

Selectmen
cc. John Etgar

Ashmere herbicide

3-14-00

~~Bruce~~
Dave
~~John~~

June 17, 1999
Amended Order of Conditions
Ashmere Lake Herbicide Treatment
File No. 181-77 dated May 26, 1998

I spoke to John. He
will deal with Lycott
Gibby

Special Conditions

Subject: Herbicide follow-up application to control excessive aquatic vegetation in selected areas for 1999.

1. The herbicide currently identified for use is "Reward" (Diquat). The herbicides used for application are to be as species specific to Eurasian milfoil as practical. In addition it will reduce the density of the Potamogeton robbinsii. Any change in the herbicide to be applied shall require issuance of an amended "Notice of Intent" so herbicides applied can be documented. *

2. The herbicides are to be applied only by a state licensed applicator using only US EPA registered and state approved herbicides. Public notice shall be published in the local newspaper, and shore locations- especially right of ways, causeway, and major access entrance roads to Ashmere Heights, Skyview and Sunnyside areas. Areas shall be posted and abutter notification distributed by the town, contractor or delegated area representatives least 2 days prior to herbicide application. Lake is to be closed to recreation- boating, swimming, fishing for the day of application and at least 24 hours after application. Water is not to be used for domestic use for at least 48 hours, drinking for 5 days and water is not to be used for irrigation for at least 5 days after application is completed. Animals should be restricted from lake use for five days. Shores of treated areas are to specifically identified. Posting shall remain in place for at least 1 week. The Hinsdale Conservation Commission shall notified and will review the posting prior to herbicide application.

3. Record of composition and densities of vegetation in the treated areas and sample similar untreated areas before, after, and after 1 year after treatment shall be reported to the Hinsdale Conservation Commission, DEP and DEM by the herbicide applicator as part of a lake management plan database. Treatment shall not begin until initial data is obtained. Any further treatment will require filing a new NOI. It is recommended that any further treatment should be part of a lake management plan approved by the lake abutters, associations, town including the Conservation Commission and applicable state agencies.

4. Empty herbicide containers shall be rinsed and disposed of off-site in accordance with manufacturers recommendations and state regulations.

Please write us a letter outlining the changes to the original application and send a copy to the Hinsdale Com Com and the State DEP. 436 Dwight St. Springfield, MA 01103. We will consider the information at a meeting.



Ashmere Herbicide

AMENDED

DEP File Number

181-77

for DEP use only

WPA Form 5 - Order of Conditions

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

A Applicant Information

From:

Hinsdale

Conservation Commission

For:

Ashmere Lake follow up herbicide treatment 1999

Project File Number

To:

Town of Hinsdale/ Lycott Environmental Inc.

Applicant Name

39 South St.

Mailing Address

Hinsdale

City/Town

MA

01235

State

Zip Code

The Notice of Intent for this project was filed on:

MARCH 18, 1998

Date

AMENDMENT REQUEST JUNE 2, 1999

The public hearing was closed on:

June 8, 1999

Date

Title and Date of final Plans and Other Documents:

The project site is located at:

Ashmere Lake, Hinsdale

City/Town

Assessor's Map/Plat #

Parcel/Lot #

and the property is recorded at the Registry of Deeds for:

Berkshire

868

506

County

Book

Page

Certificate (if registered land)

B Findings

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 area in which work is proposed is significant to the following interests of the Wetlands Protection Act (check all that apply):

- Public Water Supply
- Private Water Supply
- Groundwater Supply
- Flood Control
- Land Containing Shellfish
- Fisheries
- Storm Damage Prevention
- Prevention of Pollution
- Protection of Wildlife Habitat

Furthermore, this Commission hereby finds that 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, to protect those interests checked above. This Commission orders that all the 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.



WPA Form 5 - Order of Conditions - AMENDED

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

B Findings (cont.)

Denied because:

- the proposed work cannot be conditioned to meet the performance standards set forth in the wetlands regulations to protect those interests checked above. 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.
- 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(b)(c).

General Conditions

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 does not become 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 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 the 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

181-77

Project File Number

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 the Department.
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 following attached plans and special conditions:

Final Approved Plans (attach additional plan references as needed) :

Title

Dated

Signed and Stamped by

On file with



WPA Form 5 - Order of Conditions

AMENDED

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

B Findings (cont.)

- 13. Any changes 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 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 serve as the limit of work (unless another limit of work line has been noted in the plans of record) and 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.

Special Conditions (Use additional paper if necessary)

See page 3A

Findings as to municipal law, bylaw, or ordinance

Furthermore, the

Conservation Commission

hereby finds (check one that applies):

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

Name and citation of municipal law, bylaw, or ordinance

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.

- that the following additional conditions are necessary to comply with a municipal law, bylaw, or ordinance, specifically

Name and citation of municipal law, bylaw, or ordinance.

The Commission orders that all the work shall be performed in accordance with the said additional 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.

Additional conditions relating to municipal law, bylaw, or ordinance:

June 17, 1999
Amended Order of Conditions
Ashmere Lake Herbicide Treatment
File No. 181-77 dated May 26, 1998

Special Conditions

Subject: Herbicide follow-up application to control excessive aquatic vegetation in selected areas for 1999.

1. The herbicide currently identified for use is "Reward" (Diquat). The herbicides used for application are to be as species specific to Eurasian milfoil as practical. In addition it will reduce the density of the *Potamogeton robbinsii*. Any change in the in the herbicide to be applied shall require issuance of an amended "Notice of Intent" so herbicides applied can be documented.
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4. Empty herbicide containers shall be rinsed and disposed of off-site in accordance with manufacturers recommendations and state regulations.



WPA Form 5 - Order of Conditions

AMENDED

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

B Findings (cont.)

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

_____ Date

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 regional office of the Department of Environmental Protection.

Signatures:

Bernie J. Cote
R. Lynne Roberson
[Signature]

On this 17th

day of June

Month 1999

Year 1999
before me personally appeared Bernie J. Cote

to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

Ally Klemm Mayn
Notary Public
Dec. 16, 2005
My commission expires

This Order is issued to the applicant as follows:

by hand delivery on

_____ Date

by certified mail, return receipt requested, on

_____ Date

C 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 Department of Environmental Protection 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 Appendix E: Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the conservation commission and to the applicant, if he/she is not the appellant.

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 bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.



WPA Form 5 - Order of Conditions

AMENDED

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

D 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 shall be submitted to the

Conservation Commission

on the form below, which must be stamped by the Registry of Deeds.

Detach on dotted line 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

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 which identifies this transaction is

Instrument Number

If registered land, the document number which identifies this transaction is

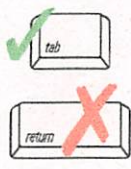
Document Number

Signature of Applicant

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 7 – Extension Permit for Orders of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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.



1. Applicant:
- Town of Hinsdale/Lycott Environmental, Inc.
Name
- Town Hall
Mailing Address
- Hinsdale MA 01235
City/Town State Zip Code
2. Property Owner (if different):
- Commonwealth of Massachusetts
Name
- 740 South St.
Mailing Address
- Pittsfield MA 01201
City/Town State Zip Code

B. Finding Information

The Order of Conditions (or Extension Permit) issued to the applicant or property owner listed above on:
Original Order issued May 26, 1998; Amended Order issued June 17, 1999 and Amended Order issued May 30, 2000

for work at:

Ashmere Lake	n/a	n/a
Street Address	Assessor's Map/Plat Number	Parcel/Lot Number

recorded at the Registry of Deeds for:

Berkshire	868	506
County	Book	Page

Certificate (if registered land)

is hereby extended until:
August 17, 2003 with conditions (attached hereto) of the Amended Order issued on May 30, 2000.
Date

This date can be no more than 3 years from the expiration date of the Order of Conditions or the latest extension. Only unexpired Orders of Conditions or Extension may be extended.

Date the Order was last extended (if applicable):
Order was last extended until August 17, 2000 by an Extension issued May 12, 2000.
Date

Issued by:
Hinsdale
Conservation Commission

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 7 – Extension Permit for Orders of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

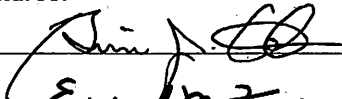
181-77

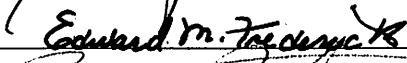
Provided by DEP

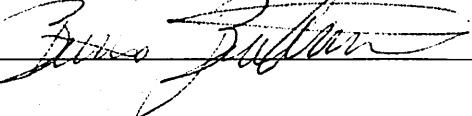
B. Finding Information (cont.)

This Order of Conditions Extension must be signed by a majority of the Conservation Commission and a copy sent to the applicant and the appropriate DEP Regional Office (see Appendix A).

Signatures:





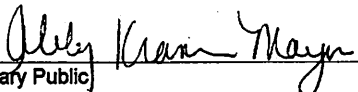


On 14th of June, 2000
Day Month and Year

before me personally appeared

BERNIE COTE

to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.


Notary Public
Dec. 16, 2005
My Commission Expires

C. Recording Confirmation

The applicant shall record this document in accordance with General Condition 8 of the Order of Conditions (see below), complete the form attached to this Extension Permit, have it stamped by the Registry of Deeds, and return it to the Conservation Commission.

Note: General Condition 8 of the Order of Conditions requires the applicant, prior to commencement of work, to record the final Order (or in this case, the Extension Permit for the Order of Conditions) 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, it shall be noted in the Registry's Granter Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, it shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done.

Detach page 3 of Form 7 and submit it to the Conservation Commission prior to the expiration of the Order of Conditions subject to this Extension Permit.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 7 – Extension Permit for Orders of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

181-77
Provided by DEP

C. Recording Confirmation (cont.)

To:

Hinsdale
Conservation Commission

Please be advised that the Extension Permit to the Order of Conditions for the project at:

Ashmere Lake 181-77
Project Location DEP File Number

has been recorded at the Registry of Deed of:

Berkshire
County

for:

Commonwealth of Massachusetts
Property Owner

and has been noted in the chain of title of the affected property in accordance with General Condition 8 of the original Order of Conditions on:

Date	Book	Page
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If recorded land the instrument number which identifies this transaction is:

Instrument Number

If registered land, the document number which identifies this transaction is:

Document Number

Applicant Signature