



## 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:

145-763

#### 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: Dracut

a. Conservation Commission

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

3. To: Applicant:

Nalin

a. First Name

Parekh

b. Last Name

First Dracut Development Co., LLC

c. Company

130 Commerce Way

d. Mailing Address

Woburn

e. City/Town

MA

f. State

01801

g. Zip Code

4. Property Owner (if different from applicant):

a. First Name

b. Last Name

c. Company

d. Mailing Address

e. City/Town

f. State

g. Zip Code

5. Project Location:

341 Broadway Rd

a. Street Address

Map 37 / Map 51

c. Assessors Map/Plat Number

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

Dracut

b. City/Town

Lots 86-1, 86-2, 86-3

d. Parcel/Lot Number

42.68155

-71.29095

e. Latitude

f. Longitude

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

Middlesex North

a. County

11170

c. Book

b. Certificate (if registered land)

323

d. Page

7. Dates:

10/06/06

03/21/07

04/11/07

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):

Proposed Site Plan

a. Plan Title

K&M Land Consultants, LLC

b. Prepared By

April 11, 2007

d. Final Revision Date

Mark O'Hara, Jr.

c. Signed and Stamped by

1" = 40'

e. Scale

f. Additional Plan or Document Title

g. Date



2010 00010081

Bk: 23801 Pg: 167 Page: 1 of 21

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**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. 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

## 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.

**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 these interests, 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).**

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

3.  Buffer Zone Impacts: Shortest distance between limit of project disturbance and wetland boundary (if available)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	4,852 SF a. square feet	b. square feet	15,745 SF c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet e. cu.yd dredged	b. square feet f. cu.yd dredged	c. square feet	d. square feet

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**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		



**WPA Form 5 – Order of Conditions**

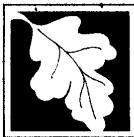
**C. General Conditions Under Massachusetts Wetlands Protection Act**

(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 145-763"



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### 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:

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

- \* See Attached Standard Boiler Plate
- \* Per Plan Dated April 11, 2007
- \* Revised plans showing distance from permanent markers to structures
- \* Revised plans showing 50' and 100' buffer zones
- \* Certified foundation plan per building
- \* As-Built plan per building
- \* Monthly monitoring reports from wetland biologist



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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 \_\_\_\_\_ 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:

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





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### **F. Appeals**

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



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### **G. Recording Information**

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, 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 Page 7 of this form shall be submitted to the Conservation Commission listed below.

Dracut

Conservation Commission

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

To:

Dracut

Conservation Commission

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

341 Broadway Rd  
Project Location

145-763

DEP 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

## Standard:

1. **Prior to commencement of work, this Order shall be recorded at the Middlesex County Registry of Deeds, in accordance with General Condition No. 8, and the recording information on page 7, completed and stamped by the Registrar, shall be returned to the Dracut Conservation Commission.**
2. **When returning the registry receipt, the applicant shall inform the Commission in writing of the name, address, business and home telephone number of the project supervisor who will be responsible for ensuring on-site compliance with this Order.**
3. The Dracut Conservation Commission shall be notified of any change in Owner and/or agent in writing within thirty days thereof.
4. Members and Agents of the Dracut Conservation Commission and The Department of Environmental Protection reserve the right to enter and inspect the property at all reasonable times, until a Certificate of Compliance is issued, to evaluate compliance with the conditions stated in this Order of Conditions, the Act and 310CMR 10.00, and may acquire any information, measurements, photographs, observations, and/or materials, or may require the submittal of any data or information deemed necessary by the Dracut Conservation Commission for that evaluation.
5. A complete copy of Order of Conditions, including drawings, special conditions, and any amendments shall be maintained at the work site whenever work is being performed. The permittee shall assure that all contractors, subcontractors, and other personnel performing the work are fully aware of the permit terms and conditions.
6. The provisions of this Order of Conditions shall apply to, and be binding on the applicant, his/her employees and all successors and assigns in interest and control.
7. It is the responsibility of the Applicant/ Owner and/or successors to ensure that all Conditions of this order are complied with. The project engineer and contractors are to be provided with a copy of this Order of Conditions and referenced documents prior to start of construction.
8. Prior to work commencing on site, the applicant shall submit to the Commission for approval, a detailed sequence of construction, including the construction of compensation and detention areas, and re-vegetation, to be completed before other work begins on site
9. Prior to the commencement of work, the Applicant, in writing, shall arrange an on-site meeting with the Dracut Conservation Commission or Agent, the Contractor, and the Applicant to ensure that all conditions of this Order of Conditions are understood. This condition shall be part of the Contractor's written contract.

