



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

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**VIA CERTIFIED MAIL**

August 24, 2022

Hilary Cole & John Cole  
and Save Chebacco Trails & Watershed, Inc.  
66 Chebacco Road  
Hamilton, MA 01982

RE: WETLANDS/HAMILTON  
DEP File #172-0629  
133 Essex Street  
**SUPERSEDING ORDER OF  
CONDITIONS**

Dear Ms. Cole, Mr. Cole and Members of Save Chebacco Trails & Watershed, Inc.:

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 at 133 Essex Street in Hamilton, Massachusetts on an undeveloped lot that is approximately 66.2 acre in size and has frontage on Essex and Chebacco Road. The project site contains a mix of forested uplands and wetlands, a certified vernal pool, currently maintained croplands, several existing walking and biking trails and wood roads. The site is also bound by residential properties along Chebacco Road, Meadowbrook Farm on Essex Street and Chebacco Woods to the south-southwest.

In August 2021, Chebacco Hill Capital Partners, LLC (the Applicant) filed a Notice of Intent (NOI) for the temporary use an existing wood road that bisects an intermittent stream to access an upland area to construct a 70-foot by 200-foot subsurface absorption system (SAS) in the western portion of the property. The proposed SAS field is affiliated with the development of fifty (50) residential condominiums on 16 acres of the overall 66.2 acres. Construction of the residential condominiums are located beyond the 100-foot Buffer Zone. Construction mats were

This information is available in alternate format. Contact Glynis Bugg at 617-348-4040.

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proposed to be placed along the length of the wood road within the 100-Buffer Zone to Bordering Vegetated Wetlands (BVW) to avoid alteration to the forest floor. In addition, a temporary bridge crossing, using 20-foot-long timbers and two (2), 20-foot by 8-foot steel plates with a wooden ramp on both sides, would be constructed over the intermittent stream to provide construction equipment access to the upland area. Horizontal Directional Drilling (HDD) was proposed to install 460 linear feet of two (2), 2-inch SDR 17 High-Density Polyethylene (HDPE) sewer force mains that would be sleeved by two (2), 4-inch SDR 11 HDPE at an approximate depth of six (6) feet. The jack pits for the HDD entry and exit would be located beyond the 100-foot Buffer Zone and the HDD route would extend underground in the Buffer Zone and beneath the intermittent stream. Placing the HDPE via HDD would avoid alteration to the stream, its Banks and the 100-foot Buffer Zone. A 6,180 square feet Buffer Zone enhancement area was proposed east of the SAS in an area that was previously used as farmland. The last component of the overall project entailed extending the municipal water line approximately 577 linear feet from the Chebacco Road right-of-way to the project site. The Applicant had filed this as a minor activity exemption under 310 CMR 10.02(2)(b)2.i.

On February 9, 2022, the Hamilton Conservation Commission (HCC) issued an Order of Conditions (OOC) approving the work. On February 22, 2022, you filed an appeal to MassDEP for issuance of a SOC. The appeal states that it is your opinion that (i) the project will result in an undetermined amount of permanent alteration to Bank associated with the intermittent stream during the installation of the temporary bridge crossing and post construction maintenance of the SAS; (ii) the project is not exempt from the Massachusetts Stormwater Standards; (iii) t the OOC *“unlawfully concludes that the resource areas are adequately protected based on the post-construction monitoring information and plans”*; (iv) the project does not protect the Certified Vernal Pool (CVP) and the Potential Vernal Pools (PVP) habitat and; (v) the project *“fails to adequately consider avoidance of a stream crossing by not mandating analysis of reduced-density projects.”*

On April 12, 2022, MassDEP conducted a site inspection. In attendance were you and several members of Save Chebacco Trails and Watershed (SCTW), your attorney and wetland consultant, the Applicant and his attorneys and wetland consultant, as well as representatives from the HCC. At the site visit, MassDEP discussed the project and observed existing site conditions, with particular attention to the wood road and the proposed HDD route; the location of the proposed temporary bridge crossing over the intermittent stream; the upgradient BVW (B and H wetland flag series to the south) and the approximate edge of the CVP located within this BVW; the downgradient BVW and PVP (B and H wetland flag series to the north); the proposed location of the SAS field; and the Buffer Zone enhancement area. MassDEP observed that the stream Banks at the location of the temporary bridge crossing lacked vegetation. The soil appeared compacted from historic foot and bike traffic, and portions of the Banks were lined with ¾- inch stone that extended into the streambed.

