



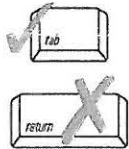
**Massachusetts Department of Environmental Protection**  
**Bureau of Resource Protection - Wetlands**  
**WPA Form 5 – Order of Conditions**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
 and The Quincy Wetland Protection Act

Provided by MassDEP:  
 059-1416  
 MassDEP File #  
 eDEP Transaction #  
 Quincy  
 City/Town

**A. General Information**

**Please note:**  
 this form has been modified with added space to accommodate the Registry of Deeds Requirements

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



1. From: Quincy  
 Conservation Commission

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

3. To: Applicant:  
 Para Jayasinghe  
 a. First Name b. Last Name  
 City of Boston Public Works Dept.  
 c. Organization  
 One City Hall Plaza , Room 710  
 d. Mailing Address  
 Boston MA 02201  
 e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):  
 a. First Name b. Last Name  
 City of Boston  
 c. Organization  
 One City Hall Plaza  
 d. Mailing Address  
 Boston MA 02201  
 e. City/Town f. State g. Zip Code

5. Project Location:  
 Long Island Bridge /Moon Island Quincy  
 a. Street Address b. City/Town  
 6088B-1  
 c. Assessors Map/Plat Number d. Parcel/Lot Number  
 Latitude and Longitude, if known: 4218'30.74"N d m 7059'8.37d m  
 s s



**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

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

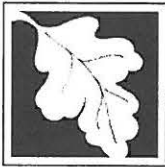
6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):  
 Norfolk  
 a. County \_\_\_\_\_ b. Certificate Number (if registered land) \_\_\_\_\_  
 c. Book \_\_\_\_\_ d. Page \_\_\_\_\_
7. Dates: May 18, 2018 September 5, 2018 September 25, 2018  
 a. 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):  
Long Island Bridge  
 a. Plan Title \_\_\_\_\_  
STV Nichole Bulger  
 b. Prepared By c. Signed and Stamped by \_\_\_\_\_  
May 14, 2018 1"=80'  
 d. Final Revision Date e. Scale \_\_\_\_\_  
 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 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 (the 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.



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**B. Findings (cont.)**

**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 the interests of the Act, 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): \*SEE ATTACHED FINDINGS \*\***
- 3.  Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) \_\_\_\_\_ a. linear feet

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

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 _____ e. c/y dredged	_____ b. square feet _____ f. c/y dredged	_____ c. square feet	_____ d. square feet
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



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**B. Findings (cont.)**

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

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input checked="" type="checkbox"/> Land Under the Ocean	<u>0</u> a. square feet	<u>0</u> b. square feet		
	<u>none</u> c. c/y dredged	<u></u> d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input checked="" type="checkbox"/> Coastal Beaches	<u>80</u> a. square feet	<u>80</u> b. square feet	<u></u> c. nourishment	<u></u> d. nourishment
14. <input type="checkbox"/> Coastal Dunes	<u></u> a. square feet	<u></u> b. square feet	<u></u> c. nourishment	<u></u> d. nourishment
15. <input checked="" type="checkbox"/> Coastal Banks	<u></u> a. linear feet	<u></u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u>512 Coastal Bank</u> a. square feet	<u>512</u> b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u></u> a. square feet	<u></u> b. square feet	<u></u> c. square feet	<u></u> d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u></u> a. square feet	<u></u> b. square feet		
	<u></u> c. c/y dredged	<u></u> d. c/y dredged		
19. <input checked="" type="checkbox"/> Land Containing Shellfish	<u></u> a. square feet	<u></u> b. square feet	<u></u> c. square feet	<u></u> 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			
	<u></u> a. c/y dredged	<u></u> b. c/y dredged		
21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	<u>592</u> a. square feet	<u>592</u> b. square feet		
22. <input type="checkbox"/> Riverfront Area	<u></u> a. total sq. feet	<u></u> b. total sq. feet		
Sq ft within 100 ft	<u></u> c. square feet	<u></u> d. square feet	<u></u> e. square feet	<u></u> f. square feet
Sq ft between 100-200 ft	<u></u> g. square feet	<u></u> h. square feet	<u></u> i. square feet	<u></u> j. square feet



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## B. Findings (cont.)

\* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23.  Restoration/Enhancement \*:

a. square feet of BVW

b. square feet of salt marsh

24.  Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

## C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are 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.
  - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
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. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the 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.



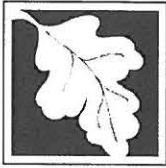
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**C. General Conditions Under Massachusetts Wetlands Protection Act**

- 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 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.
  
- 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, "MassDEP"]  
"File Number 059-1416"
  
- 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 MassDEP.
  
- 12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
  
- 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 Conservation Commission 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.



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

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 Conservation Commission.
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 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.
19. The work associated with this Order (the "Project")
- (1)  is subject to the Massachusetts Stormwater Standards
- (2)  is NOT 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.
- 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;





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

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP 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, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.





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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 (if you need more space for additional conditions, please attach a text document):

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- 20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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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 Quincy Conservation Commission hereby finds (check one that applies):  
 Conservation Commission
  - a.  that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically: Insufficient information to determine the impact to the resource area based upon expert reports and testimony from Quincy's Engineering Team SEE ATTACHED FINDINGS 401-87 Section 7

1. Municipal Ordinance or Bylaw \_\_\_\_\_ 2. Citation \_\_\_\_\_

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

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

Quincy Wetlands Protection Act  
 1. Municipal Ordinance or Bylaw \_\_\_\_\_ 2. Citation \_\_\_\_\_

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.  
 The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

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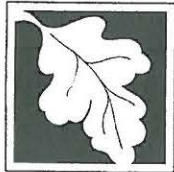
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**E. Signatures**

This Order is valid for three 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.

SEPTEMBER 25, 2018  
 1. Date of Issuance  
 4 4  
 2. Number of Signers

Signatures:

\_\_\_\_\_  
**Tori LaBate**

\_\_\_\_\_ **Maureen Glynn**

\_\_\_\_\_ **William Keener**

by hand delivery on

\_\_\_\_\_ Date

\_\_\_\_\_ **Jeffrey Graeber**  
  
 \_\_\_\_\_ **John T. Brennan**  
  
 \_\_\_\_\_ **E. James Iorio**

\_\_\_\_\_ **Thomas Carroll**

by certified mail, return receipt requested, on

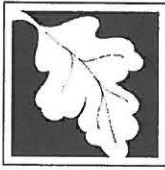
\_\_\_\_\_ **SEPTEMBER 25, 2018**  
 Date

**F. Appeals**

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for 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 providing written information to the Department prior to issuance of a Superseding Order.

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.



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**G. Recording Information**

Prior to commencement of work, this 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 Conservation Commission listed below.

Quincy  
Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Quincy  
Conservation Commission

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

Long Island Bridge                      059-1416  
Project Location                          MassDEP File Number

Has been recorded at the Registry of Deeds of:

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



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee  
Transmittal Form**

Provided by DEP

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

**A. Request Information**

1. Location of Project

a. Street Address

b. City/Town, Zip

c. Check number

d. Fee amount

2. Person or party making request (if appropriate, name the citizen group's representative):

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

4. DEP File Number:

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



**B. Instructions**

1. When the Departmental action request is for (check one):

- Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- Superseding Determination of Applicability – Fee: \$120
- Superseding Order of Resource Area Delineation – Fee: \$120





**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee  
Transmittal Form**

\_\_\_\_\_  
Provided by DEP

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

**B. Instructions (cont.)**

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection  
Box 4062  
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/>).
4. 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.



