

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

March 22, 2013

In the Matter of
Ronald and Lois Enos, and
Eighteen Burgess Point Realty Trust

OADR Docket No. WET-2012-019
DEP File No. SE 76-2201
Wareham, MA

FINAL DECISION

I adopt the Recommended Final Decision of the Presiding Officer. The Final Order of Conditions (“FOC”) to be issued by the Department of Environmental Protection (“MassDEP” or “the Department”) approving the Applicants’ proposed Project under the Massachusetts Wetlands Protection Act, G.L. c. 131, § 40 (“MWPA”) and the Wetlands Regulations, 310 CMR 10.00 et seq. (“the Wetlands Regulations”) shall contain a wetlands replication monitoring plan as set forth at pp. 21-22 of the Presiding Officer’s Recommended Final Decision (“RFD”). The inclusion of a monitoring plan is consistent with the Department’s long established policy as set forth in its 2002 Wetlands Replication Guidelines that monitoring of wetlands replication plans are critical to the success of wetlands replication.

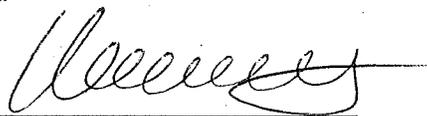
The parties to this proceeding are notified of their right to file a motion for reconsideration of this Decision, pursuant to 310 CMR 1.01(14)(d). The motion must be filed with the Case Administrator and served on all parties within seven business days of the postmark date of this Decision. A person who has the right to seek judicial review may appeal this

This information is available in alternate format. Call Michelle Waters-Ekanem, Diversity Director, at 617-292-5751. TDD# 1-866-539-7622 or 1-617-574-6868

DEP on the World Wide Web: <http://www.mass.gov/dep>

 Printed on Recycled Paper

Decision to the Superior Court pursuant to M.G.L. c. 30A, §14(1). The complaint must be filed in the Court within thirty days of receipt of this Decision.



Kenneth Kimmell
Commissioner

SERVICE LIST

In The Matter Of:

Ronald and Lois Enos

Docket No. WET-2012-019

File No. SE 76-2201
Wareham

Representative

Party

Margaret Ishihara, Esq.
Law Office of Margaret A. Ishihara
86 Church Street
Mattapoisett, MA 02739
ishiharalaw1@gmail.com

APPLICANT
Ronald and Lois Enos

Adam J. Brodsky, Esq.
Drohan, Tocchio, & Morgan, P.C.
175 Derby Street, Suite 30
Hingham, MA 02043
abrodsky@dtm-law.com

PETITIONER
Winship, LLC

Elizabeth Kimball
MassDEP/Office of General Counsel
One Winter Street
Boston, MA 02108
Elizabeth.kimball@state.ma.us

DEPARTMENT

Cc:
Mark Bartow
MassDEP/Southeast Regional Office
20 Riverside Drive
Lakeville, MA 02347
Mark.bartow@state.ma.us

DEPARTMENT

Jonathan D. Witten
Barbara Huggins
Huggins and Witten, LLC
156 Duck Hill Road
Duxbury, MA 02332
jon@hugginsandwitten.com

CONCOM
Wareham Conservation Commission

Date: March 22, 2013





WPA Form 5 – Final Order of Conditions
Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
and Wetland Regulations 310 CMR 10.00

MassDEP File #

SE 76-2201

A. General Information

1. From: Department of Environmental Protection
Regional Office of the Department of Environmental Protection (the Department)
2. This issuance is for (check one): a. Final Order of Conditions
b. Amended Final Order of Conditions
3. To: Applicant:
- Ronald and Lois Enos
a. First Name b. Last Name
- Eighteen Burgess Point Realty Trust
c. Company
- 7 Burgess Point Road
d. Mailing Address Line 1
- Wareham MA 02571
f. City/Town g. State h. Zip Code
- e. Mailing Address Line 2
4. Property Owner (if different from applicant):
- Eighteen Burgess Point Realty Trust
a. First Name b. Last Name
- Eighteen Burgess Point Realty Trust
c. Company
- 7 Burgess Point Road
d. Mailing Address Line 1
- Wareham MA 02571
f. City/Town g. State h. Zip Code
- e. Mailing Address Line 2
5. Project Location: Latitude and Longitude, if known:
- 18 Burgess Point Road 41° 43' 59" 70° 39' 24.3"
c. Street Address a. Latitude b. Latitude
- 21 Wareham
e. Assessors Map/Plat Number d. City/Town
- 1021
f. Parcel/Lot Number