10. All construction must comply with the referenced plans on page 1, #4 of this Order of Conditions.
11. **Any modifications or deviations made or intending to be made from the plan, or any new plan, must be submitted to the Commission for review and a determination as to whether a new Notice of Intent is required. If the Dracut Conservation Commission deems the change insignificant in writing, a new Notice of Intent will not be required. If the change is deemed significant, the Applicant will be required to submit a new Notice of Intent.**
12. If any unforeseen problem occurs during construction, which will affect any statutory interests in the Wetlands Protection Act, upon discovery the Conservation Commission, or it's agent, shall notify the developer immediately and a meeting shall be held between the Commission, or it's agent, the developer, and other concerned parties to determine the corrective measures to be employed.
13. There shall be no construction refuse buried on the site of the work.
14. During construction, all debris (including stumps and slash) generated from all aspects of this project will be removed from the site and disposed of, as dictated by the Commonwealth of Massachusetts and Town of Dracut. Proof and/or receipts shall be provided on request.
15. No further filling, dredging, or altering of wetland resources, not covered by the plans referenced on page 1 #4 of this Order of Conditions, shall not take place.
16. All equipment shall be stored in such a manner, so as to, not introduce any pollutants into any wetlands, and in no event shall there be any discharge or spillage of fuel, oil, or other pollutants into any resource area.
17. Water may not be diverted from the wetland, nor shall any effluent be discharged into the wetland during construction.

#### Erosion Control:

18. Prior to any work on site the Applicant shall submit to the Conservation Commission, for approval, a construction, erosion and sedimentation control.
19. Erosion control around a Wetlands area will be protected by the placement of:
  - Double staked hay bales embedded 4" into the ground. Stakes shall be a minimum of 18" deep in the ground.
  - Siltation fence may only be used with the permission of the Dracut Conservation Commission. Silt fence must be anchored, and trenched by a minimum of 6" of soil on the uphill edge of the silt fabric. This fence will only be constructed around the periphery of the wetlands on the project site.

20. The hay bale barrier shall function as erosion/sedimentation control and as a delineation of the work area. No work, alterations, or other activity shall occur on the wetland side of the hay bale, including the establishment of lawns or the cutting of vegetation, without further filing a Request for Determination of Applicability, or a Notice of Intent and receiving a permit from the Dracut Conservation Commission.
21. **All mitigation and resource protection devices and measures (e.g. hay bales, silt fences, etc.) are to be installed prior to the initiation of any work under this Order of Conditions. The Conservation Commission, or its agent, shall be notified in writing when the protective measures have been installed for inspection and verification. The Conservation Commission, or its agent, has 3 working days from date of notification to inspect said measures. No work shall begin until written approval is received from the Dracut Conservation Commission or it's agent.**
22. The applicant shall have on site, prior to any soil disturbance, removal or stockpiling, a minimum of fifty or 10% of total hay bales and sufficient stakes for staking. These hay bales shall be used for control of emergency erosion problems, and shall not be used for the normal control of erosion or for the hay bale barrier described in Special Condition 20.
23. All erosion control and sedimentation prevention measures shall remain in place and be maintained for the purpose for which they were installed (proper maintenance may require periodic replication) until the area up-gradient is permanently stabilized and a Certificate of Compliance has been issued.
24. The installation of hay bales or other erosion control and sediment control measures may be required in places not shown on the plan or mentioned in the Order of Conditions. The Conservation Commission, or it's agent, may request hay bales in those locations, if it is apparent that the lack of erosion control devices has caused damage to the resource areas. Said erosion control devices shall be placed with-in forty-eight (48) hours of said request.
25. Any hay bales that deteriorate during the activity period are to be replaced immediately. At the close of each construction day, and especially prior to weekends, the applicant shall assume responsibility for monitoring all erosion and sedimentation barriers, and to insure that all barriers are in place, secure, reinforced and properly maintained at days end. In the event that an uncontrollable emergency occurs, such as a heavy rainstorm, causing erosion and sedimentation breakout, the applicant shall restore such barriers to the standards outlined in this Order of Conditions, and the satisfaction of this Conservation Commission or its agent. The hay bales shall be in place until re-vegetation occurs.
26. All disturbed or exposed soil surfaces shall be temporarily stabilized after each work day with hay, straw, mulch or any other protective covering and/or method approved by the US Department of Agriculture Soil Conservation Service.

