



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

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

Provided by MassDEP:

216-0932

MassDEP File #

eDEP Transaction #

Medway

City/Town

A. General Information

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

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



1. From: Medway
Conservation Commission

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

3. To: Applicant:

Erin

a. First Name

Whoriskey

b. Last Name

New England Power Company

c. Organization

40 Sylvan Road E2.468

d. Mailing Address

Waltham

e. City/Town

MA

f. State

02451

g. Zip Code

4. Property Owner (if different from applicant):

a. First Name

b. Last Name

c. Organization

d. Mailing Address

e. City/Town

f. State

g. Zip Code

5. Project Location:

23 West Street

a. Street Address

Medway

b. City/Town

65

c. Assessors Map/Plat Number

028 and 031

d. Parcel/Lot Number

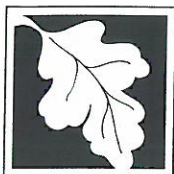
Latitude and Longitude, if known:

42d13.74m80s

d. Latitude

71d45.03m42s

e. Longitude



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A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
Norfolk
a. County _____ b. Certificate Number (if registered land) _____
c. Book _____ d. Page _____
7. Dates: **March 6, 2019** **May 9, 2019** **May 13, 2019**
a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
315/327/303/3520 Line Refurbishment Project – Notice of Intent Map
a. Plan Title _____
BSC Group n/a
b. Prepared By _____ c. Signed and Stamped by _____
May 6, 2019 1"=40'
d. Final Revision Date _____ e. Scale _____
Notice of Intent stamped 4-25-19
f. Additional Plan or Document Title _____ g. Date _____

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

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

- a. ☒ Public Water Supply b. ☐ Land Containing Shellfish c. ☒ Prevention of Pollution
d. ☐ Private Water Supply e. ☐ Fisheries f. ☒ Protection of Wildlife Habitat
g. ☒ Groundwater Supply h. ☒ Storm Damage Prevention i. ☒ Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



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B. Findings (cont.)

Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. ☐ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) _____ a. linear feet

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	6412 a. square feet	6412 b. square feet	6412 c. square feet	6412 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 checked="" type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	0 c. square feet	0 d. square feet	0 e. square feet	0 f. square feet
Sq ft between 100-200 ft	150 g. square feet	150 h. square feet	0 i. square feet	0 j. square feet



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B. Findings (cont.)

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

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. nourishment cu yd	<u> </u> d. nourishment cu yd
14. <input type="checkbox"/> Coastal Dunes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. nourishment cu yd	<u> </u> d. nourishment cu yd
15. <input type="checkbox"/> Coastal Banks	<u> </u> a. linear feet	<u> </u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u> a. square feet	<u> </u> b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	<u> </u> a. c/y dredged	<u> </u> b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	<u> </u> a. square feet	<u> </u> b. square feet		
22. <input type="checkbox"/> Riverfront Area	<u> </u> a. total sq. feet	<u> </u> b. total sq. feet		
Sq ft within 100 ft	<u> </u> c. square feet	<u> </u> d. square feet	<u> </u> e. square feet	<u> </u> f. square feet
Sq ft between 100-200 ft	<u> </u> g. square feet	<u> </u> h. square feet	<u> </u> i. square feet	<u> </u> j. square feet



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B. Findings (cont.)

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

23. ☐ Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

24. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 5/13/22 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number 216-0932 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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

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

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

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



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

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

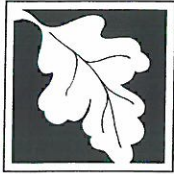
i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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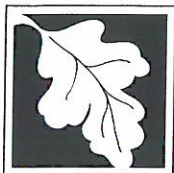
C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

See attached for Findings and Conditions adopted under the MA Wetlands Protection Act (MGL. Ch. 131 S. 40) & the Medway General Wetlands Protection Bylaw (Article XXI).

