



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Northeast Regional Office • 205B Lowell Street, Wilmington MA 01887 • 978-694-3200

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Bethany A. Card
Secretary

Martin Suuberg
Commissioner

October 27, 2022

G. Mello Disposal Corporation
c/o Davis Malm & D'Agostine, P.C.
One Boston Place, 37th Floor
Boston, MA 02108
Attn: Ms. Courtney Simmons

RE: WETLANDS/GEORGETOWN
DEP File #161-0891
Land off Carlton Drive
**SUPERSEDING ORDER OF
CONDITIONS**

Dear Mr. Mello:

Following an in-depth review of the file referenced above, and in accordance with Massachusetts General Laws, Chapter 131, § 40, the Northeast Regional Office of the Massachusetts Department of Environmental Protection, Wetlands Program (MassDEP), is issuing the enclosed Superseding Order of Conditions (SOC) **approving** the project, based upon: 1) information and plans submitted; 2) information gathered during a site inspection; and 3) reasons MassDEP has deemed necessary to protect the statutory interests identified in the Wetlands Protection Act (the "Act") and Regulations, 310 CMR 10.00.

The project site is located off Carlton Drive in Georgetown, Massachusetts on a lot that is approximately 14.57 acre in size. Portions of the project site has been historically altered by a prior landowner by means of clearing vegetation, constructing a gravel access driveway with a culvert along the easterly lot line, and stockpiling old metal debris and soil throughout the site. The remaining portion of the site is undeveloped, consisting of a mix of forested uplands and wetlands with an intermittent stream located near the southerly portion of the lot that flows from west to east, and a second intermittent stream along the northly property line that also flows from west to east. The site is bound to the west by industrial properties, to the north by forested areas and residential properties and Interstate Highway 95 to the east.

In July 2019, you filed an Abbreviated Notice of Resource Area Delineation (ANRAD) (DEP File No. 161-0885) with the Georgetown Conservation Commission (GCC). On December 4, 2019, the GCC issued an Order of Resource Area Delineation (ORAD) that confirmed the boundaries of Bordering Vegetated Wetlands (BVW) on the site.

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In December 2019, you (the Applicant) filed a Notice of Intent (NOI) for the construction of a solid waste transfer station consisting of a 15,000 square foot waste handling building equipped with scales and a scale house, a residential waste and recycling drop off center with an associated 30-foot wide driveway, parking area, stormwater management system, utilities, as well as clearing and grading. The majority of the transfer station development is located beyond the 100-foot Buffer Zone, except for the construction of the access driveway and retaining walls, which would cumulatively alter 4,062 square feet of BVW, of which 3,335 square feet would be permanently filled and 6,700 square feet of BVW would be replicated along the existing BVW that is adjacent to the eastern property line. The remaining 727 square feet of BVW would be temporarily altered and restored in place. You also proposed to remove the existing gravel driveway and the corrugated metal culvert beneath the driveway, as well as piles of metal debris near this area, thereby restoring approximately 65 linear feet of Inland Bank associated with the intermittent stream and 17,500 square feet of the Buffer Zone with native plantings and seed mixes. During the public hearing process, you increased the Buffer Zone restoration activities adjacent to the replication area to 18,201 square feet and proposed to restore another 62,860 square feet of Buffer Zone along the northerly portion of the site by removing old debris, soil stockpiles and invasive species and broadcasting a native seed mix throughout the area.

On January 3, 2022, the GCC issued an Order of Conditions (OOC) denying the proposed project for failure to meet performance standards in the MA Wetlands Protection Regulations, and for lack of information (310 CMR 10.05(6)(c)). In its OOC, the GCC stated that at the December 16, 2021 public hearing the Applicant wanted to *"close the public hearing without...providing the additional information requested."* It further stated that the Applicant *"failed and/or refused to provide...the location of the wetland boundaries on the east side of the property and adjacent to the property up to Route I-95...so that the relationship between the southern and the northern wetland can better understood...and that a functional assessment of the wetland(s) in this area be provided."* According to the OOC/denial this assessment would have allowed the GCC to determine if the mitigation to offset the BVW impacts met local wetlands bylaw requirements. On January 13, 2022, your representative filed an appeal on your behalf asserting that the denial was *"based on the unsupported opinion that the Applicant cannot comply with the Act's performance standards...stormwater standards...and failed to meet its burden of proof requirements."* It was also your opinion that you provided the GCC with sufficient information to demonstrate that the proposed project had been designed to meet the Stormwater Management standards and BVW performance standards contained in 310 CMR 10.05(6)(k) and 10.55(4), respectively.

On April 20, 2022, MassDEP conducted a site inspection. In attendance were you, your attorney, engineer, and wetland scientist, as well as a representative from the GCC. At the site visit, MassDEP discussed the project and observed existing conditions with a focus on the location of the proposed driveway, wetland alterations, replication and restorations areas, the existing gravel driveway, and any alternative routes to access the site that would avoid wetland alteration or have lesser wetland impacts. MassDEP also observed the areas where the Buffer Zone restoration areas are proposed.

Based upon review of the project site and information contained in the file, MassDEP has determined that the site contains the following Areas Subject to Protection under the Act: 1) Inland Bank associated with an intermittent stream; and 2) BVW. These areas are presumed to

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protect one or more statutory interests identified in the Regulations and are noted in the attached SOC.

