



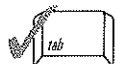
Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**WPA Form 5 – Order of Conditions**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:  
81-1170  
MassDEP File #  
eDEP Transaction #  
Weymouth  
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: Town of Weymouth  
Conservation Commission

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

3. To: Applicant:

Terrance

a. First Name

Doyle

b. Last Name

Algonquin Gas Transmission, LLC

c. Organization

890 Winter St., Suite 300

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

Calpine Fore River Energy Center, LLC

c. Organization

717 Texas Avenue, Suite 1000

d. Mailing Address

Houston

e. City/Town

TX

f. State

77002

g. Zip Code

5. Project Location:

6 Bridge St. & 9 Bridge St.

a. Street Address

Weymouth

b. City/Town

Map 6, Block 63, Lot 1 (6 Bridge St.)

c. Assessors Map/Plat Number

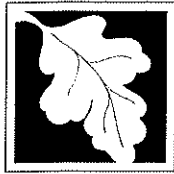
Map 6, Block 64, Lot 1 (9 Bridge St.)

d. Parcel/Lot Number

Latitude and Longitude, if known:

d. Latitude

e. Longitude



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**WPA Form 5 – Order of Conditions**  
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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

#189837 (9 Bridge St.)

b. Certificate Number (if registered land)

Bk 32681, Pg 478 (6 Bridge St.)

c. Book

d. Page

7. Dates:
- |                                |                               |                     |
|--------------------------------|-------------------------------|---------------------|
| 02/22/2015                     | 05/25/2016                    | 06/15/2016          |
| 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):

See attached list of submitted plans and documents

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 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. <input type="checkbox"/> Public Water Supply           | b. <input checked="" type="checkbox"/> Land Containing Shellfish | c. <input checked="" type="checkbox"/> Prevention of Pollution        |
| d. <input type="checkbox"/> Private Water Supply          | e. <input checked="" type="checkbox"/> Fisheries                 | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input checked="" type="checkbox"/> Groundwater Supply | h. <input checked="" type="checkbox"/> Storm Damage Prevention   | i. <input checked="" type="checkbox"/> Flood Control                  |

2. 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.

**ATTACHMENT TO ORDER OF CONDITIONS  
DEP FILE #81-1170  
ALGONQUIN GAS TRANSMISSION, LLC  
6 BRIDGE ST, WEYMOUTH, MA**

**List of Documents Submitted by Applicant during Notice of Intent Process**

1. Response to Weymouth Conservation Commission Staff Memorandum and Public Comment Letters. From Mike Tyrell, Environmental Lead, Algonquin Gas Transmission, LLC to Mary Ellen Schloss, Weymouth Conservation Administrator. Dated May 25, 2016.
  - a. Attachment I. Response to Public Comments on Notice of Intent Application. Atlantic Bridge Project, Weymouth Compressor Station, MassDEP File #81-1170. May 25, 2016.
2. Revised Plan Set. Atlantic Bridge Project, Weymouth Compressor Station, Algonquin Gas Transmission, LLC, Norfolk County, Massachusetts, 2016. Spectra Energy Partners, Algonquin Gas Transmission, LLC. Signed and Stamped by Mark A. Costa, PE, 5/06/2016 unless otherwise noted below.
  - a. Legend & General Notes, DWG WEYM-A-3001.
  - b. Overall Site Plan, DWG WEYM-A-3002. Scale: 1" = 60'.
  - c. Site Layout & Gas Utility Plan, DWG WEYM-A-3003. Scale: 1" = 30'.
  - d. Site Layout & Gas Utility Plan, DWG WEYM-A-3004. Scale: 1" = 30'.
  - e. Grading, Drainage, Erosion Control, and Utility Plan, DWG WEYM-A-3005. Scale: 1" = 30'.
  - f. Grading, Drainage, Erosion Control, and Utility Plan, DWG WEYM-A-3006. Scale: 1" = 30'.
  - g. Planting Plan, DWG WEYM-A-3007. Signed and stamped by Joan Eckstrom Garbier, RLA, 2/19/2016. Scale: 1" = 30'.
  - h. Details, DWG WEYM-A-3008.
  - i. Details, DWG WEYM-A-3009.
  - j. Details, DWG WEYM-A-3010.h
  - k. Existing Condition, DWG BB-A-2000. Signed and stamped by Shelby L. Turner, III, PLS, 5/5/2016.
3. Response to Weymouth Conservation Commission's April 13, 2016 Request for Information. Dated May 10, 2016.
  - a. Cover Letter from Mike Tyrell, Algonquin Gas Transmission, LLC to Mary Ellen Schloss, Conservation Administrator. Dated May 10, 2016.
  - b. Attachment 1. Response to the April 13, 2016 Weymouth Conservation Commission Request for Information (MassDEP File #81-1170), Atlantic Bridge Project. May 10, 2016.
    - i. Attachment A, Soil Sample Lab Results
    - ii. Attachment B, Draft Soil and Groundwater Management Plan, Weymouth Compressor Station, Atlantic Bridge Project, Weymouth, MA. Prepared by TRC Environmental Corporation for Spectra Energy Partners, Algonquin Gas Transmission, LLC. May 2016.
    - iii. Attachment C. Atlantic Bridge Project, Environmental Assessment. Federal Energy Regulatory Commission, Office of Energy Projects, May 2016. (Docket #CP16-9-000). Provided on CD.
  - c. Attachment 2. Revised Stormwater Report. Atlantic Bridge Project, Weymouth Compressor Station, Weymouth, MA. Prepared by Vanasse Hangen Brustlin, Inc.

Includes Appendices A-F (computations and supporting documentation). Revision Date April 19, 2016.

