

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

Provided by MassDEP:
SE 37-0749
MassDEP File #
eDEP Transaction #
Kingston
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: Kingston Conservation Commission
Conservation Commission
2. This issuance is for
(check one): a. ☒ Order of Conditions b. ☐ Amended Order of Conditions
3. To: Applicant:
Dan Galambos
a. First Name b. Last Name
Jones River Realty Trust
c. Organization
26 Wapping Road
d. Mailing Address
Kingston MA 02364
e. City/Town f. State g. Zip Code
4. Property Owner (if different from applicant):
a. First Name b. Last Name
c. Organization
d. Mailing Address
e. City/Town f. State g. Zip Code
5. Project Location:
26 Wapping Road Kingston
a. Street Address b. City/Town
Map 44 Lot 49 & 49-2
c. Assessors Map/Plat Number d. Parcel/Lot Number
Latitude and Longitude, if known: 41d59m34.53s 70d44m54.56s
d. Latitude e. Longitude



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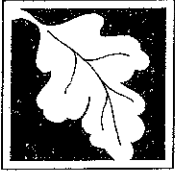
eDEP Transaction #
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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- 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):

SEE ATTACHED



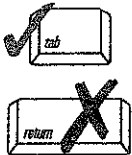
Massachusetts Department of Environmental Protection
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E. Signatures

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



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 must be mailed, hand delivered or filed electronically at the same time with the appropriate MassDEP Regional Office.

JULY 13, 2010

1. Date of Issuance

5

2. Number of Signers

Signatures:

[Signature]
[Signature]
[Signature]

[Signature]

[Signature]

☒ by hand delivery on

JULY 13, 2010

Date

☐ by certified mail, return receipt requested, on

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 of Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or 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.

Kingston Conservation Commission
Conservation Commission

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

To:

Kingston Conservation Commission
Conservation Commission

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

26 Wapping Road
Project Location

SE 37-0749
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

Findings, Decision & Special Conditions
Wapping Road Dam Removal
26 Wapping Road
Map 44, Lots 49 & 49-2
SE 37-749 & KWPA 37-749

Findings

Based upon the review of information provided during the public hearing on the Notice of Intent application, the review of the site, as well as the following documents:

- Notice of Intent submitted on May 15, 2010 with Appendices A-H as follows:
 1. Appendix A – Site Photos;
 2. Appendix B – Preliminary Design Drawings (described in detail below);
 3. Appendix C – Preliminary Design Technical Memorandum;
 4. Appendix D – Alternatives Analysis;
 5. Appendix E – Detailed Description of Preferred Alternative;
 6. Appendix F – Impact Analysis;
 7. Appendix G – Sediment Management Plan;
 8. Appendix H – Invasives Species Management Plan; and
- Site Plan entitled, *Jones River Restoration Preliminary Design, Jones River Kingston, Massachusetts, Kingston, Massachusetts*, Sheets 1 – 10, prepared for Jones River Realty Trust, stamped by James G. MacBroom, Professional Engineer, dated December 2009 and revised through February 2010;

The Kingston Conservation Commission hereby finds that the proposed work to remove the Wapping Road dam from the Jones River is:

1. Significant to the interests of the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131 § 40) and its supporting regulations (310 CMR 10.00), as well as the Kingston Wetlands Protection By-Law (G.L. Chapter 13) and its supporting regulations;
2. A limited project under 310 CMR 10.53(4) which will improve the natural capacity of the resource areas to protect the interests of the MA Wetlands Protection Act as well as the Kingston Wetlands Protection By-Law by enhancing: flood storage capacity; storm damage prevention; pollution prevention; protection of fisheries; protection of wildlife habitat; and protection of wildlife; and
3. A restoration project in which the river will be returned to a more natural condition resulting in improvements to water quality, habitat, and fish passage. As such, alterations to the riverfront area (26,833 SF), the bank (555 LF with 530 LF replaced); the bordering vegetated wetland (1,345 SF with 4,495 SF replaced), land under waterbodies and waterways (15,564 SF with 9,795 SF replaced & 850 CY dredged), and bordering land subject to flooding (26,260 SF with 23,218 SF replaced), which are a necessary part of the restoration project, will serve only to improve the overall ecosystem connectivity as well as function of these inland resource areas on the Jones River.

Decision

As a result of the above findings, the Kingston Conservation Commission voted on July 6, 2010 to approve the work associated with the Wapping Road Dam Removal and Restoration Project on the Jones River subject to the following Special Conditions which are necessary to ensure conformance with the performance standards set forth in the state and local wetland regulations:

Findings, Decision & Special Conditions
Wapping Road Dam Removal
26 Wapping Road
Map 44, Lots 49 & 49-2
SE 37-749 & KWPA 37-749

These Special Conditions supplement General Conditions on pages 5-10 of the Order issued under the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131 Section 40) & Regulations (310 CMR 10.00) as well as those on pages 4-6 of the Order issued under the Kingston Wetlands Protection By-Law (G.L. Chapter 13) & Regulations.