27. All debris, fill and excavated material shall be at least 50 feet from designated wetlands, and at a location to prevent sedimentation from surface run-off to enter the wetlands. At no time shall any debris or other material be buried or disposed of within that line marked on plan as wetland, as shown on plans referenced on page 1 # 4 pf Order of Conditions.
28. Proper erosion control measures shall be employed including the use of siltation fencing and straw hay bales dikes placed around the fill areas. These measures shall be inspected and repaired as necessary after all rainstorm events in order to ensure their integrity and effectiveness. Any material, which is accumulated behind the silt fencing, shall be removed immediately. The Conservation Commission or its agent reserves the right to inspect these erosion control measures on a regular basis and require additional maintenance and repair if not satisfied with the existing level of care exercised by the applicant.

#### **RUNOFF:**

29. Detention areas **shall be constructed prior to the construction of the roads** unless justified otherwise and agreed to by the Conservation Commission.
30. No discharge of water from any excavation shall take place unless water has been filtered to remove sediment.
31. The owner of the property covered by this Order of Conditions and their successors on title shall be responsible for the maintenance of all drainage systems, flood control, and water quality facilities located on said property. This condition shall remain in perpetuity and shall not expire with the issuance of a Certificate of Compliance.
32. The conditions set forth regarding storm water management shall remain in effect throughout the life of the facility.

#### **Title 5:**

33. Construction of the structure shall not commence until the applicant has obtained a Disposal Works Permit, pursuant to 310CMR 15.02(2).
34. An as-built plan of the subsurface sewage disposal system shall be included in the request for a Certificate of Compliance.
35. Construction of the structure, if within 100' of resource area, shall not commence until the applicant has received a variance from the Board of Health, all procedures for such a variance pursuant to 310 CMR 15.20 have been followed, and all appeal periods have elapsed. A copy of the variance shall be submitted to the Dracut Conservation Commission prior to the construction of the building.

**FLOODPLAINS:**

36. Construction of the structure and placement of the appurtenant facilities shall be in compliance with the provisions of the State Board of Building Regulations and Standards, 780 CMR 744.0, DESIGN REQUIREMENTS FOR CONSTRUCTION IN FLOODPLAINS. Prior to construction above the foundation, an Elevation Certificate as required by 780 CMR 744.5 shall be submitted to the Dracut Conservation Commission.
37. **Prior to commencement of work, the applicant, his successor, or assignees shall submit to the Dracut Conservation Commission a building and foundation plan that has been reviewed and certified by a registered professional engineer to meet the provisions of 780 CMR 744.4.**
38. The area below the structure shall be limited to storage and parking. No other use is permitted. The area below the dwelling shall not be finished or used for recreational or habitable purposes. This shall be a continuing condition.

**ROADS**

39. Road pavement shall be sloped as necessary to collect all runoff into the road drainage system or catch basins.
40. The road drainage system of catch basins and detention facilities shall be maintained in the following manner to ensure their continued functions:
  - a. Grease and gas traps shall be installed in catch basins to protect the wetland area from pollution caused by run-off.
  - b. Construction receipts of such shall be kept and submitted to the Conservation upon request.
  - c. The detention basin shall be inspected annually for sediment accumulation and foreign debris. The basin shall be cleaned of accumulated sediment if the sediment is over six inches (6 in.) in depth. Records shall be kept of the date of the inspection, the person inspecting the basins, the results of the inspection, the person inspecting the basins, the results of the inspection, and any action taken as a result of the inspection, and any action taken as a result of that inspection. All records of inspection and cleaning shall be submitted to the Conservation Commission upon request.
41. All pipe used in the drainage system shall have watertight connections when placed below the maximum ground water elevation, as determined by the Board of Health methods for septic system design. All entries and exits from catch basins shall be watertight. All entries and exits from drain manholes, if below the maximum ground water elevation, shall be watertight. All catch basins shall be designed and constructed to be watertight. All sewer manholes shall be designed

and constructed to be watertight, if placed below the maximum ground water elevations.