WPA Form 5 – Final Order of Conditions
Massachusetts Department of Environmental Protection
 Bureau of Resource Protection – Wetlands
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
 and Wetland Regulations 310 CMR 10.00

MassDEP File #

SE 76-2201

A. General Information (cont'd)

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

<u>Plymouth</u>	
a. County	b. Certificate (if registered land)
<u>39388</u>	<u>305</u>
c. Book	d. Page

7.	<u>10/21/11</u>	<u>1/31/12</u>	<u>12/27/11</u>
Date	a. Date NOI Filed	b. Date Site Visit	c. Date of Local Order

8. Final Approved Plans and Other Documents (attach additional plans or document references):

<u>Plan to Accompany Notice of Intent prepared for Ronald and Lois Enos</u>	
a. Plan Title	
<u>G.A.F. Engineering, Inc.</u>	<u>William F. Madden</u>
b. Prepared By	c. Signed and Stamped By
<u>May 25, 2012</u>	<u>1" = 30'</u>
d. Final Revision Date	e. Scale
<u>GAF Engineering Letter describing proposed replication dated May 25, 2012</u>	
e. 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, the Order of Conditions, and based on the information submitted with the request for the Superseding Order of Conditions, the Department finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act. Check all that apply:

- | | | | |
|--|-------------------------|--|--------------------------------|
| a. <input checked="" type="checkbox"/> | Public Water Supply | b. <input type="checkbox"/> | Land Containing Shellfish |
| c. <input checked="" type="checkbox"/> | Prevention of Pollution | d. <input checked="" type="checkbox"/> | Private Water Supply |
| e. <input 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. The Department hereby finds the project, as proposed, is (check one):

Approved subject to:

- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. The Department 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.



WPA Form 5 – Final Order of Conditions
Massachusetts Department of Environmental Protection
 Bureau of Resource Protection – Wetlands
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
 and Wetland Regulations 310 CMR 10.00

MassDEP File #

SE 76-2201

B. Findings (cont'd)

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 these interests, and a final Order of Conditions is issued. A description of the performance standards which the proposed work cannot meet is attached to this Superseding 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).

Inland Resource Area Impacts - For Approvals Only:

- 3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and wetland boundary (if available) _____ a. linear ft

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	_____	_____	_____	_____
	a. linear ft	b. linear ft	c. linear ft	d. linear ft
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	1185	1185	1201	1201
	a. square ft	b. square ft	c. square ft	d. square ft
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	_____	_____	_____	_____
	a. square ft	b. square ft	c. square ft	d. square ft
	_____	_____	_____	_____
	e. c/y dredged	f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____	_____	_____	_____
Cubic Feet Flood Storage	a. square ft	b. square ft	c. square ft	d. square ft
	_____	_____	_____	_____
	e. cubic ft	f. cubic ft	g. cubic ft	h. cubic ft
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____	_____	_____	_____
Cubic Feet Flood Storage	a. square ft	b. square ft		
	_____	_____	_____	_____
	c. cubic ft	d. cubic ft	e. cubic ft	f. cubic ft
9. <input type="checkbox"/> Riverfront area	_____	_____	_____	_____
Sq ft within 100 ft	a. total sq. ft	b. total sq. ft		
	_____	_____	_____	_____
	c. square ft	d. square ft	e. square ft	f. square ft
Sq ft between 100-200 ft	_____	_____	_____	_____
	g. square ft	h. square ft	i. square ft	j. square ft



WPA Form 5 – Final Order of Conditions
Massachusetts Department of Environmental Protection
 Bureau of Resource Protection – Wetlands
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
 and Wetland Regulations 310 CMR 10.00

