



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

## WPA Form 5A – Restoration Order of Conditions

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

Provided by MassDEP:

MassDEP File # \_\_\_\_\_

City/Town \_\_\_\_\_

### A. General Information

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

1. From: \_\_\_\_\_  
Conservation Commission
2. This issuance is for (check one):
- a. ☐ Restoration Order of Conditions      b. ☐ Amended Restoration Order of Conditions
3. To: Applicant: \_\_\_\_\_

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



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:
- a. Street Address \_\_\_\_\_ b. City/Town \_\_\_\_\_
- c. Assessors Map/Plat Number \_\_\_\_\_ d. Parcel/Lot Number \_\_\_\_\_



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**A. General Information (cont.)**

Latitude and Longitude, if known:

d. Latitude (in decimal)

e. Longitude (in decimal)

Note: If the Ecological Restoration Project involves work on a stream crossing, baseline photo-points that capture longitudinal views of the crossing inlet, the crossing outlet and the upstream and downstream channel beds during low flow conditions. The latitude and longitude coordinates of the photo-points shall be included in the baseline data.

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

a. County

b. Certificate Number (if registered land)

c. Book

d. Page

7. Dates:

a. Date Ecological Restoration NOI Filed

b. Date Public Hearing Closed

c. Issuance Date

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

a. Plan Title

b. Prepared By

c. Signed and Stamped by

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

**B. Findings**

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the Ecological Restoration Notice of Intent described in Section A 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 type="checkbox"/> Public Water Supply  | d. <input type="checkbox"/> Flood Control           | g. <input type="checkbox"/> Land Containing Shellfish |
| b. <input type="checkbox"/> Private Water Supply | e. <input type="checkbox"/> Storm Damage Prevention | h. <input type="checkbox"/> Fisheries                 |
| c. <input type="checkbox"/> Groundwater Supply   | f. <input type="checkbox"/> Prevention of Pollution | i. <input type="checkbox"/> Wildlife Habitat          |



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### B. Findings (cont.)

2. This Commission hereby finds the project, as proposed, is an Ecological Restoration Project for:

- ☐ Dam Removal
- ☐ Freshwater Stream Crossing Repair and Replacement
- ☐ Stream Daylighting
- ☐ Tidal Restoration
- ☐ Rare Species Habitat Restoration
- ☐ Restoring Fish Passageways

#### Approved subject to:

☐ The following conditions are required in accordance with the Ecological Restoration eligibility criteria 310 CMR 10.13 (1) through (7) and performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Ecological Restoration Notice of Intent for the project described in Section A. The General Conditions in Section C and Special Conditions checked in Section D are incorporated into this Restoration Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Ecological Restoration Notice of Intent, these conditions shall control.

#### Denied because:

☐ The proposed work does not meet the eligibility criteria in 310 CMR 10.13(1) through (7). Therefore, work on this project may not go forward unless and until a new Notice of Intent (WPA Form 3 or 3A) is submitted and a Final Order of Conditions (WPA Form 5 or 5A) has been issued. The Commission has determined that following the eligibility criteria have NOT been met.

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**B. Findings (cont.)**

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

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

**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 c. c/y dredged	b. square feet d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	<b>Note:</b> No armoring of a Coastal Dune or Barrier Beach is permitted. Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. c/y c. nourishment	d. c/y d. nourishment



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**B. Findings (cont.)**

14. ☐ Coastal Dunes
- |                |                |                               |                               |
|----------------|----------------|-------------------------------|-------------------------------|
| a. square feet | b. square feet | c. <sup>c/y</sup> nourishment | d. <sup>c/y</sup> nourishment |
|----------------|----------------|-------------------------------|-------------------------------|

**Note:** No armoring of a Coastal Dune or Barrier Beach is permitted.

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. <sup>c/y</sup> dredged | d. <sup>c/y</sup> 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. <sup>c/y</sup> dredged | b. <sup>c/y</sup> dredged |
|---------------------------|---------------------------|
21. ☐ Land Subject to Coastal Storm Flowage
- |                |                |
|----------------|----------------|
| a. square feet | b. square feet |
|----------------|----------------|