42. If the road drainage systems of catch basins, infiltration, detention basins and riprap cease or fail to function for the purpose they were designed, built and maintained (that is, to prevent an adverse effect on the resource areas from erosion, siltation, flooding and/or pollution) the Dracut Conservation Commission may order that corrective measures be taken to protect the interests of the Wetlands Protection Act. The Owner(s) of the road shall comply with any request for redesign or reconstruction of the road drainage system ordered by the Dracut Conservation Commission under this Special Condition. This shall be a continuing condition.
43. No deicing chemicals shall be used where run-off/drainage will discharge into the wetlands. This condition shall remain in perpetuity, and shall be recorded as such on the Certificate of Compliance.
44. If erosion or storm damage occurs to the driveways or roads due to overtopping caused by a one hundred (100) year frequency storm or a storm of greater frequency, the Dracut Conservation Commission may require further information relative to the delineation of the floodplain, the maximum flow of the stream, and the ability of the culverts to handle that flow. The applicant, successors or assignees shall provide all requested information within thirty (30) days of receipt of the request for the information. The Dracut Conservation Commission may require modifications to the road crossing to protect the interests of the Wetlands Protection Act. Any requested modifications shall take place within sixty (60) days of the receipt of the request from the Conservation Commission.
45. Wetland crossings shall be done when there is no flow in the stream.

#### **MISCELLANEOUS:**

46. All utility poles shall be treated with a non-leaching wood preservative. The use of creosote is expressly prohibited. Use of a wood preservative other than CCA salts shall require prior written notification to the Dracut Conservation Commission five (5) days in advance of placement.
47. Any on site dumpsters shall not be located within 100 feet of the wetlands.
  1. Cement trucks shall not be washed in the wetland buffer zone. Any deposit of concrete or cement products into the wetland areas shall be removed by hand.

***REPLICATION (Wetland Replacement Area)***

49. Work on the crossing of the wetlands and the replication area shall be done according to the replication report submitted with the Notice of Intent with the following exceptions:
  - A. Prior to the commencement of work, the Applicant shall establish an escrow account to secure the wetlands replication area. The escrow agreement shall take the form required by the Town Treasurer.
  - B. A hay bale barrier shall be placed between the proposed wetland areas and the existing wetlands.
50. The compensatory Bordering Vegetated Wetland shall be constructed prior to any filling of Bordering Vegetated Wetland.
51. Replication of vegetation shall be "in kind", i.e., the replication area shall be generally similar to the area destroyed in species composition, and cover and structure of dominant species, unless modified by the Conservation Commission.
52. The replication area shall meet the performance standards in 10.55(4)(b).
53. Seasonal ground water elevations shall be determined for the replication area. If adequate groundwater elevation does not exist, the applicant is required to create a perched ground water substrate.
54. The following shall be submitted to the Conservation Commission for approval prior to any construction. This will aid in defining the extent and nature of the replication area.
  - a. A complete site specific analysis of the wetland area to be altered including:
    1. Ground and surface hydrology
    2. Existing water quality including levels of those compounds requested by the Conservation Commission and the uptake capacity of the wetland for each
    3. Recharge/discharge rate
    4. Flood storage capacity
    5. Plant species list; cover value, average height and range of heights for each species and each layer of vegetation (trees, shrubs, herbs)
    6. Wildlife habitat characteristics including food, shelter and breeding site characteristics
    7. Importance to fisheries
  - b. A plan for the replication area including:

1. A summary report of observations made and remedial techniques planned under item # 54(a.)(1.) regarding existing ground and surface hydrology and mechanisms to establish ground and surface water connections with the adjacent wetlands.
2. Mechanisms to reproduce levels of the functions in # 54 (a.)(2-5) similar to the area being lost.