20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No
2. The Medway Conservation Commission hereby finds (check one that applies):

- 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:

Medway General Bylaw

Article XXI

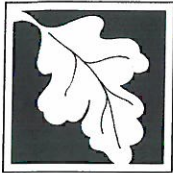
1. Municipal Ordinance or Bylaw

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):

See attached for Findings and Conditions adopted under the MA Wetlands Protection Act (MGL. Ch. 131 S. 40) & the Medway General Wetlands Protection Bylaw (Article XXI)



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E. Signatures

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

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

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

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

Dayna Gill Dayna Gill

David J. Blackwell David J. Blackwell

Al G. Sward Al G. Sward

David A. Travaloni David A. Travaloni

☐ by hand delivery on

☒ by certified mail, return receipt requested, on

Date

Date

F. Appeals

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

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

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



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G. Recording Information

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

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 Order of Conditions for the Project at:

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for:

Property Owner

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

Book

Page

In accordance with the Order of Conditions issued on:

Date

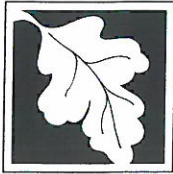
If recorded land, the instrument number identifying this transaction is:

Instrument Number

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

Document Number

Signature of Applicant



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
Request for Departmental Action Fee
Transmittal Form

DEP File Number: _____

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: _____

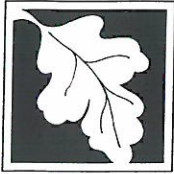
Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



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
Request for Departmental Action Fee
Transmittal Form

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

DEP File Number:

Provided by DEP

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.

Erin Whoriskey
New England Power Company
40 Sylvan Road E2.468
Waltham, MA 02451
DEP File No. 216-0932

MEDWAY CONSERVATION COMMISSION
ORDER OF CONDITIONS – PART II
FINDINGS AND CONDITIONS UNDER THE MEDWAY GENERAL
WETLANDS PROTECTION BYLAW (ARTICLE XXI)
PROJECT SITE: 23 West Street/Stone Street (ROW) Map 65 Lot 028 and 031
DEP # 216-0932
MEDWAY, MASSACHUSETTS
DATE: May 13, 2019

PROJECT APPLICANT: Erin Whoriskey – New England Power Company

In connection with the Conditions set forth in this Order, the Medway Conservation Commission (the “Commission”) makes the following FINDINGS:

- A. The proposed project consists of (a) replacing structures 436, 437, and 438 within the 0-100’ buffer zone and 100’- 200’ Riverfront Area, (b) 6,412 square feet of temporary disturbance for placement of swamp mats, and (c) approximately 150 square feet of 100’-200’ Riverfront Area alteration.
- B. The lot consists of a right-of-way transmission line with forested Bordering Vegetated Wetlands with an associated 100’ buffer zone and Hopping Brook with a 200’ Riverfront Area under the Medway General Bylaw Article XXI and the Massachusetts Wetlands Protection Act and its Regulations.
- C. Submitted documents consist of (a) “Notice of Intent” by BSC Group, dated March 5, 2019, (b) plan titled, “315/327/303/3520 Line Refurbishment Project – Notice of Intent Map” by BSC Group, dated May 6, 2019.
- D. The Commission hereby finds that the work proposed to complete Transmission Line Refurbishment project including structure replacements of 436, 437, and 438, access roads upgrades, and work pad construction along the 3520 Transmission Line this includes the placement of swamp mats for work space associated with the project was reviewed at a public hearing. The applicant has presented evidence sufficient to demonstrate that the proposed activity shall have no impact on this wetlands resource and meets the provisions under 310 CMR 10.02 (2)(b) & (3), 310 CMR 10.55(4), 310 CMR 10.58 (4) and Medway General Bylaw Article XXI Regulations and the performance standards under Section 3.04 and 5. Additionally, the Commission votes to grant a waiver of the 25’ for temporary swamp mat placement and minor grading. Areas of alteration within the 0-25’ shall be re-established with native seed mix.
- E. The Commission agrees to allow the additional alteration of the buffer zone for the improvements and upgrades to the size of the access roads, as presented at the hearings for the lines 436 and 437 only.
- F. The Commission does not approve the stream delineation for wetland flags, WF B1-100 through WF B1-106 and WF B2-100 through WF B2-105.
- G. The Commission reserves its right to determine that wetland flags, W3-103 and W3-102 are part of a vernal pool and at this time does not approve the flags or its status under the Wetlands Bylaw Regulations Section 6. Some swamp matting is proposed within 100’ of these flags. However, proposed work in this area is temporary.
- H. It was noted that all conditions of this Order must be met in order to meet the above mentioned provisions. The Commission additionally finds that the work must be

conditioned to protect all interests of the MA Wetlands Protection Act and the Medway General Wetlands Protection Bylaw.