## FINDINGS

1. The Quincy Conservation Commission is a duly appointed agency of the City of Quincy under G.L. c. 40, § 8C, having a business and mailing address at 55 Sea Street, Quincy, Massachusetts 02169.
2. The Commission is responsible for the implementation of the Wetlands Protection Act, G.L. c. 131, § 40, and the City of Quincy Wetlands Protection Ordinance, 1987-401, Sections 1-14 as codified in Section 18.08.01 of the Municipal Code.
3. The Applicant is the City of Boston Public Works Department, One City Hall Plaza, Room 710, Boston, MA 02201.
4. The Applicant filed a Notice of Intent (NOI) on May 18, 2018 with the Commission for a portion of the Long Island Bridge Replacement Project.
5. Duly noticed public hearings were held on June 6, 2018, August 1, 2018 (continued for lack of a quorum), and September 5, 2018.
6. During the public hearings, the Commission heard presentations by the Applicant's staff, its consultants and engineers; Tighe & Bond, consulting engineers to the City of Quincy; environmental legal counsel to the City of Quincy; the City of Quincy Engineer; Ward Councilor William Harris; State Representative Bruce Ayers; Councilor-at-Large Anne Mahoney; several Quincy residents, including residents of the Squantum neighborhood; and, Jay Duca, the Quincy Conservation Agent.
7. The Commission received and considered the following documents:
  - (1) The May 17, 2018 NOI proposes placing new bridge spans over existing concrete piers between Moon Island and the City of Quincy's jurisdictional limits at Pier 6 in Quincy Bay, with temporary impacts to coastal wetland resource areas of

approximately 592 square feet. The NOI was filed pursuant to the Wetlands Protection Act and the City of Quincy's Wetlands Protection Ordinance. The project area would occur within coastal wetlands: Land Under the Ocean, Coastal Beach, Coastal Bank, Land Containing Shellfish and Land Subject to Coastal Storm Flowage. The NOI describes impacts to water quality (turbidity), fish and shellfish, and fisheries habitat.

- (2) The Tighe & Bond Memorandum, dated June 6, 2018, reviewed the NOI. The Memorandum, among other things, expressed concern that the condition of the piers had not been assessed by a structural engineer; asked how the pier defects noted in the MassDOT Underwater Operation Team Routine Underwater Inspection Report, dated September 19, 2013, will be addressed; asked for copies of test results and reports on the pier concrete for Alkali Silica Reaction (ASR) deterioration; requested information on possible pier modifications to address compliance with the seismic design code; and identified needed repairs to the Moon Island Road access to the Long Island Bridge with wetland impacts, so the Commission could evaluate cumulative wetland impacts from the bridge and roadway construction. The Memorandum requested an alternatives analysis of transportation by ferry service to existing docks. It also raised concerns about impacts to resource areas from barge spudding, and advocated for the specific use of turbidity curtains instead of an open-ended approval for the contractor's to select in its sole discretion unspecified "means and methods." The Memorandum included a discussion of the need for repairs to the piers below the water line, based on an underwater assessment in the Long Island Bridge Pier Inspection

Memorandum also provided to the Commission, that would require the use of coffer dams, which would increase the impacts to Land Under Water by an additional 5,400 sf. beyond the Applicant's estimate in the NOI.

- (3) Applicant's Long Island Bridge Responses, dated July 13, 2018, including information from STV, Incorporated and TRC Corporation, and ten attachments (the Response Letter), addressed certain comments in the June 6, 2018 Tighe & Bond Memorandum, and the requests for information by the Commission made at the June 6, 2018 public hearing. The Response Letter repeated multiple times the statement that the requested information is provided as a courtesy but "is not within the purview of the Quincy Conservation Commission's review." The Response Letter claimed that repair work to the existing piers was not within the purview of the Commission. It stated pier repair work could be performed using netting/screening (limpets) anchored to the granite walls of the piers that would allow for "localized dewatering" without use of coffer dams. If a water quality problem arose, all site work would cease, like under the Boston Conservation Commission's Order of Conditions. The Response Letter claimed that test results on concrete cores showed that the ASR is non-expansive and has not contributed to the structural deterioration of the concrete. The Response Letter did not provide information on needed repairs to the Moon Island Road. It provided a copy of a one line e-mail from the Division of Marine Fisheries to the Boston Conservation Commission that there were not fisheries concerns based solely on a review of the April 2018 NOI filed with Boston.