SPECIAL CONDITIONS

Pre-Construction Conditions

1. All applicable federal, state and local permits shall be obtained prior to commencement of work;
2. Copies of Chapter 91 Dredge Permit, 401 Water Quality Certificates, and Section 404 permit shall be submitted to the Conservation office prior to the commencement of work;
3. Final design and construction plans shall be submitted to the Conservation Commission as soon as they become available and prior to the commencement of work in order to allow time for review of any plan changes as the result of further permitting;
4. This document shall be included in all construction contracts, subcontracts and specifications dealing with the site work proposed and shall supersede any conflicting contract requirements. The Applicant shall ensure that all Contractors, Subcontractors and other personnel performing the permitted work are fully aware of the permit's terms and conditions. Thereafter, the Contractor will be held jointly liable for any violation of this Order resulting from failure to comply with its conditions;
5. An on-site pre-construction meeting with the Contractor, Engineer, Conservation Agent, and other applicable parties shall be held prior to the commencement of work;
6. Contact information for the Contractor shall be provided to the Conservation Commission at the time of the pre-construction meeting in the event that these persons have to be contacted due to an emergency at the site, during any 24-hour period, including weekends and for problems that may arise during working hours;
7. A crushed stone construction entrance shall also be installed at the entrance to the site to prevent transport of sediment from tires of construction equipment to Wapping Road (per Sheet 04, *Construction Plan – Access and Water Control*);
8. Erosion controls, including construction entrance, shall be inspected by the Agent prior to commencement of work;
9. The Contractor shall designate an Erosion Control Monitor for the duration of the project to inspect erosion controls on a daily basis to ensure they are maintained in a functional manner to prevent adverse impacts of sedimentation to surrounding wetland resource areas. The designated Erosion Control Monitor shall be made known to the Commission/Agent prior to the commencement of work;
10. Stockpile, equipment storage, refueling areas, and dumpster areas shall be determined prior to the pre-construction meeting and locations shall be approved by the Agent prior to the commencement of work;

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Wapping Road Dam Removal
26 Wapping Road
Map 44, Lots 49 & 49-2
SE 37-749 & KWPA 37-749

11. Prior to the commencement of work, the Contractor shall submit for approval by the Agent/Commission a detailed water control plan for those activities described on Sheet 04 and any other anticipated dewatering activities beyond those described on the *Construction Plan – Access and Water Control* (Sheet 04);
12. Contractor shall certify that construction equipment was recently inspected and maintained for fluid leaks prior to the commencement of work;
13. A spill contingency plan shall be submitted to the Commission for approval by the Agent prior to the commencement of work; and
14. An erosion and sediment control plan for storm events shall be submitted to the Commission for approval by the Agent prior to the commencement of work.

During Construction Conditions

A. General

1. The Massachusetts Division of Marine Fisheries identified the need for a time-of-year (TOY) restriction for all in-water work from March 15th – July 15th to protect diadromous fish passage, migration and spawning of the identified species;
2. All construction shall occur in conformance with the construction notes, details and sequence on the final plan set, *Jones River Restoration Preliminary Design, Jones River Kingston, Massachusetts, Kingston, Massachusetts*, Sheets 1 – 10, prepared for Jones River Realty Trust, stamped by James G. MacBroom, Professional Engineer, dated December 2009, revised through February 2010 and as may later be revised as well as approved;
3. Any substantial changes made in the above-described plan(s), unless specified otherwise in this Order, which may or will alter an area subject to protection under the Wetlands Protection Act and the Kingston Wetland By-law, or any change(s) in activity subject to regulations under M.G.L. Chapter 131, Section 40 or the Kingston Wetland Regulations, shall require the Applicant to inquire of the Commission/Agent, prior to implementation in the field, whether the change(s) is significant enough to require review by the Commission. Any errors in the plans or information submitted by the applicant shall be considered changes and the above procedures shall be followed. Other applicable agencies shall also be notified of substantial changes to the plans;
4. An Engineer shall provide oversight throughout the duration of the project;
5. If unforeseen problems occur during construction which may affect the statutory interests of the Wetlands Protection Act or the Kingston Wetland By-law, upon discovery by either the Conservation Commission, its Agent, or the Contractor, such problem shall require immediate notification to the Commission and a meeting shall be held as soon as feasible between the Commission or its Agent, the Contractor and other concerned parties to determine the correct measures to remedy the problems. The Contractor shall then act to correct the problems using the measures agreed upon;
6. The Contractor shall closely monitor rainfall to maximize work in low flow conditions;

