



Bureau of Resource Protection - Wetlands

AMENDED

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G. L. C. 131 S. 40 & Shirley Non-Zoning Wetlands Bylaw

DEP File Number

284-384

Provided by DEP

. General Inform	ation			
rom:	Shirley Conservat	ion Commission		
	1.Conservation Commiss			
2. This issuance is for (che	eck one): ☐ Oı	rder of Conditions	✓ Amended (Order of Conditions
3. To: Applicant:				
Town of Lunenburg a. First Name	b. Last Nam			
Town Hall	U. Last Nam	le	c. Company	
d. Mailing Address				
Lunenburg			MA	01462-
e. City/Town	1.6 A 11		f. State	g. Zip Code
I. Property Owner (if diffe	rent from Applicar	nt)		
Town of Lunenburg a. First Name	b. Last Nam	10	c. Company	,
a. Thorraine	D. Edot Ham		o. Company	
d. Mailing Address				
e. City/Town			f. State	g. Zip Code
5. Project Location:				
Lake Shirley, Luner	nbrg/Shirley		SHIRLEY	
a. Street Address			b. city/town	
36-A-1 (dam)				
c. Assessor Map/Plat Numb	er		d. Parcel/Lot Nu	mber
Latitude and Longitu	ude, if known		e. Latitude	f. Longitude
6. Property recorded at the	Registry of Deeds fo	or (attach additional info		•
Middlesex South Re		(
a. county	79.0.07.0.000		b. Certificate (if re	egistered land)
18809			346	9
c. Book AMENDED	: 10/30/2006	12/13/2006	d. Page	12/18/2006
7. Dates: 9/12/2006		10/25/2006		10/30/2006
a. Date Notice of I	ntent filed	b. Date Public Hearing Close	d	c. Date of Issuance
8. Final Approved Plans	and Other Docume	ents (attach additiona	l plan referen	ces as needed):
Please see attached				
a. Plan Title				
b. Prepared by		c. Signed an	d stamped by	
d. Final Revision Date	<u> </u>	e. Scale	and the state of t	
. Total WPA Fee Paid:	\$0.00	\$0.00		\$0.00
	a. Total Fee Paid	b. State Fee F	Paid	c. City/Town Fee Paid

ORDER OF CONDITIONS FOR LAKE SHIRLEY, LUNENBURG/SHIRLEY - AMENDED (#284-384)

- 1. Notice of Intent filed by Town of Lunenburg, submitted September 12, 2006.
- 2. Letter to Town of Shirley Conservation Commission from Robert M. Hartzel, GeoSyntec Consultants, dated October 18, 2006, RE: Response to Comment Letters and Addeneum to Lake Shirley Drawdown and Hydro-Raking Notice of Intent.
- 3. Letter to Conservation Commission, Town of Shirley, from Frank A. Esielionis, 5 Oakes Landing, Shirley, MA, dated October 8, 2006, RE: Lake Shirley Drawdown NOI.
- 4. Letter to Anne Gagnon, Conservation Administrator, Town of Shirley, from Thomas W. French, Massachusetts Division of Fisheries & Wildlife, dated October 4, 2006, RE: Lake Shirley Drawdown and Hydroraking Notice of Intent Application, Lunenburg and Shirley, MA, NHESP File No. 06-20470.

The following additional documents were submitted regarding the Request for Amendment:

- Request for Amendment via email to Anne Gagnon from Les Smith, sent October 30, 2006, at 11:09 a.m., RE: Lake Shirley Drawdown & Hydro-raking Amendment and via letter to Shirley Conservation Commission from Lester B. Smith, Jr., Lake Shirley Improvement Corp., dated November 8, 2006, RE: Request for Amendment to Order of Conditions - Lake Shirley Drawdown and Hydro-raking Notice of Intent, Lunenburg and Shirley, MA (#284-385).
- 2. Supplemental memorandum to Shirley Conservation Commission from Daniel Bourdeau, Geosyntec Consultants, Inc., dated November 6, 2006, RE: Request for Amendment to the Lake Shirley Order of Conditions.
- 3. Supplemental memorandum to Shirley Conservation Commission from Daniel Bourdeau, Geosyntec Consultants, Inc., dated December 13, 2006, RE: Request for Amendment to the Lake Shirley Order of Conditions.
- 4. Letter to Anne Gagnon, Shirley Conservation Commission, dated November 21, 2006, RE: Request for Amendment to the Lake Shirley Order of Conditions, Shirley, MA, NHESP File No. 06-20470.
- 5. Email to Anne Gagnon from Reggie Gonthier, sent November 9, 2006, at 12:25 p.m., RE: Concom Query from Basic Info Page.
- 6. Email to Anne Gagnon from Reggie Gonthier, sent December 13, 2006, at 6:50 a.m., RE: Dead Fish.
- 7. "Questions and Answers on the New England Flow Policy," prepared by Vernon Lang, U. S. Fish and Wildlife Service, Concord, NH, dated May 11, 1999.
- 8. Website information from Massachusetts Riverways Program (www.rifls.org) RE: River Instream Flow Stewards (RIFLS) for Nashua Basin; Gulf Brook, Oak Hill Street; and Witch Brook, Warren Road, dated November 8, 2006.