- (4) Notice of Project Change, dated July 31, 2018, filed with the Executive office of Environmental Affairs, EEA No. 15308 requested no further MEPA review prior to issuance of state permits and included a brief narrative on alternatives.
- (5) The Tighe & Bond Memorandum, dated August 21, 2018, responded to the Applicant's July 13, 2018 Response Letter. It explained why the information on the structural integrity of the existing piers and the means and methods is within the purview of the Commission. It argued the Applicant needs to provide details on construction means and methods and Best Management Practices that the Commission must approve and contractors must follow in order to protect the functions and values of the wetland resources. It stated that the Commission should not allow contractors' future decisions on means and methods, and not rely on the use of reopeners to address problems, such as the Boston Conservation Commission did. It reported that the bridge deck height design does not adequately address sea level rise based on the City of Boston's Climate Consensus Report. It argued that there are limitations on the use of limpets instead of standard coffer dams for in-water repairs. It explained that barge impacts to the seafloor do not have to be permanent to result in temporal loss of mapped shellfish habitat and winter flounder spawning habitat. It explained that a draft Stormwater Pollution Prevention Plan (SWPPP) and a long-term operation and maintenance (O&M) plan for stormwater should be submitted to and reviewed by the Commission.
- (6) The Report on the Long Island Bridge by Dr. David Gress, Ph.D., dated September 3, 2018, was based on an evaluation of report on the condition of the

existing 70 year old concrete piers. It was his conclusion that additional concrete testing and analysis is required to more properly assess the impacts of Freezing and Thawing (FT) and ASR on structural design and environmental impacts. He stated that photographs show the extremely distressed and poor condition of the concrete, which show FT failure, as well as ASR damage. He opined that the interior of the piers is undergoing ASR expansion, which will accelerate deterioration. He criticized the limitations of the Applicant's petrographic analysis which was limited to cores above the mean high water mark. He pointed out the expansion cracks and ASR activity within the concrete. He stated the chloride analysis data showed that the threshold limit for corrosion has been greatly exceeded. He offered his opinion that the concrete within the piers is not suitable for reuse to support a new bridge for a design life of 75 years. He recommended specific additional sampling and testing be conducted to negate his concerns and conclusions.

#### **FINDINGS OF FACT AND LAW**

8. Under the Wetlands Protection Act and the MassDEP Wetlands Protection Regulations at 310 CMR 10.00, the Applicant has the burden of proving to the Commission that the proposed work within resource areas will contribute to the protection of wetland interests by complying with the performance standards. The Applicant must present credible evidence from a competent source. When evidence is presented by others in review of the NOI as supplemented, the Commission must weigh the credibility of all the evidence and evaluate the sufficiency of the information to describe the site and the effect of the work on the coastal environment. The Commission must weigh all the evidence to

determine whether the Applicant has met its burden of proof by a preponderance of the evidence. If, in the judgment of the Commission, the Applicant has not met its burden, it may request additional information and, if it is not provided, or if it is provided and is insufficient to establish the work will protect resource areas and interests, it may issue an Order of Conditions prohibiting the work.

9. Under the Wetlands Protection Ordinance, the Applicant has the burdens of production and proof that the proposed activities within resource areas or buffer zone will have a significant or cumulative adverse effect to wetland values. The Commission determines whether the information and plans in the application (NOI) adequately describe the proposed activities and their effects on the environment. The Commission has the authority to require additional information from the Applicant that is deemed necessary by the Commission in its discretion, and continue the public hearing to receive the information. If the Applicant objects to a continuance, the Commission shall take action on the available information. The Commission is authorized to deny a permit for failure to submit necessary information requested by the Commission, for failure to meet performance standards, and for failure to avoid or prevent unacceptable, significant or cumulative adverse effects on wetland values.
10. The Commission finds that the Applicant has failed to meet its burdens of production and proof on key factual issues under the Wetlands Protection Act and the Wetlands Protection Ordinance.
11. The Applicant did not fully quantify adverse impacts to Land Under the Ocean and wetland interests, or propose sufficient mitigation to meet performance standards that will result from the repair and replacement of some or all of the concrete piers. We find that



the Tighe & Bond calculation on adverse impacts in excess of 5,400 sf from the use of coffer dams to conduct the repair and replacement work in-water to be credible and not adequately refuted by the Applicant.

