



Massachusetts Department of Environmental Protection

eDEP Transaction Copy

Here is the file you requested for your records.

To retain a copy of this file you must save and/or print.

Username: **286LINDA**

Transaction ID: **1603960**

Document: **WPA Form 5 - OOC**

Size of File: **152.92K**

Status of Transaction: **In Process**

Date and Time Created: **8/30/2023:9:08:33 PM**

Note: This file only includes forms that were part of your transaction as of the date and time indicated above. If you need a more current copy of your transaction, return to eDEP and select to "Download a Copy" from the Current Submittals page.



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:
 MassDEP File #:286-0279
 eDEP Transaction
 #:1603960
 City/Town:SHUTESBURY

A. General Information

1. Conservation Commission SHUTESBURY
 2. Issuance a. OOC b. Amended OOC

3. Applicant Details

a. First Name BECKY b. Last Name TORRES
 c. Organization TOWN OF SHUTESBURY
 d. Mailing Address 1 COOLEYVILLE ROAD
 e. City/Town SHUTESBURY f. State MA g. Zip Code 01072

4. Property Owner

a. First Name BECKY b. Last Name TORRES
 c. Organization TOWN OF SHUTESBURY
 d. Mailing Address 1 COOLEYVILLE ROAD
 e. City/Town SHUTESBURY f. State MA g. Zip Code 01072

5. Project Location

a. Street Address LOCKS POND ROAD
 b. City/Town SHUTESBURY c. Zip Code 01072
 d. Assessors Map/Plat# B e. Parcel/Lot# 805
 f. Latitude 42.50183N g. Longitude 72.43692W

6. Property recorded at the Registry of Deed for:

a. County	b. Certificate	c. Book	d. Page
FRANKLIN		1198	552

7. Dates

a. Date NOI Filed : 8/20/2020 b. Date Public Hearing Closed: 10/22/2020 c. Date Of Issuance: 11/12/2020

8. Final Approved Plans and Other Documents

a. Plan Title:	b. Plan Prepared by:	c. Plan Signed/Stamped by:	d. Revised Final Date:	e. Scale:
NOTICE OF INTENT FOR CULVERT REPLACEMENT, LOCKS POND ROAD	NITSCH ENGINEERING		August 10, 2020	
CONTROL OF WATER PLAN FOR LOCKS POND ROAD BRIDGE REPLACEMENT	PARE CORPORATION	APPROVED BY NITSCH ENGINEERING	Revised August 29, 2023	



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:
MassDEP File #:286-0279
eDEP Transaction #:1603960
City/Town:SHUTESBURY

TOWN OF
SHUTESBURY
DEPARTMENT OF
PUBLIC WORKS
PLAN AND
PROFILE FOR
LOCKS POND
ROAD BRIDGE
REPLACEMENT-
25% SUBMITTAL-
SHEETS 1-11

NITSCH
ENGINEERING

December 19, 2019 1"=20'

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act

Following the review of the 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.

Check all that apply:

a. <input checked="" type="checkbox"/> Public Water Supply	b. <input checked="" type="checkbox"/> Land Containing Shellfish	c. <input checked="" type="checkbox"/> Prevention of Pollution
d. <input checked="" 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"/> Ground Water Supply	h. <input checked="" type="checkbox"/> Storm Damage Prevention	i. <input checked="" type="checkbox"/> Flood Control

2. Commission hereby finds the project, as proposed, is:

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.

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 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 interests of the Act , 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 310CMR10.02(1)(a).