\* If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here

22. ☐ 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 |
|----------------|----------------|----------------|----------------|

23. ☐ Restoration/Enhancement \*:
- |                       |                              |  |
|-----------------------|------------------------------|--|
| a. square feet of BVW | b. square feet of salt marsh | c. square feet of other wetland resource areas |
|-----------------------|------------------------------|--|

24. ☐ Stream Crossing(s):
- |                                   |   |
|-----------------------------------|---|
| a. number of new stream crossings | b. number of replacement stream crossings |
|-----------------------------------|---|



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### C. General Conditions Under Massachusetts Wetlands Protection Act

**The following conditions are only applicable to Approved projects.**

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Restoration Order of
2. The Restoration 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 Restoration 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 Restoration 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 Restoration 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 Restoration Order.
5. This Restoration 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 Restoration Order.
6. If this Restoration Order constitutes an Amended Restoration Order of Conditions, this Amended Restoration Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Restoration 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 Restoration Order is not final until all administrative appeal periods from this Restoration 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 Restoration 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 Restoration 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 Restoration 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 Restoration Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.



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

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 \_\_\_\_\_”

11. Where the Department of Environmental Protection is requested to issue a Superseding Restoration 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 Restoration Order at reasonable hours to evaluate compliance with the conditions stated in this Restoration Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Restoration Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Restoration Order and to any contractor or other person performing work conditioned by this Restoration 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 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 Restoration Order.



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

#### General Conditions for all Ecological Restoration Projects

19. The project shall be conducted in accordance with any preliminary written determination obtained from the Natural Heritage and Endangered Species Program as set forth in 310 CMR 10.11(2) and any time of year restrictions or other conditions recommended in writing by the Division of Marine Fisheries (for projects in coastal Resource Areas) and the Division of Fisheries and Wildlife (for projects in inland Resource Areas) as set forth in 310 CMR 10.11(3), (4) and (5).
20. The applicant shall implement the plan submitted with the Notice of Intent as approved by the Issuing Authority to prevent and control invasive species.
21. If the project involves the dredging of 100 cubic yards or more in a Resource Area or dredging of any amount in an Outstanding Resource Water, the dredging and Dredged Material management shall be performed in accordance with the Water Quality Certification submitted with the Notice of Intent.
22. If the project involves infrastructure, the owner shall operate and maintain the infrastructure in accordance with the operation and maintenance plan submitted with the Notice of Intent as approved by the Issuing Authority. Implementation of the operation and maintenance plan as approved by the Issuing Authority shall be a continuing condition that shall be set forth in the Certificate of Compliance.
23. 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;





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

- 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 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 Restoration 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.



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

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- 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.
- 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 Restoration 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.



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### D. Special Conditions for Ecological Restoration Projects

☐ **Dam Removal**

This project involves dam removal and the following special conditions shall apply in addition to the general conditions set forth in 310 CMR 10.14(1):

- a) An as-built plan and a written statement from a registered professional engineer or other environmental professional expert in ecological restoration certifying substantial compliance with the design plan and construction specifications approved in the Restoration Order of Conditions shall be submitted to the Issuing Authority within 90 days of completion of the dam removal.
- b) The applicant shall monitor the dam removal site during the first two years following completion of the dam removal. Said monitoring shall include a topographic survey of the longitudinal profile and stream cross-sections from downstream of the former dam through the upstream end of the former impoundment. The survey reference point shall comprise a permanent marker or recoverable survey point with known coordinates, such as a fixed point shown on the as-built plan, an existing bench mark, or a new benchmark. That marker should be identified or referenced on the plans and on the as-built plans. The applicant shall establish at least two photo-points for pre- and post-restoration monitoring at the dam removal site. At least one photo-point location shall be chosen to document a view of the dam pre-restoration and to document the same site after the dam is removed. A second location shall be chosen to document a view of the impoundment pre- and post-restoration. Photos shall be taken for two years after the dam removal is completed.
- c) The applicant shall submit a report detailing the results of this monitoring within six months of the completion of the two year post-construction monitoring period, or within 30 months after the dam removal is complete whichever is sooner. The report shall include a comparison of post-restoration survey data with pre-restoration survey data as illustrated by the photos taken during the monitoring period.