4. PowerPoint Slides from Presentation to Weymouth Conservation Commission, April 6, 2016.
5. Notice of Intent Filed under the Massachusetts Wetlands Protection Act and the Town of Weymouth Wetlands Protection Ordinance. Prepared for Spectra Energy Partners and Algonquin Gas Transmission, LLC by TRC Environmental. Dated February 2016. Includes:
  - a. NOI Form
  - b. Attachment A - Project Narrative
  - c. Attachment B – Figures
  - d. Attachment C – NOI Permit Plans
    - i. Aerial Site Plan, DWG WEYM-G-1022. 1" = 60'.
    - ii. Plans DWG WEYM-A-3001 through 3010 (dated 2/18/2016; signed and stamped 2/19/2016). With the exception of WEYM-A-3007, these plans were revised in May, 2016. Plan titles are listed in full under "Revised Plan Set" (item 2) above.
    - iii. Existing Conditions Plan, DWG BB-A-2000. Signed and stamped by Russell J. Bousquet, PLS, 2/18/2016.
  - e. Attachment D – FERC Filings (in CD format)
    - i. Abbreviated Application for Certificates of Public Convenience and Necessity and for Related Authorizations, Atlantic Bridge Project, October 2015
      1. Volume I – Application
      2. Volume II-A – Resource Reports 1 through 12
        - a. Resource Report 1, General Project Description
        - b. Resource Report 2, Water Use and Quality
        - c. Resource Report 3, Fish, Wildlife and Vegetation
        - d. Resource Report 4, Cultural Resources
        - e. Resource Report 5, Socioeconomics
        - f. Resource Report 6, Geological Resources
        - g. Resource Report 7, Soils
        - h. Resource Report 8, Land Use, Recreation and Aesthetics
        - i. Resource Report 9, Air and Noise Quality
        - j. Resource Report 10, Alternatives
        - k. Resource Report 11, Reliability and Safety
        - l. Resource Report 12, PCB Contamination
      3. Volume II-B – Oversized Drawings
    - ii. Response to FERC's January 21, 2016 Environmental Data Request
    - iii. MassDEP Chapter 91 Application
  - f. Attachment E
    - i. Erosion and Sedimentation Control Plan, Atlantic Bridge Project, Prepared by Environmental Construction Permitting, for Algonquin Gas Transmission, LLC, Rev. June 6, 2014.
    - ii. Spill Prevention Control and Countermeasure (SPCC) Plan and Preparedness, Prevention, and Contingency (PPC) Plan for Construction Projects, Prepared by Spectra Energy Partners, LP, Environmental Construction Permitting, Rev. July 2015.
  - g. Attachment F – Existing Conditions and Visual Simulations

- h. Attachment G – Agency Correspondence
- i. Attachment H – Stormwater Management Report. Atlantic Bridge Project, Weymouth Compressor Station, Weymouth, MA. Prepared by Vanasse Hangen Brustlin, Inc. Includes Appendices A-F (computations and supporting documentation). Dated February 18, 2016.

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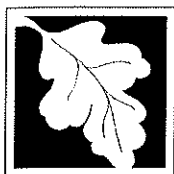
List of Written Comment Letters Submitted by the Public during Notice of Intent Public Hearing Process

The Weymouth Conservation Commission received written comment letters from 25 individuals during the public comment period, as summarized below.

| #                              | TO<br>CMRS. | REC'D<br>DATE | NAME                 | ADDRESS/ORGANIZATION        |  |
|--------------------------------|-------------|---------------|----------------------|-----------------------------|--|
| <i>* STANDARDIZED LETTER *</i> |             |               |                      |                             |  |
| 1                              | a           | 3/28/16       | ANGEL MONTANEZ JR.   | 22 BREWSTER RD              |  |
| 2                              |             | 4/5/16        | MARY L. DOREY        | 46 BEACH RD                 |  |
| 3                              |             | 4/5/16        | RICHARD DOREY        | 46 BEACH RD                 |  |
| 4                              |             | 4/6/16        | CHRISTA DUNN         | 56 HOLBROOK RD              |  |
| 5                              |             | 4/6/16        | DENNIS DUNN          | 56 HOLBROOK RD              |  |
| 6                              |             | 4/8/16        | GEOFF POTTER         | NO. WEYMOUTH CIVIC ASSOC.   |  |
|                                |             | 4/8/16        | GEOFFREY POTTER      | 51 BROAD REACH-M55          |  |
| 7                              |             | 4/8/16        | REGINA M. POTTER     | 51 BROAD REACH-M55          |  |
| <i>* OTHER *</i>               |             |               |                      |                             |  |
| 1                              | b           | 3/28/16       | ANGEL MONTANEZ JR.   | 22 BREWSTER RD              | LETTER   |
| 8                              |             | 4/5/16        | MICHAEL J. LANG      | E. BRAINTREE CIVIC ASSOC.   | LETTER, PICTURES, PLAN, SPECTRA DOCS, ENV'L<br>SECRETARY 2001 HUBLINE REPORT |
| 9                              |             | 4/5/16        | PATRICK O'CONNOR     | TOWN COUNCIL, PRESIDENT     | LETTER   |
| 10                             |             | 4/6/16        | REBECCA HAUGH        | DISTRICT 1 COUNCILOR        | LETTER   |
| 11                             |             | 4/6/16        | SANDRA PETERS        | NO. WEYMOUTH RESIDENT       | PICTORAL   |
| 12                             |             | 4/6/16        | JAMES MURPHY         | WEYMOUTH/HINGHAM STATE REP. | TESTIMONY & COPY OF TRANSCRIPT   |
| 13                             | 5/18        | 4/6/16        | CHET CLEM            | 73 DAVIDS ISLAND RD         | EMAIL  |
| 14                             |             | 4/7/16        | JANE HACKETT         | COUNCILOR-AT-LARGE          | LETTER   |
| 16                             |             | 4/13/16       | LINDA D'ANGELO       | BACK RIVER WATERSHED ASSOC. | LETTER   |
| 17                             |             | 4/19/16       | SUSAN GREENE         | 26 HOLBROOK RD              | LETTER   |
| 18                             |             | 4/20/16       | TOWN COUNCIL         | TO DPW WATERWAYS PROGRAM    | LETTER   |
| 19                             |             | 4/28/16       | KERRY KOELSCH        | NO. WEYMOUTH RESIDENT       | EMAIL  |
| 20                             |             | 5/4/16        | CYNTHIA LYDON        | CynthiaLydon@yahoo.com      | LETTER   |
| 21                             | a           | Web           | Dr. CURTIS NORDGAARD | DORCHESTER PEDIATRICIAN     | ATLANTIC BRIDGE EA SOIL CONTAMINANT COMMENTS                                 |
| 21                             | b           | Web           | Dr. CURTIS NORDGAARD | DORCHESTER PEDIATRICIAN     | ATLANTIC BRIDGE RADIOACTIVE HAZARD COMMENTS                                  |
| 21                             | c           | Web           | Dr. CURTIS NORDGAARD | DORCHESTER PEDIATRICIAN     | CONSERVATION COMMISSION COMMENTS   |