- I. Additionally, the Medway Conservation Commission finds that the following conditions are necessary in order to protect the wetland resource for the duration of this proposed project. The Commission orders that all work shall be performed in accordance with said conditions and with the Notice of Intent referenced in the Special Conditions, section of 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, the conditions shall control.
- J. Following review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the area in which work is proposed is significant to the following interests of the Medway Wetlands By-Law:
 1. Public Water Supply
 2. Groundwater Supply
 3. Flood Control
 4. Storm Damage Prevention
 5. Prevention of Pollution
 6. Protection of Flora and Fauna and their Habitats
 7. Erosion Prevention
- K. Furthermore, the Medway Conservation Commission hereby finds that the proposed project is:

Approved, subject to the findings and conditions contained herein.

- A. The Medway Conservation Commission based its decision to approve the proposed project upon the information provided in the Notice of Intent referenced in the WPA Form 5 – Order of Conditions (“Part I”) issued concomitantly with this Part II OOC for the project, together with all of its contents and attachments, including the plans and documents identified in Part I, Sec. A, para. 8, the findings and conditions contained in this Part II, and the information presented and discussed at the public hearing.
- B. The Medway Conservation Commission further finds the following:
 1. Wetland Resource Areas and Boundaries: The site contains the following wetland resource areas protected by the Massachusetts Wetlands Protection Act and the Medway Wetlands By-Law:
 - i. Bordering Vegetated Wetland
 - ii. 0-25’ No Disturb Zone (under the Medway General Bylaw Article XXI)
 - iii. 25’- 100’ buffer zone of Bordering Vegetated Wetlands
 - iv. 100’- 200’ Riverfront to Hopping Brook
 2. Additional General Findings:

- i. This Order protects the interests specified in the Wetlands Protection Act and the Medway Wetlands By-Law. The Wetland resource areas on the lot are identified on the Plan.
 - ii. The Commission accepts the resource areas as depicted on the above-referenced Plan and as described in the Notice of Intent Project Narrative.
3. Wildlife Habitat: The Commission finds that the project areas is currently not within an estimated habitat for state-listed rare wetland wildlife as depicted on the most recent Estimated Habitat Map provided by the Natural Heritage and Endangered Species Program. The Commission further finds that the project is not within a mapped Area of Critical Environmental Concern.
4. Stormwater Management: The Commission finds that the project is currently not subject to the Department of Environmental Protection's Stormwater regulation and policy.

In addition to the General Conditions and Findings stated in Parts I and II of the Order of Conditions for this project, the General and Special Conditions below are necessary to comply with the Medway Wetlands By-Law and the Medway Conservation Commission Regulations as well as the Wetlands Protection Act and regulations.

GENERAL CONDITIONS:

- 1) All work shall be performed in accordance with the General and Special Conditions in Parts I and II of this Order, and in accordance with the Plans referenced in Part I, sec. A, para. 8, the Notice of Intent and its attached and additional materials, and the Notice of Intent Project Narrative.
- 2) The term "Applicant" as used in this OOC shall refer to the owner, any successor in interest, title or successor in control of the property referenced in the Notice of Intent, supporting documents and this OOC. The Commission shall be notified in writing within 30 days of all transfers of title of any portion of property that takes place prior to issuance of the Release.
- 3) With respect to all conditions, the "Commission" shall include an Agent of the Commission, which may be a Commission Member, the Conservation Agent, or a person specifically hired by the Commission to administer and enforce this OOC, except where action by the Commission acting as a body is required by law.
- 4) To the extent that the following special conditions modify or differ from the Plans, specifications, or other proposals submitted with the Notice of Intent or the Notice of Intent Project Narrative, the Special Conditions shall control.
- 5) It is the responsibility of the applicant to procure all other applicable federal, state and local permits and approvals associated with this project.
- 6) All waste products, refuse, debris, grubbed stumps, slash, excavate, construction materials, etc. associated with the proposed construction shall be contained and

ultimately deposited at an appropriate off-site facility and shall not be incorporated in any manner into the project site. No mulch shall be placed in wetland resource areas.

