As such, permanent impacts to LUW and IVW will not be fully mitigated as identified in Finding 10. As compensation for the permanent impacts to LUW and IVW, the Applicant shall designate adjacent uplands as permanent upland buffer. Upland areas to be so designated are limited to uplands within the project area as defined by the Project Limit shown on the Ledge Road Landfill Closure Project, Overall Existing Conditions Plan, Sheet G-5 prepared by CDM Smith Inc. Upland areas for respective parcels have been estimated based on the wetland delineation for the Order of Resource Area Delineation (DP File #090-1255) and supplemented by this NOI Application, refer to Findings 7-10. The following summarizes parcels and approximate upland areas within the Project Limits subject to the permanent upland preservation.

Map 147, Lot 4E – 221,000 sf

Map 148, Lot 8 – 115,000 sf

Map 148, Lot 9 – 3,000 sf

Map 48, Lot 10A – 5,000 sf

Map 48, Lot 11 – 17,000 sf

Map 48, Lot 11A – 2,000 sf

Map 48, Lot 12A – 2,000 sf

The permanent upland preservation for these areas shall not allow alteration of land except as

required to remediate contamination at the site and to perform monitoring as required by 310CMR 19.000 and 310 CMR 40.000 and/or for passive recreational or educational purposes.

The Commission recognizes that as a component of the site remediation, the Applicant, with some stated limitations, will allow portions of the site to naturalize. Designated portions of the site will be in a state of “permanent upland preservation”, with the exception of land uses for remediation, monitoring, passive recreation and educational purposes, on parcels or those portions of parcels within the Project Limit (shown on Sheet G-5 referred to above). The permanent upland preservation area totals approximately 365,000 square feet. Compared to the Land Under Water Body and Isolated Vegetated Wetland loss of 25,440 square feet, this represents a ratio of 14:1. Additionally, as the 0.7 acre “McGrath” parcel which was acquired for mitigation purposes and placed in the care and custody of the Conservation Commission, will be enhanced by the adjoining upland permanent preservation for a total of 9.0 acres. The Commission makes the Finding that the above stated mitigation under the statute of the Limited Project adequately compensates for the loss of the Land Under Water Body and Isolated Vegetated Wetland resources.

Prior to the issuance of a Certificate of Compliance any Deed (as defined below) for all or any portion of the property subject to this Order of Conditions which includes a permanent upland preservation shall be recorded at the Registry of Deeds and contain the following language:

“This property is subject to permanent upland preservation in which no alteration of land may occur except as required to remediate contamination at the site and to perform monitoring as required by 310CMR 19.000 and 310CMR 40.000 and/or for passive recreational or educational purposes. The permanent upland preservation area is shown on the plans entitled “Ledge Road Landfill Closure Project – 100% Corrective Action Design Submittal”, recorded at the Essex County Northern District Registry of Deeds at Book _____, Page _____, and/or registered with the Land Registration Office of the Essex County Northern District Registry as Document No. _____, and as described in the Order of Conditions recorded in said Registry at Book _____, Page _____, and/or in the same Registry District as Document No. _____. In accordance with said Order of Conditions, this language shall be incorporated in full into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or right to use the property or a portion thereof is conveyed (a “Deed”).

12. FINDING – 50-FOOT NON DISTURBANCE ZONE. The entire project site is located within the Fish Brook Watershed and the Andover Watershed Protection Overlay District. Therefore, the Andover Conservation Commission finds that the site is subject to the increased No-Disturbance Zone of 50-feet. The Commission relied upon an Order of Resource Area Delineation (DEP File # 090-1255) issued by the Commission on December 7, 2015 for this Finding.
13. PERMANENT NO DISTURBANCE SIGNAGE. The Andover Conservation Commission hereby finds that **prior to issuance of a Certificate of Compliance or cessation of inspections by the Environmental Monitor**, No Disturbance Signage bearing the following inscription: “50 FOOT NON-DISTURBANCE ZONE TO WETLAND. PER ORDER OF ANDOVER CONSERVATION COMMISSION. DO NOT REMOVE.” shall be installed at locations to be

determined in the field in consultation with the Conservation Agent/and or the Environmental Monitor. The condition will be enforceable by the Andover Conservation Commission against the owner and /or its successors. **This signage shall be maintained in good condition and this requirement shall remain in effect in perpetuity and shall survive the issuance of a Certificate of Compliance.**