☐ **Freshwater Stream Crossing Repair and Replacement Projects**

The project involves one or more freshwater crossing repair or replacement and the following special conditions in addition to the general conditions apply:

- a) An as-built plan and/or a written statement from a registered professional engineer or other environmental professional expert in ecological restoration certifying substantial compliance with the design plans and construction specifications approved in the Restoration Order of Conditions shall be completed within 90 days of completion of construction. The as-built plan shall include the dimensions of the structure, the invert elevation of the upstream and downstream ends of the structure and the road or other surface elevation above the structure.



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### D. Special Conditions for Ecological Restoration Projects (cont.)

- b) The applicant shall monitor the site by collecting sufficient data within 12 months after construction is complete to evaluate the effect of the structure. At a minimum, when a Certificate of Compliance is requested, the applicant shall provide post-construction photo-points that capture longitudinal views of the crossing inlet, the crossing outlet and the upstream and downstream channel beds during low flow conditions. The photo-points shall be located at the same geographic photo-point latitude and longitude coordinates as required in the Notice of Intent per 310 CMR 10.12(1)(n). The applicant shall submit a report to the Issuing Authority detailing the results of this monitoring within 18 months after construction is complete. The report shall include a comparison of the post-restoration data with pre-restoration data.

☐ **Stream Daylighting**

The project involves stream daylighting and the following special conditions in addition to the general conditions apply:

- a) An as-built plan and a written statement from a registered professional engineer or other environmental professional expert in ecological restoration certifying substantial compliance with the design plan and construction specifications approved in the Restoration Order of Conditions shall be submitted to the Issuing Authority within 90 days of completion of the project. At a minimum, when a Certificate of Compliance is requested, the applicant shall provide post-construction photo-points that capture longitudinal views of the upstream and downstream channel beds of the daylighted reach during low flow conditions.
- b) The applicant shall conduct photo-point monitoring by establishing at least three photo-points for pre- and post-restoration monitoring at the stream daylighting site. One photo-point location shall be chosen to document the upstream end of the site and one photo-point location shall be chosen to document the downstream end of the site. A third photo-point shall be chosen to document conditions in the restored channel. Photos shall be taken during high flow and low (summer) flow of each year during the two years following completion of the project.
- c) Within 30 months after the completion of the project, the applicant shall submit a report describing the ecological changes observed at the project site during the two years following completion of the project, as illustrated by the photos.



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### D. Special Conditions for Ecological Restoration Projects (cont.)

☐ **Tidal Restoration Projects**

The project involves restoration of tidal influence and the following special conditions in addition to the general conditions apply:

- a) If the project is a culvert or bridge replacement or repair project, an as-built plan and a written statement from a registered professional engineer or other environmental professional expert in ecological restoration certifying substantial compliance with the design plans and construction specifications approved in the Restoration Order of Conditions shall be submitted to the Issuing Authority within 90 days of completion of construction. The as-built plan shall include the dimensions of the structure, the invert elevation of the upstream and downstream ends of the structure and the road or other surface elevation above the structure.
- b) The applicant shall monitor pre- and post-construction tidal conditions upstream and downstream of the tidal restriction with water level readings measured at an interval no greater than every 10 minutes over a minimum of a one-week period that includes a spring tide. Pre- and post-construction water level readings shall be taken at approximately the same locations and shall be referenced to the same vertical elevation datum. The applicant shall prepare a report detailing the results of this monitoring within 12 months after construction is complete. The report shall include and compare pre- and post-construction tidal elevation monitoring data to assess attainment of the project's predicted post-restoration tidal conditions.

