



**Town of Acton, Massachusetts**  
**Wetlands Protection Bylaw, Chapter F**  
**Form E - Order of Conditions**

DEP File No. 85-1014  
Applicant S & R Kelley

From the ACTON CONSERVATION COMMISSION Issuing Authority  
To Steven & Rachael Kelley (Name of person making request) \_\_\_\_\_ (Name of property owner)  
Address 70 Newtown Road, Acton MA 01720 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 5-14-2009 (date)

This project is located at 70 Newtown Road, Acton

The property is recorded at the Registry of Middlesex South

Book 39045 Page 340

Certificate (if registered) \_\_\_\_\_

The Notice of Intent for this project was filed on April 16, 2009 (date)

The public hearing was closed on May 6, 2009 (date)

**Findings**

The ACTON CONSERVATION COMMISSION has reviewed the above-references Notice of Intent and plans and has held a public hearing on the project. Based on the information available to the ACTON CONSERVATION COMMISSION at this time, the ACTON CONSERVATION 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):

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Public water supply  | <input type="checkbox"/> Flood Control                      | <input type="checkbox"/> Land containing shellfish                 |
| <input type="checkbox"/> Private water supply | <input checked="" type="checkbox"/> Storm damage prevention | <input type="checkbox"/> Fisheries                                 |
| <input type="checkbox"/> Ground water supply  | <input type="checkbox"/> Prevention of pollution            | <input checked="" type="checkbox"/> Protection of Wildlife Habitat |

Total filing fee submitted under Acton Wetlands Protection Bylaw \$ 100.00

Therefore, the ACTON CONSERVATION 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 ACTON CONSERVATION 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. 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 period of up to three years 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. 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.
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 ACTON CONSERVATION COMMISSION on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of the work.
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in the size bearing the words, "Massachusetts Department of Environmental Protection, File Number 85-1014".
10. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before DEP.
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
12. The work shall conform to the plans and special conditions referenced in this order.
13. Any change to the plans identified in Condition #12 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
14. The Agent or members of the Conservation Commission and 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.

15. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
16. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
17. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

**\*\* PLEASE READ THE FOLLOWING GENERAL CONDITIONS REQUIRED BY THE  
TOWN OF ACTON WETLANDS BYLAW \*\***

18. No work shall be undertaken until the Order of Conditions has been reviewed and is clearly understood by the Contractor or his agent. It is the Applicant's responsibility to see that the Contractor clearly understands all items herein.
19. This Order of Conditions shall apply to any successor in interest or successor in control.
20. Members and agents of the Conservation Commission shall have the right to enter and inspect the premises to evaluate compliance with the Order and to require the submittal of any data deemed necessary by the Commission for that evaluations.
21. All drainage facilities and related structures and equipment shall be continually operated and maintained so as to comply with this Order of Conditions. The operation and maintenance of the facilities and structures shall be on-going and will not expire at the end of one year or with the issuance of the Certificate of Compliance.
22. Any change made, or intended to be made, in the plans shall require the applicant to file a new Notice of Intent, or to inquire of the Commission, in writing, whether the change is substantial enough to require a new filing.
23. The Conservation Commission shall have the right to file this Order of Conditions in the Registry of Deeds should the applicant fail to do so within 60 days.
24. Accepted engineering and construction standards and procedures shall be followed in the completion of this project.
25. The Commission shall be notified in writing 10 days prior to the commencement of any site work. Failure to so notify the Commission shall result in the issuance of an Enforcement Order.
26. The Petitioner is advised that this Order in no way absolves him of responsibility to other property owners upon whose land he discharges water directly or indirectly.
27. Erosion control measures consisting of staked haybales unless otherwise approved by the Commission shall be installed during the first phase of construction and the Commission shall be notified of their placement and no work shall begin before inspection by the Commission.
28. Any materials collected by the erosion control measures shall be removed and properly disposed of.
29. All work shall be completed as quickly as possible to minimize the duration of exposure of disturbed areas. If work is suspended for a significant period of time (i.e. as during winter months), then temporary stabilization methods must be employed and maintained during the period of inactivity.
30. No salt or other deicing chemicals shall be used on roadways and parking areas on the site.
31. This order applies only to the work described in the Notice of Intent and shown on the plans referenced in Condition 12. A Determination of Applicability Form must be filed for any additional work on site in areas governed by the Town of Acton Wetlands Protection Bylaw.