On May 16, 2022, MassDEP issued to the Applicant, a letter requesting additional information and plan revisions that included the delineation of Bank associated with the intermittent stream; relocate the stone berms under the temporary bridge crossing further away from the delineated Bank; revise the plan detail and cross section to show the 12-inch diameter

mulch sock proposed under the 20-foot-long timbers. MassDEP also requested that the vernal pool habitat boundary be revised to extend 100 feet from the mean annual boundary of the CVP (pursuant to 310 CMR 10.04), which, by doing so, would extend the boundary beyond the stream banks and into the downgradient BVW within the project area.

On June 7, 2022, MassDEP received a response letter from the Applicant's consultant accompanied by revised site plans, dated June 1, 2022, that depicted the Bank delineation adjacent to the temporary bridge crossing; the proposed HDD route under the stream; the reconfigured temporary crossing to provide more clearance above the Bank; additional timbers added over and parallel to the stream for increased stability under the steel plates, which will also secure the 12-inch diameter mulch sock and stone berms; and the revised vernal pool habitat boundary associated with the CVP.

On June 30, 2022, your consultant submitted a response to the Applicant's June 1, 2022 letter. The letter identified new issues related to the plan revisions stating that the Bank stakes be numbered in the field and shown on the revised plans; that the vernal pool habitat associated with the PVP in the northern part of the BVW should be shown; revisions to erosion control details; and that there may be a wetland resource area located 70 feet from the edge of Chebacco Road that had not been identified and may be functioning as a vernal pool. The letter also reiterated that the use of the temporary bridge crossing for construction equipment and subsequent dismantling of it has the potential to compress and erode the Banks on both sides of the stream and affect the carrying capacity of the channel within the Banks. The letter also stated that it was your opinion that the wood road is not high or wide enough to accommodate the construction and HDD equipment, and that the use of this road would result in erosion to the Buffer Zone and damages to the existing trails, tree roots and canopy. The letter again states that it is your opinion that the temporary bridge should be required to meet the Massachusetts Stream Crossing Standards.

On July 13, 2022, the Applicant's consultant submitted a response to your June 30, 2022 letter stating that they have not observed any evidence of obligate vernal pool breeding species in the PVP located in the northern part of the BVW and that the project will not result in any alteration to Bank during the installation, use of and dismantling of the temporary bridge crossing. They further stated that the temporary bridge crossing was designed to be used for approximately for two (2) months and therefore was not subject to meeting the Massachusetts Stream Crossing Standards. The response states that long-term maintenance of the SAS field would only require occasional mowing of vegetation, which could be done by walking a lawn mower to the SAS field. The Applicant also stated that the area just off Chebacco Road that you identified as a possible wetland resource area and PVP was determined to be a "400 square foot depression" that it is "too small to hold the volume required" to meet the regulatory definition for Isolated Land Subject to Flooding (310 CMR 10.57(2)(b)), and that it was in their opinion that it was not a certifiable vernal pool because of "the limited hydroperiod."

On July 25, 2022, your consultant submitted another comment letter in response to the Applicant's July 13, 2022 letter, reiterating the majority of the comments presented in the June 2022 letter.

On August 10, 2022, the Applicant's consultant submitted revised plans, dated August 10, 2022, that depict six (6) alphanumeric wetland flags along the stream bank and a notation on Sheet 3 of 3 stating that there will be two (2) rows of 4 foot by 8-foot Alturnamats (or equivalent) that will be placed along the entire length of the wood road during construction activities.

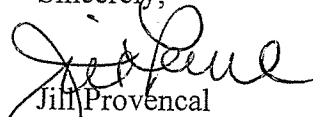
Based upon review of the project site, information contained in the file, and revised project plans, MassDEP has determined that the site contains the following Areas Subject to Protection under the WPA: 1) Inland Bank associated with an intermittent stream; and 2) BVW. These areas are presumed to protect one or more statutory interests identified in the Regulations and are noted in the attached SOC. A CVP is located within the southern portion of the BVW with a 100-foot vernal pool habitat that extends to wetland flags B32 and H32 as shown on the plans, dated August 10, 2022.

