

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:
 25-4151
 MassDEP File #
 eDEP Transaction #
 Falmouth
 City/Town

A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
 Barnstable
 a. County Barnstable b. Certificate Number (if registered land) 289
 c. Book 1084 d. Page 289
7. Dates: 11/03/15 03/23/16 04/13/16
 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):
 See attached list of site plans
 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.

The Woods Hole, Martha's Vineyard and Nantucket Steamship Authority

List of Site Plans:

WH 1.1 Title Sheet / Vicinity Map	Date: 10/29/15	
Plan of Existing Conditions	Date: 09/29/15	
WH 2.1 Final Conditions Site Plan	Date: 10/28/15	
WH 2.2 Final Conditions Site Plan with Aerial	Date: 10/28/15	
WH 2.3 Resource Area Permitting Plan	Date: 11/01/15	
WH 3.1 Existing Marine Structures Demolition Plan	Date: 10/30/15	
WH 3.2 Marine Construction Plan	Date: 10/30/15	
WH 3.3 Marine Construction Sections	Date: 10/30/15	
WH 3.4 Marine Construction Sections	Date: 10/30/15	
WH 3.5 Sheet Pile Bulkhead Layout	Date: 10/30/15	
WH 3.6 Pile / Monopile Location Plan	Date: 10/30/15	
WH 3.7 Dredge / Excavation and Fill Plan	Date: 10/30/15	
WH 3.8 Dredge / Excavation and Fill Sections	Date: 10/30/15	
WH 4.1 Phasing Plan Phase 1 -- Temporary Terminal	Date: 11/01/15	
WH 4.2 Phasing Plan Phase 2 -- Slip 3 Construction	Date: 11/01/15	
WH 4.3 Phasing Plan Phase 3 -- Slip 2 Construction	Date: 11/01/15	
WH 4.4 Phasing Plan Phase 4 -- Slip 1 Construction	Date: 10/27/15	Revised: 11/01/15
WH 4.5 Phasing Plan Phase 5 -- Terminal Building Construction	Date: 11/01/15	
WH 4.6 Phasing Plan Phase 6 -- Final Conditions	Date: 11/01/15	
WH 5.1 Planting Plan Enlargement	Date: 12/05/15	
WH 5.2 Site Sections and Site Aerial View	Date: 12/16/15	
Revised Grading and Bulkhead Plan & Elevation	Date: 03/08/16	
Existing Conditions & Soil Map -- Figure 2	Date: 11/02/15	
Pre-Redevelopment Conditions Drainage Map -- Figure 3	Date: 11/02/15	
Post-Redevelopment Conditions Drainage Map -- Figure 4	Date: 11/02/15	
Stormwater Management Plan -- Outfall 1 -- Figure 5	Date: 12/17/15	
Stormwater Management Plan -- Outfall 2 -- Figure 6	Date: 12/17/15	
Stormwater Management Plan -- Outfall 3 -- Figure 7	Date: 12/17/15	



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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 type="checkbox"/> Land Under Waterbodies and Waterways	_____ a. square feet	_____ 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 checked="" type="checkbox"/> Land Under the Ocean	<u>64000</u> a. square feet	<u> </u> b. square feet	<u> </u> c. c/y dredged	<u> </u> 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	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> cu yd c. nourishment	<u> </u> cu yd d. nourishment
14. <input type="checkbox"/> Coastal Dunes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> cu yd c. nourishment	<u> </u> cu yd d. nourishment
15. <input type="checkbox"/> Coastal Banks	<u> </u> a. linear feet	<u> </u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u> a. square feet	<u> </u> b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> 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			
	<u> </u> a. c/y dredged	<u> </u> b. c/y dredged		
21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	<u>79000</u> a. square feet	<u> </u> b. square feet		
22. <input type="checkbox"/> Riverfront Area	<u> </u> a. total sq. feet	<u> </u> b. total sq. feet		
	<u> </u> c. square feet	<u> </u> d. square feet	<u> </u> e. square feet	<u> </u> f. square feet
	<u> </u> g. square feet	<u> </u> h. square feet	<u> </u> i. square feet	<u> </u> 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):