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26 Wapping Road
Map 44, Lots 49 & 49-2
SE 37-749 & KWPA 37-749

7. Contractor shall follow all applicable federal, state and local laws during the excavation, removal and disposal of unsuitable soils. Should unsuitable soils be saturated upon removal, water shall be allowed to drain out of soils prior to transport. All efforts shall be made to avoid transporting soils that seep out of their container onto roads and into other wetlands and waterways;
8. Should sediment be transported from the site to the roadway, the roadway shall be swept to prevent migration of sediments to the public stormwater system and the Jones River/project site;
9. Disposal of dredged sediment shall be managed in accordance with 314 CMR 9.07 (9), (10) and (11). Evidence of proper disposal of dredged sediments shall be provided to the Commission;
10. The Conservation Agent shall be contacted prior to implementation of the water control plan and any other dewatering activities that may become necessary during the project. Dewatering activities shall be monitored daily to ensure that sediment-laden water is appropriately settled prior to discharge to downstream areas;
11. The Massachusetts Division of Fisheries & Wildlife Natural Heritage and Endangered Species Program has identified the need for the Applicant to notify the District Office on the timing of dewatering activities;
12. The Contractor shall implement a daily fish/wildlife salvage plan to capture and release any stranded animals found within the work area prior to conducting work;
13. Removal of any oil or hazardous materials shall be conducted under M.G.L. Chapter 21 E & 310 CMR 40.00. All oil or hazardous materials, products and waste produced or removed must be handled, treated and disposed of in accordance with local, state and federal law regulating such materials. No hazardous waste shall be introduced or discharged into or toward wetland resource areas;
14. Refueling of equipment shall occur in a pre-designated and Agent-approved equipment storage and refueling area;
15. Construction equipment shall be regularly inspected and maintained to ensure fluid leaks are fixed as soon as possible after detection in order to avoid release of pollutants or hazardous substances to the site or the environment;
16. A spill containment kit shall be present on-site throughout the duration of the project;
17. All waste products and refuse from construction shall be contained at all times to minimize migration to the wetland resource areas. If dumpsters are used for containing waste, they shall be covered at all times and placed only in designated areas;
18. Portable toilets shall be provided on-site for contractors and they shall be maintained on a regular basis; and
19. Access through abutting property and bordering vegetated wetlands to construct the upstream riffle feature shall be approved by the Property Owner as well as the Conservation Agent.

B. Erosion and Sedimentation Control

1. The Sediment and Erosion Control Plan (Sheet 05) shall serve as minimum requirements to be followed to prevent impacts caused by erosion and sedimentation during work. The Contractor or the Commission/Agent may implement additional measures if necessary;
2. The designated Erosion Control Monitor shall inspect erosion controls for proper functioning on a daily basis, especially before and after rain events. This person shall be given authority to stop construction for erosion control purposes. The erosion control monitor will be required to inspect all such devices and oversee cleaning and the proper disposal of waste products. Cleaning shall include removal of any entrapped silt. Regular inspection of erosion controls shall occur until the site is fully stabilized and until the Agent approves of their removal;
3. Maintenance of erosion controls (including construction entrance) shall occur on a regular basis and accumulated sediment shall be removed from upland side of limit of work when sediments accumulate to 4 inches in height or when the erosion controls are becoming compromised;
4. Should any erosion or sedimentation control measure fail, immediate attention shall be given to correcting the failure and to rectifying any adverse impact from the failure, for example, by the removal of any silt or debris that may have bypassed the control measure. The Commission shall be notified within 24 hours of any failure resulting in significant sedimentation to wetland resource areas;
5. An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and may include materials required to repair or replace silt fences, mulch socks, erosion control blankets, stone riprap, filter fabric or any other devices planned for use during construction and stabilization of the site. Erosion control devices may be modified based upon experience at the site;
6. The areas of construction shall remain in a stable condition at the close of each construction day. Erosion controls should be inspected at this time, and repaired, reinforced or replaced as necessary;
7. All stockpiles shall be covered & secured with erosion controls at all times during construction;
8. Areas that are not in an area of active construction which are to be left bare for over two weeks prior to final grading, shall be temporarily stabilized with mulch, jute netting, straw, seed or any other mechanism suitable to the site to achieve stabilization. Temporary stabilization materials shall be approved by the Conservation Agent;
9. If the season is not appropriate for plant growth, exposed stockpiles and soils shall be stabilized by other appropriate erosion control measures, firmly anchored, to prevent soils from being washed away by rain or flooding. All disturbed areas shall be graded, loamed, and seeded prior to November 1st of each year, if possible. No disturbed areas or stockpiled material shall be left unprotected or without erosion controls during the winter;
10. Contractor shall control dust and windblown debris to prevent migration to wetlands or adverse impacts to air quality or traffic; and

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Wapping Road Dam Removal
26 Wapping Road
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11. The Commission reserves the right to impose additional conditions on portions of this project to mitigate any impacts which could result from site erosion, sedimentation of wetland resource areas or any noticeable degradation of surrounding surface water quality from site activities. For example, installation of erosion control measures may be required in areas not shown on the plan(s) referenced in this Order of Conditions.