During the April 12, 2022 site visit, MassDEP observed that *portions* of the northern part of the BVW (identified as a PVP) closest to the project site was not holding water. It is MassDEP's opinion that the lack of standing water the PVP could not support obligate vernal pool breeding species. If this BVW did contain a PVP, it is MassDEP's opinion that the actual edge of the PVP and its habitat are located greater than 100 feet away from the project site. Furthermore, it is MassDEP's opinion that the Applicant has demonstrated that the installation, use and dismantling of the temporary bridge crossing to access the upland area to construct the SAS will not result in Bank alteration; that utilizing HDD to install the SAS force mains under the intermittent stream will avoid alterations to Bank; and that the temporary bridge crossing would not be subject to the Stream Crossing Standards (310 CMR 10.54(4)(a)6) or the Stormwater Standards (310 CMR 10.05(6)(k)).

Based on the information contained in the file, the submittal of supplemental information and revised site plans, it is MassDEP's position that the enclosed SOC approving this project meets the criteria in 310 CMR 10.53(1). It is also MassDEP opinion that the extension of the municipal water main in the Chebacco Road right-of-way to the project site is a minor activity that is exempt under 310 CMR 10.02(2)(b)2.i. It is MassDEP's opinion that the enclosed SOC approving this project serves to protect the statutory interests identified in the Act and Regulations. However, MassDEP reserves the right, should there be further proceedings in 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 attached SOC specifying the rights and procedures for appeal.

Should you have any questions regarding this matter, please contact by email at [pamela.merrill@mass.gov](mailto:pamela.merrill@mass.gov).

Sincerely,

  
Jill Provencal  
Wetlands Program  
Section Chief- NERO

133 Essex Street, Hamilton  
DEP File #172-0629  
Superseding Order of Conditions

cc: Larry Smith, Chebacco Hill Capital Partners, LLC, P.O. Box 1044, Sudbury, MA 01776  
(via certified mail)  
Greg Hochmuth, Williams & Sparages LLC, 189 North Main Street, Suite 101,  
Middleton, MA  
Donald F. Borenstein, Johnson & Borenstein, LLC, 12 Chestnut Street, Andover, MA  
01810  
Catherine Rich-Duval, Country Squire Realty, Inc., 103 River Road, Topsfield, MA  
01983  
Brian C. Levey, Beveridge & Diamond, 155 Federal Street, Suite 1600, Boston, MA  
02110  
Mary Rimmer, Rimmer Environmental Consulting, LLC, 57 Boston Road, Newbury, MA  
01951  
Hamilton Conservation Commission, Town Hall, 577 Bay Road, Hamilton, MA 01936



**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 #

172-0629

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### 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:
- |   |                              |                             |
|---|------------------------------|-----------------------------|
| <u>Larry</u><br>a. First Name                                 | <u>Smith</u><br>b. Last Name |                             |
| <u>Chebacco Hill Capital Partners, LLC</u><br>c. Organization |                              |                             |
| <u>P.O. Box 1044</u><br>d. Mailing Address Line 1             |                              |                             |
| <u>Sudbury</u><br>e. City/Town                                | <u>MA</u><br>f. State        | <u>01776</u><br>g. Zip Code |
4. Property Owner (if different from applicant):
- |   |                                   |                             |
|---|-----------------------------------|-----------------------------|
| <u>Catherine</u><br>a. First Name                     | <u>Rich-Duval</u><br>b. Last Name |                             |
| <u>Country Squire Realty, Inc.</u><br>c. Organization |                                   |                             |
| <u>103 River Road</u><br>d. Mailing Address Line 1    |                                   |                             |
| <u>Topsfield</u><br>e. City/Town                      | <u>MA</u><br>f. State             | <u>01983</u><br>g. Zip Code |
5. Project Location:
- |   |                                      |
|---|--------------------------------------|
| <u>133 Essex Street</u><br>a. Street Address  | <u>Hamilton</u><br>b. City/Town      |
| <u>Map 65</u><br>c. Assessors Map/Plat Number | <u>Lot 1</u><br>d. Parcel/Lot Number |
- Latitude and Longitude, if known:
- |                                  |                                   |
|----------------------------------|-----------------------------------|
| <u>N 42.60414</u><br>e. Latitude | <u>W 70.82937</u><br>f. Longitude |
|----------------------------------|-----------------------------------|