Attachment to Order of Conditions, DEP File #81-1170  
Page 5 of 5

|          |   |        |         |                           |                         |  |
|----------|---|--------|---------|---------------------------|-------------------------|--|
| 21       | d | Web    | 5/25/16 | Dr. CURTIS NORDGAARD      | DORCHESTER PEDIATRICIAN | LEACHING ELEMENTS  |
| 21       | e | Web    | 5/25/16 | Dr. CURTIS NORDGAARD      | DORCHESTER PEDIATRICIAN | LIPID PEROXIDATION                                       |
| 21       | f | Web    | 5/25/16 | Dr. CURTIS NORDGAARD      | DORCHESTER PEDIATRICIAN | RADIATION COMMENTS                                       |
| 21       | g | Web    | 5/25/16 | Dr. CURTIS NORDGAARD      | DORCHESTER PEDIATRICIAN | RAPID ANALYSIS of PAHs                                   |
| 21       | h | Web    | 5/25/16 | Dr. CURTIS NORDGAARD      | DORCHESTER PEDIATRICIAN | ARSENIC TOXICITY IN MALE REPRODUCTION                    |
| 21       | i | Web    | 5/25/16 | Dr. CURTIS NORDGAARD      | DORCHESTER PEDIATRICIAN | IRIS ARSENIC ASSESSMENT                                  |
| 22       |   | at Mtg | 5/25/16 | REV. BETSY SOWERS         | 48 SANDTRAP CIRCLE      | LETTER   |
| 23       |   | at Mtg | 5/25/16 | ALICE ARENA               | 6 BLUEBERRY ST.         | LETTER   |
| 15       | b | at Mtg | 5/25/16 | MARGARET BELLAFIORE       | 49 CALDWELL ST.         | LETTER   |
| 15       | c | at Mtg | 5/25/16 | MARGARET BELLAFIORE       | 49 CALDWELL ST.         | COPY OF DR. NORDGAARD's FERC LETTER                      |
| 24       |   | at Mtg | 5/25/16 | JULIE BERBERAN            | 14 RIVERVIEW ST QUINCY  | LETTER   |
| 25       | a | 5/25   | 5/25/16 | MAYOR HEDLUND             | TOWN OF WEYMOUTH        | LETTER   |
| 25       | b | Web    | 5/25/16 | LTR to CONCOMM (exhibits) | MULTIPLE                | pdf  |
| 25       | c | Web    | 5/25/16 | NO COMPRESSOR EMAILS      | MULTIPLE                | pdf  |
| <hr/>    |   |        |         |                           |                         |  |
| * MISC * |   |        |         |                           |                         |  |
| 15       |   | v      | 4/11/16 | MARGARET BELLAFIORE       | 49 CALDWELL ST.         | HAS HEALTH CONCERNS; SENT WCC COPY OF HEALTH DEPT. EMAIL |



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:

81-1170

MassDEP File #

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City/Town

**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 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<br>e. c/y dredged | b. square feet<br>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        |



## **FINDINGS**

These findings are issued under the Conservation Commission's jurisdiction under both the Massachusetts Wetlands Protection Act (MGL. c. 131, sec. 40) and the Weymouth Wetlands Protection Ordinance (Chapter 7, Sec. 301 of the Weymouth Code of Ordinances).

### **Timeline**

- The Notice of Intent was filed with the Weymouth Conservation Commission on February 22, 2016. The Conservation Commission notified the applicant on February 29<sup>th</sup> that the required property owner signature was not provided and that the hearing would not be scheduled until a signature from an authorized signatory for the landowner was obtained. Authorized property owner signature was provided on March 1, 2016 and with agreement of the applicant, the hearing was scheduled for April 6, 2016.
- The public hearing was opened on April 6, 2016 and was continued to May 25, 2016. The public hearing was closed on May 25, 2016.
- The Conservation Commission provided comments to the applicant in a memo dated April 13<sup>th</sup>, 2016. The Applicant responded with a supplemental submission dated May 11, 2016.
- Conservation Commission staff provided a follow-up comment letter on May 19<sup>th</sup>, and the applicant provided a response memo dated May 25, 2016 which was provided by email to the Commission at few hours before the final public hearing. Paper copies were distributed at the hearing.
- Both days of the public hearing were attended by over 50 members of the public. Written comments were received from 25 individuals.