C. Grading/Slopes

1. Grading shall occur in conformance with the *Land Grading* construction notes on Sheet 01 of the plan set, entitled *Notes*; and
2. Slopes/banks shall be stabilized with erosion control blankets as shown on Sheet 05 of the plan set entitled *Construction Plan – Sediment and Erosion Control* as well as Sheet 10, *Details*.

D. Restoration Plantings

1. Riparian plantings shall occur in conformance with Sheet 09 of the plan set entitled, *Landscape and Restoration Plan* as well as the *Details*, Sheet 10.

Post-Construction Conditions

1. The Proponents of the project shall work with the Town of Kingston and other project partners to monitor and control invasive species within the project corridor according to a Commission-approved Invasive Species Management Plan;
2. Should herbicide application be proposed for treatment of invasive species, the herbicide shall be applied by a Licensed Applicator. The Conservation Commission shall be provided with the contact information for the Licensed Applicator and shall be notified of the dates of application;
3. The Licensed Applicator shall only apply herbicide at recommended doses, during dry & calm weather patterns, and in a selective manner for maximum effect as well as minimal impact to the environment/non-target species; and
4. Results of all post-removal assessments shall be submitted to the Conservation Commission.

Town of Kingston Conservation Commission
KWPA Form 5 – Order of Conditions
Kingston Wetlands Protection By-Law, Chapter 13
Kingston Wetland Protection Regulations

File Number
KWPA – 37 - 0749

A. Applicant Information

From:
Kingston Conservation Commission

This issuance is for (check one)

☒ Order of Conditions

☐ Amended Order of Conditions

To Applicant:

Dan Galambos / Jones River Realty Trust

Name

26 Wapping Road

Mailing Address

Kingston

MA

02364

City / Town

State

Zip Code

781-585-9486

Phone Number

Property Owner (if different from applicant)

Name

Mailing Address

City / Town

State

Zip Code

Phone

Project Location:

26 Wapping Road

Kingston

Street Address

City / Town

Map 44

Lot 49 & 49-2

Assessors Map / Plat Number

Parcel / Lot #

2. Property recorded at the Registry of Deeds for:

Plymouth

4836

364

County

Book

Page

Certificate (if registered land)

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3. Dates:

May 19, 2010

July 6, 2010

July 13, 2010

Date Notice of Intent Filed

Date Public Hearing Closed

Date of Issuance

4. Final Approved Plans and other Documents (attach plan references as needed)

Jones River Restoration Preliminary Design

June 21, 2010

Title

Date

5. Final Plans and Documents Signed and Stamped by:

James G. MacBroom

Name

B. Findings

Findings pursuant to the Kingston Wetlands Protection By-law & Regulations

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 area in which work is proposed is significant to the following interests of the Wetlands Protection Regulations. Check all that apply:

Public Water Supply	☒ Land Containing Shellfish	☒ Prevention of Pollution
X Private Water Supply	☒ Fisheries	☒ Protection of Wildlife
X Groundwater Supply	☒ Storm Damage Prevention	☒ Protection of Wildlife Habitat
☒ Surface Water	☒ Erosion Control	☒ Protection of Wetland Plants
☒ Water Quality	☒ Flood Control	☒ Protection of Wetland Plant Habitat

Furthermore, this Commission hereby finds the project as proposed, is (check one of the following boxes)

X **Approved subject to: Kingston Wetland Protection Bylaw Chapter 13,**

The following conditions, which are necessary, in accordance with the performance standards set forth in the wetland regulations, to protect those interests, checked above. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, and or other proposals submitted with the Notice of Intent, these conditions shall control.

Denied because:

The proposed work cannot be conditioned to meet the performance standards set forth in the Kingston Wetland Regulations to protect those interests checked above. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures, which are adequate to protect these interests, and a final Order of Conditions is issued.

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 Kingston Wetlands Protection By-Law / Regulations. 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 to protect the By-law's interests, and 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 of Conditions as per Kingston Wetland Protection Regulations.