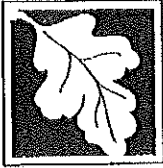
a. number of new stream crossings

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 _____ 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 25-4151 "
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):

- 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 Falmouth Conservation Commission hereby finds (check one that applies):

- 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:

Falmouth Wetlands Bylaw

10.00

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):
see attached



Falmouth Conservation Commission

59 TOWN HALL SQUARE, FALMOUTH, MASSACHUSETTS 02540
(508) 495-7445 • FAX (508) 495-7449

Name: Woods Hole, Martha's Vineyard, Nantucket Steamship Authority
c/o William Cloutier
Address: Woods Hole Ferry Terminal (end of Railroad Ave)
DEP #: 25-4151

FINDINGS:

1. The Woods Hole, Martha's Vineyard, and Nantucket Steamship Authority (SSA) propose to reconstruct and modify the 5-acre Woods Hole ferry terminal in the village of Woods Hole, Falmouth.
2. The Woods Hole Terminal is the oldest SSA ferry terminal facility. The two operating ferry slips (slips 1 and 2) were constructed/substantially rebuilt in 1978 and 1968, respectively and the ferry terminal building was constructed in the early 1950's. Ferry slip 3 is restricted by its proximity to the privately owned Naushon Trust dock to the north and Dyers Dock owned by the Woods Hole Oceanographic Institute (WHOI) also to the north. Due to the constraints slip 3 is used as an operating slip only in the case of emergencies.
3. The bulkhead, dolphin pilings, fenders, and transfer bridges are deteriorating and are in need of replacement, major repairs are frequently needed to maintain structural integrity. The terminal building is also in need of substantial repairs or replacement. The current terminal building does not meet many code requirements including wind load, flood zone, electrical/plumbing, energy efficiency and accessibility requirements. In addition the concrete block wall building has extensive cracking in the exterior walls.
4. Over the past two years the SSA has developed 14 separate concept designs for the location and layout of the terminal building and staging area. Concept designs were determined unsuitable due to community response, accessibility issues, and cost effectiveness. After multiple meetings with the SSA Board, Town of Falmouth officials and the Woods Hole Community it was determined that Concept E2, referred to as the "Consensus Solution" was the most favorable to all parties.
5. The Commission found Concept E2 to be an acceptable design despite the increased grade on the property. Although the design does not raise the structure one foot above the base flood elevation of 13, the design does incorporate flood proofing measures as required by FEMA. The Commission found that requiring the SSA to incorporate a design of 1 foot above the base flood would impact the SSA ability to provide efficient and cost effective passage to and from the islands.
6. The proposed work consists of the following elements: Demolition of the existing terminal building and excavation of a large portion of the existing wharf, reconstruction and relocation of the three ferry slips including the installation of monopole dolphins leading into each slip, modernization of

the 3 ferry slips including pile supported piers with floating platforms between the slips for the boarding and disembarking of passengers, dredging of the new ferry slips, reconstruction of vessel sewage pump-out facilities, construction of a new passenger terminal, demolition and construction of equipment shed, demolition of waste oil shed and installation of portable storage tanks, demolition of additional ancillary buildings and the construction of new traffic and operational booths, site utility improvements (such as sewage, water, stormwater, natural gas, fuel, electrical and telecommunications), relocation and extension of Shining Sea bikepath, reduction of the number of terminal parking spaces, reconstruction of paved parking and vehicle staging areas, improvements to accessibility, construction of designated passenger pick-up and drop off areas, construction of a temporary terminal, and all associated clearing, grading and landscaping.