**A. General Information (cont'd)**

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

<u>Essex</u>	
a. County	b. Certificate (if registered land)
<u>4540</u>	<u>467</u>
c. Book	d. Page

7. Dates: August 2021                      February 9, 2022                      April 12, 2021  
 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):

<u>Plan to Accompany a Notice of Intent: 133 Essex Street, Hamilton, MA, (containing 3 Sheets)</u>	
a. Plan Title	
<u>Williams &amp; Sparages</u>	<u>Richard L. Williams, R.P.E.</u>
b. Prepared By	c. Signed and Stamped By
<u>August 10, 2022</u>	<u>varies</u>
d. Final Revision Date	e. Scale
<u>See Superseding Order of Conditions Special Conditions</u>	
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. <input type="checkbox"/> Public Water Supply           | b. <input type="checkbox"/> Land Containing Shellfish          | c. <input checked="" type="checkbox"/> Prevention of Pollution        |
| d. <input type="checkbox"/> Private Water Supply          | e. <input type="checkbox"/> Fisheries                          | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input checked="" type="checkbox"/> Groundwater Supply | h. <input checked="" type="checkbox"/> Storm Damage Prevention | i. <input checked="" type="checkbox"/> 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 type="checkbox"/> Bank	_____	_____	_____	_____
	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
	_____	_____		
	e. c/y dredged	f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding 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.  Barrier Beaches - Indicate size under Coastal Beaches and/or Coastal Dunes below.





**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 temporary use an existing wood road that bisects an intermittent stream to access an upland area to construct a 70-foot by 200-foot subsurface absorption system (SAS) field in the western portion of the property and beyond the 100-foot Buffer Zone. Horizontal Direction Drilling (HDD) will be used to install the two (2) force mains under the intermittent stream to the SAS field with the jack pits entry and exist points located beyond the 100-foot Buffer Zone. The project has been designed to avoid Bank alterations by installing a temporary bridge crossing over the stream and its Banks that will allow construction equipment to access the upland area. Construction mats will be placed along the length of the wood road within the 100-Buffer Zone to Bank and Bordering Vegetated Wetlands (BVW) to avoid alteration to the forest floor. Approximately 6,180 square feet of Buffer Zone enhancement area will be constructed east of the SAS field. Lastly, the municipal water line will be extended 577 linear feet from the Chebacco Road right-of-way to the project site, which has been filed under 310 CMR 10.02(2)b.2.i.



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### 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 172-0629 "



**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.



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**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.



**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 65 .**

See the attached document for a list of Special Conditions 20 through 65 .

**SUPERSEDING ORDER OF CONDITIONS  
SPECIAL CONDITIONS**

**133 Essex Street  
Hamilton, MA  
DEP File No. 172-0629**

20. All work shall conform to the Notice of Intent, plans, reports, and special conditions:
  - a. Plan set entitled, "Plan to Accompany a Notice of Intent: 133 Essex Street, Hamilton, MA," consisting of 3 Sheets, dated August 10, 2022, prepared by Williams & Sparages, and stamped by Richard L. Williams, R.P.E.
  - b. Plan set entitled, "Offsite Improvement Plan: Village at Chebacco Hill" consisting of 2 Sheets, dated August 18, 2021, prepared by Granite Engineering, and stamped by Brenton Cole, R.P.E.
  - c. Correspondence prepared by Williams & Sparages, dated January 5, 2022, with accompanying plan sheet entitled, "Test Pit Exhibit Plan: 133 Essex Street, Hamilton, MA," dated January 7, 2022, prepared by Williams & Sparages (not stamped).
  - d. "Drillers Plan for Country Squire Realty: Essex Road Directional Drilling, Town of Hamilton, MA," consisting of 5 pages, prepared by DBU Construction, Inc., dated August 24, 2021.
21. This Superseding Order of Conditions (Superseding Order) supersedes all previous Orders issued for the project, DEP File #172-0629. 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.
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 the filing of a new Notice of Intent. A copy shall be sent at the same time to the Hamilton Conservation Commission (HCC). 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 HCC 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 have a minimum of five (5) years of experience and be competent in wetland ecology and soil science, 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 HCC, with the name(s), address(es) and telephone number(s) of EM and their alternate including their qualifications and contact information for MassDEP's approval. The EM or their backup shall be available on a 24-hour basis.
29. The EM shall be responsible for overseeing all activities within the 100-foot Buffer Zone on the project site, including, but not limited to: installation and removal of the temporary bridge crossing; Horizontal Directional Drilling (HDD); the installation of the Buffer Zone enhancement area; dewatering activities, and regular inspections and replacement of erosion and sedimentation controls, and submitting monitoring reports.
30. 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 he/she deems it necessary. The EM shall have the authority to stop construction for erosion control purposes and shall immediately notify MassDEP and the HCC if any discharges to a wetland resource area occur.
31. 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 contacts.