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General Conditions (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. This Order does not become 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.
5. The issuing authority may extend this order for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
7. The work authorized hereunder shall be completed within three years from the date of this Order of Conditions 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.
8. No work shall be undertaken until the Order has become final and has been recorded in the Registry of Deeds or the Land Court in Plymouth County, in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to this Conservation Commission the form at the end of this Order, which must be stamped by the registry of Deeds, prior to the commencement of work.

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File Number

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9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words: **File Number KWPA – 37-0749**
 10. Prior to the start of any construction on the project site, the Conservation Commission Office shall be notified that the sedimentation barriers and/ or erosion controls are in place and ready for inspection.
 11. Where the United States Court System is requested to issue a determination / judgment , the Conservation Commission shall be a party to all agency proceedings and hearings before the court.
 12. 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 the Department.
 13. Any change to the final plans as approved shall require the applicant to make a request in writing, submitted to the Conservation Commission, whether the change is significant enough to require the filing of a new Notice of Intent.
 14. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate the compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Commission or the Department for that evaluation.
 15. This Order of Conditions shall apply to any successor in interest or successor in control of the property. Subject to this Order and to any contractor or other person performing work conditioned by this Order.
 16. Prior to the start of work and if the project involves work adjacent to a bordering vegetated wetland the boundary of the wetland in the vicinity of the proposed work area shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
 17. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed.
 18. Any excess material (e.g. soil and/or spoil) which is to remain on the Applicant's site as well as all areas of disturbed soil, shall be stabilized with the appropriate materials (e.g. mulch, grass, and/or plantings) to prevent erosion and sedimentation.

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Kingston Wetlands Protection By-Law, Chapter 13

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File Number

KWPA – 37 - 0749

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19. 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 Town of Kingston Conservation Commission.
20. Any excess material (e.g. soil and/or spoil) which is to be removed from the site is to be removed of in a legal manner.
21. All streets and catch basins at an elevation equal to, or below the highest point of elevation of the site, where sediment flow to, are to be protected from eroding solid and sediments through the use or appropriate containment and protection measures. Appropriate measures include, but are not limited to, staked haybales and /or siltation barriers across street frontage, weighted haybales around catch basins, catch basin grates wrapped with filter fabric and cleaned on a regular basis , and any other methods necessary to keep streets and catch basins clean.
22. Notwithstanding the foregoing conditioned, the Applicant is responsible throughout the construction period to take any and all measures necessary to protect the wetland resource area. Should any damage occur during the courses of construction, the applicant, as the responsible party, shall bear the full cost of restoring the Wetland to the satisfaction of the commission.
23. Upon completion of the project the Applicant shall submit the following information to the Kingston Conservation Commission in order to receive a certificate of compliance.
- a. Two request forms for a Certificate of Compliance (WPA Form 8A and KWPA Form 8A);
 - b. A written statement from a registered Professional engineer that the project is in compliance with this document and referenced plans, and if different from the original plan, how and where it differs;
 - c. A signed and stamped as-built plan;
 - d. A written statement from a qualified wetland scientist attesting to compliance with state and local regulations as required for wetland replication and/or restoration areas. The wetland replication areas shall be monitored through two growing seasons to achieve required standards.

That the following additional conditions are necessary to comply with a municipal ordinance or by-law specifically:

Name

Municipal Ordinance

The Commission orders that all work shall be performed in accordance with the said additional 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.

Town of Kingston Conservation Commission
KWPA Form 5 – Order of Conditions
Kingston Wetlands Protection By-Law, Chapter 13
Kingston Wetland Protection Regulations

File Number
KWPA – 37 - 0749

SPECIAL CONDITIONS (use additional paper if necessary):

1. SEE ATTACHED

2. _____

3. _____

4. _____

5. _____

6. _____

See attached for additional conditions _____

Findings as to municipal bylaw or ordinance

Furthermore, the Kingston Conservation Commission hereby finds (check one that applies):

That the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or by law specifically:

Name

Municipal Ordinance/ Bylaw

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.

Town of Kingston Conservation Commission
KWPA Form 5 – Order of Conditions
Kingston Wetlands Protection By-Law, Chapter 13
Kingston Wetland Protection Regulations

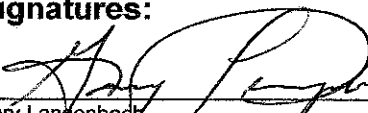
File Number
KWPA - 37-749

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

July 13, 2010
Date

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 must be mailed to the Department of Environmental Protection Regional Office at the same time and the property owner (if different from the applicant).