14. FINDING NON-DISTURBANCE ZONE REQUIRED DEED LANGUAGE. Prior to issuance of Certificate of Compliance any Deed (as defined below) for all or any portion of the property subject to this Order of Conditions which includes a non-disturbance zone shall be recorded at the Registry of Deeds and contain the following language:

"This property is subject to a non-disturbance zone in which no alteration of land or vegetation may occur except as required to remediate contamination at the site and to perform monitoring as required by 310 CMR 19.000 and 310 CMR 40.0000 or for passive recreational or educational purposes. The non-disturbance zone is shown on the plans entitled _____, recorded at the Essex County Registry of Deeds, North District, at Book ____, Page ____, and/or registered with the Land Registration Office of the Essex County Registry District as Document No. _____ and as described in the Order of Conditions recorded in the same Registry at Book ____, Page ____, and/or in the same Registry District as Document _____. In accordance with said Order of Conditions, this language shall be incorporated in full into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use the property or a portion thereof is conveyed (a "Deed")."

15. FINDING – DIGITAL FILE FOR WETLAND RESOURCES. Prior to commencement of work, the applicant shall provide to the Andover Conservation Commission a digital file containing the file of the confirmed boundary of resource areas. The file format shall be in AutoCAD DWG (or ASCII DXF) version 2010 or earlier and Adobe PDF, delivered on CD-ROM or DVD-R media. AutoCAD file delivery shall be in full model view. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of side walk, edge of water bodies, wetland boundaries, topographic contours, spot elevations, etc. Said digital data shall be delivered in Massachusetts State Plane Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet.
16. FINDING – LAWN/LANDSCAPE CHEMICALS WITHIN 100 FEET OF WETLAND. The Conservation Commission finds that in order to minimize the potential for adverse impacts on water quality, the use of any type of lawn or landscape chemical, pesticide or herbicide other than lime, etc. for amended topsoil as required for landfill closure and maintenance, or herbicides as required for invasive and exotic species control, is prohibited in the 50-foot Non-Disturbance Zone and only organic, slow release, low-nitrogen type and phosphorous free fertilizers or herbicides are allowed within the 100-foot buffer zone for Bordering Vegetated Wetland depicted on the approved plans. The Conservation Commission recognizes that for the Landfill project to be a success it may be necessary to use herbicides approved for wetlands use to combat invasive species. Should such chemical application be required, the Applicant shall submit to the Commission for review and approval the species to be treated, methods of

treatment, and estimated locations and extent of treatment. These chemicals must be applied by a licensed applicator and in compliance with all Commonwealth of Massachusetts and federal laws. **This condition will be enforceable by the Andover Conservation Commission against the owner and/or its successors. This condition shall remain in effect in perpetuity.**

17. FINDING – **Prior to commencement of work**, the plans referenced in this Order of Conditions shall be recorded with the Order of Conditions and cross referenced thereto in the Essex County Registry of Deeds and/or the Essex County Registry District. **This finding shall remain in effect in perpetuity and shall survive the issuance of a Certificate of Compliance.**

Special Conditions:

18. All materials required to be submitted to the Commission shall also be submitted to the Environmental Monitor for review and approval. For the purposes of this order the Environmental Monitor functions as an Agent of the Commission.
19. This Order of Conditions shall be made part of all construction documents for this project. This document shall be included in all construction contracts including subcontracts dealing with work proposed and shall supersede any conflicting contract requirements. 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 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.
20. Until the Certificate of Compliance to this Order is issued, a Conservation Commissioner or an Agent of the Commission reserves the right to enter and inspect the property at reasonable times in order to evaluate compliance with this Order and any instructions or orders issued pursuant to this Order. Such parties may require any information, measurements, photographs and/or materials or may require any additional information deemed necessary for that evaluation. Further, work shall be halted onsite if the Conservation Commissioner or agent of the Commission determines that any of the work is not in compliance with the Order. Work shall not resume until the Commission is satisfied that the work will comply with the Order and has so notified the applicant in writing.
21. This Order shall apply to any successor in control in interest of the property described in the Notice of Intent and accompanying plans, and to any contractor or other person performing work conditioned by this Order. These obligations shall be expressed in all deeds to succeeding owners of all or portions of the property. (This is in addition to DEP's Standard Condition under B. Findings, General Conditions 16).