_____ a. linear feet



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:
 MassDEP File #:286-0279
 eDEP Transaction #:1603960
 City/Town:SHUTESBURY

Inland Resource Area Impacts:(For Approvals Only):

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input checked="" type="checkbox"/> Bank	<u>109</u> a. linear feet	<u>109</u> b. linear feet	<u>109</u> c. linear feet	<u> </u> d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	<u>25</u> a. square feet	<u>25</u> b. square feet	<u>0</u> c. square feet	<u> </u> d. square feet
6. <input checked="" type="checkbox"/> Land under Waterbodies and Waterways	<u>1032</u> a. square feet	<u>1032</u> b. square feet	<u>1362</u> c. square feet	<u>1362</u> d. square feet
	<u>0</u> e. c/y dredged	<u> </u> f. c/y dredged	<u> </u>	<u> </u>
7. <input type="checkbox"/> Bordering Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
Cubic Feet Flood Storage	<u> </u> e. cubic feet	<u> </u> f. cubic feet	<u> </u> g. cubic feet	<u> </u> h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u>	<u> </u>
Cubic Feet Flood Storage	<u> </u> c. cubic feet	<u> </u> d. cubic feet	<u> </u> e. cubic feet	<u> </u> f. cubic feet
9. <input checked="" type="checkbox"/> Riverfront Area	<u>1362</u> a. total sq. feet	<u>1362</u> b. total sq. feet		
Sq ft within 100 ft	<u>1362</u> c. square feet	<u>1362</u> d. square feet	<u> </u> e. square feet	<u> </u> f. square feet
Sq ft between 100-200 ft	<u> </u> g. square feet	<u> </u> h. square feet	<u> </u> i. square feet	<u> </u> j. square feet

Coastal Resource Area Impacts:

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. c/y nourishment	<u> </u> d. c/y nourishment
14. <input type="checkbox"/> Coastal Dunes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. c/y nourishment	<u> </u> d. c/y nourishment



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:
 MassDEP File #:286-0279
 eDEP Transaction #:1603960
 City/Town:SHUTESBURY

15. <input type="checkbox"/> Coastal Banks	<u> </u>	<u> </u>		
	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u>	<u> </u>		
	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u> </u>	<u> </u>		
	a. square feet	b. square feet		
	<u> </u>	<u> </u>		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	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			
	<u> </u>	<u> </u>		
	c. c/y dredged	d. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	<u> </u>	<u> </u>		
	a. square feet	b. square feet		

22.

Restoration/Enhancement (For Approvals Only)

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 & d or B.17.c & d above, please entered the additional amount here.

 a. square feet of BVW

 b. square feet of Salt Marsh

23.

Streams Crossing(s)

If the project involves Stream Crossings, please enter the number of new stream crossings/number of replacement stream crossings.

 0

 1

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:



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:
MassDEP File #:286-0279
eDEP Transaction #:1603960
City/Town:SHUTESBURY

- 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 exceed the issuance date of the original Final Order of Conditions.
 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.
 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 : "286-0279"
 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 Mass DEP.
 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.
 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



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:
MassDEP File #:286-0279
eDEP Transaction #:1603960
City/Town:SHUTESBURY

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 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 Pollutant Discharge Elimination System Construction General Permit as required by Stormwater Standard 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.
 - 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 19(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 Pollutant 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



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:
MassDEP File #:286-0279
eDEP Transaction #:1603960
City/Town:SHUTESBURY

Conditions 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(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.
- 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:

SEE ATTACHED SPECIAL CONDITIONS.



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:
MassDEP File #:286-0279
eDEP Transaction #:1603960
City/Town:SHUTESBURY

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No

2. The Conservation Commission hereby (check one that applies):

a. DENIES the proposed work which 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 or Conditions is issued. Which are necessary to comply with a municipal ordinance or bylaw:

b. APPROVES the proposed work, subject to the following additional conditions.

SHUTESBURY
GENERAL
WETLANDS
PROTECTION
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:
SEE ATTACHED SPECIAL CONDITIONS.



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:
MassDEP File #:286-0279
eDEP Transaction #:1603960
City/Town:SHUTESBURY

E. Signatures

This Order is valid for three years from the date of issuance, unless otherwise specified pursuant to General Condition #4. If this is an Amended Order of Conditions, the Amended Order expires on the same date as the original Order of Conditions.