32. Prior to the pre-construction meeting, the applicant shall submit a detailed construction schedule to MassDEP with a copy provided to the HCC. Work shall not commence until MassDEP has approved the construction sequence.
33. Prior to the pre-construction meeting, the EM shall determine and identify those tree branches along the length of the temporary access route on wood road that must be tied back and/or trimmed. Prior to the start of construction activities, the EM shall ensure that this is done properly and that when work is completed, any tree branches that have been tied back are immediately released. Tree removal in its entirety is not permitted under this SOC.
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 HCC 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. Please contact Pamela Merrill, MassDEP Wetlands Program at 857.772.6982 or at [pamela.merrill@mass.gov](mailto:pamela.merrill@mass.gov).
35. Within the 100 foot Buffer Zone, the wood road shall be lined with 4-foot by 8-foot Alternamats- ground protection mats (or equivalent construction mats) and shall remain in place for the duration of construction activities. The site supervisor shall be responsible for inspecting the mats prior to the start of work each day to ensure they are functioning properly.
36. The temporary bridge crossing shall be constructed in accordance with the site plans referenced in Special Condition No. 20.a., and during no flow stream conditions and/or when the ground conditions are sufficiently frozen, as determined by MassDEP and the EM.
37. All work that requires use of the temporary bridge crossing shall be completed within ninety (90) consecutive days (or sooner). Upon completion of construction activities that require use of the temporary bridge crossing, it shall be immediately and carefully dismantled and removed from the site under the direction of the EM.
38. The EM or the site supervisor shall inspect the temporary bridge crossing, at a minimum, at the beginning and end of each workday to ensure that it is functioning as intended and determine if adjustments need to be made. If adjustments are required, the use of the temporary bridge crossing shall not be used until the adjustments have been completed. The EM shall document if adjustments were made in the weekly reports.
39. The HDD activities shall be performed in accordance with specifications outlined in the *Drillers Plan* referenced in Special Condition No. 20.d.



40. The HDD contractor have a vac-trailer and/or a hydro-excavator truck as well as a sufficient supply of silt booms and curtains readily available on site in the event of a release of any drill fluid. The vac-trailer and/or hydro-excavator truck must be operational at all times during the HDD activities and must be continuously maintained and monitored to ensure is it functioning correctly and adequately fueled (if needed).
41. In the event that a release of drill fluid occurs, the HDD contractor shall immediately notify the EM and MassDEP with a corrective action to be taken in accordance with the *Frac-out Plan* that is contained in the *Drillers Plan* (Special Condition No. 20.d.).
42. Following completion of all construction activities, the construction mats shall be removed from jurisdictional areas within fourteen (14) days. Matting shall be removed by “backing” out of the site, removing mats one at a time.
43. Within three (3) days following the removal of the construction mats, the EM shall immediately inspect the forest floor where the construction mats had been installed along the wood road to determine if erosion and/or rutting has occurred. If so, these areas shall be raked smooth using hand tools and then seeded with a New England Logging Road seed mix (or equivalent to) and mulched with straw at the direction of the EM.
44. The EM shall submit *weekly* reports to MassDEP with copies sent to the HCC immediately upon the start of work. These reports shall summarize the site activities that are within the 100-foot Buffer Zone and confirm that all activities are in compliance with the conditions of this Superseding Order, including, but not limited to Special Conditions No. 29, 30, 33, 35 through 43. The reports shall include, but are not limited to, a description of construction status and activities; overall site conditions; the condition of the construction mats, as well as the erosion and sedimentation controls; dewatering activities, 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 HCC, and the applicant shall take immediate steps to correct the problem.
45. Upon completion of construction, the EM shall submit *monthly* reports to MassDEP with copies sent to the HCC 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 disturbed areas are stabilized against erosion or 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; restoration activities; 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.