- 7) No fuel, oil, or other pollutants shall be stored in any resource area or the buffer zone thereto.
- 8) There shall be no underground storage of fuel, oil, or hazardous substance on the property within the Buffer Zones or Wetland Resource Areas.
- 9) The applicant and/its successors are required to meet the following regulations under this Order, including but not limited to, 310 CMR 10.55(4) and 314 CMR 9.04(1) through (11).

SPECIAL CONDITIONS:

- 10) Prior to the commencement of work, after the swamp mats and erosion controls are installed the applicant shall contact the Agent and/or the Commission for an inspection to endure the mats and erosion controls were installed per the approved plans. In addition to the approved erosion controls, the applicant shall add 12" biodegradable compost socks to the perimeter of the swamps mats (resting on top of the mats).
- 11) The applicant shall use 12" biodegradable compost socks in locations where erosion controls are depicted on the plan titled, "315/327/303/3520 Line Refurbishment Project – Notice of Intent Map" by BSC Group, dated May 6, 2019. The applicant shall NOT use straw wattles.
- 12) The Conservation Commission reserves the right to require additional erosion and/or damage prevention controls it may deem necessary or in the event that machinery is needed to enter into areas beyond the existing fencing for the removal of vegetation.
- 13) Erosion and sediment controls shall remain in place until such time as the Commission approves their removal.
- 14) All work shall be conducted in accordance submitted documents consist of (a) "Notice of Intent" by BSC Group, dated March 5, 2019, (b) plan titled, "315/327/303/3520 Line Refurbishment Project – Notice of Intent Map" by BSC Group, dated May 6, 2019 (hereafter referred to as the approved site plan).
- 15) The Conservation Commission reserves the right to impose additional conditions on portions of this project to mitigate any impacts which could result from site erosion, or any noticeable degradation of surface water quality discharging from the site.
- 16) The Applicant/Property Owner shall apply a native wetland mix and/ or conservation/wildlife seed mix to all /wetland and upland/buffer zone areas within the Commission jurisdiction that were disturbed for construction. All seed mixes shall be native and shall be approved by the Commission and/or the Agent prior to application. Seed mixes shall only be applied to areas within the Commission jurisdiction where the Agent and/or the Commission require due to disturbance from vegetation removal.

- 17) Prior to the issuance of a Certificate of Compliance the Agent and/or the Commission shall inspect the altered 6418 square feet of Bordering Vegetated Wetland for what is being referenced as temporary disturbance. If the Agent and/or the Commission does not agree that this area has been satisfactorily restored as a functioning Bordering Vegetated Wetland, then the Commission shall require a restoration and/or replication plan addressing the outlined requirements in order to meet 310 CMR 10.55(4) and implement the plan to the Agent and/or the Commission's satisfaction.
- 18) The applicant shall provide evidence through a wetland scientist report to the Agent and/or the Commission that the 6418 square feet of Bordering Vegetated Wetlands has been restored to its pre-construction condition or the applicant shall replicated in a 1:1 ratio for all square feet of loss of Bordering Vegetated Wetland, through meeting the requirements of this condition and condition #15.