On June 9, 2022, MassDEP sent an email to the GCC requesting that they provide clarification of the issues cited in the OOC/denial. Specifically, what stormwater questions were asked by the GCC that were left unanswered; what other information was requested that was not provided; an explanation why this information was necessary; the date(s) the information was requested; the response(s) from the Applicant declining to submit the necessary information; and lastly, clarification of what performance standard citation(s) in the Wetlands Protection Regulations were not complied with.

On June 23, 2022, the GCC Agent (the Agent) replied by email, attaching portions of GCC meeting minutes from the public hearings that took place on March 18, 2021, an unknown meeting date, and December 16, 2021. The Agent explained that the GCC did not evaluate the stormwater design and instead relied solely on the Planning Board's 3rd party engineer's evaluation. However, since the project was denied by the Planning Board, the response stated that the GCC was unable to determine if the project met the stormwater standards. The Agent also explained that it was the GCC's opinion that the alternatives analysis provided by the Applicant was not sufficient, and that alternative access to this site, as well as off site development locations were available which would allegedly avoid filling BVW, but that they were rejected by the Applicant. However, neither in the Agent's response or the GCC in its OOC/denial explained why the alternatives analysis was not sufficient, or identified where the alternative locations were located, both on site and off site.

On June 28, 2022, MassDEP issued a letter in which it first considered the GCC's claim that the Applicant failed to provide sufficient information pursuant to 310 CMR 10.05(6)(c). Under this regulatory citation, a conservation commission must find that the information submitted is not sufficient and must specify in its OOC the "information which is lacking and why it is necessary." After reviewing the correspondence between the Applicant's representatives, the GCC and its 3rd party wetland consultant between February 19, 2020 to December 7, 2021, and comparing them to the OOC/denial and the June 23, 2022 email response from the Agent, it is MassDEP's opinion that the lack of information denial was issued with no specificity for what information was requested and necessary in order for the GCC to make a determination other than information that was requested pursuant to the local wetlands bylaw, which MassDEP has no authority over. Therefore, it is MassDEP's position that the decision issued by the GCC does not qualify as a "lack of information denial" under 310 CMR 10.05(6)(c).

In its June 28, 2022 letter, MassDEP also requested you provide additional information and plan revisions verifying the proposed wetland alteration numbers shown on the site plans; relocate or reconfigure the infiltration basin 5P to eliminate permanent impacts to BVW; provide soil test pit information confirming the Hydrologic Soils Group on the site; revise the design of infiltration basin 4P to include an emergency spillway, and to provide further separation between the inlet and outlet structures to maximize the flow path and create sufficient distance for stormwater treatment before being discharged; and to prepare a cross section and profile of the proposed Bank restoration activities along with bypass pumping details.

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On August 31, 2022, your representative submitted a response letter accompanied by revised site plans dated August 31, 2022. These revised plans showed that infiltration basin 5P had been reconfigured to avoid BVW alteration; infiltration basin 4P was also redesigned with a low flow channel between the inlet and outlet structures and an emergency spillway was added; and a new plan sheet entitled, *Stream Creation Details*, dated August 31, 2022, was incorporated into the plan set. Clarification was given explaining that a soil evaluation of the site was performed on October 15, 2019, and the soil logs were added to Sheet C-5.

On October 13, 2022, MassDEP had a phone conversation with your engineer requesting that outfalls OF-4 and OF-5 be relocated out of the restored BVW along the driveway and that adjustments be made to the infiltration basin 5P so that it meets the required setback to the adjacent BVW. On October 14, 2022, MassDEP received a revised Plan Sheet C-4 that shows an impermeable liner was added to a portion of the infiltration basin 5P along with an emergency overflow pipe; the two (2) outfalls were relocated out of the BVW restoration area; and some of the details on Plan Sheet D-4 had also been revised.

Based on the review of the information presented to the GCC by the Applicant during the public hearing process, MassDEP concurs with the Applicant's assertion that the proposed location of the access driveway through the BVW is preferable to using and expanding the existing gravel road. The proposed removal of the existing gravel road, culvert, and various debris piles, coupled with the daylighting of the intermittent stream (restoring 65 linear feet of Inland Bank), providing 6,700 square feet of BVW replication area and restoring 18,201 square feet of previously disturbed Buffer Zone will create a contiguous swath of land that will be environmentally more beneficial than improving and widening the existing gravel road and stream crossing.

As currently proposed, it is MassDEP's opinion that the project meets performance standards contained in 310 CMR 10.55(4) and 310 CMR 10.05(6)(k) for BVW and Stormwater Management, respectively. It is MassDEP's position that the enclosed SOC approving this project as currently proposed and conditioned serves to protect the statutory interests identified in the Act and its Regulations. However, MassDEP reserves the right, should there be further proceedings to this matter, to raise additional issues and present further evidence as may be appropriate. Should you or any concerned party dispute these findings, your attention is directed to the language at the end of the attached SOC specifying the right and procedures for appeal.

If you have any questions concerning this SOC, please contact Pamela Merrill at 857.772.6982 or pamela.merrill@mass.gov.

Sincerely,



Jill Provencal
Section Chief

Wetlands Program- NERO

Enc.

