

Nantucket County - 20/20 Perfect Vision i2 Document Detail Report

Current datetime: 6/2/2014 10:47:21 AM

Doc#	Document Type	Town	Book/Page	File Date	Consideration
1392	ORDER OF CONDITIONS		01436/131	05/29/2014	
Property-Street Address and/or Description					
4 GOOSE POND LN					
Grantors					
NANTUCKET TOWN					
Grantees					
NANTUCKET TOWN CONSERVATION					
References-Book/Pg Description Recorded Year					
Registered Land Certificate(s)-Cert# Book/Pg					



2014 00001392

Bk: 1436 Pg: 131 Page: 1 of 16
Doc: OOC 05/29/2014 11:22 AM



**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
And the Town of Nantucket Wetlands Bylaw Chapter 136

Provided by MassDEP:
SE48-2660
MassDEP File #

eDEP Transaction #
Nantucket
City/Town

A. General Information

1. From: Nantucket
Conservation Commission

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

3. To: Applicant:

Susan McArthur
a. First Name b. Last Name
MASSDOT
c. Organization
10 Park Plaza, Suite 4160
d. Mailing Address
Boston MA
e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

Town of Nantucket
a. First Name b. Last Name
Town of Nantucket
c. Organization
16 Broad Street
d. Mailing Address
Nantucket MA 02554
e. City/Town f. State g. Zip Code

5. Project Location:

4 Goose Pond Lane Nantucket
a. Street Address b. City/Town
55 407 and 415
c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known: d m s d m s
d. Latitude e. Longitude



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A. General Information (cont.)

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

Nantucket

a. County

663-263

c. Book and page

b. Certificate Number (if registered land)

24-119

d. Book and page

7. Dates: March 13, 2014

a. Date Notice of Intent Filed

May 14, 2014

b. Date Public Hearing Closed

May 21, 2014

c. Date of Issuance

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

Plan and Profile of Orange Street & In-Town Multi-Use Path

a. Plan Title

Vanasse Hangen Brustlin, Inc.

b. Prepared By

3/12/2014

d. Final Revision Date

Matthew J. Hayes, P.E.

c. Signed and Stamped by

varies

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. Public Water Supply
- b. Land Containing Shellfish
- c. Prevention of Pollution
- d. Private Water Supply
- e. Fisheries
- f. Protection of Wildlife Habitat
- g. Groundwater Supply
- h. Storm Damage Prevention
- i. Flood Control
- j. Wetland Scenic Views (bylaw)
- k. Recreation (Bylaw)

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

Approved subject to:

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



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B. Findings (cont.)

Denied because:

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

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input checked="" type="checkbox"/> Bank	646 a. linear feet	646 b. linear feet	_____ c. linear feet	_____ d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	_____ a. square feet _____ e. c/y dredged	_____ b. square feet _____ f. c/y dredged	_____ c. square feet	_____ d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____ a. square feet Cubic Feet Flood Storage _____ e. cubic feet	_____ b. square feet _____ f. cubic feet	_____ c. square feet _____ g. cubic feet	_____ d. square feet _____ h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____ a. square feet Cubic Feet Flood Storage _____ c. cubic feet	_____ b. square feet _____ d. cubic feet	_____ e. cubic feet	_____ f. cubic feet
9. <input type="checkbox"/> Riverfront Area	_____ a. total sq. feet Sq ft within 100 ft _____ c. square feet Sq ft between 100-200 ft _____ g. square feet	_____ b. total sq. feet _____ d. square feet _____ h. square feet	_____ e. square feet _____ i. square feet	_____ f. square feet _____ j. square feet



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B. Findings (cont.)