11/12/2020
1. Date of Original Order

Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

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: _____

Scott Kahan

Miriam DeFant

Beth Willson

Mary David

Robin Harrington

by hand delivery on _____

by certified mail, return receipt requested, on _____

Date 8/31/23

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.

G. Recording Information

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



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:
MassDEP File #:286-0279
eDEP Transaction #:1603960
City/Town:SHUTESBURY

subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

SHUTESBURY
Conservation Commission

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

To:
SHUTESBURY
Conservation Commission

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

LOCKS POND ROAD
Project Location

286-0279
MassDEP File Number

Has been recorded at the Registry of Deeds of:

<u>County</u>	<u>Book</u>	<u>Page</u>
---------------	-------------	-------------

for:
Property Owner BECKY TORRES

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

<u>Book</u>	<u>Page</u>
-------------	-------------

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

Rev. 4/1/2010

CERTIFICATE OF VOTE AUTHORIZING SIGNATURES PURSUANT TO M.G.L. c.110G

On May 14, 2020, the Shutesbury Conservation Commission met in open session through publicly accessible video-conference software, pursuant to the "Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20," issued by Governor Charles D. Baker on March 12, 2020. At this duly held meeting, the following action was taken:

Motion: Shutesbury Conservation Commission hereby recognizes and accepts the provisions of M.G.L. c.110G regarding electronic signatures and that its members will henceforth execute documents either with electronic signatures or with wet ink signatures and that both will carry the same legal weight and effect. Motion was seconded.

Roll Call vote:

Commissioner Penny Jaques: aye
Commissioner Russ Mizula: aye
Commissioner Robin Harrington: aye
Commissioner Liam Cregan: aye
Vote was Unanimous

The above is a true and accurate account of the proceedings of the Conservation Commission.

Title/Signature: Alice P. Jaques Date: 20 May, 2020

Commonwealth of Massachusetts
County of Franklin, ss.

On this 20 of May, 2020, before me, personally appeared Alice P. Jaques, Chair of said Conservation Commission, as aforesaid, and proved to me through satisfactory evidence of identification, which was Personally Known to me to be the person whose name is signed on the preceding document, and acknowledged to me that she signed it voluntarily for its stated purpose on behalf of the Town of Shutesbury.

Susan Mosher
Notary Public

My Commission Expires: 4/1/2022

Certified by Town/City Clerk:

Susan Mosher Date: May 20, 2020
Susan Mosher



SHUTESBURY CONSERVATION COMMISSION

SPECIAL CONDITIONS FOR AMENDED ORDER OF CONDITIONS LOCKS POND ROAD CULVERT REPLACEMENT

Amendment Date: August 31, 2023

Original Permit Expiration Date: November 12, 2023

Extended Permit Expiration Date: November 12, 2025

DEP File Number: 286-0279

Location: Locks Pond Road, 42.50183N/-72.43692W

Applicant: Becky Torres, Town of Shutesbury

FINDINGS OF FACTS

- F-1.** The Shutesbury Conservation Commission (hereafter, “the Commission) finds that the proposed project, delineated on the documents entitled, “Notice of Intent for Culvert Replacement Locks Pond Road, Shutesbury MA” (Nitsch Engineering, August 10, 2020) and “Locks Pond Road Bridge Replacement 25% Submittal, Sheets 1 – 11” (Nitsch Engineering, 12/20/2019), includes the following jurisdictional Resource Areas as defined by the Wetlands Protection Act (MGL Chapter 131, § 40), the Rivers Protection Act (MGL Chapter 268, Acts of 1996), the Wetlands Protection Act Regulations (310 CMR 10.00), and Shutesbury General Wetlands Protection Bylaw and Bylaw Regulations:
- a.** The Commission finds that the Bank (Mean Annual High Water) of the Sawmill River is present as mapped and flagged in the field as flags B-1 through B-40. Bank is a Protected Resource Area under the Wetlands Protection Act.
 - b.** The Commission finds that Land Under Water Bodies and Waterways (LUWW) associated with the Sawmill River is present but was not mapped or flagged. LUWW is a Protected Resource Area under the Wetlands Protection Act and the Shutesbury General Wetlands Protection Bylaw.
 - c.** The Commission approves the delineation of Bordering Vegetated Wetlands (BVW) (WF 100 – WF 117) as mapped and flagged in the field. BVW is a Protected Resource Area under the Wetlands Protection Act and the Shutesbury General Wetlands Protection Bylaw.
 - d.** The Commission approves the delineation of the 200-foot Riverfront Area of the Sawmill River as mapped. The Sawmill River is a perennial stream and a Cold Water Fishery. Riverfront Area is a Protected Resource Area under the Wetlands Protection Act.
 - e.** The Commission approves the delineation of the 100-foot Buffer Zone of the Bank of the Sawmill River as mapped. The Shutesbury General Wetlands Protection Bylaw protects the 100-foot Buffer Zone or Adjacent Upland Resource Area (AURA) as a Resource Area.
 - f.** Land Subject to Flooding is neither delineated nor approved by the Commission under this Amended Order.