12. The Commission finds that Tighe & Bond and Dr. Gress presented a preponderance of credible evidence that the concrete in the piers shows ASR, FT and chloride deterioration and degradation, such that some or all of the piers need extensive repairs and/or replacement work and the use of coffer dams. The Commission adopts Dr. Gress' conclusions at pages 6-7 and his testing recommendations at pages 7-8 of his Report. This work will increase over the Applicant's estimates adverse impacts of Land Under the Ocean and Land Containing Shellfish. As a result, interests of protection of fisheries, land containing shellfish, and of wildlife habitat and prevention of pollution are not adequately assessed and no mitigation measures are proposed to provide adequate protection of the resource areas and interests.
13. At the September 5, 2018 public hearing, the Applicant proposed that, if the concrete deterioration is more significant below the water, it would return to the Commission with a new proposal. The Applicant argued that it had done testing typical for this type of bridge construction and, if anything were to change down the road (presumably with no additional testing and the concrete piers failed), the Applicant would return to the Commission. While a reopener for future problems may be acceptable to another Commission, this Commission rejects that approach in favor of making a decision now based on reliable information.
14. The Applicant did not provide sufficient information on the condition of the piers and the needed repairs or replacement of the piers, the areal impacts to Land Under the Ocean

and Land Containing Shellfish from the use of coffer dams, and potential mitigation to protect wetland values. Without the requested information, the Project could not be conditioned to meet the performance standards at 310 CMR 10.25(6), 310 CMR 10.34(4) and 10.35(3).

15. At the September 5, 2018 public hearing, counsel for the Applicant tried to characterize the Commission's concern as whether the degradation of the concrete will require coming back in 10 years to build a new bridge. The Commission stated it is concerned about future problems but emphasized that its concern is to protect the resource area now by minimizing the potential for increase impacts from redoing the piers in the future. Counsel for the City of Quincy pointed out that, while it is legitimate to be concerned about 10 years down the road, the Commission should be concerned about the work as it is proposed now. The Commission agrees.
16. At the September 5, 2018 public hearing, the Commission offered to the Applicant the opportunity to continue the public hearing to conduct the concrete testing recommended by Dr. Gress and to present its own report. The Applicant objected to a continuance of the hearing and to conduct additional testing.
17. The Applicant refused to provide information on the wetland impacts from the needed repairs to Moon Island Road, the access to the Long Island Bridge. As a result, the Commission was unable to assess the cumulative wetlands impacts as it is required to do under the Ordinance.
18. The Applicant failed to provide information on a bedrock fault along the bridge footprint and how the bridge will meet seismic engineering requirements.

19. The Applicant did not design the bridge deck height to comply with the City of Boston's Climate Change Consensus Project and how it will be protected from predicted sea level rise within Land Subject to Coastal Storm Flowage. It is not enough to use the elevation from the Blizzard of 1978, which is not reflective of better predictions for sea level rise.
20. The Applicant also failed to provide specific mitigation measures needed to protect resource areas, specifically Land Under the Ocean and Land Containing Shellfish. Mitigation measures to protect the water quality, including levels of salinity, dissolved oxygen, nutrients, temperature or turbidity, or the addition of pollutants were not identified or committed to in order to meet the performance standards and ensure protection of the coastal environment under the performance standards at 310 CMR 10.25(6) and 10.34(4) and the Quincy Wetlands Protection Ordinance at Section 18.08.030.I. The Applicant indicated in its August 28, 2018 Response Letter that means and methods would be determined by the selected contractor and that performance requirements of Best Management Practices (BMPs) would be included in contractual documents. Neither performance requirements nor potential BMPs were provided to the Commission for review of their ability to protect the interests of the Act and Ordinance. The Commission will not defer to contractors or contracts terms as to whether the methods and means and BMPs will adequately protect wetland interests.
21. The Applicant failed to provide a draft SWPPP and long-term O&M plan for stormwater. The Commission requires review and approval of draft plans, even if they may be later modified by other review agencies.
22. The alternatives analysis in the NPC on the use of ferry service and docks was conclusory without adequate supporting data. The Commission is unable to determine whether the

docks and ferry service will minimize wetland impacts as compared to the piers with the needed repairs and/or replacement with a more complete alternatives analysis.

23. The Applicant failed to provide necessary information to allow the Commission to fully evaluate the Project. Under 310 CMR 10.05(6)(c) and Section 18.08.070 of the Ordinance, the Commission denies the Project.
24. No work shall be performed on this Project.
25. The Applicant may propose alternatives and improvements to the plan in a new NOI and permit application.