☐ **Rare Species Habitat Restoration**

The project is a Rare Species Habitat Restoration Project and in addition to the general conditions the following special conditions apply:

- a) An as-built plan and a written statement from a registered professional engineer or other environmental professional expert in ecological restoration certifying substantial compliance with the design plan, construction specifications, and the Habitat Management Plan submitted with the Notice of Intent as approved in the Restoration Order of Conditions shall be submitted to the Issuing Authority within 90 days of completion of the project.
- b) The applicant shall establish at least two photo-points for pre- and post-restoration monitoring at the project site. Photos shall be taken for two years after construction is complete. Within 30 months of completion of the project, the applicant shall submit to the Issuing Authority a report describing the ecological changes observed at the project site as illustrated by the photos.



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### **D. Special Conditions for Ecological Restoration Projects (cont.)**

☐ **Fish Passageway Restoration**

The project involves the repair or replacement of a fish passageway and in addition to the general conditions the following special conditions:

- a) The property owner is responsible for maintaining and repairing the fishway in good condition so that it will support safe and efficient fish passage in accordance with an operation and maintenance plan approved by the Division of Marine Fisheries. This requirement is a continuing condition that shall be set forth in the Certificate of Compliance.
- b) a post-construction project summary using surveys, a narrative and photographs as needed, that confirm the fishway slope and entrance and exit elevations shall be submitted to and approved by the Division of Marine Fisheries, prior to submittal of a request for a Certificate of Compliance.



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

Provided by MassDEP:

MassDEP File #

City/Town

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

1. Is a municipal wetlands bylaw or ordinance applicable? ☐ Yes ☐ No
2. The \_\_\_\_\_ hereby finds (check one that applies):  
Conservation Commission
  - a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. ☐ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

1. Municipal Ordinance or Bylaw

2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

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**Massachusetts Department of Environmental Protection**  
**Bureau of Resource Protection - Wetlands**

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**F. Signatures**

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

1. Date of Issuance

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

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

2. Number of Signers

The Restoration 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 and the property owner, if different from applicant.

Signatures:

_____	_____
_____	_____
_____	_____

☐ by hand delivery on

☐ by certified mail, return receipt requested, on

Date

Date





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### G. Appeals

The applicant, the owner, any person aggrieved by this Restoration Order, any owner of land abutting the land subject to this Restoration 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 Restoration 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 Restoration 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 Restoration Order of Conditions 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 Restoration Order, or providing written information to the Department prior to issuance of a Superseding Restoration Order.

The request shall state clearly and concisely how the project permitted under the Restoration Order which is being appealed does or does not meet the eligibility criteria in 310 CMR 10.13(1) and the relevant provisions of 310 CMR 10.13(2) through (7). To the extent that the Restoration 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.



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## H. Recording Information

Prior to commencement of work, this Restoration 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 Restoration Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Restoration Order. In the case of registered land, this Restoration Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Restoration Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Conservation Commission

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

To:

Conservation Commission

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

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

For

Property Owner

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

Book

Page

In accordance with the Restoration 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



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands

DEP File Number: \_\_\_\_\_

**Request for Departmental Action Fee  
Transmittal Form**

Provided by DEP

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

**A. Request Information**

1. Location of Project

a. Street Address \_\_\_\_\_

b. City/Town, Zip \_\_\_\_\_

c. Check number \_\_\_\_\_

d. Fee amount \_\_\_\_\_

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

Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

City/Town \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

Phone Number \_\_\_\_\_

Fax Number (if applicable) \_\_\_\_\_

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

Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

City/Town \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

Phone Number \_\_\_\_\_

Fax Number (if applicable) \_\_\_\_\_

4. DEP File Number: \_\_\_\_\_

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



**B. Instructions**

1. When the Departmental action request is for (check one):

- ☐ Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- ☐ Superseding Determination of Applicability – Fee: \$120
- ☐ Superseding Order of Resource Area Delineation – Fee: \$120



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee  
Transmittal Form**

\_\_\_\_\_  
Provided by DEP

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

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**B. Instructions (cont.)**

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection  
Box 4062  
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/>).
4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.