- F-2.** The project is located in the downstream vicinity of dam of Lake Wyola. Lake Wyola is a Great Pond and is listed as Priority Habitat by the Massachusetts Natural Heritage and Endangered Species Program (NHESP). Although not under the jurisdiction of the Commission, the Applicant is responsible for full compliance with any requirements of the Massachusetts Natural Heritage and Endangered Species Program (NHESP).
- F-3.** The project proposes to remove the existing and degraded corrugated metal culvert under Locks Pond Road and reconstruct the culvert using a concrete box culvert. The surface of Locks Pond Road is to be resurfaced and guardrails replaced. The project proposes to alter 109 linear feet of Bank, 1,362 square feet of Land Under Water Bodies and Waterways, 1,362 square feet of Riverfront Area, and 25 square feet of BVW. A Control of Water bypass system is to be used to dewater the work area during construction.
- F-4.** An Order of Conditions was issued by the Commission on November 12, 2020. This permit expires on November 12, 2023. This Order of Conditions was never recorded with the Franklin County Registry of Deeds per General Condition #9 of the original Order of Conditions.
- F-5.** The U.S. Army Corps of Engineers issued a General Permit for the Commonwealth of Massachusetts (#NAE-2020-02652), which expires on April 5, 2024.
- F-6.** On July 7, 2023, at the Applicant's request, the Commission approved a minor alteration of the existing Order of Conditions, allowing work in the 100-foot Adjacent Upland Resource Area and Riverfront Area outside of the time of year restrictions outlined in General Condition #6 of the original Order of Conditions. The Commission made a Finding that this change would not significantly affect Resource Areas. The Commission further clarified procedures for emergency notifications to the Commission.
- F-7.** The Commission inspected and approved the erosion controls on the site on July 13, 2023. Limited tree and shrub removals were also reviewed and approved at this time. As a result of high flow conditions, the work on the site was paused in late July of 2023.
- F-8.** The Applicants submitted a request for an Amended Order of Conditions, a Permit Extension, and a revised Control of Water Plan on August 21, 2023. The requested changes to the Order of Conditions were sought due to high water flow conditions encountered in July and August of 2023 and to allow the Town greater flexibility in scheduling and increased flow capacity for the Control of Water Plan. The requested changes include allowing work to be performed in Resource Areas up until November 17, approving a revised Control of Water Plan, and extending the permit for an additional three years. An updated work schedule was also submitted.
- F-9.** The original Order of Conditions for this project required that the Control of Water Plan include a methodology for salvage and relocation of stranded aquatic organisms during the dewatering process. The proposed Control of Water submitted by the Applicant does not include such methodology. The Commission approves the revised Control of Water Plan with the requirement that the Applicant comply with Condition #30 below. This Condition is required because both Lake Wyola and the Sawmill River contain habitat for rare or endangered species.
- F-10.** The Commission finds that the proposed modifications to the original plans are minor in nature and are equivalently protective of the Interests of the Wetland Protection Act, the

Values of the Shutesbury General Wetland Protection Bylaw, and the Rivers Protection Act. A new Notice of Intent is not required for this project.