5. Land Under Water Bodies and

Waterways

Massachusetts Department of Environmental Protection

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В	. Findings				
1.	Findings pursuant to the Mas	sachusetts Wetla	nds Protection Ac	t:	
	Following the review of the a provided in this application a area in which work is propose Act (check all that apply):	ind presented at th	e public hearing,	this commission	finds that the
a.	✓ Public Water Supply	b. Land Conta	ining Shellfish	c. 🗹 Preven	tion of Pollution
d.	Private Water Supply	e. 🗹 Fisheries		f. 🗹 Protect	ion of Wildlife Habita
g.	Groundwater Supply	h. 🗹 Storm Dam	age Prevention	i. 🗹 Flood C	Control
2.	This Commission hereby fine	ds that the project	as proposed is (c	heck one of the	following boxes):
Α	pproved subject to:				
¥	The following conditions whi forth in the wetlands regulat accordance with the Notice other special conditions atta or differ from the plans, spe these conditions shall control.	ions. This Commi of Intent reference oched to this order cifications, or othe	ssion orders that a d above, the follo . To the extent that	all the work shal wing General co at the following c	I be performed in nditions, and any conditions modify
D	enied because:				
	The proposed work cannot wetlands regulations. There new Notice of intent is subminterests and a final Order of which the proposed work cannot be a submined to the submined t	efore, work on this nitted which provid of Conditions is iss	project may not g es measures which ued. A description	go forward unless th are adequate n of the perform	s and until a to protect these
	The information submitted the effect of the work on the intension this project may not go forward provides sufficient information interests and a final Order of its lacking and why it is necessary.	erests identified in vard unless and un ion and includes m of Conditions is iss	the Wetlands Pro til a revised Notice neasures which ar ued. A descriptio	otection Act. The e of Intent is sub e adequate to pro n of the specific	refore, work on omitted which rotect the Act's information which
☐ Buffe	Resource Area Impacts: Che er Zone Impacts: Shortest dista irbance and wetland boundary (ance between limit		vals Only)	linear feet
Resourc	ce Area	Proposed Alteration		Proposed Replacement	Permitted Replacement
	ank	1			
ں ۔۔۔	um	a. linear feet	b. linear feet	c. linear feet	d. linear feet
4. 🗌 B	ordering Vegetated Wetland				
		a. square feet	b. square feet	c. square feet	d. square feet

a. square feet

e. cu.yd dredged

c. square feet

b. square feet

f. cu.yd dredged

d. square feet



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B. Findings (cont.)	Přoposed	Permitted	Proposed	Permitted
Resource Area	Alteration	Alteration	Replacement	Replacement
6. Bordering Land Subject to				
Flooding Cubic Feet Flood Storage	a. square feet	b. square feet	c. square feet	d. square feet
Cubic reer riood Glorage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
7. Isolated Land Subject to	e. cable leet	1. Cable leet	g. odbio icet	*
Flooding	a. square feet	b. square feet	· ·	
Cubic Feet Flood Storage				
	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
8. Riverfront Area	man komana man mannesa njemangaak segen madma kasi 2000 000 000 000 000 000 000 000 000 0		name I	
	a. square feet	b. square feet	·····	
Sq ft within 100 ft			The state of the s	
0 - 11 - t 100 000 ft	c. square feet	d. square feet	_	
Sq ft between 100-200 ft			.000	
	e. square feet	f. square feet	wayala Only)	
Coastal Resource Area Impacts:	Check all that apply	below. (For App	provais Only)	
 Designated Port Areas 	Indicate size ur	der Land Under	the Ocean, below	
10. Land Under the Ocean			1. 33343	
	a. square feet	b. square feet		
	c. cu.yd dredged	d. cu.yd dredged	es Salanda	
11. Barrier Beaches	Indicate size ur	nder Coastal Bea	ches and/or Coast	tal Dunes Belo
12. Coastal Beaches			96.2300002.2400003.06 mo.e.20.0472.144600.0034461461461	Constitution of the Consti
	, a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
13. 🗌 Coastal Dunes	. O placino ny oznako na ano za veno anno and base do tributa te de nomina de sena ve			
	a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
14. Coastal Banks	a. linear feet	b. linear feet		
15. Rocky Intertidal Shores	a. iiileai leet	D. illiear leet		
15. Rocky Intertidal Shores	a. square feet	b. square feet	and on the same of	
16. Salt Marshes			44	
	a. square feet	b. square feet	c. square feet	d. square feet
17. Land Under Salt Ponds			no. Alicad	
	a. square feet	b. square feet		
·	a non construction establishment of the second of the seco			
	c. cu.yd dredged	d. cu.yd dredged		
18. Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
10 Tich Dung	•		, inland Bank, Land	'
19. Fish Runs	and/or inland La	and Under Waterbo	dies and Waterway	s, above
		OTTO COLOR		
	a. cu.yd dredged	b. cu.yd dredged	***************************************	
_{20.} Land Subject to	maining processing and the second an		nanović ij	
Coastal Storm Flowage	a. square feet	b. square feet		