### **Resource Areas and Buffer Zones on the Project Site**

The subject parcel lies on a triangular-shaped peninsula surrounded on the north and west by the Weymouth Fore River and on the east by King's Cove. Surrounding waters are considered part of the Weymouth Fore River Estuary.<sup>1</sup> The following resource areas and buffer zones regulated by both the Massachusetts Wetlands Protection Act and the Weymouth Wetlands Protection Ordinance are impacted by the project.

#### **Riverfront Area**

- Riverfront Area for the Weymouth Fore River is located on the northwestern portion of the site. The Fore River is a migratory corridor for river herring (*Alosa pseudoharengus*

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<sup>1</sup> Massachusetts Coastal Zone Management Plan, Volume II of 2, Chapter 5: Massachusetts Coastal Regions and an Atlas of Resources. Plate 18. June, 1977.

and *Alosa aestivalis*) and rainbow smelt (*Osmerus mordax*), all of which are listed as Species of Concern by the NOAA National Marine Fisheries Service. The Division of Marine Fisheries (Technical Report TR-47), also designates the Fore River as providing spawning or migratory habitat for American eel, white perch, atlantic tomcod, winter flounder and shellfish.

- The proposed project would impose temporary and permanent impacts on 21,775 sq. ft. of Riverfront Area. Permanent impacts include approximately 190 linear feet of buried gas pipeline within Riverfront Area. (Note that the table provided by the applicant showing the area of resource areas impacted omits permanent impacts outside the fence of the compressor station.)
- The applicant has asserted that all work within Riverfront is exempt from the Riverfront Area performance standards at 310 CMR 10.58 because the work lies within former filled tidelands that are subject to Chapter 91 jurisdiction (pursuant to the exemption at 310 CMR 10.58(6)(i) for structures and activities subject to a M.G.L c. 91 license, permit or authorization).
- According to the figure presented in the applicant's Chapter 91 application to the MassDEP (contained within Attachment D of the February 2016 NOI submittal), much, but not all, of the work within Riverfront Area is located within former filled tidelands and thus is subject to Chapter 91 jurisdiction. The applicant has not demonstrated that all work within Riverfront Area is within Chapter 91 jurisdiction. Therefore, the applicant has not met its burden of proof that the project will comply with the performance standards for Riverfront Area.

#### Land Subject to Coastal Storm Flowage

- The applicant delineated Land Subject to Coastal Storm Flowage (LSCSF) by comparing the land elevations relative to the FEMA Flood Insurance Rate Map (FIRM) mapped AE zone elevation. As discussed further below, this delineation does not take into account the surge of record or storm of record, and so LSCSF was likely underestimated.

#### Buffer Zone to Coastal Bank

- Buffer Zone to Coastal Bank falls within the eastern and western portions of the site.
- The Coastal Bank to the east of the proposed work is armored with rip-rap. The limit of work extends to just over fifty feet from the top of the Coastal Bank. The proposed project would permanently impact 22,675 sq. ft. of the 100-foot buffer zone to the eastern Coastal Bank for the roadway/perimeter driveway, stormwater infrastructure (catch basin, drain line), fencing, landscaping, and a portion of the crushed stone pad for the fuel gas heater. The applicant did not delineate the bottom of the coastal bank (below which lie a coastal beach and the King's Cove tidal flat).

- The coastal bank to the west of the proposed work is comprised of a vertical sea wall that retains the Weymouth Fore River channel. During construction, the proposed project would temporarily impact 41,075 sq. ft. of the 100-foot buffer zone to the western coastal bank.

#### Buffer Zone to Coastal Beach

- The NOI plans do not adequately delineate coastal wetland resource areas on the eastern side of the project site. Drawing WEYM-A-3005 (Grading, Drainage, Erosion Control and Utility Plan) does not show elevations or wetland resource areas beyond the top of the coastal bank, which is located just over 50 feet from the limit of grading. The plan does not show the bottom of the coastal bank, so it is not clear whether the transition from Coastal Beach to Coastal Bank lies within 100 feet of the proposed limit of work.
- The aerial site plan (DWG WEYM-G-1022) submitted with the original NOI application in February 2016, shows submerged land within 100 feet of the limit of work. Based on the narrow profile of the coastal bank as witnessed at the site visit with the Commission on April 4<sup>th</sup>, 2016, a portion of these submerged lands may be Coastal Beach.

#### Adjacent Resource Areas

The following resource areas are adjacent to the project site:

- Banks of or Land Under the Ocean, Ponds, Streams, Rivers, Lakes or Creeks that Underlie an Anadromous Fish Run (310 CMR 10.35). The Weymouth Fore River has been identified by the Division of Marine Fisheries and Coastal Zone Management Program as an anadromous fish run. Temporary construction-related activities are located within 70 feet of the bank of this resource area; permanent activities (three new gas lines) are located between 110 and 190 feet of this resource area.
- Land Under Water Bodies and Waterways
- Land Containing Shellfish: The King's Cove tidal flat is located below the coastal bank on the eastern side of the site. It is designated by the Division of Marine Fisheries as Shellfish Growing Area GBH 1.20 and mapped as a Shellfish Suitability Area for soft-shell clams, razor clams and blue mussels.