F-11. Work permitting under this Amended Order of Conditions shall conform to the following plans and documents contained in the following documents:

- a.** “Notice of Intent for Culvert Replacement, Locks Pond Road,” prepared by Nitsch Engineering, dated August 10, 2020;
- b.** “Control of Water Plan for Locks Pond Road Bridge Replacement,” prepared by Pare Corporation, revised August 21, 2023, with Nitsch Engineering Comments, dated August 29, 2023;
- c.** Request for Amended Order of Conditions for Locks Pond Culvert Replacement (DEP FILE #286-0279),” submitted by Nitsch Engineering for the Town of Shutesbury, dated August 17, 2023.

F-12. The Commission issued an Extension Permit of this Amended Order of Conditions for two (2) years, until November 12, 2025, effective August 31, 2023.

F-13. The Commission finds there is no practicable and substantially equivalent economic alternative to the proposed project with less adverse effects on the interests identified in the Wetlands Protection Act, the Shutesbury General Wetlands Protection Bylaw, and their respective Regulations.

F-14. The Special Conditions issued below, under the WPA and the Shutesbury General Wetlands Protection Bylaw hereby incorporate the General Conditions #1 - #19 under the WPA Order of Conditions.

F-15. The Commission finds that the Applicants have rebutted the presumption of an adverse effect on the Protectable Resource Areas, contingent upon this Amended Order of Conditions with the Special Conditions below.

GENERAL CONDITIONS

- 1.** A member of the Conservation Commission or its agent may enter and inspect the property and the activity that are the subjects of this Amended Order at all reasonable times, with or without probable cause or prior notice, and until a Certificate of Compliance is issued, for the limited purpose of evaluating compliance with this Amended Order.
- 2.** The term “Applicant” as used in this Amended Order of Conditions shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of Intent, supporting documents and these Amended Special Conditions/Order of Conditions.
- 3.** This document shall be included by reference in all contracts, plans and specifications dealing with the activity that is the subject of this Amended Order, and that are created or modified after the issuance date of this Amended Order, along with a statement that this Amended Order shall supersede any conflicting contractual arrangements, plans or specifications.
- 4.** The Applicant shall provide a copy of this Amended Order to the person or persons supervising the activity that is the subject of this Amended Order and shall be responsible for

ensuring that all persons performing the permitted activity are fully aware of the terms and conditions of this Amended Order.

5. Any person performing work on the activity that is the subject of this Amended Order is individually responsible for understanding and complying with the requirements of this Amended Order, the Act, 310 CMR 10.00, the Shutesbury General Wetlands Protection Bylaw and local Wetland Bylaw Regulations.
6. This Amended Order authorizes only the activity described on the approved plan(s) and approved documents referenced in this Amended Order. Any other or additional activity in areas within the jurisdiction of the Commission shall require separate review and approval by the Commission.
7. If any change is made in the above-described plan(s) which may or will alter a Resource Area subject to protection under the Wetlands Protection Act, 310 CMR 10.00, the Shutesbury General Wetlands Protection Bylaw, and Bylaw Regulations, the Applicant shall inquire from this Commission or its agent, prior to implementing the change in the field, whether the change is significant enough to require the filing of a new Notice of Intent or an Amended Order of Conditions. Any errors in the plans or information submitted by the Applicant shall be considered changes and the above procedures shall be followed.
8. It is the responsibility of the Applicant to complete any review required by all agencies with jurisdiction over the activity that is the subject of this Amended Order, and to procure all required permits or approvals. These reviews, permits and approvals may include, but are not limited to, the following: U.S. Army Corps of Engineers, MassDEP, Massachusetts Natural Heritage & Endangered Species Program, and any local boards or building inspectors.
9. No drawdown or lowering of Lake Wyola water levels shall be allowed under this Amended Order beyond what is specified in the Order of Conditions for the Lake Wyola Drawdown Notice of Intent, #286-0272, issued 10/18/2018. The Drawdown Order of Conditions permits the lake water level to be lowered a maximum of twenty-four (24) inches, beginning on November 1 and completing the lowering by December 1. The rate of the drawdown is no more than three (3) inches in a 24-hour period. Lake refilling must be completed by April 1. Any changes to this procedure will require review and approval by the Commission.
10. The Applicant shall provide the Conservation Commission with name(s), telephone number(s), and email addresses of all person(s) responsible for compliance with this Amended Order.
11. In the case of emergencies, problems, or the need to discuss site conditions with the Conservation Commission, the Applicant is to contact the Chair of the Conservation Commission, by telephone, as well as the Town Administrator.
12. The Commission shall receive in writing a letter with an original signature from the Applicant, no later than 30 days from the issuance of this Amended Order and before start of work, stating that they have read the Amended Order of Conditions and understand the Conditions.
13. Within 30 days of the issuance of this Order and before any work commences, the Applicant shall provide the Commission with proof of having recorded the Amended Orders of Conditions with the Franklin County Register of Deeds.

PRE-CONSTRUCTION PHASE CONDITIONS

- 14.** Prior to any work commencing on the site, the applicant shall post **two DEP file number signs**. One sign shall be on the north end of the construction site and one on the south end of site construction site, both on Locks Pond Road. The signs will have minimum dimensions of two feet by two feet at a location clearly visible from the street. The signs shall remain in place and be visible until a Certificate of Compliance is issued for the activity.
- 15.** Erosion control straw wattles shall be installed around any stockpiles of materials with the open end of the sock away from the Bank of the Resource Area.
- 16.** Except for the tree removals already approved by the Commission, any additional tree or shrub removals must be reviewed and approved by the Commission. Natural vegetation within 100-feet of the Bank of the Sawmill River shall be preserved to the greatest extent possible.
- 17.** Prior to the resumption of any activity on the site, the Applicant shall submit a project/construction sequencing schedule. If changes are made to this schedule or work is halted for more than one workday, the Commission shall be notified and an updated version of the schedule shall be provided to the Commission.
- 18.** The Applicant shall notify the Commission 48 hours before the resumption of work.

CONSTRUCTION-PHASE CONDITIONS

- 19.** Erosion control devices shall be in place prior to the beginning of any phases of construction and shall be maintained during construction and until the site is fully stabilized and revegetated. The erosion control specifications provided in the Notice of Intent and the erosion control provision in this Amended Order shall be the minimum standards for this project.
- 20.** The approved erosion controls shall serve at the limit of all work. Workers shall be informed that no use of machinery, storage of machinery or materials, stockpiling of soil, or construction activity is to occur beyond this line at any time.
- 21.** Erosion controls shall be inspected by the Applicant daily on workdays and within twenty-four (24) hours of any rainstorms in which there is at least one (1) inch of rain in a 24-hour period. Erosion controls shall be replaced/repared as necessary to ensure they are functional for the duration of the project and until the site is fully stabilized. Any material accumulated behind the barrier shall be removed promptly. Such material must be deposited in an approved upland location outside of any Resource Area, including the AURA, that is subject to the jurisdiction of the Commission. No work may proceed on the site until damage to the erosion controls has been corrected.
- 22.** An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine repairs.
- 23.** Erosion Control Monitoring: The Applicant shall identify personnel who shall be responsible for monitoring erosion controls on the site. The Applicant shall arrange a site visit with the Commission to determine where monitoring photos are to be taken. The Applicant shall provide a brief written report to the Commission via email with photos regarding the condition of the erosion controls at the following times:

- a. every week, by the end of business on Friday, until the work is completed;
 - b. by 5 pm of the day following any storm that totals one (1) inch of rain within any 24-hour period; and
 - c. as needed should any portion of the erosion controls below the dam become inundated or submerged by floodwater.
- 24.** Should site conditions result in erosion controls becoming submerged, the Applicant shall immediately notify the Commission. No further work shall be allowed until the erosion controls are no longer submerged.
- 25.** At any time before, during or after construction, and until the issuance of a Certificate of Compliance, the Commission or its agent may require the Applicant to modify, augment, restore or maintain erosion control measures associated with the activity that is the subject of this Amended Order.
- 26.** The Commission shall be given the opportunity to inspect the site and review the Control of Water system in the field prior to the commencement of the dewatering activities.
- 27.** Should any emergency changes be required to the Control of Water dewatering system, the Commission Chair shall be notified within twelve (12) hours.
- 28.** No discharge of water without proper sedimentation and erosion control shall be allowed directly into a Resource Area subject to the jurisdiction of the Commission.
- 29.** All in-water work requiring use of the Control of Water dewatering bypass system must be completed during low flow conditions between July 1 and November 16. The table below summarizes all time restrictions contained in these Special Conditions that relate to the current project:

Activity	Time Restriction
All work	November 12, 2025 (revised permit expiration)
In-Water Work Requiring Bypass System	July 1 to November 16, 2023-2024
Winter Lake Lowering (DEP #286-0272)	November 1 to December 1 2023-2024
Spring Lake Refilling (DEP #286-0272)	Must complete by April 1 2024

- 30.** For the duration of the dewatering process, the Applicant shall inspect the cofferdam and outlet area for stranded aquatic organisms (e.g., fish, turtles, frogs, snakes, salamanders, etc.) at the beginning and end of each workday. Aquatic organisms shall be salvaged using rubber netting (not cloth or nylon) to avoid disrupting the mucous coating and scales or increasing the risk of injury or secondary infection. Any direct handling of fish should be kept to a

minimum and must be with wet hands to protect the mucous coat and scales of fish. Salvaged organisms shall be transferred to a transport basin or 5-gallon bucket where they will remain submerged to reduce stress. Water for the transfer basin should be drawn from the salvage area and must be kept cold enough for organism survival. Organisms must be immediately relocated downstream of the work area and within the flow of the Sawmill River. Photographs of salvaged organisms shall be submitted with the weekly erosion control report.

- 31.** No stockpiling of materials may take place within 100 feet of the Bank of the Sawmill River.
- 32.** Unconsolidated materials and debris piles shall remain under double-tarps (top and bottom) and shall be surrounded by a double-staked row of straw bales or straw wattles to prevent contact with rainwater. Any opening to the pile area shall be on the opposite side, away from the Bank of the Sawmill River.
- 33.** All debris, either pre-existing or due to construction, shall be removed from the site by the time the construction is completed.
- 34.** All equipment shall be inspected regularly for leaks. Any leaking hydraulic lines, cylinders or any other components shall be fixed immediately. Equipment must be maintained to prevent leakage or discharge of such pollutants. Equipment for fuel storage and refueling operations shall be located outside all areas within the jurisdiction of the Commission. Servicing and overnight storage of equipment (refueling, changing, adding, or applying lubricants or hydraulic fluids) must be done outside of the 100-foot AURA.
- 35.** Used petroleum products, resulting from the maintenance of construction equipment, and construction debris, shall be collected and properly disposed of off-site. No on-site disposal of those items is allowed.
- 36.** All equipment shall be operated, parked, and maintained so as to limit alterations of Resource Areas, including the AURA, to those areas clearly identified on the plans and demarcated in the field by the flagging and erosion controls. No equipment is to enter or cross wetland Resource Areas at any time unless the location of disturbance is marked on the plans referenced in this Amended Order and flagged in the field.
- 37.** Construction material and equipment shall be stored in a manner and location that will minimize the compaction of soils and the concentration of runoff and/or siltation.
- 38.** No material of any kind may be buried, placed, or dispersed in Resource Areas, including the AURA, within the jurisdiction of the Commission by activities that are the subject of this Amended Order, except as are expressly permitted by this Amended Order or the plans approved herein.
- 39.** Any material placed in protected Resource Areas by the Applicant without express authorization under this Amended Order shall be removed by the applicant upon demand by the Conservation Commission or its agent.
- 40.** No discharge of water without proper sediment and erosion control is allowed directly into a Resource Area subject to the jurisdiction of the Wetlands Protection Act or the Shutesbury General Wetlands Protection Bylaw.
- 41.** The bottom of the outlet of the Control of Water Bypass Pipe shall be flush with the grade of the downstream riprap scour blanket and not perched.

42. Turbidity of water 100 feet downstream of the site shall not be visibly greater than turbidity upstream of the project site. Turbidity will be monitored daily during construction.
43. Dewatering activities shall be monitored daily to ensure water is appropriately filtered prior to discharge toward the wetland Resource Areas.
44. The Commission reserves the right to impose additional conditions on portions of this project to mitigate any impacts which could result from site erosion, or any noticeable degradation of surface water quality discharging from the site.
45. Site grading and construction shall be scheduled to avoid periods of high surface water. Once begun, grading and construction shall continue in an expeditious manner to minimize the opportunity for erosion.
46. All slopes shall be stabilized immediately with permanent or temporary stabilization methods if heavy rain (at least 1" in a 24-hour period) is predicted.
47. When existing culvert is removed and stream channel is excavated for installation of replacement culvert, any stone substrate from stream channel shall be harvested and stockpiled for use in replacement culvert channel and downstream scour blanket.
48. Removal of existing retaining walls shall be performed by hand to limit impacts to the Resource Area. Removed stones will be stockpiled for re-use in culvert stream bed or scour blanket.
49. The Commission shall review and approve a planting and vegetation management plan that includes native replacement trees and shrubs for those removed during construction.
50. All exposed soil finish grade surfaces, disturbed areas, slopes, and proposed landscape areas shall be landscaped and stabilized, or loamed, seeded, and mulched with a 1-inch (1") layer of mulch straw or through the use of other approved means. Such stabilization work must be completed within five (5) days of the completion of construction. Outside of the growing season, exposed soil finish grade surfaces shall be stabilized with a three inch (3") layer of mulch until climate conditions allow for seeding. During construction, any area of exposed soils that will be left idle for more than fourteen (14) days shall be stabilized with a layer of mulch or other means approved by the Commission. Temporary stabilization methods may include, but not be limited to, straw mats, jute netting, or erosion blankets. Continued maintenance of this area, in a manner which assures permanent stabilization and precludes any soil erosion, shall be the responsibility of the Applicant.
51. Areas slated for reseeding shall be seeded with a Conservation Mix grass seed. Within 30 days of the issuance of this Amended Order, the Applicant shall provide the Commission with documentation regarding the type of seed to be used. Subsequent to seeding, disturbed areas will be covered with a straw mulch, erosion control blanket or netting, or other suitable material in order to provide an adequate surface protection until seed germination. No hay shall be permitted. Preference should be given to erosion control netting with biodegradable stitching.
52. The completed stream channel within the replacement culvert shall have a clearly defined thalweg.

POST-CONSTRUCTION

53. Pesticides, herbicides, and fungicides shall not be used within 100 feet of the wetlands (includes stream bank). Organic pesticides, herbicides, or fungicides may be used subject to

the review and approval of the Conservation Commission. This condition shall survive the expiration of this Amended Order and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.

- 54.** Only slow-release organic granular type fertilizers shall be used within 100 feet of the wetlands (includes stream bank). This condition shall survive the expiration of this Amended Order and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
- 55.** Upon 30 days of completion of the project, the Applicant shall contact the Commission to arrange a Post-Construction Site Visit.
- 56.** Erosion control devices shall remain in place and properly functioning until all exposed soils have been stabilized with final vegetative cover and the Conservation Commission has authorized their removal. Once removal is authorized, erosion control shall be removed within two (2) weeks.