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cc: Jason Mello, G. Mello Disposal Corporation, 95 Tenney Street, Georgetown, MA 01833
Scott Cameron, The Morin-Cameron Group, Inc., 25 Kenoza Avenue, Haverhill, MA
01830
Richard Kirby, LEC Environmental Consulting, Inc., 380 Lowell Street, Suite 101,
Wakefield, MA 01880
Paul Feldman, Davis Malm & D'Agostine, P.C., 1 Boston Place, 37th Floor, Boston, MA
02108
East-West Mirra Realty, LLC, 6 Norino Way, Georgetown, MA 01833
Georgetown Conservation Commission, Memorial Town Hall, 1 Liberty Street,
Georgetown, MA 01833



Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands Program
Superseding Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File #

161-0891

A. General Information

1. From: Northeast Regional Office
Massachusetts Department of Environmental Protection (MassDEP/the Department)
2. This issuance is for (check one): a. ☒ Superseding Order of Conditions
b. ☐ Amended Superseding Order of Conditions

3. To: Applicant:

Jason Mello
a. First Name b. Last Name
G. Mello Disposal Corp.
c. Organization
95 Tenney Street
d. Mailing Address Line 1
Georgetown MA 01833
e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

East-West Mirra Realty LCC
a. First Name b. Last Name
c. Organization
6 Norino Way
d. Mailing Address Line 1
Georgetown MA 01833
e. City/Town f. State g. Zip Code

5. Project Location:

Off Carleton Drive Georgetown
a. Street Address b. City/Town
Map 15 Lot 46
c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known:

N 42.7 W 70.9
e. Latitude f. Latitude



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A. General Information (cont'd)

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

Essex
a. County
17319
c. Book
b. Certificate (if registered land)
223
d. Page

7. Dates: December 2019 January 3, 2022 April 20, 2022
a. Date NOI Received b. Date Local Order Issued c. Date of SOC Site Visit

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

G. Mello Disposal Corp. Solid Waste Transfer Station, Carleton Drive, Georgetown, Massachusetts,
(containing 10 Sheets)

The Morin-Cameron Group, Inc. Scott P. Cameron, R.P.E.
b. Prepared By c. Signed and Stamped By
August 31, 2022 varies
d. Final Revision Date e. Scale
See Superseding Order of Conditions Special Conditions
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, the Department 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 Department hereby finds the project, as proposed, is (check one):

Approved subject to:

- a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. The Department 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.



B. Findings (cont'd)

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

3. ☐ Buffer Zone Impacts: Shortest distance between limit of project disturbance and wetland boundary (if available) a. linear feet
- | Resource Area | Proposed Alteration | Permitted Alteration | Proposed Replacement | Permitted Replacement |
|--|---------------------|----------------------|----------------------|-----------------------|
| 4. <input checked="" type="checkbox"/> Bank | | | 65 | 65 |
| | a. linear feet | b. linear feet | c. linear feet | d. linear feet |
| 5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland | 4,062 | 4,062 | 6,700 | 6,700 |
| | 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 | | | | |
| 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 feet within 100 feet | a. total sq. feet | b. total sq. feet | | |
| | c. square feet | d. square feet | e. square feet | f. square feet |
| Sq feet between 100-200 feet | 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. ☐ Buffer Zone Impacts: Shortest distance between limit of project disturbance and wetland boundary (if available) a. linear feet
11. ☐ Designated Port Areas - Indicate size under Land Under the Ocean, below
- | | Proposed Alteration | Permitted Alteration | Proposed Replacement | Permitted Replacement |
|--|---------------------|----------------------|----------------------|-----------------------|
| 12. <input type="checkbox"/> Land Under the Ocean | | | | |
| | a. square feet | b. square feet | | |
| | c. c/y dredged | d. c/y dredged | | |
| 13. <input type="checkbox"/> Barrier Beaches - Indicate size under Coastal Beaches and/or Coastal Dunes below. | | | | |



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B. Findings (cont'd)

- | | | | | |
|--|-------------------|-------------------|----------------|-----------------|
| 14. <input type="checkbox"/> Coastal Beaches | a. square feet | b. square feet | c. c/y | d. c/y nourish. |
| 15. <input type="checkbox"/> Coastal Dunes | a. square feet | b. square feet | c. c/y | d. c/y nourish. |
| 16. <input type="checkbox"/> Coastal Banks | a. linear feet | b. linear feet | | |
| 17. <input type="checkbox"/> Rocky Intertidal Shores | a. square feet | b. square feet | | |
| 18. <input type="checkbox"/> Salt Marshes | a. square feet | b. square feet | c. square | d. square feet |
| 19. <input type="checkbox"/> Land Under Salt Ponds | a. square feet | b. square feet | | |
| | c. c/y dredged | d. c/y dredged | | |
| 20. <input type="checkbox"/> Land Containing Shellfish | a. square feet | b. square feet | c. square | d. square feet |
| 21. <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 | | |
| 22. <input type="checkbox"/> Land Subject to Coastal Storm Flowage | a. square feet | b. square feet | | |
| 23. <input type="checkbox"/> Riverfront area | a. total sq. feet | b. total sq. feet | | |
| Sq feet within 100 feet | c. square feet | d. square feet | e. square | f. square feet |
| Sq feet between 100-200 feet | g. square feet | h. square feet | i. square feet | j. square feet |

C. General Conditions Under Massachusetts Wetlands Protection Act

Brief Project Description of Permitted Activities:

This SOC permits the construction of a 30-foot wide driveway, stormwater management system, utilities, as well as clearing and grading associated with the construction of a solid waste transfer station and parking area. The construction of the access driveway and retaining walls will alter approximately 4,062 square feet of BVW, of which 3,335 square feet would be permanently filled and 727 square feet would be temporarily altered and restored in place. The existing gravel driveway, metal culvert and various solid waste debris and soil piles will be removed from the site. With the removal of the culvert, this section of the intermittent stream will be daylighted, restoring 65 linear feet of Bank which will flank a 6,700 square foot BVW replication area. Immediately adjacent to the BVW replication area, 18,201 square feet of Buffer Zone will be restored. Along the northerly portion of the site, additional solid waste debris and soil piles as well as invasive species will be removed and 62,860 square feet of Buffer Zone will be restored.