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

- | | Proposed
Alteration | Permitted
Alteration | Proposed
Replacement | Permitted
Replacement |
|---|---|--|--|--|
| 10. <input type="checkbox"/> Designated Port Areas | Indicate size under Land Under the Ocean, below | | | |
| 11. <input type="checkbox"/> Land Under the Ocean | a. <u> </u>
square feet | b. <u> </u>
square feet | | |
| | c. <u> </u>
c/y dredged | d. <u> </u>
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. <u> </u>
square feet | b. <u> </u>
square feet | <u> </u>
cu yd
c. nourishment | <u> </u>
cu yd
d. nourishment |
| 14. <input type="checkbox"/> Coastal Dunes | a. <u> </u>
square feet | b. <u> </u>
square feet | <u> </u>
cu yd
c. nourishment | <u> </u>
cu yd
d. nourishment |
| 15. <input type="checkbox"/> Coastal Banks | a. <u> </u>
linear feet | b. <u> </u>
linear feet | | |
| 16. <input type="checkbox"/> Rocky Intertidal Shores | a. <u> </u>
square feet | b. <u> </u>
square feet | | |
| 17. <input type="checkbox"/> Salt Marshes | a. <u> </u>
square feet | b. <u> </u>
square feet | c. <u> </u>
square feet | d. <u> </u>
square feet |
| 18. <input type="checkbox"/> Land Under Salt Ponds | a. <u> </u>
square feet | b. <u> </u>
square feet | | |
| | c. <u> </u>
c/y dredged | d. <u> </u>
c/y dredged | | |
| 19. <input type="checkbox"/> Land Containing Shellfish | a. <u> </u>
square feet | b. <u> </u>
square feet | c. <u> </u>
square feet | d. <u> </u>
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. <u> </u>
c/y dredged | b. <u> </u>
c/y dredged | | |
| 21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage | <u> </u>
15383
a. square feet | <u> </u>
15383
b. square feet | | |



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Nantucket

City/Town

B. Findings (cont.)

22. Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

23. 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.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 5/21/2017 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.



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MassDEP File #

eDEP Transaction #
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City/Town

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

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 SE48-2660 "
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.
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.



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

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.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. **The work associated with this Order (the "Project") is (1) is not (2) subject to the Massachusetts Stormwater Standards. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:**

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
 - iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
 - v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.



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MassDEP File #

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Nantucket
City/Town

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

- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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And the Town of Nantucket Wetlands Bylaw Chapter 136

Provided by MassDEP:

SE48-2660

MassDEP File #

eDEP Transaction #

Nantucket

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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D. Findings Under Municipal Wetlands Bylaw or Ordinance

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

- a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw _____ 2. Citation _____

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

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

1. Municipal Ordinance or Bylaw _____ 2. Citation _____

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

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

Please view additional findings and conditions page(s)



Town of Nantucket, Massachusetts
WPA Form 5 – Order of Conditions
 The Town of Nantucket Bylaw Chapter 136

DEP File Number:

SE48-2660
 Provided by DEP

B1. Additional Conditions

The Town of Nantucket Conservation Commission has found it necessary to include these additional conditions as a standard part of every Order. If the condition applies, then the corresponding box will be checked:

- 1. Pursuant to General Condition Number 8, this Order of Conditions must be registered with the Registry of Deeds for Nantucket, and proof of recording shall be submitted to the Commission prior to the commencement of any work approved in this Order.
- 2. No work approved under this Order shall take place until all administrative appeal periods from the Order have elapsed, or, if an appeal has been filed, until all proceedings have been completed.
- 3. The landowner, applicant, and/or the contractor will notify the Commission in writing five days prior to the start of work. The letter shall state the name, address, and telephone number of the project supervisor who will be responsible for insuring onsite compliance with this Order. (All erosion/sedimentation control devices shall be installed BEFORE the start of work.)
- 4. Prior to any activity at the site, a snow fence, siltation fence or a line of straw bales shall be staked as shown on the plan of record. After the fence or straw bales are installed, notice shall be given to the Nantucket Conservation Commission. **No work shall begin on the site for 72 hours after said notice is given; so as to allow Commission members time to inspect all siltation devices.** The snow fence, siltation fence, or straw bale line erected to prevent siltation, erosion, filling of the wetland, and trap windblown debris during construction, will also serve as a limit of the activity for work crews. It shall remain in good repair during all phases of construction, and it shall not be removed until all soils are stabilized and revegetated or until permission to remove it is given by the Commission.
- 5. An as-built plan, signed and stamped by a registered professional engineer or land surveyor in the Commonwealth of Massachusetts, and having the same scale as the final approved plans, shall be submitted to the Commission at the same time as a written request for a Certificate of Compliance, and shall specify how, if at all, the completed plan differs from the final approved plan. The as-built plan shall include, but not be limited to, the following: any/culvert inverts for inflow and outfalls; pipe slope, size, and composition; location of any other drainage structures and their composition; limits of fill or alteration; location of all structures and pavement within 100 feet of the wetland; the edge of the wetland; the grade contours within 100 feet of the wetland.
- 6. Members, employees, and agents of the Commission shall have the right to enter and inspect the premises to evaluate compliance with the conditions and performance standards stated in this Order, the Massachusetts Wetlands Protection Act, and pertinent Massachusetts regulations (310CMR10:00 through 10:99). The Commission may require the submittal of any data deemed necessary by the Commission for that evaluation.
- 7. The applicant, owners, successors, or assignees shall be responsible for maintaining any on-site drainage structures and outfalls, assuring the lasting integrity of vegetative cover on the site, and monitoring of site activities so as to prevent erosion, siltation, sedimentation, chemical contamination, or other detrimental impact to any on-site or off-site resource area. It shall be the responsibility of the property owner of record to ensure compliance with the maintenance conditions required by this Order.



Town of Nantucket, Massachusetts
WPA Form 5 – Order of Conditions
 The Town of Nantucket Bylaw Chapter 136

DEP File Number:

SE48-2660

Provided by DEP

B1. Additional Conditions (cont.)

- 8. This document shall be included in all construction contracts and subcontracts dealing with the work proposed and shall supersede other contract requirements.
- 9. A complete copy of this permit, including its drawings, Special Conditions, and any Amendments shall be available at the work site whenever work is being performed. The permittee shall provide a copy of this permit to all contractors, subcontractors, and other personnel performing work relating to this project in order to assure full knowledge and compliance with the permit's terms and conditions.
- 10. Natural vegetation between the wetland edge and upland edge of the Undisturbed Buffer shall be left intact. Within 48 hours of project completion, weather permitting, all disturbed areas shall be replanted as previously approved by the Commission. There shall be at least a 25-foot undisturbed buffer on the upland side of the wetland boundary, unless otherwise specified by this Order. This shall be an ongoing Condition that shall survive the expiration of this permit and shall be so noted on the Certificate of Compliance.
- 11. To minimize adverse effects on wildlife and water resources, the use of any pesticide or fertilizer requires explicit permission to be granted by the Commission. This shall be an ongoing Condition that shall survive the expiration of this permit, and shall be so noted on the Certificate of Compliance.
- 12. In all cases, no part of any structure, including decks, stairs, cantilevers, etc., may be closer than 50 feet from the approved wetland boundary unless otherwise specified in this Order. This shall be an ongoing Condition that shall survive the expiration of this permit and shall be so noted on the Certificate of Compliance.
- 13. Any refuse material found on the site shall be disposed of at an approved landfill and in no case may these materials be buried or disposed of in or near a wetland.
- 14. This Order of Conditions shall apply to any successor in interest or successor in control of the property.
- 15. No underground petroleum product storage tanks are allowed within 100 feet of any wetland or within any velocity (V) flood zone as indicated on the most recent FEMA floodplain maps.
- 16. No work under this Order of Conditions may proceed until the applicant has filed all necessary permits and applications with:
 Board of Health, ZBA, HDC, Building Inspector, Army Corps of
 Engineers, DEP, Waterways, MNH, etc.
- 17. All construction and alterations must comply with the above referenced plans and the Conditions of this Order. Any changes intended to be made in the plans or in the work shall require the applicant to file a new Notice of Intent, or to inquire of the Commission in writing whether the change is substantial enough to require a new filing. No change in plan or work under this filing is permissible without a new Notice of Intent, or permission from the Commission.