Signatures:

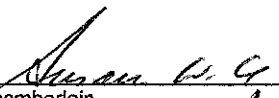


Gary Langenbach



Marilyn Kozodo

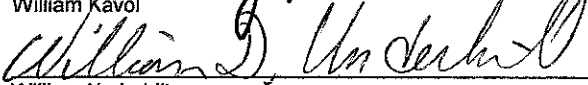
Daniel King



Sue Chamberlain



William Kaval



William Underhill

Ryan Overholt

This Order is issued to the applicant as follows:

X

by hand delivery on

by certified mail, return receipt requested, on

July 13, 2010

Town of Kingston Conservation Commission
KWPA Form 5 – Order of Conditions
Kingston Wetlands Protection By-Law, Chapter 13
Kingston Wetland Protection Regulations

File Number
KWPA – 37 - 0749

C. Recording Information

This Order of Conditions must be recorded in the Registry of Deeds or 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 page 7 of Form 5 shall be submitted to the Conservation Commission listed below.

Kingston Conservation Commission, 26 Evergreen Street, Kingston, MA. 02364 (781) 585-0537

DETACH ON THE LINE, HAVE STAMPED BY THE REGISTRY OF DEEDS AND SUBMIT TO THE CONSERVATION COMMISSION

TO:

Kingston Conservation Commission

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

26 Wapping Road
Project Location

KWPA – 37- 0749
KWPA 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

Findings, Decision & Special Conditions
Wapping Road Dam Removal
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SE 37-749 & KWPA 37-749

Findings

Based upon the review of information provided during the public hearing on the Notice of Intent application, the review of the site, as well as the following documents:

- Notice of Intent submitted on May 15, 2010 with Appendices A-H as follows:
 1. Appendix A – Site Photos;
 2. Appendix B – Preliminary Design Drawings (described in detail below);
 3. Appendix C – Preliminary Design Technical Memorandum;
 4. Appendix D – Alternatives Analysis;
 5. Appendix E – Detailed Description of Preferred Alternative;
 6. Appendix F – Impact Analysis;
 7. Appendix G – Sediment Management Plan;
 8. Appendix H – Invasives Species Management Plan; and
- Site Plan entitled, *Jones River Restoration Preliminary Design, Jones River Kingston, Massachusetts, Kingston, Massachusetts*, Sheets 1 – 10, prepared for Jones River Realty Trust, stamped by James G. MacBroom, Professional Engineer, dated December 2009 and revised through February 2010;

The Kingston Conservation Commission hereby finds that the proposed work to remove the Wapping Road dam from the Jones River is:

1. Significant to the interests of the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131 § 40) and its supporting regulations (310 CMR 10.00), as well as the Kingston Wetlands Protection By-Law (G.L. Chapter 13) and its supporting regulations;
2. A limited project under 310 CMR 10.53(4) which will improve the natural capacity of the resource areas to protect the interests of the MA Wetlands Protection Act as well as the Kingston Wetlands Protection By-Law by enhancing: flood storage capacity; storm damage prevention; pollution prevention; protection of fisheries; protection of wildlife habitat; and protection of wildlife; and
3. A restoration project in which the river will be returned to a more natural condition resulting in improvements to water quality, habitat, and fish passage. As such, alterations to the riverfront area (26,833 SF), the bank (555 LF with 530 LF replaced); the bordering vegetated wetland (1,345 SF with 4,495 SF replaced), land under waterbodies and waterways (15,564 SF with 9,795 SF replaced & 850 CY dredged), and bordering land subject to flooding (26,260 SF with 23,218 SF replaced), which are a necessary part of the restoration project, will serve only to improve the overall ecosystem connectivity as well as function of these inland resource areas on the Jones River.

Decision

As a result of the above findings, the Kingston Conservation Commission voted on July 6, 2010 to approve the work associated with the Wapping Road Dam Removal and Restoration Project on the Jones River subject to the following Special Conditions which are necessary to ensure conformance with the performance standards set forth in the state and local wetland regulations:

Findings, Decision & Special Conditions
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26 Wapping Road
Map 44, Lots 49 & 49-2
SE 37-749 & KWPA 37-749

These Special Conditions supplement General Conditions on pages 5-10 of the Order issued under the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131 Section 40) & Regulations (310 CMR 10.00) as well as those on pages 4-6 of the Order issued under the Kingston Wetlands Protection By-Law (G.L. Chapter 13) & Regulations.

