

DEP File No.

85-595

(To be provided by DEP)

Form 5

Commonwealth of Massachusetts

City/Town Acton

Applicant T. Murphy

Order of Conditions Massachusetts Wetlands Protection Act G.L. c. 131, §40

From ACTON CONSERVATION COMMISSION Issuing Authority

TO Thomas M. Murphy (Name of person making request) (Name of property owner)

Address 415 Arlington Street Address

This Order is issued and delivered as follows:

- by hand delivery to person making request on (date)
by certified mail, return receipt requested on (date)

This project is located at 415 Arlington Street

The property is recorded at the Registry of Middlesex South

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Certificate (if registered)

The Notice of Intent for this project was filed on 11/12/97 (date)

The public hearing was closed on 11/19/97 (date)

Findings

The Commission has reviewed the above-referenced Notice of Intent and plans and has held a public hearing on the project. Based on the information available to the Commission at this time, the Commission has determined that the area on which the proposed work is to be done is significant to the following interests in accordance with the Presumptions of Significance set forth in the regulations for each Area Subject to Protection under the Act (check as appropriate):

- Public water supply
Private water supply
Ground water supply
Flood Control
Storm damage prevention
Prevention of pollution
Land containing shellfish
Fisheries
Protection of Wildlife Habitat

Total Filing Fee Submitted 55 State Share 15 (1/2 fee in excess of \$25)

City/Town Share 40

Total Refund Due \$ City/Town Portion \$ State Portion \$ (1/2 total)

Therefore, the Commission hereby finds that the following conditions are necessary, in accordance with the Performance Standards set forth in the regulations, to protect those interests checked above. The Commission orders that all the work shall be performed in accordance with the said conditions and with the Notice of Intent references 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.

General Conditions

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state or local statutes, ordinances, by-laws 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 and both that date and the special circumstances warranting the extended time period are set forth in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill, containing no trash, refuse, rubbish or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles or parts of any of the foregoing.
7. No work shall be undertaken until all administrative appeal periods from this Order have elapsed or, if such an appeal has been filed, until all proceedings before the Department have been completed.
8. No work shall be undertaken until the Final order has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, the Final order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Commission on the form at the end of this Order prior to the commencement of the work.
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in the size bearing the words: "Massachusetts Department of Environmental Protection; File Number 89-595".
10. Where the Department of Environmental Protection is requested to make a determination and to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before the Department.

10.99: continued

Plans:

Total	Dated	Signed and Stamped by:	on file with:
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Special Conditions (Use additional paper if necessary)

(Leave Space Blank)

10.99: continued

Issued by ACTON Conservation Commission

Signature(s) Terrence Mattland

Barbara Bonetti Michael G. Coiro

This Order must be signed by a majority of the Conservation Commission.
On this 19th day of November 19 97, before me personally appeared Terrence Mattland, to me known to be the person described in, and who executed, the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed.

Andrea Mackenzie March 1, 2002
Notary Public My Commission Expires

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the Department of Environmental Protection to issue a Superseding Order, providing the request is made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form as provided in 310 CMR 10.03(7) within ten days from the date of issuance of this determination. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and the applicant.

Detach on dotted line and submit to the COMMISSION prior to commencement of work.

To ACTON CONSERVATION COMMISSION Issuing Authority

Please be advised that the Order of Conditions for the project at 415 Arlington Street

File Number 05595 has been recorded at the Registry of Middlesex South and has been noted in the chain of title of the affected property in accordance with General Condition 8 on _____ 19 _____.

If recorded land, the instrument number which identifies this transaction is _____

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

Signature _____ Applicant

10.99: continued

Issued by the Department of Environmental Protection

Signature _____

on this _____ day of _____ 19 _____

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

Notary Public

My Commission Expires

The applicant, the owner, any person aggrieved by the Superseding Order, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request an adjudicatory hearing pursuant to G.L. c. 30A, §10 providing the request is made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form as provided in 310 CMR 10.03(7) within ten days from the date of issuance of this Superseding Order, and is addressed to: Docket Clerk, Office of General Counsel, Department of Environmental Protection, One Winter Street, Boston, MA 02108. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and the applicant, and any other party.

A notice of Claim for an Adjudicatory Hearing shall comply with the Department's Rules for Adjudicatory Proceedings, 310 CMR 1.01(6), and shall contain the following information:

- (a) the DEP Wetlands File Number, name of the applicant and address of the project;
- (b) the complete name, address and telephone number of the party filing the request, and, if represented by counsel, the name and address of the attorney;
- (c) the names and addresses of all other parties, if known;
- (d) a clear and concise statement of (1) the facts which are grounds for the proceedings, (2) the objections to this Superseding Order, including specifically the manner in which it is alleged to be inconsistent with the Department's Wetlands Regulations (310 CMR 10.00) and does not contribute to the protection of the interests identified in the Act, and (3) the relief sought through the adjudicatory hearing, including specifically the changes desired in the Superseding Order;
- (e) a statement that a copy of the request has been sent to the applicant, the conservation commission and each other party or representative of such party, if known.

Failure to submit all necessary information may result in a dismissal by the Department of the Notice of Claim for an Adjudicatory Hearing.

Detach on dotted line and submit to the _____ prior to commencement of work.

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To _____ Issuing Authority

Please be advised that the Order of Conditions for the project at _____

File Number _____ has been recorded at the Registry of _____ and

has been noted in the chain of title of the affected property in accordance with General Condition 8 on _____ 19 _____.

If recorded land, the instrument number which identifies this transaction is _____

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

Signature _____ Applicant