7. The final elevation of the terminal site increases on average four (4) feet.
8. The proposed project will be completed in six (6) phases. The project phasing is as follows (a detailed description of phasing plans can be found in pages 7-10 of the NOI narrative):
 - Phase 1: Construct a New Administration Building at Palmer Ave site/Construct Temporary Terminal Building on the Woods Hole terminal Site;
 - Phase 2a: Demolition in the Northern Portion of the Waterfront;
 - Phase 2b: New Construction in Northern Portion of Terminal Site;
 - Phase 3a: Demolition in Central Portion of Terminal Site Waterfront;
 - Phase 3b: Completion of Slip 3 and Construction in Central Portion of Terminal Site;
 - Phase 4a: Demolition in Southern Portion of Terminal Site Waterfront;
 - Phase 4b: Construction in Southern Portion of Terminal Site;
 - Phase 5: Construction of the New Ferry Terminal Building;
 - Phase 6: Reconstruction of Landside Features
9. The proposed project is expected to be completed in 6 years.
10. This Order of Conditions will be valid for 6 years to allow time for construction.
11. Concerns raised regarding the proposed project include impacts to eel grass during dredging activities, potential flooding due to the increased grade of the site, impacts to the adjacent beach to the south due to ferry activities.
12. The Commission recognizes that the eel grass bed to the north of the proposed Slip 3 is adjacent to Naushon Trust Dock and Dyers Dock (WHOI) and that the SSA cannot control any impacts caused by the use of those facilities.
13. Resource areas onsite or within 100 feet of the proposed project include Land Under Ocean, Land Containing Shellfish, Coastal Bank, Land Subject to Coastal Storm Flowage, Resource Area Buffer.

INTERESTS

1. Storm Damage Prevention

2. Flood control
3. Protection of public and private water supply
4. Protection of groundwater supply
5. Prevention of pollution
6. Protection of land containing shellfish
7. Protection of fisheries
8. Protection of wildlife habitat

STANDARD CONDITIONS

1. Permission is granted to the Woods Hole, Martha's Vineyard, Nantucket Steamship Authority, Woods Hole Falmouth, MA, to reconstruct the ferry terminal including the relocation and reconstruction of 3 ferry slips, and demolition and reconstruction of the main ferry terminal building and ancillary buildings, construction of a temporary terminal building, and the reconfiguration of the parking, and vehicle staging area, with all associated clearing, grading, excavation, and dredging, according to the plans entitled "Woods Hole Ferry Terminal Reconstruction" (see attached sheet) and subject to the following Standard and Special Conditions.
2. This Order is issued pursuant to Mass. General Laws, Chapter 131, sec. 40, the Wetlands Protection Act and Chapter 235 of the Code of Falmouth the Wetlands Bylaw. The Wetlands By-law is more stringent than the Wetlands Protection Act as permitted by that Act. The Conservation Commission reserves the right to impose additional or other conditions to protect the Interests of the Massachusetts Wetlands Protection Act and Falmouth Wetlands Bylaw.
3. The determinations of the Falmouth Conservation Commission are made solely to determine issues arising under the Massachusetts Wetlands Protection Act and the Town of Falmouth Wetlands By-Law, and are therefore concerned exclusively with the question whether any proposed activity will have an adverse effect on the wetlands resource interests listed in the applicable statutes, regulations, by-laws and rules. Nothing contained in this determination is intended in any way to grant to any person any title, easement or other interest in lands, public or private, and the Falmouth Conservation Commission is without legal authority to make any grant of title, easement or other property interest, or to make any determination of property interests. See Tindley v. D.E.Q.E. 10 Mass. App. Ct. 623 (1980).
4. Any work taking place prior to all administrative and legal appeal periods expiring or during the pendency of any such appeal is at the risk of the applicant and/or owner of the property. At the risk of means that should an administrative agency or court find this order and permit were granted in error, all work will have to be restored to its original condition (at the time work was instituted) at the expense of the applicant and/or owner.
5. Issuance of the Order of Conditions does not relieve the permittee from obtaining all other necessary municipal, county, state or federal permits, permission or other approvals required.
6. By the acceptance and recording of this Order, the applicant hereby grants the commission and its duly authorized agents the right to enter onto the land governed by this Order to examine the project and ensure Compliance. Such visits shall be made in a reasonable manner. The Conservation Commission as well as its

staff and agents have the authority to issue an Enforcement Order if work does not comply with the terms or intent of the conditions contained herein or the plans herein referenced.