SPECIAL CONDITIONS

Pre-Construction Conditions

1. All applicable federal, state and local permits shall be obtained prior to commencement of work;
2. Copies of Chapter 91 Dredge Permit, 401 Water Quality Certificates, and Section 404 permit shall be submitted to the Conservation office prior to the commencement of work;
3. Final design and construction plans shall be submitted to the Conservation Commission as soon as they become available and prior to the commencement of work in order to allow time for review of any plan changes as the result of further permitting;
4. This document shall be included in all construction contracts, subcontracts and specifications dealing with the site work proposed and shall supersede any conflicting contract requirements. The Applicant shall ensure that all Contractors, Subcontractors and other personnel performing the permitted work are fully aware of the permit's terms and conditions. Thereafter, the Contractor will be held jointly liable for any violation of this Order resulting from failure to comply with its conditions;
5. An on-site pre-construction meeting with the Contractor, Engineer, Conservation Agent, and other applicable parties shall be held prior to the commencement of work;
6. Contact information for the Contractor shall be provided to the Conservation Commission at the time of the pre-construction meeting in the event that these persons have to be contacted due to an emergency at the site, during any 24-hour period, including weekends and for problems that may arise during working hours;
7. A crushed stone construction entrance shall also be installed at the entrance to the site to prevent transport of sediment from tires of construction equipment to Wapping Road (per Sheet 04, *Construction Plan – Access and Water Control*);
8. Erosion controls, including construction entrance, shall be inspected by the Agent prior to commencement of work;
9. The Contractor shall designate an Erosion Control Monitor for the duration of the project to inspect erosion controls on a daily basis to ensure they are maintained in a functional manner to prevent adverse impacts of sedimentation to surrounding wetland resource areas. The designated Erosion Control Monitor shall be made known to the Commission/Agent prior to the commencement of work;
10. Stockpile, equipment storage, refueling areas, and dumpster areas shall be determined prior to the pre-construction meeting and locations shall be approved by the Agent prior to the commencement of work;

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11. Prior to the commencement of work, the Contractor shall submit for approval by the Agent/Commission a detailed water control plan for those activities described on Sheet 04 and any other anticipated dewatering activities beyond those described on the *Construction Plan – Access and Water Control* (Sheet 04);
12. Contractor shall certify that construction equipment was recently inspected and maintained for fluid leaks prior to the commencement of work;
13. A spill contingency plan shall be submitted to the Commission for approval by the Agent prior to the commencement of work; and
14. An erosion and sediment control plan for storm events shall be submitted to the Commission for approval by the Agent prior to the commencement of work.

During Construction Conditions

A. General

1. The Massachusetts Division of Marine Fisheries identified the need for a time-of-year (TOY) restriction for all in-water work from March 15th – July 15th to protect diadromous fish passage, migration and spawning of the identified species;
2. All construction shall occur in conformance with the construction notes, details and sequence on the final plan set, *Jones River Restoration Preliminary Design, Jones River Kingston, Massachusetts, Kingston, Massachusetts*, Sheets 1 – 10, prepared for Jones River Realty Trust, stamped by James G. MacBroom, Professional Engineer, dated December 2009, revised through February 2010 and as may later be revised as well as approved;
3. Any substantial changes made in the above-described plan(s), unless specified otherwise in this Order, which may or will alter an area subject to protection under the Wetlands Protection Act and the Kingston Wetland By-law, or any change(s) in activity subject to regulations under M.G.L. Chapter 131, Section 40 or the Kingston Wetland Regulations, shall require the Applicant to inquire of the Commission/Agent, prior to implementation in the field, whether the change(s) is significant enough to require review by the Commission. Any errors in the plans or information submitted by the applicant shall be considered changes and the above procedures shall be followed. Other applicable agencies shall also be notified of substantial changes to the plans;
4. An Engineer shall provide oversight throughout the duration of the project;
5. If unforeseen problems occur during construction which may affect the statutory interests of the Wetlands Protection Act or the Kingston Wetland By-law, upon discovery by either the Conservation Commission, its Agent, or the Contractor, such problem shall require immediate notification to the Commission and a meeting shall be held as soon as feasible between the Commission or its Agent, the Contractor and other concerned parties to determine the correct measures to remedy the problems. The Contractor shall then act to correct the problems using the measures agreed upon;
6. The Contractor shall closely monitor rainfall to maximize work in low flow conditions;