Pre-Construction

22. Prior to commencement of work, the applicant shall have received all other required federal, state, and/or local permits required by law including, if necessary, but not limited to an EPA NPDES Stormwater Permit.

23. Prior to commencement of work, the sign displayed according to B. Findings General Condition 10 must say **DEP & ACC File No. 090-1281**. This sign is not to be attached to a living tree.
24. Prior to the commencement of any work onsite, the limits of all wetland resource areas shall be re-established with surveyors tape. Once established, said markers shall be checked and replaced as necessary and shall be maintained until all construction has been completed and a Certificate of Compliance has been issued. Note: This is in addition to DEP's Standard Condition under B. Findings, General Condition 17.
25. The contractor responsible for the project's completion shall be notified of, and understand, the requirements of this Order of Conditions. The contractor 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.
26. **EROSION CONTROLS** - Prior to commencement of work, the erosion control line shall be staked in the field by survey or GPS unit with an acceptable level of accuracy for inspection by the Commission or an Agent of the Commission prior to installation of the erosion controls. Following approval of the staked limits of the erosion control boundary, the erosion controls shall be installed to prevent the transport of silt or sediment beyond the limits-of-work. All siltation and erosion controls shall be installed as specified on the Plan. A written request for inspection of the erosion control shall be submitted to the Conservation Commission and the Environmental Monitor, and a satisfactory inspection performed before any land-disturbing activity may commence. This inspection may be coupled with the pre-construction meeting referenced in Special Condition 28.

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.

At all times during construction, the Applicants shall maintain an on-site stockpile of erosion controls sufficient to respond to any emergency problem that may arise. Such stockpile must be replenished as it is used.

27. **ENVIRONMENTAL MONITOR / 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 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 weekly logs/reports shall be submitted on a monthly basis to the 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

28. Not more than 2 weeks prior to the commencement of work, a **Pre-Construction Meeting** shall be held with the Conservation Agent and the Commission's Environmental Monitor, and the Applicant's On-Site Construction Manager, Project Engineer and 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 Conservation Commission:
 - a. A statement that the items enumerated in Special Conditions 15, 17, and 22 through 27 have been executed and the required supporting information has been provided to the Commission;
 - b. 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
 - c. A statement signed by the Applicant, owner of the property, 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.
29. The applicant shall notify the Conservation Commission, in writing, at least two (2) business days before any activity commences on the project site.
30. The contractor responsible for the project's completion shall be notified of, and understand, the requirements of this Order of Conditions. 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.
31. 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 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.

Contamination Remediation and Wetland Replication, Restoration, Mitigation

32. TIME OF YEAR RESTRICTIONS. The project shall be subject to the following time of year restrictions within temporary impact areas to wetland resource areas:

- Work within intermittent streams including preparation, excavation, backfill, and restoration will be limited to July 1 – September 30. If any tree removal (4 inches or greater in dbh [diameter in breast height]) is necessary, such work may occur outside the time of year restriction to accommodate potential federal time of year restrictions for tree removal. In such circumstances, stumps will remain in place until July 1.
- Work within BVW areas (preparation, excavation, backfill, and restoration) will be limited to June 15 – October 15, except that tree removal (4 inches or greater in dbh) may take place outside the time of year restriction to accommodate potential federal time of year restrictions for tree removal.
- Wetland replication work on the former McGrath Parcel will be limited to May 1 – October 30.

The above restrictions do not apply to permanent impacts to wetland resource areas resulting from landfill capping.

