Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

RICHARD K. SULLIVAN JR.
Secretary

KENNETH L. KIMMELL
Commissioner

July 23, 2013

In the Matter of
Louis R. Vermette

Docket No. WET-2013-006
File No. SE 192-682
Lakeville

FINAL DECISION

I have reviewed the attached Settlement Agreement signed by the applicant Louis R. Vermette on June 3, 2013, by Nancy Yeatts for the Lakeville Conservation Commission on July 10, 2013, and by Philip Weinberg, Regional Director for the Department on June 4, 2013. The Department issues this Final Decision incorporating the Settlement Agreement and Final Order of Conditions, which I have also reviewed.

Under the terms of 310 CMR 1.01(8)(c), these proceedings are dismissed with the parties waiving whatever rights they may have to further administrative review before the Department as well as appeal to court.

Kenneth Kimmell
Commissioner

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
MassDEP Website: www.mass.gov/dep

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COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENT
DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF ADMINISTRATIVE APPEALS & DISPUTE RESOLUTION

In the Matter of Louis R. Vermette	OADR Docket No. WET-2013-006 File No. SE-192-682 Lakeville

SETTLEMENT AGREEMENT

In consideration of the agreements set forth herein which each party acknowledges are sufficient and binding, and pursuant to M.G.L. c. 30A and 310 C.M.R. 1.01(8)(c), the Department of Environmental Protection ("MassDEP"), Louis R. Vermette ("the Applicant") and the Lakeville Conservation Commission ("LCC") hereinafter collectively "the Parties", enter into, and submit, this Settlement Agreement for approval as required by 310 C.M.R. 1.01(8)(c) in order to finally resolve the above-referenced adjudicatory proceeding as follows:

1. During their site visit of April 10, 2013, the Parties agreed to the plan revisions shown on the attached plans entitled "Sewage Disposal System Design" prepared for Louis Vermette for #20 Shore Ave. Lakeville, Massachusetts dated August 25, 2012 and revised October 30, 2012 ("revised wetland line") and finally revised April 23, 2013 ("Per LEC & DEP Agreement") by AZOR Land Sciences, Inc., being Sheets 1-3, ("the Revised Plan").

2. The Applicant[1] agrees that any Final Decision issued by the Commissioner of MassDEP adopting this Settlement Agreement shall constitute a final disposition of his appeal.

3. The Parties file the "Joint Motion to Approve Settlement Agreement" attached hereto, and jointly request that the draft "Final Order of Conditions" appended hereto, which references and conditions work under the Revised Plan, be issued by the Commissioner of MassDEP as the Final Order of Conditions in this matter.

4. The Revised Plan alters the Applicant's original proposal by confining the house and septic system to the existing disturbed and cleared area of the site where a cottage presently exists served by a failed cesspool. The Revised Plan provides for a new septic system with nitrogen removal due to the location of a drinking water well on the site.

5. In addition, the Revised Plan limits and reduces the footprint of the new residence[2], driveway and leaching field, and requires removal of fill along the construction area to be replaced with topsoil and the planting of New England Wetmix (seeds) from New England Wetland Plants or equivalent. The Revised Plan also adds a 700 square foot wetland replication area in the southwest corner of the site at the corner of Charlie Road and Shore Avenue.

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[1] The Applicant is also the petitioner in this appeal.

[2] The Lakeville Board of Health will require a deed restriction limiting the residence to two bedrooms and the Applicant agreed to remove a proposed porch on the back of the residence.

6. The Parties jointly respectfully request that the Commissioner issue the Final Order of Conditions submitted herewith, and agree that should the Commissioner issue said Final Order that said Order shall govern the work proposed by the Applicant under this Settlement Agreement.

7. The Parties further agree that the terms and conditions of this Settlement Agreement shall be binding upon the Parties their successors, heirs, assigns, agents, employees and contractors.

8. This Settlement Agreement may be executed in counterparts, each of which, when executed and delivered to MassDEP, shall be an original. All such counterparts shall constitute one and the same instrument.

9. The signatories to this Settlement Agreement attest that they are duly authorized to execute this Settlement Agreement and to thus bind the Party by whom they are so authorized.