FINDINGS and ADDITIONAL CONDITIONS
 Massachusetts Wetlands Protection Act (MGL Chapter 131, Section 40)
 Town of Nantucket Wetlands Bylaw (Chapter 136)

Address: 4 Goose Pond Lane
 Assessor's Map and Parcel: 55 – 407 & 415
 Property Owner: MASSDOT
 Applicant: Town of Nantucket
 DEP File Number: SE48-2660
 Filing Date: March 13, 2014
 Date Hearing Closed: May 14, 2014
 Date Orders Issued: May 21, 2014
 Plan of Record Information: Plan and Profile of Orange Street & In-Town Multi-Use Path dated 3/12/2014 and stamped by Matthew J. Hayes, P.E.

Permit Overview:

This order permits the installation sheet piles, the construction of a multi-use path, installation of split rail fencing within Land Subject to Coastal Storm Flowage, and the buffer zones to Bordering Vegetated Wetlands, Salt Marsh, and Coastal Bank. Waivers are required for this project.

Additional Findings:

1. The area falls inside mapped habitat areas and required NHESP review.
2. The Commission finds that given the current level of disturbance, the man-made nature of the berm, the man-made separation of the pond and salt marsh, the existing culverts, and the presence of invasive species that the project as proposed will not have an adverse impact to the resource area with the measures taken and proposed mitigation for the project.
3. The Commission finds that there no reasonable alternatives to the project as proposed for the use intended.

In addition to the General Conditions contained elsewhere in this document, the Commission includes the following Special Conditions pursuant to MGLCh131s40 and the Town of Nantucket Wetlands Protection Bylaw, Chapter 136:

18. All work shall be performed in accordance with the Site and Work Description contained within the Notice of Intent and plan notes set out on the plan of record, provided project narratives, waiver requests and protocols.
19. All material removed from the site shall be put through the digester at the Nantucket Landfill.
20. No black oak is permitted by this Order.
21. Photographs shall be provided demonstrating the condition of the sheeting, multi-use path and vegetation management areas at the beginning and end of the growing season or until a certificate of compliance is issued.
22. All split rail fencing installed shall have only two rails.

WAIVERS UNDER THE NANTUCKET WETLANDS BYLAW/REGULATIONS

Waivers are required from Section 3.02(B)(1) that all proposed projects which are not water dependent shall maintain at least a 25-foot natural undisturbed area adjacent to vegetated wetlands. All structures which are not water dependant shall be at least 50 feet from a vegetated wetland, and all structures shall maintain an undisturbed two-foot separation to high groundwater. Fifty percent (50%) of the area between the 25-foot buffer and the 50-foot buffer shall not be altered. The Commission finds that the structure as proposed given the existing site conditions will not have an adverse impact on the resource area. The Commission also finds that there are no reasonable alternatives that allow the project to go forward. Therefore, the Commission grants a waiver under Section 1.03(F)(3)(a) of the Nantucket Wetland Protection Regulations.



**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
And the Town of Nantucket Wetlands Bylaw Chapter 136

Provided by MassDEP:

SE48-2660

MassDEP File #

eDEP Transaction #

Nantucket

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.

5/21/2014

1. Date of Issuance

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

6

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 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:

Ernest Steinauer
Ernest Steinauer
Sarah Oktay
Sarah Oktay
Bancel LaFarge
Bancel LaFarge

Andrew Bennett
Andrew Bennett
Ian Golding
Ian Golding
Michael Glowacki
Michael Glowacki
Jennifer Karberg
Jennifer Karberg

by hand delivery on

5/29/14

Date

by certified mail, return receipt requested, on

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 of 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.



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

WPA Form 5 – Order of Conditions

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And the Town of Nantucket Wetlands Bylaw Chapter 136

Provided by MassDEP:
SE48-2660
MassDEP File #

eDEP Transaction #
Nantucket
City/Town

G. Recording Information

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

Conservation Commission

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

To:

Conservation Commission

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

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for: Property Owner

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

Book

Page

In accordance with the Order of Conditions issued on:

Date

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

Instrument Number

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

Document Number

Signature of Applicant

MASSACHUSETTS COUNTY Received & Entered
Attest: Jennifer H. Ferreira, Register of Deeds