#### Interests of the Massachusetts Wetlands Protection Act and the Weymouth Wetlands Protection Ordinance

- Based on the Notice of Intent and additional information received during the hearing, the Weymouth Conservation Commission finds that the resource areas impacted by the proposed project are significant to the following interests protected by the Massachusetts Wetlands Protection Act and the Weymouth Wetlands Protection Ordinance:

- Protection of Groundwater Supply
  - Flood Control
  - Storm Damage Prevention
  - Prevention of Pollution
  - Protection of Land Containing Shellfish
  - Protection of Fisheries
  - Protection of Wildlife Habitat
- The Weymouth Conservation Commission finds that the resource areas impacted by the proposed project are also significant to the following additional interests protected by the Weymouth Wetlands Protection Ordinance:
  - Recreation
  - Aesthetics
  - Water Quality
  - Water Pollution Control
  - Erosion and Sedimentation Control

### **Issues Raised During the Hearing**

Some of the major issues raised at the hearing include, but are not limited to, the following:

#### **Migration of Historic Hazardous Materials Contamination**

Many comments raised throughout the public hearing relative to concerns about the migration of historic contamination on the site include:

- Historic waste site: The site was historically used to dump refuse from coal burning, including coal ash, coal slag, coal and “clinkers.” Coal ash and coal-related refuse was used to fill the site, which includes the filling of historic tidelands subject to Chapter 91 jurisdiction. Coal ash and related material is mixed with fill (which includes dredge spoils, concrete and other materials) and is widespread throughout the top 25 feet or so of site soils. Arsenic is known to be present at levels above reportable concentrations and Massachusetts Contingency Plan (MCP) soil standards. As reported by the applicant in their May 10, 2016 response to comments (at p. 2), the 1997 RAO Report for the property prepared as part of the MCP process cited arsenic concentrations in the fill material from 41.9 to 278 mg/kg from 0 to 22 feet below grade. Soil samples taken by the applicant in June 2015, for which data was presented in Attachment A of the May 10 response to comments, found arsenic in the top foot of soil exceed the Massachusetts Department of Environmental Protection risk-based threshold (20 mg/kg) in 12 of 13 samples.

- Notwithstanding the regulatory exemptions in the MCP for historic coal ash, the levels of arsenic in on-site soils can pose a threat to human health and the environment if allowed to migrate into the air or water.
- The site was also historically used for above-ground fuel storage, including tanks of 11.2 million gallons and 6,000 gallons. The applicant reports that low levels of polycyclic aromatic hydrocarbons (PAHs), below reportable concentrations, are widespread throughout the site.
- Many concerns were raised during the public hearing process about potential migration of contaminants during construction and post-construction. The Commission raised concerns about infiltration of stormwater through coal ash and other historic contaminants. The applicant provided a draft Soil and Groundwater Management Plan providing proposed procedures for managing soil and groundwater during construction.

#### Impacts to Water Quality, Fisheries and Shellfish

The Conservation Commission and members of the public raised concerns about impacts to water quality, adjacent fish runs, tidal flats and estuaries, given the project location on a peninsula surrounded by sensitive environmental resource areas.

Commissioners raised concerns about potential impacts to fisheries from increased noise and vibrations.

The Conservation Commission raised concerns about the wet deposition of contaminants from the compressor operation and potential impacts on water quality and fisheries. The Commission requested that the applicant conduct a detailed assessment to identify potential adverse impacts from wet deposition.

- Wet deposition of airborne contaminants is a concern for the Conservation Commission. Existing impacts to wetland resource areas from existing nitrogen emissions in the Fore River Basin has been cited by the National Park Service as adversely affecting wetland resource areas on the Boston Harbor Islands<sup>2</sup>.
- The Commission requested that the applicant model scenarios under which compounds potentially harmful to aquatic life could be dissolved in water (i.e., worst-case plant/pipeline conditions combined with worst-case weather conditions). The applicant modeled a 3-minute blowdown of the compressor station (no blowdown of pipeline gas was included), with worst-case meteorological conditions, and predicted that

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<sup>2</sup> "Restoration of near shore freshwater wetlands and buffer zones on Grape and Thompson Islands through control of invasive non-native plants stimulated by excessive deposition of nitrogen and revegetation with native plant species," Marc Albert, Stewardship Program Director, Boston Harbor Islands National Recreation Area. Submitted as part of Notice of Intent to Weymouth Conservation Commission, DEP File #81-1172.

concentrations of BTEX compounds (benzene, toluene, ethylbenzene, xylene) within the Fore River would be well below levels that would adversely impact aquatic life. The applicant's May 10, 2016 response to comments stated that, because of the physical characteristics of BTEX compounds, the compounds "would tend to be present at the water surface after wet deposition occurs." At the public hearing, the Commission raised concerns that migrating river herring and smelt congregate in the upper six inches of the water column.

- As acknowledged by the applicant, this seemingly worst-case scenario does not include a pipeline blowdown. The additional impact from the proposed Access Northeast Project (which would more than double the size of the compressor station) was estimated to increase the wet deposition of BTEX compounds by 21 percent, but it was acknowledged that this was a rough estimate. The analysis does not take into consideration the impacts from existing pollution sources in the heavily industrialized basin and leaves unanswered the question of how the proposed facility will cumulatively impact water quality and fisheries.
- The Weymouth Wetlands Protection Regulations specify (at Section 2.02(6)) that projects that affect Land Under the Ocean shall cause no adverse effects on wildlife, marine fisheries or shellfish caused by changes in water quality, including the addition of pollutants. There is a similar provision (at Section 2.07(3)) for Land Containing Shellfish. The Regulations also include (in Section 2.01) a performance standard applying to all coastal wetlands that states: "When the Conservation Commission determines that a project in one resource area would adversely affect another resource area, the Conservation Commission shall impose such conditions as will protect the interest to which each resource are significant to the same degree as required in the regulations concerning each resource area." The cumulative effects of the proposed project as well as existing and foreseeable future emissions sources fail to meet this performance standard.