IN WITNESS WHEREOF the Parties have
duly executed this Settlement Agreement,

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By Its Regional Director: Philip Weinberg

Philip Weinberg, Regional Director
MassDEP – Southeast Regional Office
20 Riverside Drive
Lakeville, MA 02347

Dated: 6/4/2013

APPLICANT
Louis R. Vermette

By: _____

Louis R. Vermette, Owner of
20 Shore Avenue
Lakeville, MA 02347

Dated: _____

IN WITNESS WHEREOF the Parties have
duly executed this Settlement Agreement,

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By Its Regional Director: _____

Philip Weinberg, Regional Director
MassDEP – Southeast Regional Office
20 Riverside Drive
Lakeville, MA 02347

Dated: _____

APPLICANT
Louis R. Vermette

By: _____

Louis R. Vermette, Owner of
20 Shore Avenue
Lakeville, MA 02347

Dated: 6-3-23

LAKEVILLE CONSERVATION COMMISSION

By: _____

Nancy Yeatts, Conservation Agent
Lakeville Conservation Commission
346 Bedford Street
Lakeville, MA 02347

Dated: 7/10/13

SERVICE LIST

In The Matter Of:	Louis R. Vermette
Docket No. WET-2013-006	File No. SE 192-682 Lakeville
Representative	Party
Shephard S. Johnson, Jr., Esq. Shephard S. Johnson, Jr. & Associates, P.C. 628 Pleasant Street, Suite 428 New Bedford, MA 02740 ssj@shepjlaw.com	PETITIONER/APPLICANT Louis R. Vermette
Rebecca Cutting MassDEP/Office of General Counsel One Winter Street Boston, MA 02108 rebecca.cutting@state.ma.us	DEPARTMENT
Cc: Gary Makuch MassDEP-Southeast Regional Office 20 Riverside Drive Lakeville, MA 02347 Gary.makuch@state.ma.us	DEPARTMENT
Lakeville Conservation Commission 346 Bedford Street Lakeville, MA 02347 nyeatts@lakevillema.org	CONCOM

Date: July 23, 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

MassDEP File #

SE 192-682

A. General Information

1. From: Department of Environmental Protection—Southeast Region
   Issuing Authority

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

3. To: Applicant:

Louis	Vermette
a. First Name	b. Last Name

c. Organization

P.O. Box 850
d. Mailing Address Line 1

Lakeville	MA	02347
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 Line 1

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

5. Project Location:

20 Shore Avenue	Lakeville
a. Street Address	b. City/Town
Map 41; Block 8	Lot 1, 2, 3, 4
c. Assessors Map/Plat Number	d. Parcel/Lot Number

Latitude and Longitude, if known:

e. Latitude	f. Longitude

A. General Information (cont'd)

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

Plymouth	b. Certificate (if registered land)
a. County	
38209/30721	111/283
c. Book	d. Page

7. Dates:

August 30, 2012	November 13, 2012	November 29, 2012
a. Date NOI Filed	b. Date of Site Visit	c. Date of Issuance of Local Order

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

"Sewage Disposal System Design" (2 sheets) Prepared for: Louis Vermette for #20 Shore Ave. Lakeville, Massachusetts

b. Prepared By	c. Signed and Stamped By
April 23, 2013 (Per LEC & DEP Agreement)	1" = 20'
d. Final Revision Date	e. Scale

f. Additional Plan or Document Title — g. Date

g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act - Following the review of the above-referenced Notice of Intent and based on the information provided in this application, 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. ☒ Public Water Supply b. ☐ Land Containing Shellfish c. ☒ Prevention of Pollution

d. ☒ Private Water Supply e. ☐ Fisheries f. ☒ Protection of Wildlife Habitat

g. ☒ Groundwater Supply h. ☒ Storm Damage Prevention i. ☒ Flood Control

2. This 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.

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 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.**

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

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. ☐ Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. X Bordering Vegetated Wetland	500 a. square feet	500 b. square feet	700 c. square feet	700 d. square feet
6. ☐ Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. ☐ Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. ☐ Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. ☐ Riverfront area	a. total sq. feet	b. total sq. feet		
Sq feet within 100 feet	c. square feet	d. square feet	e. square feet	f. square feet
Sq feet between 100-200 feet	g. square feet	h. square feet	i. square feet	j. square feet

B. Findings (cont'd)

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

10. ☐ Designated Port Areas - Indicate size under Land Under the Ocean, below

Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement

11. ☐ Land Under the Ocean

a. square feet	b. square feet
c. c/y dredged	d. c/y dredged

12. ☐ Barrier Beaches - Indicate size under Coastal Beaches and/or Coastal Dunes below.