55. Analyses shall be completed, designs and plans developed, and the construction supervised on site by specialists approved by the Conservation Commission who have expertise and demonstrated experience with wetland replication. Documentation of it shall be provided to the Conservation Commission.

56. The Conservation Commission, or its agent, shall be given a 3 working day notice prior to the beginning of construction of the replication area. It is the intent of the Conservation Commission, or its agent, to meet with the construction engineer and the wetland specialists to discuss the requirements of this order and to ensure compliance with all special conditions.

57. During the construction phase for this project an on-site supervisor, directing engineer or designated construction manager, shall have a copy of the permit at the site, familiarize himself or herself with the conditions of the permit, and adhere to those conditions.

58. The replication area shall be constructed in the following manner:

- a. Plants from the altered wetland areas will be transplanted in their original organic material to the replication area. Wetland plants will be carefully dug with attention given to the root system, balled and/or burlapped in a professional manner, and temporarily stored in a shady area and watered on a daily basis.
- b. The topsoil from the replication site shall be stockpiled.
- c. The area shall be excavated and graded to a depth of at least ten inches below the proposed contours shown on the site plan.
- d. The adjacent slopes shall be graded as shown on the plan with the topsoil again stockpiled.
- e. All stockpiled soils shall be isolated from the wetland.
- f. Stockpiled soil shall then be placed on the replication site and slopes to a depth of several inches; additional material such as peat moss or leaf mold may be added to this layer.
- g. The upper layer of the replication area shall consist of soil, plants, plant propagules removed from the wetland to be filled, and other approved plant materials as described on the re-vegetation plan.

59. No alteration of wetlands and no other site work shall take place until after the replication area has been constructed except to remove organic soil or access the replication site.

60. The adjacent exposed slopes shall be loomed, seeded, and mulched. An adequate vegetative cover must be established within one growing season.
61. Siltation barrier shall be placed at the periphery of the replication area proper and at the top of any non-stabilized adjacent slope. These will remain in place, and be maintained until all areas are completely stabilized.
62. The siltation barriers shall serve as a work limit line for the project. No disturbance to adjacent wetland areas resulting from work on the project shall occur during or after construction of the replication area.
63. Following construction of the replication area and prior to other work on the site, a wetland specialist shall certify to the Conservation Commission that the area has been constructed in compliance with the Order of Conditions.
64. Quantitative data indicating the status of the project with respect to the performance standards and pertinent conditions of the Order of Conditions shall be submitted to the Conservation Commission at 12-month intervals until a Certificate of Compliance is issued. The initial report shall also include: excavation date and process, wetland soil depth, any planting and replanting dates.
65. A quantitative vegetation analysis shall be submitted by a wetland plant specialist to the Conservation Commission each year. More frequent analysis may be required by the Commission.
66. A replication area will be considered successful and a Certificate of Compliance may be issued when all of the following have occurred:
  - a. Two growing seasons have elapsed since the last manipulation.
  - b. The site contains similar values for the functions of item # 54(a.) as the area lost.
  - c. The performance standards of 10.55(4)(b) continue to be met.
67. An "as built" plan of the detention area, wetland crossings, and wetland replication areas showing critical inverts, and/or elevations shall be submitted to the Dracut Conservation Commission when requesting a Certificate of Compliance as stipulated by General condition No. 11.

#### **PLACEMENT OF FILL AND CONSTRUCTION RIPRAPPED EMBANKMENT:**

68. The ripraping of the embankment shall be completed, as quickly as possible, after the necessary dredging has been accomplished.

69. Riprap material shall be clean and free of trash, tree stumps, roots, and other deleterious material. Installation of riprap stone shall be done according to specifications identified in the Notice of Intent.
70. No vehicular traffic shall enter wetland areas during placement of fill and Riprap.
71. Any fill material used in this phase of the project shall be clean and free of trash, ice, snow, tree stumps, roots and other deleterious material. Fill material shall have properties that make it readily spread and compacted. Excavated materials from on-site sources or de-watered dredge spoil may only be used as fill material if the applicant can show to the Conservation Commission, or its agent, that said material is free of contamination and meets the above mentioned parameters.
72. Only crushed stone of uniform size shall be used for temporary construction roadways as an underlayment to permanent roadways within the 100' buffer zone to the wetlands. Said stone shall be washed, graded and free from organic materials.