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

(only applicable to approved projects)

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

"File Number 161-0891 "



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

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 DEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Department of Environmental Protection.
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 Department in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Department.
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 Department, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order (the "Project") is (1) ☒ is not (2) ☐ subject to the Massachusetts Stormwater Standards. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:
 - a) All work, including site preparation, land disturbance, construction, and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.



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 19(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 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(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 (See attached sheet(s) or below for additional Special Conditions numbered 20 through 73 .

See the attached document for a list of Special Conditions 20 through 73.

**SUPERSEDING ORDER OF CONDITIONS
SPECIAL CONDITIONS**

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DEP File No. 161-0891**

20. All work shall conform to the Notice of Intent, plans, reports, and special conditions:
- a. Plan set entitled, *G. Mello Disposal Corp. Solid Waste Transfer Station, Carleton Drive, Georgetown, Massachusetts* consisting of 10 Sheets with a final revision date of August 31, 2022, with the exception of Plan Sheet C-4, *Grading & Utility Plan*, and Plan Sheet D-4, *Construction Details IV*, dated October 14, 2022, prepared by The Morin-Cameron Group, Inc., and stamped and signed by Scott P. Cameron, P.E.
 - b. *Stream Creation Details for Land Off Carlton Drive, Georgetown, Massachusetts*, dated August 31, 2022, prepared by The Morin-Cameron Group, Inc., and stamped and signed by Scott P. Cameron, P.E.
 - c. *Stormwater Management Report: Proposed Transfer Station, Land Off Carleton Drive, Georgetown, Massachusetts*, last revised on May 12, 2020, prepared by The Morin-Cameron Group, Inc., and stamped and signed by Scott P. Cameron, P.E.
 - d. *Appendix E: Construction Phase Best Management Practices Plan*, dated May 12, 2020, prepared by The Morin-Cameron Group, Inc.,
 - e. *Appendix F: Long Term Best Management Practices O & M Plan*, last revised May 12, 2020, prepared by The Morin-Cameron Group, Inc.
 - f. *Spillway Failure Analysis and Updated Stormwater Calculations*, dated August 31, 2022, prepared by The Morin-Cameron Group, Inc., and stamped and signed by Scott P. Cameron, P.E.
21. This Superseding Order of Conditions (Superseding Order) supersedes all previous Orders issued for the project, DEP File #161-0891. All work shall conform to the plans and documentation referenced above unless otherwise specified in the Superseding Order. In case of a conflict, the conditions of this Superseding Order shall prevail.
22. A copy of this Superseding Order shall be included in all construction contracts and shall supersede any conflicting requirements.
23. A copy of this Superseding Order as well as the plans and reports referenced in Special Condition No. 20 shall be available on site while activities regulated by this Superseding Order are being performed. In addition to the owners, all contractors and subcontractors shall be held responsible for compliance with this Superseding Order.

Superseding Order of Conditions- Special Conditions
Land off Carlton Drive, Georgetown, MA
DEP File #161-0891

24. No work shall commence on-site until all appeal periods have elapsed and this Superseding Order has been recorded with the Registry of Deeds and MassDEP has been formally notified via the form provided at the end of this Superseding Order.
25. This Superseding Order shall apply to any successor or assigns in interest or control and any other party engaging in activity on the property identified in the Notice of Intent. The applicant shall notify MassDEP in writing within 30 days of all transfers of title of any portion of property that takes place prior to the issuance of a Certificate of Compliance.
26. Any proposed or executed change in the plans approved under this Superseding Order shall require the applicant to inquire of MassDEP in writing whether the change is substantial enough to require a new filing. A copy of this letter shall be sent at the same time to the Georgetown Conservation Commission (GCC). Any errors in the plans or information submitted by the applicant shall be considered changes and the above procedures shall be followed.
27. Members and agents of MassDEP and the GCC shall have the right to enter and inspect the premises to evaluate compliance with the conditions contained in this Superseding Order and may require the submittal of any data deemed necessary by MassDEP for that evaluation.
28. The applicant shall retain a wetland scientist who will serve as the project's Environmental Monitor (EM). This person shall be competent in wetland ecology, soil science, and have a minimum of five (5) years of experience in stream restoration and wetland replication, as well as expertise with erosion control and general construction practices. Prior to the pre-construction meeting, the applicant shall provide MassDEP, and a copy sent to the GCC with the name(s), address(es) and telephone number(s) of EM and their alternate including their qualifications and contact information. The EM or their backup shall be available on a 24-hour basis.
29. The EM shall be responsible for overseeing all activities within Bordering Vegetated Wetlands (BVW) and the 100-foot Buffer Zone on the project site, including, but not limited to: the construction of the access driveway crossing and BVW replication and restoration areas, the removal of the existing gravel driveway and culvert, Buffer Zone restoration areas, stormwater management structures, and regular inspections and replacement of erosion and sedimentation controls.
30. The EM shall oversee all activities involving preparation and construction of the BVW replication and restoration areas, the daylighting of the stream and stream bank restoration activities, as well as the Buffer Zone restoration areas. The EM shall be responsible for all aspects of these activities, including but not limited to: ensuring all wetland flagging are maintained prior to and after the alteration BVW; filling of the BVW; identifying appropriate organic soils to be replaced into the replicated and restored wetland areas, as well as Buffer Zone restoration areas; final grading of the BVW

replication and restoration areas; stream restoration, plantings; transportation of soils and plant material; and submitting monitoring reports.