33. The Boundaries of all contaminated soil removal proposed in Resource Areas shall be staked and confirmed by LSP prior to removal. Where soil is to be removed in stream courses, stakes shall be placed at the bottom of the bank to identify the boundaries of Land Under Water and Waterways.
34. To the extent possible, care shall be employed to not alter existing wetlands beyond the limits as shown on the approved plans. Total wetland alterations shall not exceed permitted amounts without prior Conservation Commission approval.
35. BYPASS PUMPING. A bypass pumping system shall be in place prior to wetland soil removal to provide the availability of the bypass pumping system should there be any flow in the intermittent streams. Such flow shall be diverted (i.e., bypass pumped) around the arsenic impacted soil removal work areas to ensure that arsenic impacted soil is contained to the removal area. Implementation of the bypass pumping should not be considered an emergency measure, as it is a necessity consistent with the Massachusetts Contingency Plan (MCP) and NPDES Construction General Permit.
36. Removal of contaminated soil in Soil Removal Areas #4 and #6 shall be performed by hand methods and/or by vacuum excavator, to insure no stream banks are disturbed. In Soil Removal Areas #4 and #6, no heavy equipment is permitted within the following resource areas: Land Under Water and Waterways, Bank and associated Bordering Vegetated Wetland.

37. All phases of work in wetland resource areas and the Wetland Replication Area shall be subject to inspection and supervision, as applicable, by Applicant's Qualified Professional Wetland Scientist. Such individual shall have at least 5 years of direct experience supervising similar wetland restoration projects and the specific individual shall be approved by the Commission prior to commencement of work". The name and credentials of the individual must be submitted to the Andover Conservation Commission prior to the Pre-Construction Meeting referenced in Special Conditions 28 (above). The Applicant's Qualified Professional Wetland Scientist must ensure compliance with the Order and the plans and document that disturbance is avoided or minimized to the greatest extent practicable, and to evaluate the process upon completion.
38. The Applicant's Wetland Scientist, or Resident Project Representative shall make a photographic record of the pre, during, and post-construction condition of work in all Resource Areas to facilitate the Commission's review. A progress report detailing the findings and actions taken shall be submitted to the Commission at the end of each week until completion of permanent and temporary Resource Area alterations, wetland replication, and ISLF restoration.
39. As-Built Plans of the Wetland Replacement and Compensatory Storage Area which includes a certified location and calculation of the areas in square feet of the wetland replication and storage volume of the compensatory storage area, shall be submitted to, and meet the approval of the Andover Conservation Commission, prior to the issuance of any Certificates of Compliance.
40. Specific, adapted seed mixtures for Wetland Restoration/Replacement are identified on the project plans and specifications. The seed mixture for closure of landfill is subject MassDEP approval. Prior to seeding, the MassDEP approved seed mixtures shall be identified and reported to the Andover Conservation Agent/Environmental Monitor. Seed mixtures must be applied according to the manufacturer's specifications.
41. All wetland plantings are to be performed by hand. Wetland plants are to be inspected by the Applicant's Qualified Professional Wetland Scientist prior to installation to ensure proper quantity, size, and species as specified on the plans. Only native species shall be used, no cultivars. The final planting layout shall be inspected by the Commission's Agent and the Applicant's Qualified Professional Wetland Scientist prior to planting.
42. It is intended that at least 75 percent of the replication area be re-established with indigenous wetland plant species within two growing seasons of their planting. Invasive or exotic species shall not be planted or allowed to remain in the replication areas. If at any point during post-construction monitoring, it is evident in the opinion of the Applicant's Qualified Professional Wetland Scientist that the above standards will not be achieved, the Applicant shall supplement the plantings as necessary to achieve the required coverage. If after the end of two growing seasons, 75 percent re-establishment has not been achieved and at least 75% of the woody plants have not survived, the Applicant shall provide healthy wetland vegetation in sufficient quantity to achieve the 75 percent re-establishment criteria as directed by the Applicant's Qualified Professional Wetland Scientist.
43. The Applicant's Qualified Professional Wetland Scientist shall monitor the Wetland Replication Area for two consecutive growing seasons, conducting spring and fall monitoring visits to document conditions within the wetland replication area. A detailed report shall be prepared and

submitted to the Commission no later than November 1st of each year during the two-year monitoring period. Each report will include an observed species list, relative abundance of each species, percent cover of wetland species, the viability of the plantings, invasive species and removal recommendations, proposed remedial measures to ensure 75 percent re-establishment, and photographs.