Administrative

- 19) This Order of Conditions becomes final ten (10) business days after the issuance date if no authorized person has requested the Department of Environmental Protection to issue a Superseding Order of Conditions. The issuance date of the Order is the date specified on page 2 of Part I-WPA Form 5 of this Order.
- 20) Before commencement of work and after ten (10) business days from the issuance date have elapsed, this Order of Conditions must be recorded at the Norfolk County Registry of Deeds or Land Court as provided in Part I-WPA Form 5, sec. C, para. 8. The recording will be executed by and through the Commission's Agent. The Agent will notify the applicant of the recording fee. When the Commission has received the check for the appropriate amount, the Agent will arrange for the Order of Conditions to be recorded.
- 21) If any permit, license or approval by any other municipal agency, board or commission is withdrawn, obtained or reversed and the construction work is to be altered or changed from the plans filed with the Commission, the applicant shall notify the Commission in writing. Such notice shall be addressed to the Chair and submitted prior to any work commencing on the project. If the Commission determines that the changes or alterations are significant, the Commission, by majority vote, may require a new Notice of Intent or a modification of the existing Order of Conditions. The Medway Conservation Commission considers that any errors in the plans or information submitted by the applicant are changes and, as such, requires application of the foregoing procedures.
- 22) With respect to all conditions, the "Commission" shall include an Agent of the Commission, which may be a Commission Member, the Conservation Agent, or a person specifically hired by the Commission to administer and enforce this Order, except where action by the Commission acting as a body is required by law.
- 23) Members and agents of the Commission shall have the right to enter and inspect the premises to evaluate compliance with this Order, and the Commission may require submittal of any information deemed necessary by the Commission for that evaluation.
- 24) A copy of this Order shall be included in all construction contracts and subcontracts dealing with the work proposed, and this Order shall supersede all contract requirements.

- 25) A copy of this Order shall be provided to the project supervisor and shall be available on the site at all times during construction, until completion.

Erosion

- 26) Immediately after installation of erosion control measures and any dewatering areas, but before any other work occurs the Commission shall be notified in order to conduct an inspection to ensure that erosion controls and limits of work lines have been properly installed. No work shall be conducted in any jurisdictional area of the site until the Commission has inspected and approved the installation of the erosion controls.
- 27) During restoration, disturbed areas will be kept to a minimum and vegetative stabilization of these areas will occur as soon as possible.
- 28) Erosion controls and limit of work lines shall be installed as proposed in the Notice of Intent with minimal disturbance to vegetation. Where possible, erosion controls should go *around* trees, shrubs, and other vegetation.
- 29) It shall be the responsibility of the applicant and his successors to conduct monitoring, maintenance, and repair of erosion control measures such that wetland impacts do not occur. The erosion control measures designated on the site plans and described in this Order of Conditions shall be considered a minimum standard for compliance.
- 30) The areas of construction shall remain in a condition that is protected by erosion control devices at the close of each construction day. Erosion controls shall be inspected daily and, as necessary, promptly repaired, reinforced, or replaced.

Pre-Construction Requirements

- 31) The applicant shall notify the Conservation Commission in writing at least two (2) business days prior to commencement of construction activity on the site and shall advise the Commission of the name(s) and telephone number(s) of the person(s) responsible on site for compliance with this Order. The applicant shall be responsible for immediately notifying the Commission of any change in the identity or contact information for the on-site person responsible for compliance with the Order.
- 32) Prior to the commencement of any activity on this site other than the marking of locations for erosion controls and limits of work, there shall be a **PRE-CONSTRUCTION MEETING** between the project supervisor, the contractor responsible for the work, and a member of the Conservation Commission or its Agent to ensure that the requirements of the Order of Conditions are understood. The staked erosion control line shall be adjusted, if necessary, during the pre-construction meeting to comply with the approved plans. The applicant shall contact the Conservation Commission office at 508-533-3292 at least three (3) business days prior to any activity to arrange for the pre-construction meeting.
- 33) Prior to commencing any work on the site, the applicant shall submit the following to the Conservation Commission:
- a. A set of **photographs** depicting the project site in pre-construction condition.

- b. A **statement** signed by the applicant and all persons responsible for the construction of the project that such individuals understand the terms and conditions as specified in the Order and that such persons agree to comply with the provisions of the Wetlands Protection Act, Medway General Bylaw Article XXI and this Order.
- 34) It is the responsibility of the applicant, owner and/or successor(s) to ensure that all conditions of this Order of Conditions (Order) are complied with. The project engineer and contractors are to be provided with a copy of this Order and referenced documents before commencement of construction.
 - 35) The contractor employed to conduct construction activities at the site shall be provided a copy of this Order. Said contractor and the owner can be held jointly responsible for any violation of this Order.
 - 36) The limits of work depicted on the plan must be clearly marked in the field prior to commencement of construction. The erosion control barrier shall serve as a work limit line for this project. Under no circumstances is any work allowed to take place on the wetland resource area side of the barrier.