32. All disturbed areas shall be top-soiled six inches and seeded.
33. Violation of any condition of this Order may result in the issuance of an Enforcement Order. Such Enforcement Order, if issued, will require the immediate cessation of all work until a hearing is held; such hearing will be held not more than 10 days from the issuance of the Enforcement Order.
34. The work authorized hereunder by the Acton Wetlands Protection Bylaw shall be completed within three years from the date of this Order unless the Order is renewed prior to expiration.
35. A fifty (50) foot setback of natural vegetation shall be maintained up-gradient from the wetland.
36. No construction, either temporary or permanent shall occur within seventy-five (75) feet of the edge of wetlands. This shall include driveways; roadways; residential, commercial or industrial structures, etc.
37. There shall be no use of fertilizers, pesticides, herbicides or chemicals of any kind within the fifty (50) foot no construction zone.
38. There shall be no underground storage of gasoline, oil or other fuels or hazardous materials within the one-hundred (100) foot buffer zone.
39. The Commission reserves the right to impose additional conditions to mitigate any actual or potential impacts resulting from the permitted work.
40. All haybales placed for siltation prevention must be removed from the site within 30 days of the stabilization of the area of activity.
41. The work shall conform to the following plans and special conditions:



Issued by the ACTON Conservation Commission

Signature(s) \_\_\_\_\_  
James K. Curran \_\_\_\_\_  
William Fobery \_\_\_\_\_  
Terrence Maitland \_\_\_\_\_  
Linda Scrofani \_\_\_\_\_  
Frank Costello \_\_\_\_\_  
Paul J. See \_\_\_\_\_

This Order must be signed by a majority of the Acton Conservation Commission.

On this sixth day of May, 2009, before me, the undersigned notary public, personally appeared Terrence Maitland proved to me through satisfactory evidence of identification, which were known to me to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose as Commissioner for the Acton Conservation Commission.

Andrea H. Ristine  
Notary Public -- Andrea H. Ristine

February 25, 2016  
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\_CM 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 **ACTON CONSERVATION COMMISSION** prior to commencement of work.

To ACTON CONSERVATION COMMISSION Issuing Authority

Please be advised that the Order of Conditions for the project at 70 Newtown Road, Acton

File Number 85-1014 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



**WPA Form 5 – Order of Conditions**

85-1014

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

**A. General Information**

1. From: ACTON  
Conservation Commission

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

3. To: Applicant:

Steven & Rachael Kelley  
a. First Name b. Last Name

70 Newtown Road  
c. Organization  
d. Mailing Address

Acton MA 01720  
e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

same  
a. First Name b. Last Name

c. Organization

d. Mailing Address

e. City/Town f. State g. Zip Code

5. Project Location:

70 Newtown Raod ACTON  
a. Street Address b. City/Town

E-3 82  
c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known: 42-29-24 71-26-34  
e. Latitude f. Longitude

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

MIDDLESEX SOUTH  
a. County b. Certificate Number (if registered land)

39045 340  
c. Book d. Page

7. Dates: April 16, 2009 May 6, 2009 May 6, 2009  
a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance

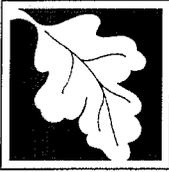
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

Notice of Intent Plan  
a. Plan Title

Foresite Engineering Scott P. Hayes, PE 41017  
b. Prepared By c. Signed and Stamped by

March 9, 2009  
d. Final Revision Date e. Scale

Restoration Procedure, Patrick Garner 4-4-2009 & NOI Filing Clarification Letter by Peter T. Clark, Attorney 4-30-2009   
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. 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:

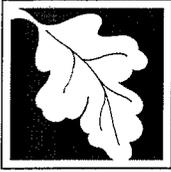
- a.  the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special 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.

**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 these interests, 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).**

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

3. <input checked="" type="checkbox"/> Buffer Zone Impacts: Shortest distance between limit of project disturbance and wetland boundary (if available)				<u>6' (six feet)</u> a. linear feet
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		



**WPA Form 5 – Order of Conditions**

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

**B. Findings (cont.)**

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____	_____	_____	_____
Cubic Feet Flood Storage	a. square feet	b. square feet	c. square feet	d. square feet
	_____	_____	_____	_____
	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____	_____		
Cubic Feet Flood Storage	a. square feet	b. square feet		
	_____	_____		
	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront area	_____	_____		
Sq ft within 100 ft	a. total sq. feet	b. total sq. feet		
	_____	_____		
	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

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

10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	_____	_____		
	a. square feet	b. square feet		
	_____	_____		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	_____	_____	_____	_____
	a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
14. <input type="checkbox"/> Coastal Dunes	_____	_____	_____	_____
	a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
15. <input type="checkbox"/> Coastal Banks	_____	_____		
	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	_____	_____		
	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	_____	_____		
	a. square feet	b. square feet		
	_____	_____		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	_____	_____		
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	_____	_____		
	a. square feet	b. square feet		



## C. General Conditions Under Massachusetts Wetlands Protection Act

(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. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
7. This Order 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.
8. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of 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 this Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

“Massachusetts Department of Environmental Protection” [or, “MassDEP”]

“File Number 85-1014”



## WPA Form 5 – Order of Conditions

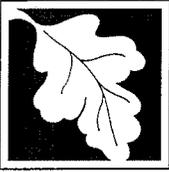
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

### C. General Conditions Under Massachusetts Wetlands Protection Act

10. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
12. The work shall conform to the plans and special conditions referenced in this order.
13. Any change to the plans identified in Condition #12 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
14. The Agent or members of the Conservation Commission and 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.
15. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
16. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
17. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. 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

18. **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.



## WPA Form 5 – Order of Conditions

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

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

- 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.
- 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 BMPs 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, and 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.



# WPA Form 5 – Order of Conditions

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

## 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 PAGE 12 FOR SPECIAL CONDITIONS.**

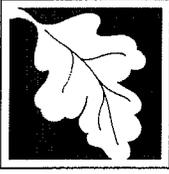
## D. Findings Under Municipal Wetlands Bylaw or Ordinance

- 1. Is a municipal wetlands bylaw or ordinance applicable?  Yes  No
- 2. The ACTON 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.



**WPA Form 5 – Order of Conditions**

85-1014

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

**D. Findings Under Municipal Wetlands Bylaw or Ordinance (cont.)**

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

Town of Acton, Wetland Protection Bylaw

Chapter F

1. Municipal Ordinance or Bylaw

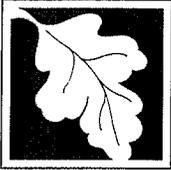
2. Citation

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 FORM E, ORDER OF CONDITIONS ISSUED BY THE ACTON CONSERVATION

COMMISSION UNDER THE TOWN OF ACTON WETLAND PROTECTION BYLAW.



**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

MassDEP File Number:

85-1014

**E. Issuance**

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

1. Date of Issuance

Please indicate the number of members who will sign this form:

This Order must be signed by a majority of the Conservation Commission.

2. Number of Signers

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

Signatures:

*Jane Kaula*  
*William Foster*  
*Terrence Martland*  
*Roda Serghini*

*Terrence Martland*  
*Jane Kaula*

**Notary Acknowledgement**

Commonwealth of Massachusetts County of MIDDLESEX SOUTH

On this *sext* of *May* *2009*  
 Day Month Year

Before me, the undersigned Notary Public, personally appeared *Terrence Martland*  
 Name of Document Signer

proved to me through satisfactory evidence of identification, which was/were

**KNOWN TO ME**

Description of evidence of identification

to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

As member of ACTON Conservation Commission  
 City/Town

*Andrea M. Rust*  
 Signature of Notary Public  
Andrea Rustine  
 Printed Name of Notary Public  
February 25, 2016  
 My Commission Expires (Date)

Place notary seal and/or any stamp above

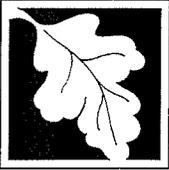
This Order is issued to the applicant as follows:

by hand delivery on

by certified mail, return receipt requested, on

Date

Date *5-14-2009*



## WPA Form 5 – Order of Conditions

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

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### 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 Determination, or providing written information to the Department prior to issuance of a Superseding Order or Determination.

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.

**Section G, Recording Information is available on the following page.**





## H. Special Conditions:

1. The “Protected Wetlands Buffer Habitat” signs shall be attached to four-inch by four-inch (4” x 4”) wooden posts that are four feet in height above the ground and are placed at 25-foot intervals along the north side of the restoration area depicted on the NOI Plan, and the east side of the restoration area, adjacent to the leaching field area.
2. Trees to be planted in the restoration area, as identified on the NOI Plan, shall be a minimum of 1½”-caliper at the time of planting.
3. The design plan for the proposed screen-enclosed deck, which the Applicants submit in the future as part of their building permit application for the proposed deck, shall require the review and approval of the Town Conservation Agent, before construction begins.
4. The Applicants shall retain a wetland restoration expert, acceptable to the Commission, for a period of two growing seasons, commencing upon the completion of the initial re-planting of the restoration area. The wetland restoration expert shall submit monitoring reports to the Commission at the end of the first growing season and mid-season during the second growing season, and a final, summary report at the end of the second growing season. If, at the end of the second growing season, the Commission is satisfied with the success of the wetland restoration, the Applicants may request a Certificate of Compliance.
5. The Applicants or their authorized representative shall meet on-site with the Town Conservation Agent to identify and mark tree stumps to be removed from the property. Only stumps on the north side of the stone wall adjacent to the driveway may be considered for grinding.



# WPA Form 3 – Notice of Intent

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

Provided by MassDEP:
MassDEP File Number
Document Transaction Number
Acton
City/Town

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



**Note:**  
Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

## A. General Information

1. Project Location (**Note:** electronic filers will click on button to locate project site):

<u>70 Newtown Road</u> a. Street Address	<u>Acton</u> b. City/Town	<u>01720</u> c. Zip Code
Latitude and Longitude:		
<u>E3-82</u> f. Assessors Map/Plat Number	<u>42-29-24</u> d. Latitude	<u>71-26-34</u> e. Longitude
<u>Lot 1</u> g. Parcel /Lot Number		

2. Applicant:

<u>Rachael &amp; Steven</u> a. First Name	<u>Kelley</u> b. Last Name	
<u></u> c. Organization		
<u>70 Newtown Road</u> d. Street Address		
<u>Acton</u> e. City/Town	<u>MA</u> f. State	<u>01720</u> g. Zip Code
<u></u> h. Phone Number	<u></u> i. Fax Number	<u></u> j. Email Address

3. Property owner (required if different from applicant):  Check if more than one owner

<u></u> a. First Name	<u></u> b. Last Name	
<u></u> c. Organization		
<u></u> d. Street Address		
<u></u> e. City/Town	<u></u> f. State	<u></u> g. Zip Code
<u></u> h. Phone Number	<u></u> i. Fax Number	<u></u> j. Email address

4. Representative (if any):

<u>Patrick</u> a. First Name	<u>Garner</u> b. Last Name	
<u>Patrick C Garner Co., Inc.</u> c. Company		
<u>109 Whitney St</u> d. Street Address		
<u>Northborough</u> e. City/Town	<u>MA</u> f. State	<u>01532</u> g. Zip Code
<u>508-393-3200</u> h. Phone Number	<u></u> i. Fax Number	<u>patrickgarner@mac.com</u> j. Email address

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

<u>\$500.00</u> a. Total Fee Paid	<u>237.50</u> b. State Fee Paid	<u>262.50</u> c. City/Town Fee Paid
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WPA Form 3 - Notice of Intent

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

Provided by MassDEP:
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A. General Information (continued)

6. General Project Description:

Applicant proposes to restore approximately 1,000 sf of cut trees in the buffer zone to BVW south of the driveway, and to build an enclosed deck on the exact footprint of an existing brick patio in the rear of the house.

7a. Project Type Checklist:

- 1. [X] Single Family Home
2. [ ] Residential Subdivision
3. [ ] Limited Project Driveway Crossing
4. [ ] Commercial/Industrial
5. [ ] Dock/Pier
6. [ ] Utilities
7. [ ] Coastal Engineering Structure
8. [ ] Agriculture (e.g., cranberries, forestry)
9. [ ] Transportation
10. [ ] Other

7b. Is any portion of the proposed activity eligible to be treated as a limited project subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

1. [ ] Yes [X] No If yes, describe which limited project applies to this project:

2. Limited Project

8. Property recorded at the Registry of Deeds for:

Middlesex South n/a
a. County b. Certificate # (if registered land)
12272 706
c. Book d. Page Number

B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- 1. [X] Buffer Zone Only - Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
2. [ ] Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Table with 3 columns: Resource Area, Size of Proposed Alteration, Proposed Replacement (if any). Rows include Bank, Bordering Vegetated Wetland, Land Under Waterbodies and Waterways.



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

Provided by MassDEP:
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B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

Resource Area, Size of Proposed Alteration, Proposed Replacement (if any)
d. [ ] Bordering Land Subject to Flooding
e. [ ] Isolated Land Subject to Flooding
f. [ ] Riverfront Area
2. Width of Riverfront Area (check one):
[ ] 25 ft. - Designated Densely Developed Areas only
[ ] 100 ft. - New agricultural projects only
[ ] 200 ft. - All other projects
3. Total area of Riverfront Area on the site of the proposed project:
4. Proposed alteration of the Riverfront Area:
5. Has an alternatives analysis been done and is it attached to this NOI?
6. Was the lot where the activity is proposed created prior to August 1, 1996?
3. [ ] Coastal Resource Areas: (See 310 CMR 10.25-10.35)

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users: Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

Resource Area, Size of Proposed Alteration, Proposed Replacement (if any)
a. [ ] Designated Port Areas
b. [ ] Land Under the Ocean
c. [ ] Barrier Beach
d. [ ] Coastal Beaches
e. [ ] Coastal Dunes



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

Provided by MassDEP:
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B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

Table with 3 columns: Impact Type, Size of Proposed Alteration, Proposed Replacement (if any). Rows include Coastal Banks, Rocky Intertidal Shores, Salt Marshes, Land Under Salt Ponds, Land Containing Shellfish, Fish Runs, Land Subject to Coastal Storm Flowage, and Restoration/Enhancement.

C. Other Applicable Standards and Requirements

Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

1. Is any portion of the proposed project located in Estimated Habitat of Rare Wildlife as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)?

a. [ ] Yes [X] No If yes, include proof of mailing or hand delivery of NOI to:

Natural Heritage and Endangered Species Program
Division of Fisheries and Wildlife
Route 135, North Drive
Westborough, MA 01581

latest
b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.C, and include requested materials with this Notice of Intent (NOI); OR complete Section C.1.d, if applicable.



# WPA Form 3 – Notice of Intent

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

Provided by MassDEP:
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## C. Other Applicable Standards and Requirements (cont'd)

1. c. Submit Supplemental Information for Endangered Species Review \*

1.  Percentage/acreage of property to be altered:
  - (a) within wetland Resource Area \_\_\_\_\_  
percentage/acreage
  - (b) outside Resource Area \_\_\_\_\_  
percentage/acreage
2.  Assessor's Map or right-of-way plan of site
3.  Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work \*\*
  - (a)  Project description (including description of impacts outside of wetland resource area & buffer zone)
  - (b)  Photographs representative of the site
  - (c)  MESA filing fee (fee information available at: <http://www.mass.gov/dfwele/dfw/nhosp/nhenvmesa.htm>)  
Make check payable to "Natural Heritage & Endangered Species Fund" and **mail to NHESP** at above address  
*Projects altering 10 or more acres of land, also submit:*
  - (d)  Vegetation cover type map of site
  - (e)  Project plans showing Priority & Estimated Habitat boundaries

d. OR Check One of the Following

1.  Project is exempt from MESA review.  
Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, <http://www.mass.gov/dfwele/dfw/nhosp/nhenvexemptions.htm>; the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)
2.  Separate MESA review ongoing.
 

a. NHESP Tracking Number	b. Date submitted to NHESP
--------------------------	----------------------------
3.  Separate MESA review completed.  
Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

\* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see [www.nhosp.org](http://www.nhosp.org) regulatory review tab). Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

\*\* MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



# WPA Form 3 – Notice of Intent

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

Provided by MassDEP:
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## C. Other Applicable Standards and Requirements (cont'd)

2. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?

a.  Not applicable – project is in inland resource area only

b.  Yes  No If yes, include proof of mailing or hand delivery of NOI to either:

South Shore - Cohasset to Rhode Island, and the Cape & Islands:

Division of Marine Fisheries - Southeast Marine Fisheries Station  
Attn: Environmental Reviewer  
838 South Rodney French Blvd.  
New Bedford, MA 02744

North Shore - Hull to New Hampshire:

Division of Marine Fisheries - North Shore Office  
Attn: Environmental Reviewer  
30 Emerson Avenue  
Gloucester, MA 01930

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.

3. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?

a.  Yes  No If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.

b. ACEC

4. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?

a.  Yes  No

5. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?

a.  Yes  No

6. Is this project subject to provisions of the MassDEP Stormwater Management Standards?

a.  Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:

1.  Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)
2.  A portion of the site constitutes redevelopment
3.  Proprietary BMPs are included in the Stormwater Management System.

b.  No. Check why the project is exempt:

1.  Single-family house
2.  Emergency road repair
3.  Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

**Online Users:**  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.



# WPA Form 3 – Notice of Intent

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

Provided by MassDEP:
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City/Town

## D. Additional Information

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

**Online Users:** Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

1.  USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
2.  Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.
3.  Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.
4.  List the titles and dates for all plans and other materials submitted with this NOI.

### Notice of Intent Plan

a. Plan Title

Forestite Engineering

Scott Hayes, PE

b. Prepared By

c. Signed and Stamped by

3/9/09

1"=20'

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

5.  If there is more than one property owner, please attach a list of these property owners not listed on this form.
6.  Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.
7.  Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.
8.  Attach NOI Wetland Fee Transmittal Form
9.  Attach Stormwater Report, if needed.

## E. Fees

1.  Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

10901

3/25/09

2. Municipal Check Number

3. Check date

10902

3/25/09

4. State Check Number

5. Check date

Law Offices of Peter T Clark, PC

6. Payor name on check: First Name

7. Payor name on check: Last Name



# WPA Form 3 – Notice of Intent

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

Provided by MassDEP:
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Acton
City/Town

## F. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

_____ 1. Signature of Applicant	_____ 2. Date
_____ 3. Signature of Property Owner (if different)	_____ 4. Date 4/3/09
_____ 5. Signature of Representative (if any)	_____ 6. Date

**For Conservation Commission:**

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

**For MassDEP:**

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a **copy** of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

**Other:**

If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.





**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**NOI Wetland Fee Transmittal Form**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**B. Fees** (continued)

Step 1/Type of Activity	Step 2/Number of Activities	Step 3/Individual Activity Fee	Step 4/Subtotal Activity Fee
single family house	1	500.00	500.00
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
<b>Step 5/Total Project Fee:</b>			500.00
<b>Step 6/Fee Payments:</b>			
Total Project Fee:			500.00
			a. Total Fee from Step 5
State share of filing Fee:			237.50
			b. 1/2 Total Fee <b>less</b> \$12.50
City/Town share of filing Fee:			262.50
			c. 1/2 Total Fee <b>plus</b> \$12.50

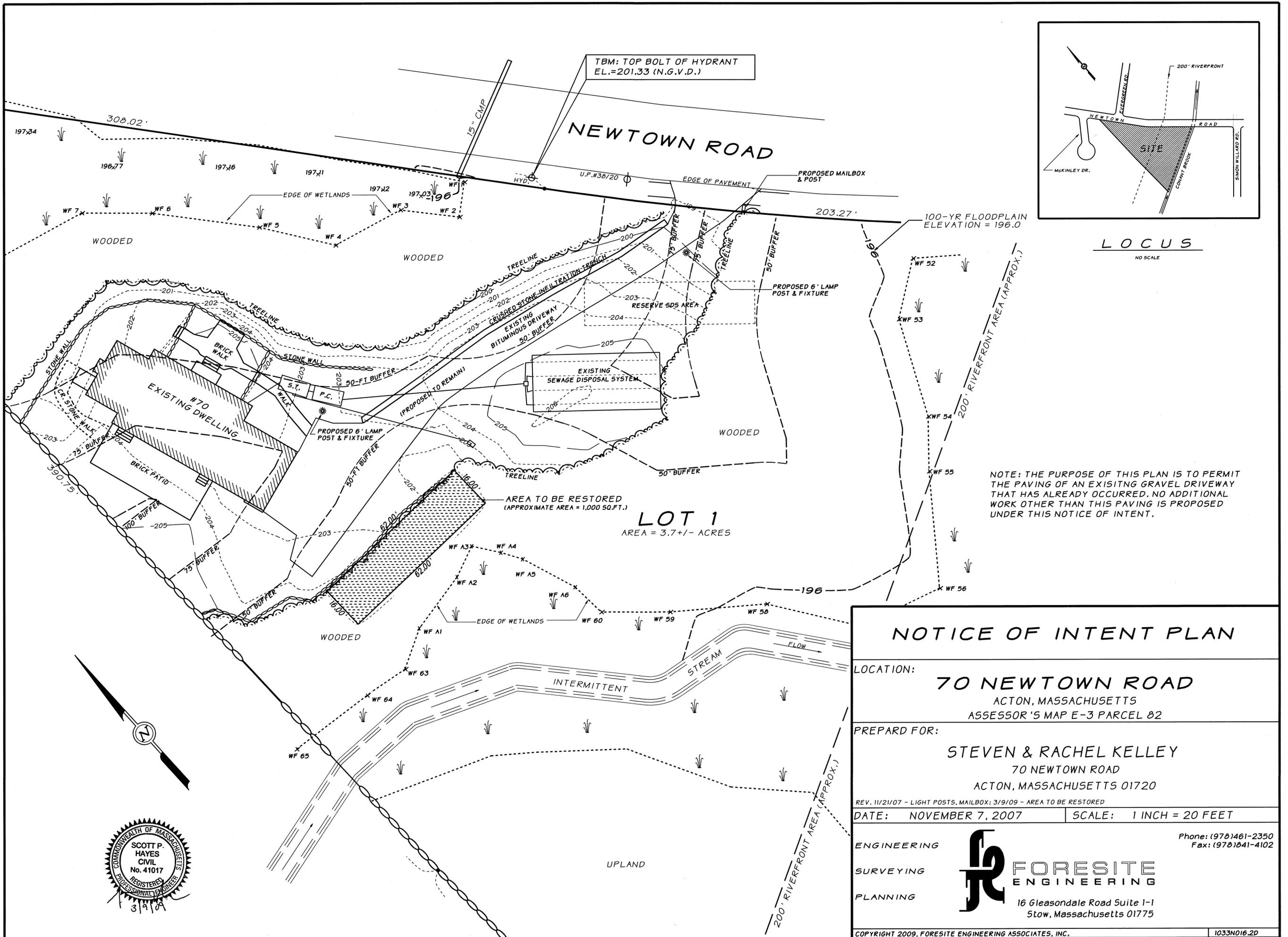
**C. Submittal Requirements**

- a.) Complete pages 1 and 2 and send with a check or money order for the state share of the fee, payable to the Commonwealth of Massachusetts.

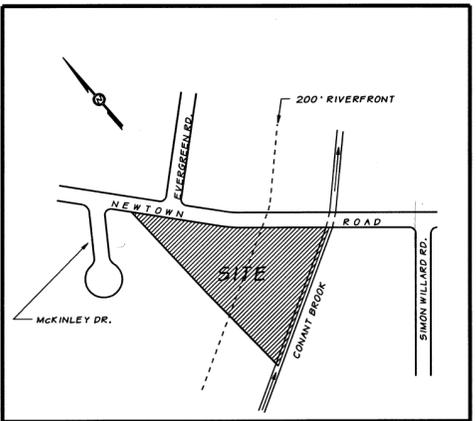
Department of Environmental Protection  
 Box 4062  
 Boston, MA 02211

- b.) **To the Conservation Commission:** Send the Notice of Intent or Abbreviated Notice of Intent; a **copy** of this form; and the city/town fee payment.

**To MassDEP Regional Office** (see Instructions): Send a copy of the Notice of Intent or Abbreviated Notice of Intent; a **copy** of this form; and a **copy** of the state fee payment. (E-filers of Notices of Intent may submit these electronically.)



TBM: TOP BOLT OF HYDRANT  
EL.=201.33 (N.G.V.D.)



LOCUS  
NO SCALE

NOTE: THE PURPOSE OF THIS PLAN IS TO PERMIT THE PAVING OF AN EXISTING GRAVEL DRIVEWAY THAT HAS ALREADY OCCURRED. NO ADDITIONAL WORK OTHER THAN THIS PAVING IS PROPOSED UNDER THIS NOTICE OF INTENT.