44. Prior to the issuance of the final Certificate of Compliance for the project, the Applicant's Qualified Professional Wetland Scientist shall certify to the Commission that the replication area has achieved the 75 percent re-establishment.

Construction

45. 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.**
46. STORMWATER MANAGEMENT. The Owner shall retain a qualified professional to inspect the storm water management basins in accordance with the Stormwater Management Operation and Maintenance Plan (see attached) to ensure proper function and maintenance of the system. **This Condition shall be a continuing condition and shall not expire with the issuance of a Certificate of Compliance.**
47. 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 Agent/Environmental 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. Any dewatering areas shall be monitored daily to ensure that sediment laden water is appropriately settled prior to discharge toward the resource areas. No discharge of water is allowed directly into any wetland resource area. Dewatering shall be performed using a settling basin and/or a silt sock TM or approved equivalent filtering device. The filtering device shall be laid such that the end is at least 50 feet from the edge of any wetland above the sediment control line. During dewatering the device shall be monitored and replaced as needed. Sediment from the device shall be disposed of properly.
48. REFUELING. Refueling of equipment onsite will be avoided when practicable. Refueling shall only occur in areas located more than 100 feet from wetland resource areas. During refueling, spill clean-up equipment (shovels, brooms, absorbent pads and materials) shall be available for use in the event of an accidental spill. In the unlikely event of a spill, the Town will immediately clean up the spill and, if reportable, will report to the proper authorities (Andover Fire Department, Andover Board of Health, Andover Conservation Commission, Andover DPW,

MassDEP, and others as applicable). There will not be any onsite storage of fuel other than in vehicle fuel tanks and small containers (5 gallons or less).

49. CLEAN FILL. All fill used in connection with this project above the flexible membrane liner solid waste cap shall be clean borrow. The following shall be prohibited: chemically contaminated material; concrete and asphalt rubble; stumps and other solid waste.
50. 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.
51. STOCKPILING. All debris, fill, and excavated material stockpiles within 100 feet of a wetland area must be surrounded by staked hay bales, straw wattles or compost logs, depending on the height of the pile and proximity to wetlands, to prevent sediment from surface runoff from entering the wetland. If soil materials are stockpiled for more than 21 days, the piles must be seeded with a rapid-cover annual grass such as Annual Rye.
52. 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. This section shall not be construed to include landfill trash already in the wetlands.
53. 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 Conservation Commission prior to implementation.
54. 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.
55. LANDFILL POST-CLOSURE MAINTENANCE AND MONITORING. The landfill cap and lined ILSF shall be inspected and maintained in accordance with this Order of Conditions and MassDEP Solid Waste requirements including, but not limited to, mowing the cap, lined basin, and lined ILSF to prevent the growth of woody vegetation; repairing damage to the cap resulting from erosion, settlement, borrowing animals, etc.; periodically removing sediment from the lined ILSF; and performing 30-year post-closure monitoring of landfill gas, groundwater, surface water, and sediment. The Commission shall be provided with a copy of all Landfill Post-Closure Maintenance and Monitoring Reports for informational purposes.

56. CERTIFICATE OF COMPLIANCE. Following completion of the project, the applicant shall submit with their request for a Certificate of Compliance, WPA Form 8A; 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 setting forth any deviations that exist and their potential effect on the project or its compliance with the Order of Conditions; and a written certification by the Applicant's Wetland Scientist that the Wetland Replication Area has achieved at least 75 percent re-establishment with indigenous wetland plant species within two growing seasons of their planting.

As-built drawings, 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.

The original Certificate of Compliance signed by the Commission must be recorded at the North Essex Registry of Deeds and proof of such recording must be provided to the Commission.



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:
 090-1281
 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.

May 23, 2017
 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.

5
 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:

[Signature]
[Signature]
[Signature]

[Signature]
[Signature]

by hand delivery on
May 23, 2017
 Date

by certified mail, return receipt requested, on

 Date

F. Appeals

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

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

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



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

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 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.

To:

Andover
 Conservation Commission

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

10 Ledge Road
 Project Location

090-1281
 MassDEP File Number

Has been recorded at the Registry of Deeds of:

Essex North
 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