



BUILDING

PLANNING

ZONING

CONSERVATION

COMMUNITY DEVELOPMENT

VIA Certified Mail: 7007 2560 0002 3234 3527

April 24, 2009

Mr. Tom Flannery
MA Department of Conservation & Recreation
Lakes & Ponds Program
251 Causeway Street
Boston, MA 02114

Dear Mr. Flannery:

Enclosed please find the Order of Conditions issued by the Natick Conservation Commission at their meeting April 23, 2009 DEP file #233-641.

Project Location: Lake Cochituate, Natick, MA

Chapter 131 Section 40 of the Massachusetts General Laws requires that this Order of Conditions be recorded in the Registry of Deeds for the District in which the land is located before any work commences. A copy of such recording, showing Book and Page number, is to be furnished to the Natick Conservation Commission.

Work may not begin until the petitioner has duly recorded the Order of Conditions and until the ten (10) day period for appeals has elapsed. Work may also not begin until after all agreements or covenants as required by this Order of Conditions have been received and approved by the Natick Conservation Commission.

Any site work being done which is subject to the Order of Conditions shall display a sign, clearly visible from a traveled way, of not less than two (2) square feet or more than three (3) square feet in area, bearing the words "Massachusetts Department of Environmental Protection File No. 233-6400."

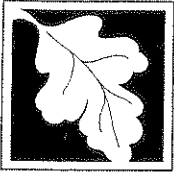
Sincerely,

TOWN OF NATICK

Bob Bois

Conservation Agent

Cc Mass DEP

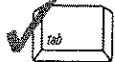


Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:
 233-641

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: Natick
 1. Conservation Commission

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

3. To: Applicant:
Tom Flannery MA Dept. of Conservation & Recreation - Lakes & Ponds Program
 a. First Name b. Last Name c. Company

251 Causeway
 d. Mailing Address

Boston MA 02114
 e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):
Commonwealth of Massachusetts - DCR
 a. First Name b. Last Name c. Company

d. Mailing Address

e. City/Town f. State g. Zip Code

5. Project Location:
Lake Cochituate - DCR beach & boat ramp Natick
 a. Street Address b. City/Town
N/A N/A
 c. Assessors Map/Plat Number d. Parcel/Lot Number
 Latitude and Longitude, if known (**note:** 42d 18' 35.36" 71d 22' 29.36"
 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):

a. County b. Certificate (if registered land)

c. Book d. Page

7. Dates: 2/19/09 4/2/09 4/24/09
 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):

Aquatic Management Program - Lake Cochituate
 a. Plan Title

Aquatic Control Technology Inc. Gerald Smith, President
 b. Prepared By c. Signed and Stamped by

February, 2009
 d. Final Revision Date e. Scale

f. Additional Plan or Document Title g. Date

9. Total WPA Fee Paid: \$500 \$237.50 \$262.50
 a. Total Fee Paid b. State Fee Paid c. City/Town Fee Paid



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:

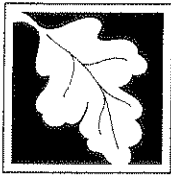
- the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special 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:

- 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.**
- 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)

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



WPA Form 5 – Order of Conditions

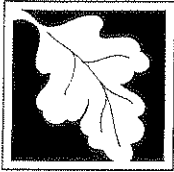
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Findings (cont.)

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

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

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



WPA Form 5 – Order of Conditions

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

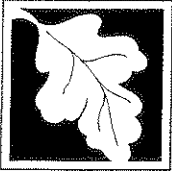
C. General Conditions Under Massachusetts Wetlands Protection Act

(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 233-641"



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.

Special Conditions:

See Special Conditions

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

NATICK CONSERVATION COMMISSION

**SPECIAL CONDITIONS
LAKE COCHITUATE AQUATIC PLANT MANAGEMENT PROGRAM
MIDDLE POND – DCR BEACH AND BOAT RAMP
Order of Conditions – 233-641**

1. The Commission reserves the right to impose additional conditions or require the submittal of additional information as necessary to protect the interests of the Massachusetts Wetlands Protection Act, M.G.L. c. 131, 40 (“Act”).
2. If any change is made or intended to be made in the plan, the applicant shall file a new Notice of Intent, or shall inquire in writing of the Commission whether the change necessitates a new filing.
3. The applicant shall submit to the Commission a written request for a Certificate of Compliance once the activity has been completed.
4. The Natick Conservation Commission and the Commission’s agents shall have the right to observe and inspect the operations to evaluate compliance with this Order of Conditions, and may require the submittal of any data necessary for such evaluation.
5. The applicant shall notify the Commission in writing of any changes in Personnel so responsible, together with the appropriate names, addresses and phone numbers.
6. The applicant shall provide 48 hours notice to the Commission prior to beginning activities on site.
7. The applicant shall limit treatment to days when wind gusts are less than 20 miles per hour and there are no white caps on the surface of Middle Pond.
8. This order shall apply to any successor in control or successor in interest of the property described in the Notice of Intent and accompany plans.
9. The directing engineer or designated manager, shall have a copy of the permit and Notice of Intent at the site, be familiar with the documents and adhere to those conditions.
10. If any unforeseen problem occurs during the activity which affects any of the statutory interests of the Act and/or the Natick Wetland Bylaw, upon discovery, the applicant shall notify the Commission, and an immediate meeting shall be held between the Commission, the applicant, the engineer, contractor, and other concerned parties to determine the corrective measures to be employed. The applicant shall then act to correct the problem using the corrective measures agreed upon.