31. The EM shall monitor the site during and/or immediately after precipitation events of 0.5" or greater in a 24-hour period, or immediately after a winter snowmelt. The EM shall have the authority to modify existing erosion and sedimentation controls or require additional controls if deemed necessary. The EM shall have the authority to stop construction for erosion control purposes and shall immediately notify MassDEP and the GCC if any discharges to a wetland resource area occur.
32. Prior to the pre-construction meeting, the applicant shall provide MassDEP with a contact list containing the telephone number, address and email for the project supervisor, site contractor(s) and EM, as well as their back-up contact(s).
33. Prior to the pre-construction meeting, the applicant shall submit a detailed construction schedule to MassDEP and a copy provided to the GCC. This schedule shall include the sequencing associated with BVW filling, BVW replication and restoration areas, stream restoration, as well as the Buffer Zone restoration areas. Work shall not commence until MassDEP has approved the construction sequence.
34. Prior to the start of work on site, except for the installation of erosion controls, there shall be a pre-construction meeting between the applicant, the project supervisor, the contractor(s) performing the work, the EM, a representative from the GCC and MassDEP to ensure the requirements of the Superseding Order are understood. Arrangements for the meeting shall be with made with MassDEP at least two (2) weeks prior to any activity.
35. This project requires the filing of an EPA Stormwater Notice of Intent to meet the requirements of the National Pollutant Discharge Elimination System ("NPDES"). Prior to the start of construction, the Stormwater Notice of Intent shall be filed with EPA and an electronic copy of the that application and the SWPPP shall be submitted to MassDEP.
36. No more than **3,335 square feet of permanent alteration to BVW** is allowed under this Superseding Order for the construction of the access driveway into the transfer station, as shown on the Plan Sheet C-5 entitled, "Wetland & Buffer Zone Mitigation Plan" as referenced in Special Condition No. 20.
37. No more than **727 square feet of BVW may be temporary altered** for the construction of the access driveway and retaining walls, which will be restored in place as shown on the Plan Sheet C-5 and discussed in the *Wetland Restoration Notes* and plant list on Plan Sheet C-6 entitled, "Mitigation Notes & Planting Tables."
38. No less than **6,700 square feet of BVW replication area** shall be provided along wetland flags BVW 1 to 6 connecting to BVW 21B to BVW 29B connecting to BVW 74 to BVW 79, as shown on Plan Sheet C-5 and discussed in the *Wetland Replication Notes* and plant list on Plan Sheet C-6. This replication area shall incorporate "pit and mound"

- microtopography, which will be approximately four (4) to eight (8) feet in diameter and elevations be established by survey based on seasonal high groundwater elevations throughout the BVW replication area.
39. No less than **65 linear feet of Inland Bank shall be restored** as part of the removal of the existing corrugated culvert and daylighting of the intermittent stream within the BVW replication area as shown as shown on Plan Sheet C-5, the *Stream Creation Details* plan and discussed in the *Bank/Stream Restoration Notes* on Plan Sheet C-6.
 40. No less than **18,210 square feet of Buffer Zone shall be restored** immediately adjacent to both side of the BVW replication area and planted with native species in accordance with the *Buffer Zone Restoration Area* notes and plant list on Plan Sheet C-6.
 41. No less than **62,860 square feet of Buffer Zone shall be restored** along the northerly side of the property upon the removal of the solid waste debris and fill piles as shown on the Plan Sheet C-5 and seeded with the mesic to dry pollinator mix as discussed on Plan Sheet C-6. **This area shall be mowed once annually between October 1 and November 1 to maintain a meadow habitat and inhibit the establishment of invasive woody vegetation. This condition shall remain in effect perpetuity and shall be noted as such in the Certificate of Compliance.**
 42. During the alteration of any BVW, all organic topsoil shall be excavated and segregated from the subsoil to a maximum depth of 12 inches. Organic soils that are removed from the BVW shall be stockpiled for as little time as possible and adequately protected to ensure that they do not dry out. Excavated organic soils shall be reused in the restoration and replications areas after sub-grading is complete and shall be replaced so that the original soil horizons are restored.
 43. To the greatest extent possible, wetland plants shall be carefully removed from the BVW areas that will be permanently altered, and appropriately stored to be reused during the BVW replication activities.
 44. Work within the BVW shall be conducted, to the greatest extend possible, under low flow conditions as determined by the EM.
 45. The removal of the existing culvert, the daylighting of the intermittent stream and associated restoration activities shall occur during low or no flow conditions as determined by the EM.
 46. Preparation and construction of the BVW replication and restoration areas, daylighting of the stream and restoration, as well as Buffer Zone restoration areas shall be overseen by the EM. The EM shall be on site while the work is conducted and shall be responsible for overseeing activities including, but not limited to: inspecting and confirming erosion controls and wetland flagging prior to and after the alteration the BVW; identifying the appropriate organic soils to be placed in the BVW replication and restoration areas and within restored streambed; overseeing final grading of the BVW replication and

restoration areas; inspecting final elevations and confirming groundwater elevations within the BVW replication and restoration areas; the installation the coir fiber logs to restore Bank and the biodegradable erosion control blanket within the daylighted stream; obtaining, planting and maintaining the specified wetlands and upland plants and seed mixes; and monitoring and reporting on the BVW replication and restoration area, restoration of the daylighted stream, and Buffer Zone restoration areas. The EM shall request a site visit with MassDEP when the BVW replication and restoration areas, and streambed are at final grade, but prior to planting. The EM shall notify MassDEP, in writing, at the following times:

- a. At the start of filling the BVW that will be permanently and temporarily altered;
 - b. Prior to the removal of the existing culvert;
 - c. Prior to the installation of the erosion control blanket within the streambed and coir fiber logs on the Bank;
 - d. At the start of excavation of the BVW replication area;
 - e. When final grades within the BVW replication and restoration areas, and Buffer Zone restoration areas are established, but prior to planting; and
 - f. When planting is complete within all replication and restoration areas.
47. If manufactured organic soils are used in the BVW replication area, it shall consist of soil that contains twenty (20) percent peat or partially decomposed leaf litter and shall have the same pH, texture, and fertility as the native wetland soil. The BVW replication area shall have a base of at least eighteen (18) inches of organic soil prior to planting.
48. Course woody debris (*i.e.*, branches, logs) shall be placed throughout the replication area at an approximate 5% coverage rate.
49. Upon removal of the culvert and daylighting of the stream, the streambed shall be restored using a compatible substrate with the mucky soil material in the upstream reaches. If manufactured organic soils are required, then the soil consistency shall follow the same specifications in Special Conditions No. 47 under the direction of the EM. Additionally, the configuration of the restored stream must have some sinuosity to it. A suitable wetland seed mix should also be broadcasted along the stream bottom coupled with a biodegradable erosion control netting/blanket comprised of jute or coir that will be placed within the stream channel with fiber ends secured in place to ensure permanent stabilization. Six (6) to twelve (12) inch coir fiber logs that will be installed to restore Bank must be partially buried, anchored in place with wooden stakes, and shall be planted with native species using live stakes, tubelings and/or plugs. The selection and placement of the plant species shall be at the direction of the EM.
50. The Buffer Zone restoration areas shall have a base of at least six (6) inches of topsoil prior to planting.
51. Planting of all wetland replication and restoration areas, and Buffer Zone restoration areas shall not take place between November 15th and May 1st. If seasonal conditions do not permit planting, it shall be done as soon as weather conditions are appropriate.

52. Within thirty (30) days of the completion of constructing the BVW replication and restoration areas, daylighting of the stream and the Buffer Zone restoration areas, the EM shall prepare and submit to MassDEP (at pamela.merrill@mass.gov) a written narrative(s) with photographs of the work that was performed and an inventory of the plant media that was installed.
53. The EM shall submit weekly reports to MassDEP with copies sent to the GCC immediately upon the start of work. These reports shall summarize the site activities within the wetland resource areas and the 100-foot Buffer Zone and shall confirm that all activities are in compliance with the conditions of this Superseding Order, including, but not limited to Special Conditions No. 36 through 51. The reports shall include, but are not limited to, a description of construction status and activities; overall site conditions;; dewatering activities; BVW replication and restoration activities; daylighting of stream activities, Buffer Zone restoration activities, installation of stormwater structures; the condition of erosion and sedimentation controls; and reports of any erosion, sedimentation, or pollution problems and how they were corrected, along with recommendations on how to prevent similar problems in the future. The EM shall immediately report any unauthorized discharges of sediments to MassDEP, and the applicant shall take immediate steps to correct the problem.
54. Upon completion of construction, the EM shall submit monthly reports to MassDEP with copies sent to the GCC to indicate whether the site is in compliance with the conditions of this Superseding Order. These monthly reports shall be submitted until such time that erosion is no longer a concern due to seasonal conditions and the applicant submits a written request to MassDEP to temporarily cease monitoring. The monthly monitoring reports shall include, but are not limited to, a description of overall site conditions; the condition of erosion and sedimentation controls; and actions taken to address problems and any other recommendations for site management. The EM shall immediately report any unauthorized discharges of sediments to MassDEP, and the applicant shall take immediate steps to correct the problem.
55. The EM shall monitor the BVW replication and restoration areas, stream restoration and Buffer Zone restoration areas for two (2) years of full continuous growing seasons, with written reports submitted to MassDEP and copied to the GCC **no later than October 31st** of each calendar year. A Certificate of Compliance will not be issued until this condition has been met.

Monitoring reports shall include photographic stations for "before" and "after" photographic documentation that clearly and comprehensively describe the conditions of the BVW replication and restoration areas. The report should describe the presence of any visible hydrology; soil profile; the stability, health, growth and vigor of the planted species; and any enhancement activities performed or remedial actions necessary to be undertaken within the BVW replication and restoration areas, stream restoration and Buffer Zone restoration areas, including invasive species removal. At least 75 percent of the wetland replication and restoration areas shall be reestablished with wetland plant

species within two (2) growing seasons. Any plants that die shall be promptly replaced with a similar plant species.

All reports shall be sent to:

Pamela Merrill
MassDEP Wetlands Program
Northeast Regional Office
205B Lowell Street
Wilmington, MA 01887
or via email to pamela.merrill@mass.gov

and shall reference the DEP File No. 161-0891 and shall be copied to the GCC.