#### **DOCKS AND PIERS:**

73. No construction shall occur between March 15 and June 15, during spawning season.
74. No creosote treated wood to be used.

#### **SUBDIVISIONS:**

75. On each deed of each parcel of the subdivision there shall be written "No filling of any portion of Wetlands as defined by the Wetlands Protection Act, Massachusetts General Laws Chapter 131, Section 40 and regulations thereto, 310, CMR 10.00 et. Seq., shall take place.
76. The delineation of the Bordering Vegetated Wetland as shown on the plan(s) of record has been accepted for the work allowed under this Order. Any other work or activity shall require a re-delineation of the bordering vegetated wetland consistent with the provisions of 310 CMR 10.55.

#### **CERTIFICATE OF COMPLIANCE:**

77. Upon project completion, a Massachusetts Registered Professional Engineer is to submit a written report to the Dracut Conservation Commission certifying that that the work was done in accordance with the approved plans. The applicant shall submit an "as-built" plan to the Dracut Conservation Commission and the

Dracut Engineering Department upon completion of this project to receive a Certificate of Compliance.

78. See Special Condition #31.
79. See Special Condition #67.
80. See Special Condition #34.

#### SIGNIFICANT PROJECTS (AS DESIGNATED BY THE DRACUT CONSERVATION COMMISSION)

81. The Dracut Conservation Commission reserves the right and opportunity to modify this Order, or to require a new Notice of Intent to reflect concerns or issues raised, or project changes or mitigation measures proposed or required by other agencies and departments reviewing this project. The Applicant shall provide to the Dracut Conservation Commission copies of all draft and final permits, licenses, correspondence related thereto, and any information requested by the Dracut Conservation Commission necessary to evaluate the permits and licenses.
85. Prior to the commencement of any construction activities at the site, the Applicant shall submit in writing to the Dracut Conservation Commission the names, addresses, and phone numbers of those persons responsible for the following project activities: (a) site preparation, (b) storm water management; (during and post construction); (c) dredging; (d) erosion/siltation controls; and (e) environmental monitoring.
86. Prior to the commencement of any construction activities at the site the Applicant shall arrange an on-site meeting with Dracut Conservation Commission, or its agent, and those responsible for compliance with this Order of Conditions. These parties shall include construction supervisors, site engineers, environmental monitors and consultants, and any other parties responsible for ensuring compliance with this Order of Conditions. The applicant shall have the wetlands delineation clearly flagged on the entire site prior to this on-site meeting.
87. The Applicant shall be responsible for continuously maintaining the wetlands delineation flagging on the entire site until the issuance of the Certificate of Compliance.
88. The Applicant shall submit, in writing to the Dracut Conservation Commission a monthly monitoring report, which shall discuss the status of construction activities, the performance of the erosion/siltation control, the dredge spoil dewatering area, and the storm water management system, and any actions taken or recommended to improve protection of wetland resources or the effectiveness of mitigation measures. In addition, the Commission shall be notified by telephone and confirmed in writing, as soon as possible, of any failures of any of these controls and systems.

89. A Dracut Conservation Commission approved environmental monitor shall oversee the daily inspection and repair of the erosion and sedimentation controls and other mitigation measures at the project site as set forth in the Wetlands Protection Act, M.G.L., c.131, s. 40, and the Dracut Wetlands Protection Bylaw. At the discretion of the Dracut Conservation Commission at least one such monitor shall be on duty at the site at all times during construction activities. The names and phone numbers of these monitors must be provided to the Dracut Conservation Commission in writing. The monitor must be accessible and respond to concerns within twenty-four hours. Said monitors shall continue to oversee these operations at the discretion of the Dracut Conservation Commission.
90. The Commission reserves the right to require additional protective measures for wetland resource areas.