11. Servicing and repair of motorized watercraft shall take place at least 100 feet from the edge of all wetland resource areas. Refueling of motorized watercraft shall take place using standard operating procedures, including reference and adherence to owner's manual for proper refueling procedures.
12. Equipment operators shall be prepared to respond immediately to any accidental releases of fuel, motor oil, aquatic herbicides or other liquids. There shall be absorbent materials available on site at all times for use in containing spills. If an accidental release occurs, the applicant/operator shall immediately notify the state.
13. This approval is for only one application of Reward (Diquat) herbicide this spring (2009) to control nuisance aquatic vegetation, namely Eurasian Water Milfoil (*Myriophyllum Spicatum*) in a small area in the northwest corner of Middle Pond abutting the state beach and boat ramp. Maximum treatment area proposed project is 5 acres. Any future treatments will require an additional written approval of the Commission.
14. The Applicant's contractor, Aquatic Control Technology, Inc., shall provide a copy of the MA DEP License to Apply Chemicals prior to any herbicide treatment.
15. A written notice of the pending treatment shall be placed in at least two daily newspaper of general distribution in the Natick area (the Boston Globe and the Metrowest Daily News) and one weekly newspaper of general distribution in the Natick area (the Natick Bulletin) by the Friday prior to the scheduled day of treatment.
16. Printed posters in English, Portuguese, Chinese, Vietnamese and Spanish, or with universal signage, providing the date of treatment and temporary water use restrictions to be imposed, shall be posted around the entirety of the shoreline of Middle Pond, lake park parking areas and within 200 feet of either direction from (and including) the State Beach and Boat Ramp on Middle Pond. Posters shall be put up on the Friday prior to treatment. Treatment shall occur only on a Monday, Tuesday or Wednesday of the week. The restrictions in Special Condition 17 shall be included in the posters pursuant to the Special Condition (#16).
17. The restrictions for Middle Pond are as follows: no swimming or boating on the day of treatment and one additional day; no fishing on the day of treatment and one additional day; no irrigation or watering livestock for 5 days; and no use of the lake water for drinking or domestic uses of lake water in Middle Pond for 3 days.
18. The applicant shall comply with all laws and regulations governing the handling and application of Reward (Diquat).

19. Prior to treatment, a plant survey map of the proposed 5 acres area to be treated shall identify water milfoil plant densities and shall be given to the NCC at least 48 hours prior to any chemical application.
20. A post treatment plant survey map of the treated area shall be given to the NCC within two weeks of treatment.
21. Treatment in the proposed 5 acres area shall be followed with hand pulling of stalks and roots of water milfoil.
22. The applicant shall prepare a water and sediment Diquat sampling plan to be reviewed and approved by the NCC prior to treatment. The plan will outline pre-treatment and post-treatment sample collection locations and sample frequencies. The samples will be tested for the presence of Diquat at a state certified laboratory. The test results shall be sent to the NCC within two days of their receipt from the laboratory.
23. The applicant shall make arrangements with the Natick Water Department to sample and test the Evergreen Wells for Diquat before treatment, 30 days following treatment and quarterly thereafter for two years.
24. A written report summarizing the chemical treatment operations (areas/acreage treated chemicals and quantity applied, relative effectiveness of treatment) and results of the Diquat testing program, shall be provided to the Commission within 90 days of treatment.
25. The applicant shall perform a pilot test in Lake Cochituate prior to August 30, 2010 of a mechanical harvester such as a Diver Assisted Suction Harvester (DASH) boat, or similar technology, pursuant to a subsequent Order of Conditions. The applicant shall submit a report to the NCC detailing the results of the pilot test and an evaluation of its effectiveness in controlling or managing Eurasian Milfoil within one month of completing the pilot test.



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. Furthermore, the Natick hereby finds (check one that applies):
Conservation Commission

2. 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.

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

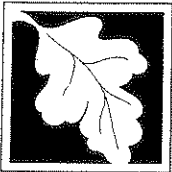
a. Municipal Ordinance or Bylaw

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



E. Signatures and Notary Acknowledgement

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

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

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

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.

1. Date of Issuance

2. Number of Signers

Signatures:

Bernard P. Volpe
Joseph P. Stepanak
Matthew [unclear] (opposed)
Jason [unclear]

[Signature]
[Signature] (opposed)
[Signature] (opposed)

Notary Acknowledgement

Commonwealth of Massachusetts County of

Middlesex

On this 23rd Day of

April 2009
 Month Year

Before me, the undersigned Notary Public, personally appeared

Matthew Gardner, chair
 Name of Document Signer

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

Description of evidence of identification

Driver's License

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

City/Town

Natick

Conservation Commission

[Signature]
 Signature of Notary Public
Michael J. Melchiorri
 Printed Name of Notary Public
January 29, 2010
 My Commission Expires (Date)

Place notary seal and/or any stamp above.

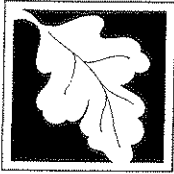
This Order is issued to the applicant as follows:

by hand delivery on

by certified mail, return receipt requested, on

Date

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:

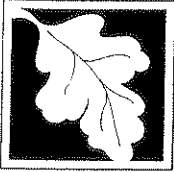
233-641

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.

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.



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:
 233-641

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.

Conservation Commission

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

To:

Conservation Commission

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

Project Location

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