56. If monitoring data indicates that the BVW replication and restoration areas, stream restoration, as well as Buffer Zone restoration areas are failing, a corrective plan shall be submitted to MassDEP for review and approval. Upon approval, the corrective plan shall be implemented under the direct supervision of the EM or other wetland scientist.
57. The applicant has committed to monitoring the BVW replication and restoration, and stream restoration areas for invasive species for three (3) years. If the monitoring data indicates that opportunistic invasive plants are colonizing in these areas, these plants shall be removed by hand by the EM or under the supervision of the EM.
58. At the start of work, additional erosion control materials shall be available on site (stored under cover) for emergency and routine replacement.
59. Erosion controls shall serve as the limit of work and shall be maintained in good repair until disturbed areas have been fully stabilized with vegetation or other means acceptable to MassDEP. At no time shall sediments be deposited in a wetland resource area.
60. MassDEP shall be immediately notified of any unauthorized discharges of sediments into the wetland resource areas, and the applicant shall take immediate steps to correct the problem. MassDEP reserves the right to require additional erosion controls and/or damage prevention controls that are deemed necessary.
61. Erosion controls shall remain in place until MassDEP approves their removal.
62. Wetland flags shall be maintained at all times and replaced if they are missing until Certificate of Compliance has been issued.
63. If dewatering activities are needed, it shall be done in accordance with the dewatering details shown on the *Stream Creation Details* site plan, dated August 31, 2022. Discharges from dewatering activities shall not cause scouring or erosion of int the BVW or Buffer Zone. While dewatering activities are occurring, the applicant shall have an

- additional pump(s) shall be on site, connected to the intake and discharges hose and be ready to be deployed in the event of a significant precipitation event.
64. All soil stockpiles to be stored longer than 24-hours shall be surrounded by erosion controls, and any soil stockpiles that are left idle for more than 14 days shall be temporarily stabilized with a seed mix and tackifier.
 65. All heavy equipment shall be stored beyond the limits of the delineated wetland resource areas and confined to the upland side of the erosion controls.
 66. Excess soils, rock and debris excavated or generated during the course of this project shall be removed from the site and disposed in a legal manner. Records of the destination of all materials, including excess fill and loam, to be removed from the site shall be kept on file and shall be provided to MassDEP and the GCC upon request.
 67. At no time during or after construction shall fill or other material be placed, slump into or fall beyond the limit of grading as shown on the plan. The applicant and its EM shall be responsible for inspecting and maintaining all slopes and shall immediately notify the MassDEP and the GCC if slumping, erosion, or encroachment occurs.
 68. Storing, servicing, or cleaning of equipment, including but not limited to fueling, changing, adding, or applying lubricants or hydraulic fluids, or washing/rinsing of trucks or equipment, shall be performed outside the 100-foot Buffer Zone unless prior authorization is obtained from MassDEP.
 69. There shall be no discharge or spillage of fuel, oil, or other pollutants, including sediments, onto any part of the site. The applicant shall take all reasonable precautions to prevent the release of pollutants by ignorance, accident, or vandalism.
 70. Immediately upon completion of construction, all exposed soils shall be seeded with appropriate vegetation or otherwise stabilized by a method acceptable to MassDEP. Where necessary, loam and seed shall be held in place using jute matting or other biodegradable materials for permanent stabilization against soil erosion. All materials not to remain on the site shall be removed and disposed of in a legal manner.
 71. All stormwater structures shall be maintained as specified in the *Long Term Best Management Practices O&M Plan*, last revised May 12, 2020, prepared by The Morin-Cameron Group, Inc., and incorporated in the Superseding Order. Evidence of maintenance to the stormwater management system shall be provided to MassDEP by a Massachusetts registered professional engineer on an annual basis until a Certificate of Compliance has been issued. The approved *Long Term Best Management Practices O&M Plan* is fully binding upon the applicant and/or owners, successors, agents, associations, heirs, and assigns. **This condition shall remain in effect in perpetuity and shall be recorded on the Certificate of Compliance.**

72. Prior to the request of a Certificate of Compliance, the applicant shall be responsible for cleaning all stormwater structures in accordance with the above-mentioned approved *Long Term Best Management Practices O&M Plan* and the owner or its agent shall so specify in the request for a Certificate of Compliance.
73. Upon completion of the project, the applicant shall request a Certificate of Compliance (WPA Form 8A) from MassDEP and shall submit the following information with the request:
 - a. A written statement prepared and signed by a professional engineer registered in the Commonwealth of Massachusetts certifying compliance with the approved plans referenced above and this Superseding Order and setting forth deviations if any exist;
 - b. An as-built site plan prepared and stamped by a registered professional engineer in the Commonwealth of Massachusetts showing the location and grades of the project, including, but not limited to driveway, retaining walls, utilities, stormwater management structures, the transfer station, limit of pavement and topography shown in one (1) foot contours. The as-built plan shall also include the wetland flags and the date(s) of survey.
 - c. An as-built plan prepared by a registered land surveyor or registered professional engineer of the BVW replication and restoration areas, stream restoration, Buffer Zone restoration areas with topography shown in one (1) foot contours. These plans shall include wetland flags, a notation of the amount of wetland replicated and restored; at least three (3) photographs of each area with the date(s) they were taken; and the date(s) of survey. The plan shall be accompanied by a final report by the EM describing the condition of the BVW replication and restoration areas, stream restoration, Buffer Zone restoration areas including a list of the surviving plants (with the quantity of each species), relative health of the plantings and soil profiles.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands Program
Superseding Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File #

161-0891

D. Findings Under Municipal Wetlands Bylaw or Ordinance

To the extent that the Order is based on a municipal bylaw or ordinance, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no jurisdiction to supersede the local by-law order.