MassDEP File #

SE 76-2201

B. Findings (cont'd)

Coastal Resource Area Impacts - For Approvals Only:

10. Designated Port Areas - Indicate size under Land Under the Ocean in 11:

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
11. <input type="checkbox"/> Land Under the Ocean	_____	_____		
	a. square ft	b. square ft		
	_____	_____		
	c. c/y dredged	d. c/y dredged		

12. Barrier Beaches - Indicate size under Coastal Beaches and/or Coastal Dunes in 13 & 14:

13. <input type="checkbox"/> Coastal Beaches	_____	_____	_____	_____
	a. square ft	b. square ft	c. c/y nourish.	d. c/y nourish.

14. <input type="checkbox"/> Coastal Dunes	_____	_____	_____	_____
	a. square ft	b. square ft	c. c/y nourish.	d. c/y nourish.

15. <input type="checkbox"/> Coastal Banks	_____	_____		
	a. linear ft	b. linear ft		

16. <input type="checkbox"/> Rocky Intertidal Shores	_____	_____		
	a. square ft	b. square ft		

17. <input type="checkbox"/> Salt Marshes	_____	_____	_____	_____
	a. square ft	b. square ft	c. square ft	d. square ft

18. <input type="checkbox"/> Land Under Salt Ponds	_____	_____		
	a. square ft	b. square ft		
	_____	_____		
	c. c/y dredged	d. c/y dredged		

19. <input type="checkbox"/> Land Containing Shellfish	_____	_____	_____	_____
	a. square ft	b. square ft	c. square ft	d. square ft

20. Fish Runs - Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above

21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	_____	_____		
	a. c/y dredged	b. c/y dredged		
	4268	4268		
	a. square ft	b. square ft		



WPA Form 5 – Final Order of Conditions
Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
and Wetland Regulations 310 CMR 10.00

MassDEP File #

SE 76-2201

C. General Conditions Under Massachusetts Wetlands Protection Act

(only applicable to approved projects)

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

"File Number SE 76-2201"



WPA Form 5 – Final Order of Conditions
Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
and Wetland Regulations 310 CMR 10.00

MassDEP File #

SE 76-2201

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 DEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Department of Environmental Protection.
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 Department of Environmental Protection in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Department of Environmental Protection.
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 Department, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. **The work associated with this Order (the “Project”) is (1) is not (2) subject to the Massachusetts Stormwater Standards. If the work is subject to 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.



WPA Form 5 – Final Order of Conditions
Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
and Wetland Regulations 310 CMR 10.00

MassDEP File #

SE 76-2201

- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
 - iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
 - v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 19(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMPs 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, and acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



WPA Form 5 – Final Order of Conditions
Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
and Wetland Regulations 310 CMR 10.00

MassDEP File #

SE 76-2201

- 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.

Brief Project Description: Create a path of variable width between four and seven feet wide approximately 400 feet long by mowing, selectively cutting, and trimming vegetation, over seed cut area with wetland seed mix, create 1201 square feet of bordering vegetated wetland, install an eight-inch diameter steel bollard with cable and lock, install two six-inch by six-inch posts with an eight foot wide wooden gate, and conduct seasonal maintenance mowing of vegetation within the boundaries of the path.

Special Conditions: (See attached pages for addition Special Conditions numbered 1 through 15).

D. Findings Under Municipal Wetlands Bylaw or Ordinance

To the extent that the Order is based on a municipal bylaw or ordinance, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no jurisdiction to supersede the local by-law order.



WPA Form 5 – Final Order of Conditions
Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
and Wetland Regulations 310 CMR 10.00

MassDEP File #

SE 76-2201

E. Issuance

This Order is valid for three years from the date of issuance unless otherwise specified as a special condition pursuant to General Conditions 4 or 6.

Issued by the Department of Environmental Protection: *MARCH 22, 2013.*

Signature:

[Handwritten Signature] *3/21/13*

Kenneth L. Kimmell, Commissioner

This Order is issued to the applicant as follows:

by Hand delivery on:

Date

by certified mail on: *3-22-2013*

7003 3110 0001 6100 2731

Date Certified Mail #



WPA Form 5 – Final Order of Conditions
Massachusetts Department of Environmental Protection
 Bureau of Resource Protection – Wetlands
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
 and Wetland Regulations 310 CMR 10.00

MassDEP File #

SE 76-2201

F. Recording Information

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on Page 10 of this form shall be submitted to the Department.

Massachusetts Department of Environmental Protection – Southeast Region
 Issuing Authority

Cut on dotted line, have stamped by the Registry of Deeds and submit to the Department.

To: Massachusetts Department of Environmental Protection
 Issuing Authority

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

18 Burgess Point Road SE 76-2201
 Project Location DEP File Number

Has been recorded at the Registry of Deeds of:

Plymouth _____
 County Book Page

For: Eighteen Burgess Point Realty Trust
 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



WPA Form 5 – Final Order of Conditions
Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
and Wetland Regulations 310 CMR 10.00

MassDEP File #

SE 76-2201

ADDITIONAL SPECIAL CONDITIONS:

1. This Order approves the creation of a path of variable width between four and seven feet wide approximately 400 feet long by means of mowing, selectively cutting, and trimming of vegetation, over seeding cut areas with a wetland seed mix, create 1201 square feet of bordering vegetated wetland, installation of an eight-inch diameter steel bollard with cable and lock, installation of two six-inch by six-inch posts with an eight foot wide wooden gate, and seasonal maintenance mowing of vegetation within the boundaries of the path.
2. The width of the path within the Bordering Vegetated Wetland shall be no wider than four feet and no wider than seven feet within the buffer zone.
3. Prior to the commencement of any activity the limit of work shall be delineated with construction fence or equivalent.
4. This Order does not approve the removal or destruction of plant root systems within the Bordering Vegetated Wetland.
5. This Order does not approve any filling or grading with the exception of that required to create the wetland replication areas.
6. Any limbs or shrubs cut to create the path or for its maintenance are to be removed from the site.
7. Only standard golf cart type vehicles equipped with either standard greens tires or soft turf all terrain tires rated for Non Highway Service (NHS) shall travel the pathway.
8. The construction fence or equivalent shall be removed following initial mowing, cutting, and trimming activities.

9. A project monitor (preferably a qualified professional with training in wetland science) with a minimum 5 years of experience in the construction of wetland replication areas and general construction practices shall be on-site to monitor the excavation, grading, and planting of the replication areas. At the end of the first growing season, a professional with less than 5 years experience in wetland replication construction may conduct the monitoring if supervised by a professional with at least 5 years experience.
10. The project monitor shall also be present during the most important tasks in replication construction including:
 - i. Before excavation or erosion control installation work begins to inspect site flagging;
 - ii. after each stage of grading work is completed to inspect finished elevations;
 - iii. during planting and seeding and after the first month of the growing season to inspect propagation techniques; and
 - iv. after one growing season to observe vegetation development and regulatory compliance.
11. The monitoring for invasive species shall also be conducted on an annual basis and any invasive (species) handpicked before becoming widespread and established.
12. The applicant shall submit a monitoring report in the late spring and at the end of each of the first two growing seasons, and the monitoring reports should include recommendations for additional plantings should the replication areas appear to be unlikely to meet the 75% reestablishment standard of 310 CMR 10.55(4)(b). The applicant's final monitoring report shall indicate the conditions at the replication sites and describe in detail how the functions of the impacted wetlands have been replaced by the development of the replication sites.
13. If the replication areas fail to achieve the standard of 75% wetlands vegetation within two growing seasons, MassDEP shall require additional contingency measures until regulatory compliance is achieved.
14. Upon completion of the project, a Certificate of Compliance shall be requested in accordance with General Condition No. 12, and under the provisions of 310 CMR 10.05 (9)(d). An "As-built" plan and a statement from a Registered Professional Engineer certifying compliance with the conditions of this Order shall accompany the request for a Certificate of Compliance.
15. Conditions 1, 2, 4, 5, 6, and 7 are ongoing conditions and do not expire after 3 years and shall be included in the Certificate of Compliance.