#### Impacts to Land Subject to Coastal Storm Flowage

- Subject land is located on a peninsula (filled tidelands), portions of which are located within Land Subject to Coastal Storm Flowage (LSCSF). Portions of the parcel are located within a FEMA AE zone, and the parcel is essentially surrounded by VE zones.
- The applicant defined LSCSF as only that area located within the elevations shown on the FEMA FIRM maps as being within the 100-year flood zone elevation. However, 310 CMR 10.04 defines LSCSF as "land subject to any inundation caused by coastal storms up to and including that caused by the 100-year storm, surge of record or storm of record, whichever is greater."
- The entire subject peninsula is deemed to be located within a Hurricane Surge Inundation Zone, according to a GIS analysis prepared by Town of Weymouth staff and submitted

by Mayor Hedlund<sup>3</sup>.

- The public raised concerns that the site could be isolated during a hurricane or other severe weather event. This could complicate response to a disaster scenario which could potentially increase damage to protected resource areas.
- Several commenters expressed concern about potential impacts to resource areas due to damage from coastal storms. As noted in the comment letter submitted by Mayor Hedlund, the applicant did not provide any information on the surge of record or storm of record, and as such the application likely underestimates the actual area at risk from flooding in a future major hurricane or significant storm surge.

The applicant did propose to raise the elevation of the land area containing the compressor station by five feet to accommodate sea-level rise scenarios, but without the information on coastal storms, hurricanes and storm surge, it is unknown whether this is adequate to protect the facility, and protected resource areas, from such storm events.

### Recreation and Aesthetic Impacts

#### Recreation

The Weymouth Wetlands Protection Ordinance (WPO) protects the additional interests of recreation and aesthetics, which are not protected under the Massachusetts Wetlands Protection Act. The Commission heard concerns from commenters and raised many issues regarding impacts to recreation and aesthetics.

Of major concern to the Conservation Commission and the public is the impact of the proposed project on public open space land. To the east, the adjacent Kings Cove recreation area lies within 120 feet of the proposed compressor station building and gas piping, and directly abuts the proposed permanent fence line and construction work area. To the south, the Lovell's Grove recreation area lies within 195 feet of proposed gas piping and within 65 feet from the proposed construction work area.

The Kings Cove and Lovell's Grove recreation areas are protected by a Conservation Restriction (CR) as defined and authorized by Sections 31-33 of Chapter 184 of the Massachusetts General Laws. The CR was granted by the landowner (Fore River Development, LLC) to the Town of Weymouth, acting by and through the Weymouth Conservation Commission. The CR was granted as a condition of the permitting for the electric generating facility (now owned by Calpine Fore River Energy Center, LLC). The CR document was signed by the Massachusetts

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<sup>3</sup> The Hurricane Surge Inundation Zones are from a data layer provided by MassGIS. The layer was created by the U.S. Army Corps of Engineers, New England District, from hurricane surge values developed by NOAA's National Hurricane Center. See <http://www.mass.gov/anf/research-and-tech/it-serv-and-support/application-serv/office-of-geographic-information-massgis/datalayers/hurr-inun.html>.

Secretary of Energy and Environmental Affairs and recorded in Norfolk County Land Court on March 17, 2009 (Document 1,170,390).

The CR protects the area for its “unusual, unique and outstanding scenic and environmental qualities, including scenic views of the Fore River and opportunities for passive recreation.” The CR grants the public permanent rights to access the pedestrian walkway adjacent to the proposed compressor station, and it is heavily used for this purpose.

Potential impacts to the recreational values of the CR area from the proposed project include:

- Noise. Based on the information provided by the applicant, the project would use a silencer to reduce peak noise from compressor station blowdowns (conducted as part of facility maintenance) to levels of 55 – 65 decibels at a distance of 300 feet from the blowdown stack. The pedestrian walkway is well within 300 feet of the blowdown stack and noise will adversely affect recreation values.
- Odor. The mercaptans added to natural gas create a very unpleasant odor which will linger in the air under certain weather conditions and adversely affect public enjoyment of recreation values.
- Safety. These are discussed in more detail below. The Town encourages public use of the CR area, which is under the jurisdiction of the Conservation Commission. The Commission is deeply concerned about inviting the public to recreate in this area at such a close distance to a potential high impact hazard.

The WPO (section 7-301(j)) places the burden on the applicant to prove “by a preponderance of the credible evidence that the work proposed ... will not have unacceptable significant or cumulative effect upon the resource area values protected by this ordinance. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.” The applicant did not sufficiently demonstrate that proposed measures to mitigate impacts to recreation values would reduce these impacts to acceptable levels.

#### Aesthetics

The WPO protects the added interest of aesthetics, which is defined as the “natural scenery and appearance of any area visually accessible to the public.” Portions of the buffer zone to coastal bank will be converted from a meadow to a paved site access driveway and stone pad for housing gas pipeline infrastructure. The applicant has proposed vegetative screening to mitigate visual impacts but the screening itself will block the now sweeping vista across the meadow to the Fore River on the other side of the peninsula.

The WPO (section 7-301(j)) places the burden on the applicant to prove “by a preponderance of the credible evidence that the work proposed ... will not have unacceptable significant or



cumulative effect upon the resource area values protected by this ordinance. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.” The applicant did not sufficiently demonstrate that proposed measures to mitigate impacts to aesthetic values would reduce these impacts to acceptable levels.