**NOTICE OF INTENT PLAN**

LOCATION:  
**70 NEWTOWN ROAD**  
ACTON, MASSACHUSETTS  
ASSESSOR'S MAP E-3 PARCEL 82

PREPARED FOR:  
**STEVEN & RACHEL KELLEY**  
70 NEWTOWN ROAD  
ACTON, MASSACHUSETTS 01720

REV. 11/21/07 - LIGHT POSTS, MAILBOX; 3/9/09 - AREA TO BE RESTORED  
DATE: **NOVEMBER 7, 2007** SCALE: **1 INCH = 20 FEET**

ENGINEERING  
SURVEYING  
PLANNING

**FORESITE ENGINEERING**  
16 Gleasondale Road Suite 1-1  
Stow, Massachusetts 01775

Phone: (978)461-2350  
Fax: (978)841-4102



70 Newtown Road  
Acton, Mass.

## **RESTORATION PROCEDURE**

### ***BACKGROUND***

In January 2008 the property owners of 70 Newtown Road directed a commercial company to cut 23 live trees (plus one dead tree) within the buffer zone to BVW near the driveway of the house (see Plan). Work was conducted without a permit. The Conservation Commission consequently requires that the area be restored. This report, in conjunction with a drawing by Foresight Engineering entitled, "Notice of Intent Plan," dated through 03/09/09 (the "Plan"), describes procedures for restoring said buffer zone, and specifies plant species to be used.

### ***TECHNICAL PROCEDURES***

The following procedures will be followed to restore the described areas:

1. An erosion control barrier, consisting of double-staked haybales, will be installed immediately down gradient of the area to be restored to prevent erosion into the downgradient areas.
2. In the area to be restored, existing soils have not been—and shall not be in the future—excavated, lowered, raised or removed from the property.
3. Upon completion of replacement planting (see "Vegetation" section immediately below), any disturbed upland areas will be seeded with upland restoration mix (specified below) during the growing season. Seed will be planted at a similar density to mirror the density of herbaceous plants that exist in the adjoining undisturbed buffer zone.
4. The restored area upon completion of all work will be mulched with hay to assist in the immediate stabilization of the open soil and then thoroughly watered.

### ***VEGETATION***

1. Seed stock needed for the project will be purchased from a nursery specializing in wetland species. The following seed mix is recommended:

*New England Erosion Control/Restoration Mix* from New England Wetland Plants, Amherst, Mass. (413-548-8000). This mix is for recently disturbed buffer zones areas. Its use ensures rapid re-vegetation and soil stabilization.

2. The proposed restoration area will not require new loam, as the disturbance was not to surface areas. Regardless, any rutted or pocked soil areas that were created during the 2008 tree cutting, or that may be created during the restoration work, should be raked and restored to original elevations.

3. The following shrubs and trees shall be planted:

<b>TYPE</b>		<b>Minimum</b>	
<b>Common Name</b>	<b>Scientific name</b>	<b>Height</b>	<b>Indicator status</b>
Silky Dogwood	<i>Cornus amomum</i>	18" +	FACW
Arrowwood	<i>Viburnum dentatum</i>	18" +	FAC
Red Maple	<i>Acer rubrum</i>	36-48" +	FAC
N. Red Oak	<i>Quercus rubra</i>	24-36" +	FACW

All of these species are found in or near the area to be altered and are not exotic to the immediate region. All of the species are also commonly available from regional wetland nurseries.

4. Shrub plant material will be installed in the following density:

<b>DENSITY</b>		<b>Minimum</b>	
<b>Common Name</b>	<b>Number</b>	<b>Spacing</b>	<b>Notes</b>
Silky dogwood	10	8' o.c.	
Arrowwood	10	same	
Red maple	12	12' o.c.	
N. Red oak	12	same	

**COMMENTS & CONDITIONS**

1. Seed stock and vegetative species from nurseries may be limited. The contractor should carefully plan restoration operations with the nursery prior to beginning work.
2. Upon completion, down gradient haybales will be checked and reinstalled, if necessary, along the perimeter of the new restoration area.
3. The restored area will be monitored on a timely basis over two growing seasons to assure that at least 75% of the area is covered with healthy vegetation. Monitoring will occur at least every other month through the typical growing season once planting is complete. Monitoring shall also occur during periods of severe drought, or during and after unusual storms to ensure the continued health of the plants.
4. A photographic record of the site will be made both before and after work is begun.
5. If 75% of the restoration area is not covered with healthy wetland vegetation at the end of two years, additional vegetative stock must be purchased (see type listed above) and planted, using the same procedures.
6. The installer must plant only between May 1 through June 15, and September 1 through November 1, unless the area is in a known drought condition; if a drought exists, installation must wait until normal precipitation conditions occur.

7. A number of stumps from the work lie between the existing driveway and a stonewall (the stonewall is shown on the Plan). The owners propose to grind those stumps to ground level. Other stumps between the stonewall and the wetland line will not be disturbed.

## References

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