Construction

- 37) Applicant shall hire an Environmental Monitor (EM) to oversee work prescribed within the Notice of Intent. Specifically, the EM shall ensure the contractor does not exceed the approved location for staging and that this is clear in the field to all operators. Additionally, the applicant's Environmental Monitor shall submit weekly reports to the Commission on the progress of the project and compliance with this Order.
- 38) All equipment shall be inspected regularly for leaks. Any leaking hydraulic or other fluid lines, cylinders, containers of any kind, or any other components shall be repaired immediately.
- 39) If dewatering is proposed the applicant shall submit a plan with a location for dewatering to the Agent and/or the Commission for approval. Dewatering activities shall be conducted in accordance with best management practices. Dewatering activities shall be monitored daily to ensure that sediment laden water is not discharged toward the wetland resource areas. No discharge of water is allowed directly or indirectly into an area subject to jurisdiction of the Wetlands Protection Act. If emergency dewatering requirements arise, the applicant shall submit a contingency plan to the Commission for approval, which provides for the pumped water to be contained in a settling basin, to adequately reduce turbidity prior to discharge into a resource area of Buffer Zone. Additional monitoring requirements may be imposed on any such discharge approved, to ensure adequacy of the sediment removal measures.
- 40) All exposed soil finish grade surfaces shall be immediately landscaped and stabilized, or loamed, seeded or mulched with a layer of mulch hay or stabilized with proposed treatments as indicated on the approved plans. Where necessary, the loam and seeding shall be held in place with jute netting. Outside of the growing season, exposed soil finish grade surfaces shall be stabilized with a layer of mulch hay until climate conditions allow for seeding. During construction, any area of exposed soils that will be left idle for more than 30 days shall be stabilized with a layer of mulch hay or other means

approved by the Conservation Commission. Temporary stabilization methods include, but not be limited to, hydro-seeding, straw mats, jute netting, sod or other Commission-approved method.

- 41) Erosion controls devices shall remain in place and properly functioning until all exposed soils have been stabilized with final vegetative cover and the Commission has authorized their removal.
- 42) Landscaping within resource areas or buffer zones shall not include exotic invasive species identified on the most current listing of the Massachusetts Division of Fisheries and Wildlife.

Post-Construction

- 43) All swamp mats shall be removed from the site prior to receiving a Certificate of Compliance from the Conservation Commission.
- 44) The applicant shall restore the areas of alteration within the 0-25' with native seed mix.
- 45) Once the site is stabilized to the satisfaction of the Commission, all fabric sedimentation fencing shall be removed and properly disposed of.
- 46) Upon completion of the project, the applicant shall submit the following to the Commission:
 - (1) A completed Request for a Certificate of Compliance ("COC") (WPA Form 8a or other form if required by the Conservation Commission at the time of request) and associated fee.
 - (2) Post-construction photographs demonstrating compliance with this Order, including established vegetation where required.
 - (3) A final plan, letter stating work was completed in compliance with this Order and if there were deviations during construction, and report from an Environmental Scientist with site photos showing post-construction conditions within all areas under the jurisdiction of the Commission by virtue of the Massachusetts Wetlands Protection Act and the Medway Wetlands Protection By-Law. This plan shall include at a minimum:
 - (a) All wetland resource area boundaries with associated Buffer Zones and regulatory setback areas taken from the plan(s) approved in the Order of Conditions;
 - (b) Distance(s) from any structures constructed under this Order to wetland resource areas and buffer zones: the term "structures" shall include, but not be limited to, all buildings, septic systems components, wells, utility lines, fences, retaining walls, and roads/driveways.
 - (c) A line delineating the limit of work actually performed—"work" includes any filling, excavating and/or disturbance of soils or vegetation under this Order.