46. Although the subsurface absorption system field is located beyond the 100-foot Buffer Zone, annual mowing of grass and woody growth is required. When maintenance activities are needed, a lawnmower and any hand tools shall be manually carried over the intermittent stream to access this area. This Condition shall remain in effect in perpetuity and shall be noted as such in the Certificate of Compliance.
47. At the start of work, additional erosion control materials shall be available on site (stored under cover) for emergency and routine replacement.
48. 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.
49. During construction and when the temporary access road is not in use, both ends of the access road will be sealed off with a "gate" that will include a row of silt fence that will be held down with sandbags to keep any small wildlife out of the access road.
50. 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.
51. Erosion controls shall remain in place until MassDEP approves their removal.
52. Wetland flags shall be maintained at all times and replaced if they are missing until Certificate of Compliance has been issued.
53. All soil stockpiles to be stored longer than 24-hours shall be located outside of any wetland resource area and be surrounded by erosion controls. If exposed soils are left idle for longer than 14 days, they shall be temporarily stabilized using an appropriate seed mix and tackifier.
54. If dewatering activities are needed, it shall be done in accordance with the dewatering details shown in the *Offsite Improvement Plan: Village at Chebacco Hill*, dated August 18, 2021, prepared by Granite Engineering. Discharges from dewatering shall not cause scouring or erosion of BVW or Buffer Zone.
55. A **6,180 square feet of Buffer Zone enhancement area** shall be constructed east of the subsurface absorption system field in accordance with the specifications in the enhancement area species list and construction methodology on Sheet 3 of the "Plan to Accompany a Notice of Intent: 133 Essex Street, Hamilton, MA" plan set. The EM shall be on site and be responsible for overseeing activities including, but not limited to overseeing final grading of the Buffer Zone enhancement area; obtaining, planting, and maintaining the specified plants and seed mixes; and monitoring and reporting of all the enhancement area.

56. Planting of the Buffer Zone enhancement area shall not take place between November 15<sup>th</sup> and May 1<sup>st</sup> and shall be done as soon as weather conditions are appropriate. Any plants that die shall be immediately replaced.
57. Within 30 days of planting the Buffer Zone enhancement area, the EM shall prepare and submit to MassDEP a written narrative with photographs of the work performed and an inventory of the plant media that were installed, as shown on Sheet 3 of the "Plan to Accompany a Notice of Intent: 133 Essex Street, Hamilton, MA," plan set. A copy of this report shall be provided to the HCC.
58. The EM shall monitor the Buffer Zone enhancement area for two (2) full consecutive growing seasons. The EM shall also prepare a written status report accompanied by photographs of the enhancement area to be submitted annually to MassDEP and copied to the HCC at the end of each growing season, and no later than October 31<sup>st</sup> of each year. These reports shall clearly and comprehensively describe Buffer Zone restoration conditions, including, but not limited to, an inventory of planted species, the stability, health, growth and vigor of the planted species, wildlife habitat, and any enhancement activities or remedial actions necessary to be undertaken for restoration success to ensure the restored Buffer Zone function is achieved. Dead plants shall be immediately replaced with the same or may be substituted with another suitable 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](mailto:pamela.merrill@mass.gov)

- and shall reference the DEP File No. 172-0629. A Certificate of Compliance will not be issued until this condition has been met.
59. 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.
  60. 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 HCC upon request.
  61. 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 HCC if slumping, erosion, or encroachment occurs.

62. 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.
63. 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.
64. 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.
65. 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 the temporary access along the wood road, subsurface absorption system field, force mains, the Buffer Zone enhancement area and topography shown in one (1) foot contours. The as-built plan shall also include the wetland flags and the date(s) of survey. The plan shall be accompanied by a final report by the EM describing the condition of Buffer Zone enhancement area, including a list of the surviving plants (with the quantity of each species) and relative health of the plantings.



**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

8-24-2022  
 \_\_\_\_\_  
 Date

This Order is issued to the applicant as follows:

by Hand delivery on

by certified mail on:

\_\_\_\_\_  
 Date

8-24-2022  
 \_\_\_\_\_  
 Date – Certified Mail # 7019297000001327848



## 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, 2<sup>nd</sup> 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.

