



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

DEP File Number:

SE 32-1913

**TOWN OF HARWICH
 WETLAND PROTECTION
 BYLAW**

A. General Information

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



From: TOWN OF HARWICH
 1. Conservation Commission

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

3. To: Applicant:

<u>Thomas</u>	<u>Leach, Harbor Master</u>	<u>Town of Harwich</u>
a. First Name	b. Last Name	c. Company
<u>P.O. Box 207</u>		
d. Mailing Address		
<u>Harwich Port</u>	<u>MA</u>	<u>02646</u>
e. City/Town	f. State	g. Zip Code

4. Property Owner (if different from applicant):

		<u>Town of Harwich</u>
a. First Name	b. Last Name	c. Company
<u>732 Main Street</u>		
d. Mailing Address		
<u>Harwich</u>	<u>MA</u>	<u>02645</u>
e. City/Town	f. State	g. Zip Code

5. Project Location:

<u>All Town Owned Beaches on Nantucket Sound</u>	<u>HARWICH</u>
a. Street Address	b. City/Town
<u>various</u>	<u>various</u>
c. Assessors Map/Plat Number	d. Parcel/Lot Number
Latitude and Longitude, if known (note: electronic filers will click for GIS locator):	
<u></u>	<u></u>
e. Latitude	f. Longitude

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

<u>BARNSTABLE</u>	<u></u>
a. County	b. Certificate (if registered land)
<u></u>	<u></u>
c. Book	d. Page

7. Dates:

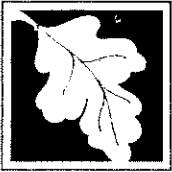
<u>8/31/2007</u>	<u>10/2/2007</u>	<u>10/9/2007</u>
a. Date Notice of Intent Filed	b. Date Public Hearing Closed	c. Date of Issuance

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

<u>The Town of Harwich Proposed Channel Dredging and Beach Nourishment Plan</u>		
a. Plan Title		
<u>Coastal Engineering</u>	<u>Roy E. Okurowski, P.E.</u>	
b. Prepared By	c. Signed and Stamped by	
<u>Rev. 8/29/2007</u>	<u>as noted</u>	
d. Final Revision Date	e. Scale	

f. Additional Plan or Document Title _____ g. Date _____

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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.

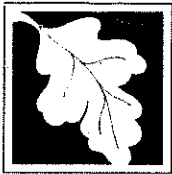
Denied because:

- 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. Buffer Zone Impacts: Shortest distance between limit of project disturbance and wetland boundary (if available)

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. cu.yd dredged	f. cu.yd dredged		



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B. Findings (cont.)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet

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. cu.yd dredged	d. cu.yd 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. cu.yd dredged	d. cu.yd 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. cu.yd dredged	b. cu.yd dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		



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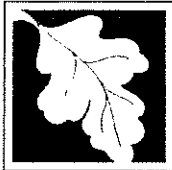
C. General Conditions Under Massachusetts Wetlands Protection Act

(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, "MA DEP"]

"File Number SE 32-1913 "



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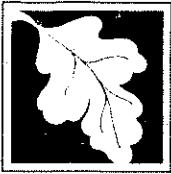
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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 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.
18. All work associated with this Order is required to comply with the Massachusetts Stormwater Policy Standards.

Special Conditions:

If you need more space for additional conditions, select box to attach a text document



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No
2. The TOWN OF HARWICH hereby finds (check one that applies):
Conservation Commission
3. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

a. Municipal Ordinance or Bylaw

b. 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.

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

a. Municipal Ordinance or Bylaw

b. Citation

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.

- c. The special conditions relating to municipal ordinance or bylaw are as follows:

If you need more space for additional conditions, select box to attach a text document

TOWN OF



HARWICH

*732 Main Street
Harwich, Massachusetts
02645*

CONSERVATION COMMISSION

(508) 430-7538

**TOWN OF HARWICH CONSERVATION COMMISSION
ORDER OF CONDITIONS**

RE: Orders of Conditions DEP File SE 32-1913

NAME: Town of Harwich

LOCATION: Town Owned Beaches Along the Shorefront of Nantucket Sound

PLAN TITLE: The Town of Harwich Proposed Channel Dredging and Beach Nourishment Plan

DATE: Rev. 8/29/2007

SIGNED/STAMPED BY: Roy E. Okurowski, P.E., Coastal Engineering, Inc.

RESOURCE: Land Under the Ocean, Coastal Beach

This permit allows for the maintenance dredging of all harbor inner and outer channels and the Herring River inner and outer channels. The permit also includes the deposition of sand from the dredging to be placed on town-owned property or private beaches along Nantucket Sound.

The provision of the Harwich By-Law Article VII which also applies is hereby certified to be complied with and is part of this ruling.

General Conditions 1 – 18 issued by the State Department of Environmental Protection on the preceding pages should be read and followed.

GENERAL CONDITIONS

1. No work shall commence on this project until the ten (10) business day appeal period has passed. This period shall begin on the day the Order of Conditions is hand delivered or postmarked, as appropriate.
2. The Order must be registered at the Barnstable County Registry of Deeds prior to commencement of any work and notice filed with the Commission.
3. The applicant or representative shall inform the Commission in writing of the name, address, and telephone number of the project contractor who will be responsible for on-site compliance with this order at least 72 hours in advance.
4. Members and Agent of the Harwich Conservation Commission shall have the right to enter and inspect the premises to evaluate compliance with the conditions stated in this Order, the Act, and 310 CMR 10.00.
5. This Order of Conditions applies only to the work permitted by this Order.
6. If any alteration of the Wetland/Resource Area does occur, the Commission shall impose measures, as it finds necessary to protect and restore those areas.