#### Cumulative Impacts

- The Fore River Basin is a heavily industrialized basin. Existing heavy industry includes the Calpine Energy power plant, the Braintree Electric Light Department’s power plant, the Twin River Technologies chemical plant, the Citgo gas and oil depot, the Clean Harbors hazardous waste facility, the MWRA sewage pelletizing plant and the MWRA pump station. The proposed activity adds additional industrial pollution (gas-fired turbine emissions and natural gas emissions) to what is already a heavily industrialized area.
- The Weymouth Wetlands Protection Ordinance (WPO) (section 70301(k) states, “The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation and replication of protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities. ... The Commission is empowered to deny a permit ... for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this ordinance.” This consideration of cumulative effects goes beyond the requirements of the Massachusetts Wetlands Protection Act and 310 CMR 10.00.
- The Commission raised concerns about the added impacts of the Access Northeast (ANE) Project, for which the applicant has initiated the pre-filing review process for a Certificate of Public Convenience and Necessity from the Federal Energy Regulatory Commission. The proposed ANE project would more than double the facility’s natural gas compression capabilities. The applicant acknowledges that the impacts will increase with ANE but these impacts have not been fully analyzed.
- The WPO (section 7-301(j)) places the burden on the applicant to prove “by a preponderance of the credible evidence that the work proposed ... will not have unacceptable significant or cumulative effect upon the resource area values protected by this ordinance. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.” The applicant did not sufficiently demonstrate that the project will not have unacceptable cumulative effect upon resource area values.

#### Impacts to Conservation Interests from Safety and Explosion Risks

- The Conservation Commission and the public raised concerns about the impact that an explosion at the site would have on adjacent wetland resource areas. In its response to

public comments, the applicant states that “[G]iven the upland location of the compressor station, impacts to the nearby Fore River from a fire or explosion are not anticipated.”

The Conservation Commission strongly disagrees. The proposed site is located on contaminated former filled tidelands, and portions of the project area are located within Riverfront and buffer zone to Coastal Bank. The Commission finds that an explosion could affect all of the relevant interests of the Massachusetts Wetlands Protection Act and Weymouth Wetlands Protection Ordinance cited earlier.

- Reports of recent explosions at natural gas compressor stations and pipelines show that these events can and do affect areas well beyond the point of explosion. With sensitive wetland resource areas located within 100 feet of the facility, it is reasonable to conclude that these resource areas would be severely affected by an explosion.
- Public commenters provided information on recent explosions at natural gas compressor stations and natural gas pipelines in the U.S. Evidence was provided of explosions at such facilities at least once per year since 2012. The Commission concluded that explosions at these facilities occur with enough frequency that they should not be disregarded as a factor in the consideration of potential project impacts.
- Most recently, an explosion occurred on April 29, 2016 at a pipeline owned by Spectra Energy, the parent company of Algonquin Gas Transmission, LLC. As reported by StateImpact Pennsylvania on May 4, 2016, the explosion created a 12-foot deep, 1500 square foot hole and scorched 40 acres. With coastal resources located within 100 feet of the proposed facility, an explosion of this magnitude would have a devastating impact on wetland resource area interests and values.
- The Commission queried the applicant about facility monitoring and emergency response times. The proposed compressor station will not be staffed full time. The applicant is proposing to conduct off-site monitoring of gas levels and will have the capability to shut the facility down remotely if certain thresholds are triggered. When queried about response times for on-the-ground personnel, the applicant presumed that off-site personnel would be able to reach the facility within 30 minutes of the emergency event. This presumption may not be realistic during heavy traffic, severe weather or other contingencies. During this time, severe damage to the resource areas could occur both due to the initial explosion impacts and potential increased impacts due to extended response times needed to get to the facility.
- If an explosion were to occur at this facility, it is likely that it would directly and adversely affect water quality in the Fore River, along with fisheries and shellfish habitat. Due to the historic widespread contamination at this facility, an explosion would likely release arsenic and petroleum hydrocarbons and other contaminants into the surrounding waters. An explosion could also directly and adversely affect the stability of the coastal banks, thus leading to erosion of the contaminated fill soils into adjacent waterways, fish

runs and tidal flats.

- If an explosion were to occur at this facility, it is likely that it would directly and catastrophically affect the adjacent actively-used public open space recreation area.
- As discussed above under Land Subject to Coastal Storm Flowage, the peninsula is subject to inundation during hurricanes and the peninsula could be isolated during a severe weather event, thus seriously complicating efforts to respond to a facility emergency potentially resulting in severe negative impacts to protected resource interests.
- Impacts of an explosion could directly and adversely affect the stability of the coastal bank. The risk of explosion violates the Coastal Bank performance standard at 310 CMR 10.30(6), "Any project on such a coastal bank or within 100 feet landward of the top of such coastal bank shall have no adverse effects on the stability of the coastal bank."
- The applicant has not met the burden of proof as required under 310 CMR 10.03(1)(a)(3) to demonstrate that "the proposed work within the buffer zone will contribute to the protection of the interests identified in M.G.L. c. 131, sec. 40."

### **Decision - Findings under the Massachusetts Wetlands Protection Act (WPA) and the Weymouth Wetlands Protection Ordinance (WPO)**

The Conservation Commission concludes that some of the potential impacts of the project could be conditioned in order to prevent unacceptable impacts to resource areas. Specifically, the Commission concludes that the project could likely be conditioned to control and sufficiently mitigate some impacts, such as those from increased stormwater runoff, or construction impacts in areas contaminated by hazardous materials.