13. ☐ Coastal Beaches

a. square feet	b. square feet	c. c/y nourish.	d. c/y

14. ☐ Coastal Dunes

a. square feet	b. square feet	c. c/y nourish.	d. c/y

15. ☐ Coastal Banks

a. linear feet	b. linear feet

16. ☐ Rocky Intertidal Shores

a. square feet	b. square feet

17. ☐ Salt Marshes

a. square feet	b. square feet	c. square feet	d. square feet

18. ☐ Land Under Salt Ponds

a. square feet	b. square feet
c. c/y dredged	d. c/y dredged

19. ☐ Land Containing Shellfish

a. square feet	b. square feet	c. square feet	d. square feet

20. ☐ 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. ☐ Land Subject to Coastal Storm Flowage

a. square feet	b. square feet

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 Order of Conditions and this Final 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 Department 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 then two square feet or more than three square feet in size bearing the words,
    "Massachusetts Department of Environmental Protection" [or, "MA DEP"]
    "File SE 192-682 "

Number

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

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 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.

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.

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

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 BMPsOperation 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 Conditions19 (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.

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.

Brief Project Description: Razing of an existing dwelling, Construction of a two bedroom single family dwelling with subsurface sewage disposal system and drinking water well.

Special Conditions (See attached sheet(s) for additional Special Conditions numbered 1 – 8).

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.

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: **Department of Environmental Protection:**

Signature: _____

Kenneth Kimmel, DEP Commissioner

Date July 23, 2013

This Order is issued to the applicant as follows:

by Hand ☐ delivery on: _____

☒ by Final Decision :

Dated July 23, 2013

CMail: 7003 3110 0001 6100 2786

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.

F. Recording Information

Massachusetts Department of Environmental Protection – Southeast Region
Issuing Authority

To: _____
Issuing Authority

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

20 Shore Avenue
Project Location

SE 192-682
DEP File Number

Has been recorded at the Registry of Deeds of:

_____ County

_____ Book

_____ Page

For: _____
Property Owner

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

_____ Book

_____ Page

In accordance with the Order of Conditions issued on:

_____ Date

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

_____ Instrument Number

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

_____ Document Number

_____ Signature of Applicant

D/GJM/

Special Conditions:

Erosion Control

1. An erosion control barrier [hay bales and/or siltation fence] shall be installed as shown on referenced plans until all disturbed areas have been stabilized. The erosion control barrier shall also serve as the work limit line as designated on above-referenced plans.

Wetland Replication

2. PRIOR TO/OR CONCURRENT WITH PROPOSED WETLAND ALTERATIONS AT THIS SITE, the base grade of the wetland replication area shall be established and certified in writing by either a Professional Land Surveyor or Engineer registered with the Commonwealth of Massachusetts. This wetland replication area shall conform to an area identified on referenced plans as the "Replication Area".

3. In addition to the staked haybale/siltation control barrier as required by condition #1 above, a second staked haybale/ siltation control barrier shall be utilized along the edge of the newly established wetland replication area. The erosion control barriers shall be maintained until all disturbed areas have been stabilized.

4. Upon establishment of a suitable base grade within the wetland replication area, this proposed wetland replication area shall be planted with wetland plant species such as red maple, sweet pepperbush, high bush blueberry, cinnamon fern or other suitable wetland plant species either listed under the Wetlands Protection Act or as either Facultative (+) [FAC+], Facultative Wetland (+ or -) [FACW+/-] ,or Obligate [OBL] wetland plants as identified by the U.S. Fish and Wildlife Service under the "National List of Plant Species that Occur in Wetlands". TRANSLOCATION OF THESE PLANT SPECIES WILL NOT BE ALLOWED, EXCEPTING THE WETLAND AREA PROPOSED FOR ALTERATION, FROM ANY ADJACENT WETLAND AREA OR ANY OTHER JURISDICTIONAL WETLAND AREA WITHOUT PRIOR CONSENT OF THE DEPARTMENT.

5. At the end of each growing season, a progress report of the relative success or failure of the replication effort shall be submitted to the local Commission and this office. The report shall include percent of vegetation cover, a list of the type of plants growing in the replication area, coverage of wetland plants as a percentage of all plants and relative vigor of the plants. The report shall also include recommendations for improvement of poorly established wetland areas.

6. The wetland replication area shall be 75% established within two growing seasons [310 CMR 10.55(4)b(6)]. Should the replication area fail to meet this standard, the Department may require additional measures necessary to achieve compliance.

Administration

7. 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.

8. Any additional work not proposed by this application and shown on referenced plans or required by the Final Order of Conditions and subject to jurisdiction under the Wetlands Protection Act shall require the filing of a Request for a Determination of Applicability or a Notice of Intent application.