7. The Order of Conditions expires three (3) years from the original date of issuance. Any Amendments to the Order of Conditions **do not** extend the Original Order. You may request an Extension to the original Order of Conditions, in writing, at least 30 days prior to the expiration. Unless otherwise specified, all Conditions cited herein will apply to any and all Amendments to this Order of Conditions.
8. Prior to any work commencing:
 - a. Proof of recording of this Order of Conditions at the Barnstable County Registry of Deeds must be received by the Conservation Commission.
 - b. At least 10 days advance **written** notification shall be provided to the Conservation Commission.
 - c. Copies of any other permits and licenses including building permit, special permit, variances, and Chapter 91 license shall be submitted to Conservation Commission.
 - d. The DEP File Number shall be posted on a sign on the street side of the lot and maintained in a visible condition throughout the project. A copy of this Order of Conditions is to be posted onsite, to be maintained in a visible location and condition throughout the project. Copies of this Order of Conditions are also to be provided to all outside contractors, to be kept onsite during work at all times.
 - e. The Limit of Work must be installed prior to any work, excavation, construction or clearing of vegetation, in order to prevent damage to the Interests of the Act and Bylaw. The Limit of Work shall consist of a single row of staked strawbale/silt fencing.
9. The Limit of Work strawbales/silt fencing shall be replaced as necessary and should to be maintained in good condition throughout the entire construction period. Upon completion of all construction and stabilization of the site, strawbales/silt fencing is to be removed and properly disposed of. No fill is allowed to be placed against or outside the Limit of Work at any time. There shall be no work or storage of materials outside the Limit of Work.
10. The construction site is to be cleaned daily to remove any loose debris and permitted cuttings offsite. Any fill or excavated material not required to backfill and grade to the approved plan of reference shall be immediately removed offsite or to an appropriate upland location noted on the plans.
11. The applicant shall use all means to effectively prevent erosion into the wetland or other Resource Area and to encourage the growth of protective vegetation.
12. Any other proposed activities (alteration, fill, excavation or removal of vegetation) within any Resource Area or within 100 feet of any Resource Area will require that the applicant obtain all necessary permits from the Conservation Commission.
- ~~13. Drywells and roof gutters shall be installed to contain all roof runoff. Proof of drywell installation shall be submitted with the request for a Certificate of Compliance. Dated photographs of the installed drywells with correct DEP # displayed and a signed letter by the contractor are to be submitted as proof of installation. Failure to comply with this condition, in its entirety, will result in the excavation of the drywell to prove compliance.~~

14. Before work can begin (i.e. clearing or construction) the Town of Falmouth Conservation Commission Form(s) 1 and 2 are to be submitted to the Conservation Department, identifying the General Contractor (GC) and other responsible parties and signed by the GC and all other responsible parties confirming that the signatories thereto have read and understand the Order of Conditions and that they jointly and severally take responsibility for compliance with the OOC on site during the life of the project. These documents shall be submitted with the ten (10) day start work notification required by Standard Condition #8(b).
15. Any changes to the plan of record noted in Standard Condition 1 above, no matter how minor in scope, including, but not restricted to, changes in the building footprint and appendages such as decks, addition and/or modification of accessory structures, changes in landscape features such as patios, retaining walls, plantings, removal of vegetation, the modification of finished grades, etc. require that the applicant obtain the permission of the Conservation Commission *before* undertaking the modified work. Depending on the scope of the change, said permission may be obtained by filing for an Administrative Approval, an amended Order of Conditions, or entirely new Notice of Intent. Failure to comply with this condition may subject the applicant to an enforcement order and/or fines.
16. If the applicant seeks an Occupancy permit from the Building Department prior to the issuance of a Certificate of Compliance the applicant shall post a performance bond; the bond shall cover the cost of all outstanding work, including landscaping plus 25% of the total. The bond will be released once all outstanding work has been completed and the applicant applies for and receives a Certificate of Compliance.
17. This Order of Conditions will not be fully complied with unless and until a duly executed Certificate of Compliance is recorded or registered, as appropriate, in Barnstable Registry of Deeds. If this Order is based on a professionally rendered drawing then a letter must be submitted from an engineer or architect certifying full compliance and any deviation from the approved plans, as well as, an "Existing Conditions" plan. This plan shall include ALL structure and landscape features including patios, retaining walls, ornamental plantings, native plantings, AC units, steps, outdoor showers, walkways, etc. Any mitigation trees for the project shall be located and identified to species. Any mitigation shrubs for the project shall be delineated on the plan, labeled as "native buffer shrubs" and the final square footage noted. A request for a Certificate of Compliance shall be made in writing immediately following completion of all work including permanently stabilizing the site with vegetation.