However, the Conservation Commission concludes that the following aspects of the project cannot be conditioned to adequately protect the resource areas and interests protected both under the WPA and the WPO:

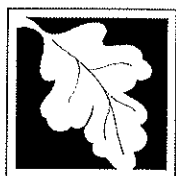
- An explosion at the facility is likely to adversely impact all of the relevant resource areas and interests protected under both the WPA and the WPO. Information about explosions at other pipelines and compressor stations demonstrates the large area of impact of these explosions. The proposed facility would be unstaffed and remotely monitored, increasing the risk of unsafe conditions going undetected or being responded to too slowly. Therefore, the Commission finds that it cannot adequately condition the project to prevent harm to the interests described in the WPA and WPO from detrimental alteration of the resource areas at and adjacent to the project site that would result from an explosion at the facility.

- Similarly, a hurricane could result in inundation of the facility, which would also adversely impact all of the relevant resource areas and interests protected under the WPA and WPO. The Commission finds that it cannot adequately condition the project to prevent harm to the interests described in the WPA and WPO from detrimental alteration of the resource areas at and adjacent to the project site that would result from inundation of the facility.

Furthermore, the Commission finds that the applicant has not met its burden of proof that Riverfront Area performance standards are met (under all circumstances, not just in the event of explosions and hurricanes) and has not adequately delineated Land Subject to Coastal Storm Flowage and Coastal Beach.

In addition, the Conservation Commission concludes that the following aspects of the project cannot be conditioned to adequately protect the interests of the Weymouth Wetlands Protection Ordinance (Section 7-301 of the Weymouth Code of Ordinances) that go beyond those protected by the WPA.

- The Weymouth Wetlands Protection Ordinance protects the interests of recreation and aesthetics, which are not protected by the WPA. The Conservation Commission concludes that the proposed facility, under anticipated operating conditions, will pose unacceptable negative effects on the interests of recreation and aesthetics due to odors, noise and visual impacts. Given the close proximity of the proposed facility to the King's Cove Conservation Restriction Area, the Commission concludes that the project cannot be sufficiently conditioned to reduce these effects to insignificant levels. Furthermore, the project cannot be adequately conditioned to reduce the risk of an explosion at the facility, and its likely significant negative effect on the adjacent public open space area, to an insignificant level. All of these findings are magnified by consideration of the cumulative effects of the additional compressor capacity proposed to be added by the Access Northeast project.
- The Commission also concludes that the air emissions from the proposed facility, when considered cumulatively with the existing air emissions in the area (including emissions from existing pipeline blowdowns) and the air emissions from the proposed Access Northeast Project, will result in wet deposition of contaminants in resource areas that will have significant cumulative effects on fisheries, shellfish, and water quality in the resource areas at and adjacent to the project site. The applicant did not propose a way in which the project could be sufficiently conditioned to prevent these significant negative effects.



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**B. Findings (cont.)**

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

|  | Proposed<br>Alteration  | Permitted<br>Alteration | Proposed<br>Replacement | Permitted<br>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  | b. square feet          |                         |                          |
|  | c. c/y dredged  | 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                       | a. square feet  | b. square feet          | cu yd<br>c. nourishment | cu yd<br>d. nourishment  |
| 14. <input type="checkbox"/> Coastal Dunes                         | a. square feet  | b. square feet          | cu yd<br>c. nourishment | cu yd<br>d. nourishment  |
| 15. <input type="checkbox"/> Coastal Banks                         | a. linear feet  | b. linear feet          |                         |                          |
| 16. <input type="checkbox"/> Rocky Intertidal Shores               | a. square feet  | b. square feet          |                         |                          |
| 17. <input type="checkbox"/> Salt Marshes                          | a. square feet  | b. square feet          | c. square feet          | d. square feet           |
| 18. <input type="checkbox"/> Land Under Salt Ponds                 | a. square feet  | b. square feet          |                         |                          |
|  | c. c/y dredged  | d. c/y dredged          |                         |                          |
| 19. <input type="checkbox"/> Land Containing Shellfish             | a. square feet  | b. square feet          | c. square feet          | 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 |                         |                         |                          |
|  | a. c/y dredged  | b. c/y dredged          |                         |                          |
| 21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage | a. square feet  | b. square feet          |                         |                          |
| 22. <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           |



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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):

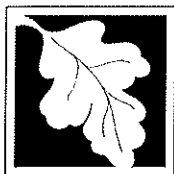
a. number of new stream crossings

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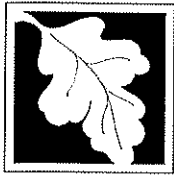
**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

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.



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:

81-

MassDEP File #

eDEP Transaction #

Weymouth

City/Town

**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):

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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 Town of Weymouth 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:

Town of Weymouth Code of Ordinances, Chapter 7, Section 301

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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Provided by MassDEP:  
81-1170  
MassDEP File #  
eDEP Transaction #  
Weymouth  
City/Town

## 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.

06/15/2016

1. Date of Issuance

5

2. Number of Signers

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:

Steven DeGabriele

Scott Dowd

George Loring

*Steven DeGabriele*  
*Scott Dowd*  
*George Loring*

Thomas Tanner

*Thomas Tanner*  
*John Reilly*

☐ by hand delivery on

☒ 70023150000194524247  
by certified mail, return receipt  
requested, on

06/15/2016

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.

Town of Weymouth

Conservation Commission

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

To:

Town of Weymouth

Conservation Commission

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

Project Location

81-XXXX

MassDEP File Number

Has been recorded at the Registry of Deeds of:

Norfolk

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

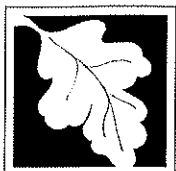
If recorded land, the instrument number identifying this transaction is:

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**

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

DEP File Number:

81-

Provided by DEP

**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:

81-

**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



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**Request for Departmental Action Fee  
Transmittal Form**

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81-

Provided by DEP

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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.