7. The construction site shall be left in a stable condition at the close of each day. Construction refuse and debris shall be controlled daily. Erosion and sedimentation controls shall be inspected, maintained, and reinforced if necessary daily.
8. Erosion and sediment control measures, as set forth in the referenced plan, shall be installed and kept in place for the duration of construction on the site and until permanent vegetative cover is established.
9. It is the responsibility of the applicant to procure all other applicable federal, state and local permits and approvals associated with this project.
10. Any refuse material from the site shall be disposed of at an approved location, and in no case will these materials be buried or disposed of in or near a Resource Area/Wetland.
11. This Order of Conditions shall apply to any successor in interest or assigns of the property.
12. This Order of Conditions shall expire on **10-9-2017** . For an extension to be granted, the Commission must receive a written request 30 days prior to the expiration of this Order.
13. All work will be done in strict conformity with the plans approved by the Commission under this Order of Conditions. Failure to file an amended plan and obtain the Commission's approval before deviating in any way from the approved plans shall constitute a violation of this Order of Conditions and permit. The Commission in its discretion may require a new hearing if any deviations or alterations from the approved plans are deemed significant.
14. If any unforeseen problem occurs during construction which affects any of the statutory interests of the Wetland Protection Act or Harwich By-Law Article VII, upon discovery, the Conservation Commission, or its Agent shall notify the developer immediately to determine the correct measures to be employed.
15. Failure to comply with all the conditions of this Order shall result in enforcement action by the Harwich Conservation Commission, which may include fines not to exceed \$200.00 per day/per violation.

SPECIAL CONDITIONS

1. Permission to traverse the beach must be obtained from all property owners, and submitted in writing to the Conservation Agent before a work permit is granted.
2. Access shall be clearly defined and marked in the field.
3. Compatibility shall be demonstrated by visual comparisons of the grain size of the fill material with the existing beach sands.
4. Any disturbance to the beach from access shall be returned to pre-existing grades and conditions upon completion of work.
5. If sediment under the beach nourishment program is placed seaward of mean high water, a permit under M.G.L. Chapter 91 will be required from the Department prior to implementation of the nourishment program.
6. Beach nourishment shall not be placed on eel grass beds.
7. Beach nourishment shall not be placed on shellfish beds.
8. No work permit will be granted until a construction protocol has been approved by the Conservation Commission or its agent.
9. To avoid an adverse effect to the Resource area Habitats of state-listed shorebirds associated with the proposed project:
 - a. No beach nourishment work, including placement or removal of pipes or other equipment, and placement, dewatering and grading of dredged materials, shall occur between April 1 and August 31 unless explicitly approved by the NHESP;
 - b. The proposed "Construction Protocol" included in this filing shall be revised and submitted to the NHESP for written approval prior to the commencement of work. We strongly recommend close consultation with the NHESP to develop the details of said revisions prior to submission for NHESP review. The revisions shall include, but are not limited to, the following:
 - * All state-listed species mentioned above shall be referenced in the protocol. Please note the current proposed protocol does not include the Piping Plover (*Charadrius melodus*).

- * The exact locations and design (elevation, slope, etc.) of the proposed beach nourishment shall be specified in more detail.
 - * Protocols for protection of all three state-listed species and their habitats both during construction and post-construction shall be developed and approved by the NHESP.
 - * The monitoring protocol shall be modified to include the Piping Plover and approved by the NHESP.
- c. The applicant shall provide the NHESP with a summary report of status of the proposed activities three years from the date of issuance of this letter. The NHESP shall utilize this summary and other pertinent information to determine if this finding will continue for any additional time period.



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DEP File Number:

SE 32-1913

E. Issuance

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

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

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

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

10/9/2007
1. Date of Issuance

5
2. Number of Signers

Signatures:

Chester A. Berg
Jason D. [unclear]
[unclear]
Michael A. [unclear]
Larry Ballantyne

Notary Acknowledgement

Commonwealth of Massachusetts County of

BARNSTABLE

On this Second Day of

October 2007
Month Year

Before me, the undersigned Notary Public, personally appeared

Chester A. Berg
Name of Document Signer

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

PERSONAL KNOWLEDGE OF IDENTITY

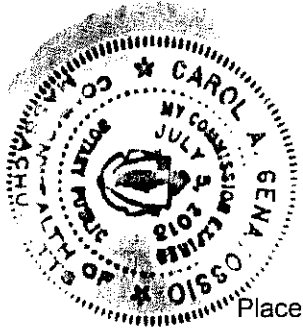
Description of evidence of identification

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

HARWICH
City/Town

Conservation Commission



CAROL A. GENATOSSIO
 NOTARY PUBLIC
 My commission expires July 5, 2013

Carol A. Genatossio
Signature of Notary Public

CAROL A. GENATOSSIO
Printed Name of Notary Public

JULY 5, 2013

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

10/9/2007



WPA Form 5 – Order of Conditions

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

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 DEP 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.