SPECIAL CONDITIONS:

1. Due to the large nature of the construction project and timeline for completion this Order of Conditions is valid for 6 years.
2. Prior to the start of the project and at the beginning of all phases of the project a pre construction/phasing meeting shall take place with all the applicant, representatives, contractors, and Town representatives to review proposed construction activities, phasing and methodology.
3. The applicant shall immediately begin collecting beach profile surveys from the adjacent beach to the south to establish a baseline for which future surveys will be compared to determine if the project during construction or once completed is having a adverse impact on the resource area. Beach surveys shall be completed twice a year and will continue for 3 years after the completion of the project. All surveys

shall be submitted to the Conservation Commission with a detailed report, surveys and photographs. Proper authorization from the property owner is required prior to entering the site. If the project is determined by the Commission to have adverse impact mitigation will be required. Proper mitigation will be determined by the Commission.

4. The applicant shall immediately begin collecting eel grass surveys to establish a baseline for which future surveys will be compared to determine if the project during construction or once completed is having a adverse impact on the resource area. Eel grass surveys shall be completed once a year and will continue for 3 years after the completion of the project. Annual surveys shall be submitted to the Commission with a detailed report. If the project is determined by the Commission to have adverse impact mitigation will be required. Proper mitigation will be determined by the Commission.
5. Prior to the installation of the submerged bulkhead south of proposed Slip 1 the applicant shall have the proposed plan reviewed and approved by the Town of Falmouth Harbormasters for any impacts to navigation.
6. Prior to any in-water work a detailed turbidity/siltation monitoring protocol shall be submitted. The protocol shall address the placement of the silt curtains, monitoring of the silt curtains for gaps and proper anchoring, and monitoring the turbidity levels in the water column. This protocol shall address all in water activities including the dewatering of dredge spoils on a barge.
7. Prior to the start of construction a detailed erosion control and sedimentation protocol shall be submitted addressing all aspects of the construction project including catch basin protection, stock piling of material, regarding activities, etc.
8. A copy of the bid package and all supporting documentation shall be submitted to the Commission for review prior to obtaining responses. The Commission reserves the right to request changes to the bid documents in order to protect the interests of the Wetlands Protection Act and Falmouth Wetlands Bylaw.
9. The applicant shall hire an Environmental Monitor (EM), to be approved by the Commission, to provide weekly reports to the Commission on the construction activities and impacts to resource areas onsite and on adjoining properties. The EM shall meet with the Commission prior to the start of the project to outline the parameters of the reports and shall be available to the Commission to answer any questions or concerns during the span of the project.
10. The applicant shall abide by all Time of Year (TOY) restrictions recommended by the Division of Marine Fisheries for the project.
11. No Certificate of Compliance will be issued until the entire project, including landscaping, is completed and the site is permanently stabilized with vegetation.



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:
25-4151
MassDEP File #

eDEP Transaction #
Falmouth
City/Town

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.

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.

04/13/16
1. Date of Issuance
4
2. Number of Signers

Signatures:

James L. Munn
Russell E. Palko

Gregory J. Shaw
Mary E. Schumaker

by hand delivery on

by certified mail, return receipt requested, on

Date

04/13/16
Date 7012 0470 0001 3617 4322

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.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP

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

A. Request Information

1. Location of Project

a. Street Address	b. City/Town, Zip
c. Check number	d. Fee amount

2. Person or party making request (if appropriate, name the citizen group's representative):

Name

Mailing Address

City/Town	State	Zip Code
Phone Number	Fax Number (if applicable)	

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

Name

Mailing Address

City/Town	State	Zip Code
Phone Number	Fax Number (if applicable)	

4. DEP File Number:

B. Instructions

1. When the Departmental action request is for (check one):

- Superseding Order of Conditions -- Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- Superseding Determination of Applicability -- Fee: \$120
- Superseding Order of Resource Area Delineation -- Fee: \$120

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





Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP

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

B. Instructions (cont.)

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection
Box 4062
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/>).
4. 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.