

30  
67  
75



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

DEP File Number:

**WPA Form 5 – Order of Conditions**

78-522

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



2006110800040 Bk:26268 Pg:98  
11/08/2006 08:48:00 OTHER Pg 1/14

**A. General Information**

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



From: West Newbury  
1. Conservation Commission

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

3. To: Applicant:

Andrew Nichols  
a. First Name b. Last Name c. Company

208 Goodale Road  
d. Mailing Address

Baltimore Md 21212  
e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

Holly Nichols Privitera  
a. First Name b. Last Name c. Company

1141 E. Rockefeller Lane  
d. Mailing Address

Hernando Fla 34442  
e. City/Town f. State g. Zip Code

5. Project Location:

Off Dole Place West Newbury  
a. Street Address b. City/Town

Map R-1 Lot 58 & 60  
c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known (note: electronic filers will click for GIS locator):  
e. Latitude f. Longitude

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

Essex  
a. County b. Certificate (if registered land)

25386 192  
c. Book d. Page

7. Dates: June 5, 2006 July 17, 2006 September 5, 2006  
a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance

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

Definitive Subdivision and Open Space Preservation Development Off Dole Place (12 sheets)  
a. Plan Title

Cammatt Engineering Lee Thibodeau  
b. Prepared By c. Signed and Stamped by

4/13/06 20  
d. Final Revision Date e. Scale

Detention Basin Site Plan 6/21/06  
f. Additional Plan or Document Title g. Date





**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

DEP File Number:

78-522

**B. Findings (cont.)**

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet

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

10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. cu.yd dredged	d. cu.yd dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. cu.yd dredged	d. cu.yd dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	a. cu.yd dredged	b. cu.yd dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		



**C. General Conditions Under Massachusetts Wetlands Protection Act**

(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. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
7. This Order 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.
8. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of 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 this Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MA DEP"]

"File Number 78-522"



**WPA Form 5 – Order of Conditions**

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

**C. General Conditions Under Massachusetts Wetlands Protection Act**

- 10. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before DEP.
- 11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
- 12. The work shall conform to the plans and special conditions referenced in this order.
- 13. Any change to the plans identified in Condition #12 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
- 14. The Agent or members of the Conservation Commission and 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.
- 15. 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.
- 16. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
- 17. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
- 18. All work associated with this Order is required to comply with the Massachusetts Stormwater Policy Standards.

Special Conditions:

Three pages Standard and three pages Special Conditions

---



---



---



---

If you need more space for additional conditions, select box to attach a text document



**WPA Form 5 – Order of Conditions**

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

**D. Findings Under Municipal Wetlands Bylaw or Ordinance**

1. Is a municipal wetlands bylaw or ordinance applicable?  Yes  No
2. The \_\_\_\_\_ hereby finds (check one that applies):  
Conservation Commission
3.  that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

a. Municipal Ordinance or Bylaw

b. 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.

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

a. Municipal Ordinance or Bylaw

b. Citation

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.

- c. The special conditions relating to municipal ordinance or bylaw are as follows:

---



---

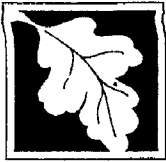


---



---

If you need more space for additional conditions, select box to attach a text document



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

DEP File Number:  
78- 522

**E. Issuance**

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

Sept. 5, 2006  
1. Date of Issuance

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

five  
2. Number of Signers

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

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

Signatures:

[Handwritten Signatures]

**Notary Acknowledgement**

Commonwealth of Massachusetts County of

Essex

On this 17<sup>th</sup> of

July 2006  
Month Year

Before me, the undersigned Notary Public, personally appeared

The above named signers  
Name of Document Signer

proved to me through satisfactory evidence of identification, which was/were

Massachusetts License

Description of evidence of identification

to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

As member of

West Newbury  
City/Town

Conservation Commission

Place notary seal and/or any stamp above

This Order is issued to the applicant as follows:

by hand delivery on

September 5, 2006  
Date

by certified mail, return receipt requested, on

\_\_\_\_\_  
Date

[Signature]  
Signature of Notary Public  
Jay B. Smith  
Printed Name of Notary Public  
April 5, 2007  
My Commission Expires (Date)



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

DEP File Number:

78-522

### F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate DEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request 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 Determination, or providing written information to the Department prior to issuance of a Superseding Order or Determination.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act, (M.G.L. c. 131, § 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.

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

SPECIAL CONDITIONS, DEP #78-522  
Subdivision off Dole Place  
Map R-1, Lot 58&60

1. All work shall conform to the following approved plans and documents: Definitive Subdivision and Open Space Preservation Development off Dole Place (12 sheets), revised 4/13/06, Detention Basin Site Plan, 6/21/06, Maintenance Plan, Stormwater Pollution Prevention Plan/Erosion and Sedimentation Control Plan, 2/15/06.
2. Due to the proximity of the development to wetlands and in order to maintain the integrity of the resource area, a naturally vegetated area extending twenty-five (25) feet from the wetlands delineated in the above referenced plan shall remain in place, undisturbed. There shall be no application of fertilizers, pesticides, herbicides, insecticides or other chemicals in the natural vegetation area.
3. Pesticides, insecticides and herbicides shall not be used on site within 100 feet of a resource area. Fertilizer used for landscaping and lawn care shall be low in nitrogen content and shall be used in moderation.
4. Erosion control measures shall be installed by the applicant and shall be inspected and approved by the WNCC prior to any other work under this Order. Erosion control shall consist of staked silt fence backed by hay bales installed using West Newbury guidelines.
5. Fill materials outside the septic system fill limit but in the buffer zone shall be ordinary borrow, free from masonry stumps, wood, tree branches, organic materials (other than topsoil), construction debris, refuse, trash and other similar materials.
6. A construction schedule shall be submitted to the WNCC at least 72 hours prior to the commencement of any site work.
7. A conservation restriction on the areas designated as conservation and/or open space shall be granted to the WNCC and approved by the required local and state authorities prior to the commencement of any work under this order.
8. The required reports of maintenance and inspection procedures set out on pages 12 and 13 of the Stormwater Pollution Prevention Plan/Erosion and Sedimentation Control Plan dated 2/15/06 and included in the NOI shall also be provided to the WNCC.
9. A complete operation and maintenance plan for the developed facilities, including the vegetated swales, sediment forebay and detention basin, shall