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C. General Conditions Under Massachusetts Wetland Protection Ac

(only applicable to approved projects)

- 1. Failure to comply with all conditions stated herein, and with all related statues 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 statues, 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, for the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
- 5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
- 6. 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.
- 7. This Order does not become 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.
- 8. 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 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 this 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.
- 9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection"	' [or, "MA DEP"] File Numbe
"File Number 284-384	И



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- 10. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before DEP.
- 11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
- 12. The work shall conform to the plans and special conditions referenced in this order.
- 13. Any changes to the plans identified in Condition #12 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.
- 14. The Agent or members of the Conservation Commission and 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.
- 15. This Order of Conditions shall apply to any successor 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.
- 16. 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.
- 17. 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.
- 18. All work associated with this Order is required to comply with the Massachusetts Stormwater Policy Standards.

Special Conditions (Use additional paper if necessary)

See Attached

ORDER OF CONDITIONS FOR LAKE SHIRLEY, LUNENBURG/SHIRLEY - AMENDED (#284-384)

The Amendment issued on December 18, 2006, extends the expiration date of this Order to October 30, 2009, unless further extended. All conditions below remain in effect. The starred conditions were amended and/or added as part of the December 18, 2006 amendment.

<u>Original Findings</u>: The applicant would like to initiate drawdown as soon as possible, since the existing dam limits the rate of outflow. The Shirley Conservation Commission in an effort to work with the applicant has issued this Order of Conditions allowing the drawdown; however, the Commission is limiting that approval to one year. The applicant will request an amendment and provide additional information as part of the public hearing process. The Shirley Conservation Commission may allow a deeper drawdown and additional drawdown in subsequent years if enough information is provided to indicate that impacts to wetland resource areas and their interests are mitigated.

The Shirley Conservation Commission finds that the applicant must adhere to the following special conditions regarding this project.

<u>Please review the preceding General Conditions on the DEP form (Conditions 1-17), particularly Condition 1.</u>

- *18. The water level of Lake Shirley shall be drawdown no more than 3 feet during the 2006/2007 season unless this Order is further amended. This condition is amended to allow a 6-foot drawdown during 2006/2007 contingent upon conformance with all other conditions.
 - 19. The Shirley Conservation Commission shall be notified in writing at least 24 hours prior to the start of drawdown.
 - 20. Notification shall also be made in writing once the drawdown is complete and when the refilling of the lake begins and ends.
- *21. Refilling of the lake shall be complete no later than April 1, 2007. In subsequent years, the lake shall be refilled by April 1.
- *22. Drawdown may extend beyond the December 1st guideline in the "Eutrophication and Aquatic Plant Management in Massachusetts Final Generic Environmental Impact Report" (GEIR); however, all other recommended guidelines shall be followed. Drawdown on subsequent seasons may begin no earlier than October 8, although waiting until November 1 is preferred.
- *23.Outflow during refilling shall be kept above a discharge equivalent to 0.5 cubic feet per second per square mile of watershed (7.3 cfs). If refilling is not completed by April 1 of any year, the outflow shall be increased to 14.6 cfs and further increase to 29.2 cfs after April 15. This outflow shall be maintained until the lake is filled.

- *24. Flow rates during fill period shall be monitored two times per week and reported to the Shirley Conservation Commission on a weekly basis. Rates shall be monitored at the preferred Catacunemaug Road bridge or a compelling reason submitted as to why the location is different.
- *25. Two weeks shall be added to the estimated refill start date noted in Table 1A of the memo sent by Daniel Bourdeau, dated December 31, 2006, to compensate for overestimation of base flow. Thus, for a target drawdown of 6 feet, the estimated refill start date shall be March 1, 2007.
- *26. When drawing down lake levels, pipes shall be opened gradually over two days.
- *27. An annual report shall be submitted to the Shirley Conservation Commission by July 1 of each year detailing when the gates started to open, when they were completely opened, when drawdown depth was achieved and what that depth was, when refilling was initiated, when completed, and flow data during refilling. Monthly precipitation records shall also be submitted, as should any fish kills or other wildlife impacts and/or impacts to shallow wells.
- *28. Adjustments shall be made in subsequent years to ensure compliance with all conditions, subsequent to the July report.
- *29. Increasing the depth of drawdown in subsequent years to 7 feet and 8 feet is contingent upon meeting all requirements for the previous year.
- *30. If pumping is proposed, then the applicant must request an additional amendment. Pumping is not allowed at this time.



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1	dy.				
) .	Findir	ngs Under Municipal Wetlands Byl	aw or Ord	inance	
1.	ls a m	unicipal wetlands bylaw or ordinance applicable?	✓ Yes	□ No	
2.	The	Shirley Conservation Commission	hereby finds (check one that applies):		
		Conservation Commission			
3.		at the proposed work cannot be conditioned to mee inance or bylaw specifically	t the standards	set forth in a municipal law,	
	a. M	unicipal Ordinance or Bylaw	b. Citation		
	submit	fore, work on this project may not go forward unless tted which provides measures which are adequate t iions is issued.			
4.		t the following additional conditions are necessary t linance specifically	o comply with a	a municipal law, bylaw or	
	a. M	lunicipal Ordinance or Bylaw	b. Citation		
	conditi conditi	ommission orders that all the work shall be perform ions and with the Notice of Intent referenced above ions modify or differ from the plans, specifications, as of Intent, the conditions shall control.	. To the extent	that the following	
	c. The	e special conditions relating to muncipal law, bylaw	or ordinance a	re as follows:	



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

12/18/06

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

1. Date of Issuance

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

2. Number of Signers

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

Signatures: A CONTROL Notary Acknow	Juntant Surface	Jummu
\ -	of Massachusetts County of	Middlesex
		7
Day	Uf	December 2006 Month Year
before me, the u	ndersigned Notary Public, pe	ersonally appeared
Denise Bra	uckmiller, et al.	
Name of Document Sign proved to me thre Photo I.D.		identification, which was/were
Description of evidence	of identification	
	n whose name is signed on the o me that he/she signed it volu	e preceding or attached document, and untarily for its stated purpose.
As member of	SHIRLEY	Conservation Commission
	City/Town	Signature of Notary Public
		Anne Gagnon
		Printed Name of Notary Public
		June 12, 2009
Place Notary sea	al and/or any stamp above	My Commisson Expires (Date)
This Notification	is issued to the applicant as	follows:
☐ by hand delive	ery on	☑ by certified mail, return receipt requested on December 18, 2006
Date	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	Date



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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 DEP 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 Supersedding 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 Determination, or providing written information to the Department prior to issuance of a Superseding Order or Determination.

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 s. 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 of Environmental Protection has no appellate jurisdiction.

Section G, Recording Information is available on the following page.



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G. Recording Information

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, the Final 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 shall be submitted to the

Shi	rley Conservation Commission							
Cons	ervation Commission							
Deta	ch on the dotted line, have stamped by the Registry	of Deeds and submit to the 0	Conservation Commission					
To	Shirley Conservation Commission	Shirley Conservation Commission						
	Conservation Commission AMENDED	1110 Y 100 P Miles						
	Please be advised that the Order of Conditions	s for the project at						
	Lake Shirley, Lunenbrg/Shirley	284-38	34					
	Project Location	DEP	File Number					
	has been recorded at the Registry of Deeds of							
	Middlesex South Registry of Deeds							
	County	Book	Page					
For:	Town of Lunenburg							
	Property Owner							
	and has been noted in the chain of title of the a							
	Book Pa	age						
	In accordance with the Order of Conditions iss	sued on						
	Date							
	If recorded land the instrument number which	identifies this transaction i	is					
	Instrument Number		CONTRACTOR OF THE CONTRACTOR O					
	If registered land the document number which	identifies this transaction	is					
	Document Number							
	Signature of Applicant							