



Bk: 6588 Pg: 200 Doc: AMDT
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Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
181-077
MassDEP File #
eDEP Transaction #
Hinsdale
City/Town

A. General Information

Please note:
this form has been modified with added space to accommodate the Registry of Deeds Requirements

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

1. From: Hinsdale
Conservation Commission

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

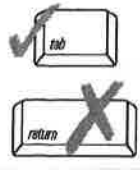
3. To: Applicant:
a. First Name The Town of Hinsdale b. Last Name _____
c. Organization 39 South Street
d. Mailing Address Hinsdale
e. City/Town MA f. State 01235 g. Zip Code

4. Property Owner (if different from applicant):
a. First Name Commonwealth of Massachusetts b. Last Name _____
c. Organization 100 Cambridge Street
d. Mailing Address Boston
e. City/Town MA f. State 02204 g. Zip Code

5. Project Location:
a. Street Address Ashmere Lake b. City/Town Hinsdale
c. Assessors Map/Plat Number Map 26 d. Parcel/Lot Number 50

Latitude and Longitude, if known: d m s d m s
d. Latitude e. Longitude

See Order in Book 4421 Page 293





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A. General Information (cont.)

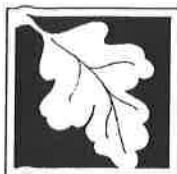
6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
 Berkshire Middle
 a. County Berkshire Middle b. Certificate Number (if registered land) 506
 868
 c. Book 506 d. Page _____
7. Dates: 3-22-19 12-10-19
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
- a. Plan Title _____
- b. Prepared By _____ c. Signed and Stamped by _____
- d. Final Revision Date _____ e. Scale _____
- f. Additional Plan or Document Title _____ g. Date _____

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 (the 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.



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B. Findings (cont.)

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 the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the 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).**
- 3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) _____ a. linear feet

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

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 type="checkbox"/> Bordering Vegetated Wetland	a. square feet _____	b. square feet _____	c. square feet _____	d. square feet _____
6. <input checked="" type="checkbox"/> Land Under Waterbodies and Waterways	9452520 a. square feet _____	9452520 b. square feet _____	c. square feet _____	d. square feet _____
	e. c/y dredged _____	f. c/y dredged _____		
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 _____



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B. Findings (cont.)

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

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	_____ a. square feet	_____ b. square feet		
	_____ c. c/y dredged	_____ d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	_____ a. square feet	_____ b. square feet	_____ cu yd c. nourishment	_____ cu yd d. nourishment
14. <input type="checkbox"/> Coastal Dunes	_____ a. square feet	_____ b. square feet	_____ cu yd c. nourishment	_____ cu yd d. nourishment
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. c/y dredged	_____ d. c/y 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. c/y dredged	_____ b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	_____ a. square feet	_____ b. square feet		
22. <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



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B. Findings (cont.)

* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BWV) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. Restoration/Enhancement *:

a. square feet of BWV

b. square feet of salt marsh

24. Stream Crossing(s):

1

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - 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.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
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. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 2-19-2022 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
 "File Number 181-077 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During 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.
19. The work associated with this Order (the "Project")
- (1) is subject to the Massachusetts Stormwater Standards
- (2) is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



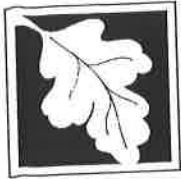
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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
 - h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
 - i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
 - j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
 - k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
 - l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.
- Special Conditions (if you need more space for additional conditions, please attach a text document):
Condition #21 is Amended, and Condition 22 is Amended; Please see attached Amended Special Conditions for File #181-077, Ashmere lake Herbicide Treatment; All other previous Special conditions remain valid and in effect.

20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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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

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

 1. Municipal Ordinance or Bylaw

 2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

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

 1. Municipal Ordinance or Bylaw

 2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):



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E. Signatures

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.

1-10-2020
 1. Date of Issuance
3
 2. Number of Signers

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

Signatures:

Doug Bruce (Doug Bruce)
Joseph Harton (Joseph Harton)
Anthony Cruz (Anthony Cruz)

by hand delivery on
1-10-20
 Date

by certified mail, return receipt requested, on

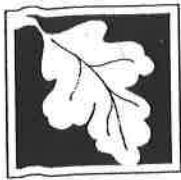
 Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



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G. Recording Information

Prior to commencement of work, 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 this page shall be submitted to the Conservation Commission listed below.

Hinsdale
 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 _____ MassDEP 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 _____



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Amended Order of Conditions, DEP File numbers 181-077, & 260-014

**Special Conditions for
Management of Ashmere Lake**

Applicant is Town Of Hinsdale

Property Owner is Commonwealth of Massachusetts (DCR)

21. Use of the following active ingredients and target species is hereby approved:

Cold Water Species

Observed Plants (Target Species)	Control Options (Active Ingredients)
Eurasian watermilfoil (<i>Myriophyllum spicatum</i>)	Diquat
Curlyleaf Pondweed (<i>Potamogeton crispus</i>)	Diquat

Warm Water Species

Large Leaf Pondweed (<i>Potamogeton amplifolius</i>)	Diquat/Endothall
Clasping Leaf Pondweed (<i>Potamogeton perfoliatus</i>)	Diquat
Ribbon Leaf Pondweed (<i>Potamogeton epihydrus</i>)	Diquat
Common Reed (<i>Phragmites australis</i>)	Alternate control

- Glyphosate has been removed as an approved control option. Applicant required to find an alternate control option or active ingredient.

Changes in target species and or active ingredients will require review and written approval from Hinsdale and Peru Conservation Commissions.

In the event that additional invasive species are found within or directly abutting Ashmere Lake and a rapid response via hand-harvesting is appropriate, such action may be taken. This action must be reported to the Hinsdale and Peru Conservation Commissions within seven days.

22. All treatments for all cold water species shall take place prior to June 15th. With respect to warm water species, the treatment period commences on August 1 of each year.

23. The Lake shall be closed on the day of the treatment.

24. Notification of treatment and all water –use restrictions associated with the herbicide to be applied shall be distributed as follows:

- A. Public Notice shall be published in The Berkshire Eagle.
- B. Notification of Lake abutters shall take place at least two days prior to the scheduled herbicide application via a reverse 9-1-1 system, e-mail newsletter, website posting, or similar. Notification method will be documented and provided to the Conservation Commission.
- C. Notification of treatment shall be provided to the Hinsdale and Peru Conservation Commissions and shall include: copy of public advertisement, abutter notification method and copy thereof, and copy of notification poster so that it may be reviewed prior to posting.
- D. Notification posters listing the water use restrictions shall be posted at least two days prior to the treatment at conspicuous locations surrounding the water body including, but not limited to: public access areas, right of ways, the causeway, major access roads to the Ashmere Heights, Skyview, and Sunnyside areas. These postings shall remain in place until all water use restrictions expire, or one week, whichever is greater.

25. Empty herbicide containers shall be rinsed and disposed off-site in accordance with the manufacturer's recommendations and state regulations.

26. Pre- and Post-management surveys shall be undertaken to determine the distribution and abundance of the target species and aquatic vegetation community as a whole. A report including treatment activities, map(s) depicting survey results and conclusions/recommendations for the coming year shall be submitted annually.

End of Conditions



Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Kathleen A. Theoharides
Secretary

Martin Suuberg
Commissioner

License No.:

WM04-0000379

**LICENSE TO APPLY CHEMICALS FOR CONTROL OF
NUISANCE AQUATIC VEGETATION**

Applicant: KEITH RICHARD GAZAILLE

Name of Waterbody: ASHMERE LAKE

Location of Waterbody: HINSDALE

Project Proponent: TOWN OF HINSDALE

AUTHORITY FOR ISSUANCE

Pursuant to the authority granted to the Department of Environmental Protection, by Massachusetts G.L.c. 111, s5E, the following license is hereby issued to **Keith Gazaille, SOLitude Lake Management** (hereinafter called the “licensee”), authorizing the application of chemicals for the control of nutrients, algae or aquatic plants to **ASHMERE LAKE, HINSDALE**; such authorization being expressly conditional on compliance by the licensee with all terms and conditions of the license hereinafter set forth. This license shall become effective on the date of the Director’s signature and shall expire on the **12/31/2021**.

Sincerely,

License Effective Date: **03/22/2021**

Stephanie Moura
Director, Division of Wetlands and Waterways
Department of Environmental Protection



Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Kathleen A. Theoharides
Secretary

Martin Suuberg
Commissioner

License No.: **WM04-0000379**

A. Application Condition(s)

Chemical Information

Product Brand Name/Trade Name	Chemical Form (dry/liquid)	Total Weight/Volume Applied	Units of Measurement (lbs/gallons)	Acres Treated	Application Rate	Planned Maximum Concentration (ppm)
AquaPro	Liquid	3 gal	gal	4	0.8 gal/ac	-
Aquathol K	Liquid	200 gal	gal	20	10 gal/ac	2
Tribune	Liquid	120 gal	gal	80	1.5 gal/ac	0.25

Treatment Method: Liquid herbicides/algaeicides are diluted 50-100:1 with lake water and sprayed uniformly from a boat either 1) upon the surface or 2) injected beneath the water's surface with weighted hoses. Dry copper sulfate is first dissolved and sprayed as a dilute liquid formulation on the surface as described above. Granular formulations are dispersed upon the water's surface by a calibrated cyclone spreader mounted on the bow of the treatment boat.

of Treatments Requested:

AquaPro: 2

Aquathol K: 2

Tribune: 2

B. Application Report

By December 31st of the year of this treatment, the licensee shall submit a written report to the Department certifying the treatment date, application rate and the total weight/volume for each chemical used in the treatment, in accordance with requirements of Section I.A. of this license.

Please send the report to the Massachusetts Department of Environmental Protection (robert.kubit@mass.gov).

C. Modification of Application Conditions

The licensee shall not apply chemicals in a manner contrary to, or inconsistent with, the application conditions set forth in Section I.A. of this license without the prior written approval of the Department.

General Conditions

A. The licensee is hereby notified that chemical treatments to control aquatic nuisances in public or private lakes and



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License No.: **WM04-000379**

ponds of the Commonwealth involve the alteration of wetland resource areas protected under both Massachusetts G.L.c. 131, s40, the Wetlands Protection Act and 310 CMR 10.00, Massachusetts Wetlands Protection Regulations.

- B. The licensee is hereby notified that issuance of this license does not in any way constitute the Department's approval of the chemical treatment as it related to the provisions of the Wetlands Protection Act.
- C. The licensee shall obtain either a final Order of Conditions or a negative Determination of Applicability from the **HINSDALE, MA PERU, MA** Conservation Commission(s) prior to application of chemicals authorized under this license.
- D. Shoreline areas of the lake or pond must be posted with signs warning the general public of any water use restrictions stated on the chemical label minimum for one week. This is especially important at bathing beaches and other areas of common access. These signs shall clearly state that the chemical treatment is being conducted pursuant to a license issued by the Department of Environmental Protection, "DEP". A new sign shall be posted for each treatment event.
- E. The Department may require the licensee to cease application of chemicals to a body of water at any time following the issuance of a license if the Department determines that the chemical treatment will be ineffective, or will result in unreasonable restrictions on current water uses, or will produce unnecessary adverse side effects on nontarget flora or fauna.
- F. Chemical applications shall be performed in accordance with the manufacturer's label directions, existing pesticide use laws, and any conditions imposed by other local or state agencies.
- G. Chemical treatments to water using general use pesticides shall only be performed by an applicator currently licensed by the Massachusetts Department of Agricultural Resources Pesticide Program in the aquatics category. Chemical treatments to Bordering Vegetated Wetlands (310 CMR 10.55(2)(a)) and Salt Marsh (310 CMR 10.32(2)) using general use pesticides and techniques that insure chemicals are not applied to water shall only be performed by an applicator currently licensed in Massachusetts Department of Agricultural Resources Pesticide Program. Chemical treatments using restricted use pesticides shall only be performed by an applicator currently certified by the Massachusetts Department of Agricultural Resources Pesticide Program.
- H. Issuance of this license does not release the licensee from liability resulting from the use of chemicals or from negligent or reckless application of chemicals specified in Section I.A of this license.
- I. Electronic notification of treatment must be made to the Massachusetts Division of Fisheries and Wildlife (jason.stolarski@mass.gov, jason.carmignani@mass.gov). Notification that the treatment was performed shall be made within 24 hours of treatment. The notification message should include waterbody, town, license number and chemicals used.
- J. No chemical treatment shall be conducted while a Massachusetts Department of Public Health advisory is in effect.



Department of Environmental Protection

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License No.:

WM04-0000379

K. In general, less than 1/3 of the lake area and less than 1/2 of the littoral zone should be targeted for herbicide treatment when native plants (particularly low growth forms) are dominant.

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Page: 1 of 12 06/04/2014 08:47 AM



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

Provided by MassDEP:
181-77
MassDEP File #
eDEP Transaction #
Hinsdale
City/Town

A. General Information

Please note:
this form has
been modified
with added
space to
accommodate
the Registry
of Deeds
Requirements

1. From: Hinsdale
Conservation Commission

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

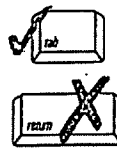
3. To: Applicant:

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

a. First Name Town of Hinsdale b. Last Name _____
c. Organization _____
d. Mailing Address 39 South Street
Hinsdale MA 01235
e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

a. First Name _____ b. Last Name _____
c. Organization Commonwealth of Massachusetts (DCR)
d. Mailing Address 100 Cambridge Street
Boston MA 02204
e. City/Town f. State g. Zip Code



5. Project Location:

a. Street Address Ashmere Lake b. City/Town Hinsdale/Peru
c. Assessors Map/Plat Number Map 26 d. Parcel/Lot Number Lot 50

Latitude and Longitude, if known: d m s d m s
d. Latitude e. Longitude



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
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 City/Town

B. Findings (cont.)

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 the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the 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).**
- 3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) _____ a. linear feet

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

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 type="checkbox"/> Bordering Vegetated Wetland	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
6. <input checked="" type="checkbox"/> Land Under Waterbodies and Waterways	9452520 _____ a. square feet	9452520 _____ b. square feet	_____ c. square feet	_____ d. square feet
	_____ e. c/y dredged	_____ f. c/y dredged		
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



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

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

Provided by MassDEP:

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Hinsdale

City/Town

B. Findings (cont.)

* #22. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

22. Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

23. Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 8-15-2016 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

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

Provided by MassDEP:

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City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS :

19. The work associated with this Order (the "Project") is (1) is not (2) subject to the Massachusetts Stormwater Standards. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.

b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:

- i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
- ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
- iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
- iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
- v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

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

Provided by MassDEP:

181-77

MassDEP File #

eDEP Transaction #

Hinsdale

City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.

- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.

- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

All previous conditions remain valid and in effect except for the following Amendments: Applicant allowed to include management of invasive shoreline emergent species; Applicant is allowed to reduce water use restrictions placed on Lake on the day of treatment



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

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

Provided by MassDEP:

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E. Signatures

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

5/24/14
1. 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.

2
2. Number of Signers

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

Signatures:

Laurel Scialabba

LAUREL SCIALABBA

Shannon Reilly

Shannon Reilly

by hand delivery on

5/26/14
Date

by certified mail, return receipt requested, on

Date

F. Appeals

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

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

Amended Orders of Conditions, DEP File #s 118-77 and 260-014

Issued: 5/24/14Special Conditions
For Management of Ashmere LakeApplicant: Town of Hinsdale
Property Owner: Commonwealth of Massachusetts (DCR)

History of these Orders:

Hinsdale	Peru
DEP File #181-77	DEP File #260-014
Issued 5/26/1998	3-Year OOC issued 3/16/2009
Amended 6/17/1999	Extended via Permit Extension Act to 3/16/2016
Amended 5/30/2000	Amendment Request Filed July 25, 2013
Extensions made through 8/17/2012	
Extended via Permit Extension Act to 8/17/2016	
Amendment Request Filed July 25, 2013	

20. All correspondence directed to the Commission on this project shall reference the DEP File #s and be copied to the Western Region Office of the DEP in Springfield.

21. Use of the following active ingredients and target-species is hereby approved:

Active Ingredients

Potential Target Species

- Diquat *Potamogeton* spp. (Pondweed species, including *P. crispus* and
- Endothall *P. amplifolius*)
- Glyphosate *Myriophyllum spicatum* (Eurasian Milfoil)
- *Phragmites australis* (Common Reed)

Change(s) in target species and/or active ingredient will require review and written approval from the Hinsdale and Peru Conservation Commissions.

In the event that additional invasive species are found within or directly abutting Ashmere Lake and a rapid response via hand-harvesting is appropriate, such action may be taken. This action must be reported to the Hinsdale and Peru Conservation Commissions within seven days.

22. All treatments shall take place prior to June 15th. Treatment(s) may resume after Labor Day.

23. The lake shall be closed on the day of treatment.

24. Notification of treatment and all water-use restrictions associated with the herbicide to be applied shall be distributed as follows:

- a. Public notice shall be published in The Berkshire Eagle.
- b. Notification of lake abutters shall take place at least two days prior to the scheduled herbicide application via a reverse 9-1-1 system, e-mail, e-mail newsletter, website posting, or similar. Notification method will be documented and provided to the Conservation Commission.
- c. Notification of treatment shall be provided to the Hinsdale and Peru Conservation Commissions and shall include: copy of public advertisement, abutter notification method and copy thereof, and copy of notification poster so that it may be reviewed prior to posting.