E. Issuance

This Order is valid for three years from the date of issuance, unless otherwise specified as a special condition pursuant to General Conditions # 4 or # 6.

Issued by: **Massachusetts Department of Environmental Protection:**

Northeast Regional Office

MassDEP Regional Office

Wetland Section Chief Signature

Jill Provencal

Wetland Section Chief Printed Name

Date

10-27-22

This Order is issued to the applicant as follows:

☐ by Hand delivery on

☒ by certified mail on:

October 27, 2022

Date

Date – Certified Mail #



Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands Program
Superseding Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File #

161-0891

F. Appeal Rights and Time Limits

The applicant, the landowner, the conservation commission, any person aggrieved by the Superseding Order, Determination or other Reviewable Decision as defined at 310 CMR 10.04, who previously participated in the proceedings leading to this Reviewable Decision, the conservation commission, or any ten (10) residents of the city or town where the land is located if at least one resident was previously a participant in the permit proceeding, are hereby notified of their right to appeal this Reviewable Decision pursuant to M.G.L. c.30A, § 10, provided the request is made by certified mail or hand delivery to the Department, along with the appropriate filing fee and a MassDEP Fee Transmittal Form within ten (10) business days of the date of issuance of this Superseding Order or Determination, and addressed to:

Case Administrator
Office of Appeals and Dispute Resolution
Department of Environmental Protection
One Winter Street, 2nd Floor
Boston, MA 02108

A copy of the request (hereinafter also referred to as Appeal Notice) shall at the same time be sent by certified mail or hand delivery to the Conservation Commission, the applicant, the person that requested the Superseding Order or Determination, and the issuing office of the MassDEP at:

MassDEP – Northeast Region
Wetlands Program
205B Lowell Street
Wilmington, MA 01887

In the event that a ten-resident group requested the Superseding Order or Determination, the Appeal Notice shall be served on the designated representative of the ten-resident group, whose name and contact information is included in this Reviewable Decision (when relevant).

Contents of Appeal Notice

An Appeal Notice shall comply with the Department's Rules for Adjudicatory Proceedings, 310 CMR 1.01(6) and 310 CMR 10.05(7)(j), and shall contain the following information:

- a) the MassDEP Wetlands File Number, name of the applicant, landowner if different from applicant, and address of the project;
- b) the complete name, mailing address, email address, and fax and telephone numbers of the party filing the Appeal Notice; if represented by consultant or counsel, the name, fax and telephone numbers, email address, and mailing address of the representative; if a ten residents group, the same information for the group's designated representative;
- c) if the Appeal Notice is filed by a ten (10) resident group, then a demonstration of participation by at least one resident in the previous proceedings that led to this Reviewable Decision;
- d) if the Appeal Notice is filed by an aggrieved person, then a demonstration of participation in the previous proceeding that led to this Reviewable Decision and sufficient written facts to demonstrate status as a person aggrieved;
- e) the names, telephone and fax numbers, email addresses, and mailing addresses of all other interested parties, if known;



F. Appeal Rights and Time Limits (cont.)

- f) a clear and concise statement of the alleged errors contained in the Department's decision and how each alleged error is inconsistent with 310 CMR 10.00 and does not contribute to the protection of the interests identified in the Wetlands Protection Act, M.G.L. c.131, § 40, including reference to the statutory or regulatory provisions that the party filing the Appeal Notice alleges has been violated by the Department's Decision, and the relief sought, including any specific desired changes to the Department's decision;
- g) a copy of the Department's Reviewable Decision that is being appealed and a copy of the underlying Conservation Commission decision if the Reviewable Decision affirms the Conservation Commission decision;
- h) a statement that a copy of the request has been sent by certified mail or hand delivery to the applicant and the conservation commission; and
- i) if asserting a matter that is Major and Complex, as defined at 310 CMR 10.04(1), a statement requesting that the Presiding Officer make a designation of Major and Complex, with specific reasons supporting the request.

Filing Fee and Address

A copy of the Appeal Notice along with a MassDEP Fee Transmittal Form and a valid check or money order payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100) must be mailed to:

Commonwealth of Massachusetts
Department of Environmental Protection
Commonwealth Master Lockbox
P.O. Box 4062
Boston, Massachusetts 02211

The request will be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver. The filing fee is not required if the appellant is a city or town (or municipal agency), county, district of the Commonwealth of Massachusetts, or a municipal housing authority. The Department may waive the adjudicatory hearing filing fee pursuant to 310 CMR 4.06(2) for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file an affidavit setting forth the facts believed to support the claim of undue financial hardship together with the hearing request as provided above.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands Program
Superseding Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File #

161-0891

G. Recording Information

This Superseding Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Department.

To: Massachusetts Department of Environmental Protection Northeast Regional Office
Issuing Authority

205B Lowell Street, Wilmington, MA 01887
MassDEP Regional Office Address

Please be advised that the Order of Conditions for the Project at:

Land off Carleton Drive, Georgetown
Project Location (Street and Town)

161-0891
MassDEP File Number

Has been recorded at the Registry of Deeds of:

Essex
County

Book

Page

For: Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant