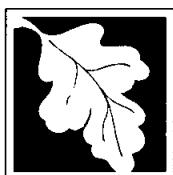




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Page: 1 of 15 11/20/2012 11:13 AM



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:

263-0993

MassDEP File #

eDEP Transaction #

Pittsfield

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: Pittsfield
 Conservation Commission

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

3. To: Applicant:

Scott

a. First Name

Graves

b. Last Name

KLS Corporate Investments, LLC

c. Organization

20 Frederick Street

d. Mailing Address

Pittsfield

e. City/Town

MA

f. State

01201

g. Zip Code

4. Property Owner (if different from applicant):

a. First Name

b. Last Name

c. Organization

d. Mailing Address

e. City/Town

f. State

g. Zip Code

5. Project Location:

1451 North Street

a. Street Address

Pittsfield

b. City/Town

H16

c. Assessors Map/Plat Number

Block 06; Lot 03

d. Parcel/Lot Number

Latitude and Longitude, if known:

42d29m19s

d. Latitude

73d14m49s

e. Longitude



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

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

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Pittsfield

City/Town

A. General Information (cont.)

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

Middle Berkshire

a. County

4990

c. Book

b. Certificate Number (if registered land)

12

d. Page

7. Dates: 10/10/2012 11/15/2012 11/19/2012
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):

Plan to Accompany Notice of Intent (Sheets 1 and 2)

a. Plan Title

SK Design Group, Inc

b. Prepared By

10/5/2012

d. Final Revision Date

Matthew D. Puntin

c. Signed and Stamped by

1"=20'

e. Scale

f. Additional Plan or Document Title

g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

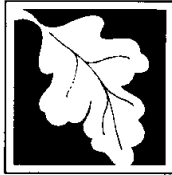
Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). 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.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

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

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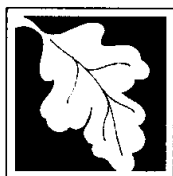
B. Findings (cont.)

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. ☒ Bank	<u>46</u> a. linear feet	<u>46</u> b. linear feet	<u>46</u> c. linear feet	<u>43</u> d. linear feet
5. ☐ Bordering Vegetated Wetland	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
6. ☒ Land Under Waterbodies and Waterways	<u>372</u> a. square feet <u> </u> e. c/y dredged	<u>372</u> b. square feet <u> </u> f. c/y dredged	<u>343</u> c. square feet	<u>343</u> d. square feet
7. ☐ Bordering Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
Cubic Feet Flood Storage	<u> </u> e. cubic feet	<u> </u> f. cubic feet	<u> </u> g. cubic feet	<u> </u> h. cubic feet
8. ☐ Isolated Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet		
Cubic Feet Flood Storage	<u> </u> c. cubic feet	<u> </u> d. cubic feet	<u> </u> e. cubic feet	<u> </u> f. cubic feet
9. ☐ Riverfront Area	<u> </u> a. total sq. feet	<u> </u> b. total sq. feet		
Sq ft within 100 ft	<u> </u> c. square feet	<u> </u> d. square feet	<u> </u> e. square feet	<u> </u> f. square feet
Sq ft between 100-200 ft	<u> </u> g. square feet	<u> </u> h. square feet	<u> </u> i. square feet	<u> </u> 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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Pittsfield

City/Town

B. Findings (cont.)

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

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. ☐ Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. ☐ Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. ☐ Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. ☐ Coastal Beaches	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
14. ☐ Coastal Dunes	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
15. ☐ Coastal Banks	a. linear feet	b. linear feet		
16. ☐ Rocky Intertidal Shores	a. square feet	b. square feet		
17. ☐ Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. ☐ Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. ☐ Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. ☐ 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. ☐ Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		



Massachusetts Department of Environmental Protection
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Provided by MassDEP:
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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):

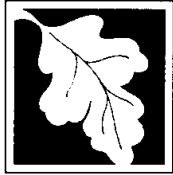
a. number of new stream crossings

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 _____ 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

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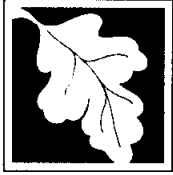
Pittsfield

City/Town

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

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 263-0993 "
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.
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.



**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

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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.

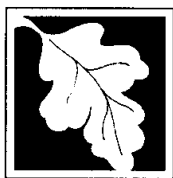
NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

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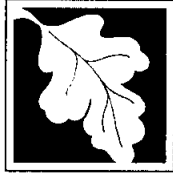
C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

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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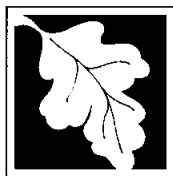
City/Town

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):

See attached Special Conditions for DEP file #263-0993



Massachusetts Department of Environmental Protection
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WPA Form 5 – Order of Conditions

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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):



**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:

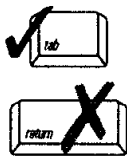
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E. Signatures

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



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 must be mailed, hand delivered or filed electronically at the same time with the appropriate MassDEP Regional Office.

Signatures:

James Conant

Christopher Connell

Mitchell Boraski

☒ by hand delivery on

Date

Franz Ferster

Bruce Andrews

Thomas Sakshaug

Peter Marchetti

☐ by certified mail, return receipt requested, on

Date

11-19-2012
1. Date of Issuance

6
2. Number of Signers

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.



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Pittsfield

City/Town

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.

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

Special Conditions Prepared by the Pittsfield Conservation Commission for DEP File #263-993

In addition to the Massachusetts Department of Environmental Protection's mandated General Conditions 1-18 attached hereto, the applicant also must meet the following Special Conditions.

19. Except as noted in this order, all work shall be done in accordance with all approved plans and information on file with the conservation commission, all special conditions and supporting documentation submitted to the commission as revised in this order or at the public hearing, and any commitments made by the applicant, owner or their representatives at the public hearing or in writing.
20. It is the responsibility of the applicant/owner to procure all other applicable federal, state, and local permits and approvals associated with this project.
21. All correspondence to the Commission on this project shall reference the DEP file # and be copied to the Western regional office of DEP in Springfield.
22. This order shall be made part of any contract documents for the project and shall be furnished to all contractors and sub-contractors. This Order shall apply to and be binding upon the applicant/owner, their employees, vendors, contractors, sub-contractors, and all successors and assigns in interest and control of the property.
23. Any changes, additions or omissions in the approved project shall be submitted in writing to the Commission for prior approval and determination of whether an amendment or new notice of intent is required. A copy of such request shall be sent to DEP in Springfield.
24. Erosion controls shall be installed in accordance with the approved plans. An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and repair.
25. The Commission office shall be notified at least 48 hours prior to commencement of work to inspect erosion controls. (499-9359)
26. Following the installation of the erosion controls, the applicant/owner shall hold a pre-construction meeting with all the individuals responsible for work at the project site.
27. The work site shall be left in stable condition at the close of each day. Erosion controls shall be inspected at that time and after each storm event and maintained or reinforced if necessary. Accumulated sediments shall be removed whenever they build up to a foot in depth behind the erosion control barriers.
28. The applicant/owner or their representative must take necessary erosion control measures to prevent silt or sediments from entering wetland resource areas or the buffer zone. Additional erosion control measures deemed necessary by the Commission or Conservation Agent shall be instituted by the applicant.

29. Work must be performed only in the absence of significant precipitation. In the event of significant erosion control failure on site, the Conservation Commission shall be notified immediately to inspect the site and approve a mitigation plan.
30. During and after work on the project, there shall be no discharge or spillage of fuel, oil, or other pollutants on the site. This condition is ongoing in perpetuity. Accidental spills will be cleaned up according to all applicable laws & regulations.
31. Applicant shall submit an as-built plan signed and stamped by a professional engineer certifying compliance with all approved plans, documentation and Order of Conditions.
32. All gasoline powered boats to be moored in the Marina must have motors with four-stroke, low emission technology.
33. All boats using the marina facility are to be subjected to decontamination prior to launching in Pontoosuc Lake. Such decontamination will include either a period of not less than fourteen (14) days in a completely dry condition (including all live wells or other holding tanks other than fuel, oil & potable water) between the last use in a location other than Pontoosuc Lake, or decontamination of the boat and any associated trailer by washing with a bleach solution or pressurized hot water. The boat owner will supply an Affidavit form to the marina operator testifying to the proper decontamination of the boat & trailer. Presentation of such records will be obligatory at the time of the property owners request for a Certificate of Compliance under these Orders of Conditions.
34. All portable gas tanks for motorized watercraft will be filled at a location off the Lake and at least 300 feet from the Lake. A proper filling station is preferred, but if transfers are to be made among containers, such transfers must occur at least 300 feet from the lake. For tanks that are not portable, no fueling is allowed except using a portable tank with no-spill portable gas pump from Hammacher Schlemmer (or approved equivalent) and by person who has had training in usage.
35. The marina will maintain two complete spill containment and clean-up kits with supplies suitable for containing and capturing oil and other immiscible fluids that might be spilled in association with routine boat maintenance. As part of the affidavit form declaring that the boat has been properly decontaminated prior to launch in Pontoosuc Lake, operators will also include in an affidavit testifying that they are familiar with the location of spill kit, and received proper training how to use it if a spill occurs. The marina will be responsible for instructing all operators in the proper containment and clean-up of a spill.
36. All wastes generated from boating activities are to be disposed of properly, including but not limited to excess food, containers and human waste. The marina will provide a secure trash receptacle at the marina and regularly remove trash. This receptacle will not be subject to loss of trash by wind or vandalism (i.e, it will be securely anchored) and will be maintained such that there is available space for incoming refuse.

37. All operators of motorized watercraft using the marina facility will take an approved boater education course. Such courses are available online, or can be taken through the Coast Guard Auxiliary, Massachusetts Environmental Police, or other recognized entity, as available. All operators will adhere to state law with regard to the operation of motorized watercraft at appropriate distances from shoreline, structures, and swimming areas. The operator must be familiar with any rules specific to Pontoosuc Lake. A boat will be considered in compliance if at least one person on the boat is appropriately trained; that person will be considered responsible for the operation of the watercraft, independent of who is actually driving the boat. The marina will keep records of operator training certificates for inspection by the City or Environmental Police. Any age limit imposed by the training organization will apply to qualification of any individual as an approved operator.

38. The marina will keep records of each boat operator using the marina. The record will include a boater education course completion certificate, and the form attesting to knowledge and use of spill kit, and decontamination of the boat and trailer. The marina will use the appropriate form to be completed by every operator or every boat moored at the marina. (See form attesting to decontamination of boat & trailer, and use knowledge of use of and location of spill kit).

39. Every person permitted to use a slip to moor a motor craft at the marina will comply with all the rules & regulations promulgated by the "Club". Conditions #32-#42 are to be part of the text making up this "Rules and Regulations" document. The applicant will submit these rules & regulations for use and operation of the Marina to the Conservation Commission.

40. The Applicant shall submit an as-built plan signed and stamped by a professional engineer certifying compliance with all approved plans, documentation and Order of Conditions.

41. No maintenance of boats is allowed in the Lake. All boats are required to be removed for maintenance.

42. The Order of Conditions only allows for no more than 20 slips or 20 boats total to be docked at the Marina.. This includes, but not limited to, powerboats (boats having an inboard/outboard motor size that exceeds 5HP). The Orders of Condition also allows for 25 moorings to be placed in the associated mooring field and 20 slips or boats to be docked at the Berkshire Community Sailing, or its successor. These landing locations are to be limited to boats without motors, or have a motor size that is less than 5HP.

43. This order shall apply to any successors and assigns in interest or control, or any other person engaging in activity on the property identified in the Notice of Intent.

44. All described construction activities are to cease at the date of ice-out.