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7. Contractor shall follow all applicable federal, state and local laws during the excavation, removal and disposal of unsuitable soils. Should unsuitable soils be saturated upon removal, water shall be allowed to drain out of soils prior to transport. All efforts shall be made to avoid transporting soils that seep out of their container onto roads and into other wetlands and waterways;
8. Should sediment be transported from the site to the roadway, the roadway shall be swept to prevent migration of sediments to the public stormwater system and the Jones River/project site;
9. Disposal of dredged sediment shall be managed in accordance with 314 CMR 9.07 (9), (10) and (11). Evidence of proper disposal of dredged sediments shall be provided to the Commission;
10. The Conservation Agent shall be contacted prior to implementation of the water control plan and any other dewatering activities that may become necessary during the project. Dewatering activities shall be monitored daily to ensure that sediment-laden water is appropriately settled prior to discharge to downstream areas;
11. The Massachusetts Division of Fisheries & Wildlife Natural Heritage and Endangered Species Program has identified the need for the Applicant to notify the District Office on the timing of dewatering activities;
12. The Contractor shall implement a daily fish/wildlife salvage plan to capture and release any stranded animals found within the work area prior to conducting work;
13. Removal of any oil or hazardous materials shall be conducted under M.G.L. Chapter 21 E & 310 CMR 40.00. All oil or hazardous materials, products and waste produced or removed must be handled, treated and disposed of in accordance with local, state and federal law regulating such materials. No hazardous waste shall be introduced or discharged into or toward wetland resource areas;
14. Refueling of equipment shall occur in a pre-designated and Agent-approved equipment storage and refueling area;
15. Construction equipment shall be regularly inspected and maintained to ensure fluid leaks are fixed as soon as possible after detection in order to avoid release of pollutants or hazardous substances to the site or the environment;
16. A spill containment kit shall be present on-site throughout the duration of the project;
17. All waste products and refuse from construction shall be contained at all times to minimize migration to the wetland resource areas. If dumpsters are used for containing waste, they shall be covered at all times and placed only in designated areas;
18. Portable toilets shall be provided on-site for contractors and they shall be maintained on a regular basis; and
19. Access through abutting property and bordering vegetated wetlands to construct the upstream riffle feature shall be approved by the Property Owner as well as the Conservation Agent.

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B. Erosion and Sedimentation Control

1. The Sediment and Erosion Control Plan (Sheet 05) shall serve as minimum requirements to be followed to prevent impacts caused by erosion and sedimentation during work. The Contractor or the Commission/Agent may implement additional measures if necessary;
2. The designated Erosion Control Monitor shall inspect erosion controls for proper functioning on a daily basis, especially before and after rain events. This person shall be given authority to stop construction for erosion control purposes. The erosion control monitor will be required to inspect all such devices and oversee cleaning and the proper disposal of waste products. Cleaning shall include removal of any entrapped silt. Regular inspection of erosion controls shall occur until the site is fully stabilized and until the Agent approves of their removal;
3. Maintenance of erosion controls (including construction entrance) shall occur on a regular basis and accumulated sediment shall be removed from upland side of limit of work when sediments accumulate to 4 inches in height or when the erosion controls are becoming compromised;
4. Should any erosion or sedimentation control measure fail, immediate attention shall be given to correcting the failure and to rectifying any adverse impact from the failure, for example, by the removal of any silt or debris that may have bypassed the control measure. The Commission shall be notified within 24 hours of any failure resulting in significant sedimentation to wetland resource areas;
5. An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and may include materials required to repair or replace silt fences, mulch socks, erosion control blankets, stone riprap, filter fabric or any other devices planned for use during construction and stabilization of the site. Erosion control devices may be modified based upon experience at the site;
6. The areas of construction shall remain in a stable condition at the close of each construction day. Erosion controls should be inspected at this time, and repaired, reinforced or replaced as necessary;
7. All stockpiles shall be covered & secured with erosion controls at all times during construction;
8. Areas that are not in an area of active construction which are to be left bare for over two weeks prior to final grading, shall be temporarily stabilized with mulch, jute netting, straw, seed or any other mechanism suitable to the site to achieve stabilization. Temporary stabilization materials shall be approved by the Conservation Agent;
9. If the season is not appropriate for plant growth, exposed stockpiles and soils shall be stabilized by other appropriate erosion control measures, firmly anchored, to prevent soils from being washed away by rain or flooding. All disturbed areas shall be graded, loamed, and seeded prior to November 1st of each year, if possible. No disturbed areas or stockpiled material shall be left unprotected or without erosion controls during the winter;
10. Contractor shall control dust and windblown debris to prevent migration to wetlands or adverse impacts to air quality or traffic; and

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11. The Commission reserves the right to impose additional conditions on portions of this project to mitigate any impacts which could result from site erosion, sedimentation of wetland resource areas or any noticeable degradation of surrounding surface water quality from site activities. For example, installation of erosion control measures may be required in areas not shown on the plan(s) referenced in this Order of Conditions.

C. Grading/Slopes

1. Grading shall occur in conformance with the *Land Grading* construction notes on Sheet 01 of the plan set, entitled *Notes*; and
2. Slopes/banks shall be stabilized with erosion control blankets as shown on Sheet 05 of the plan set entitled *Construction Plan – Sediment and Erosion Control* as well as Sheet 10, *Details*.

D. Restoration Plantings

1. Riparian plantings shall occur in conformance with Sheet 09 of the plan set entitled, *Landscape and Restoration Plan* as well as the *Details*, Sheet 10.

Post-Construction Conditions

1. The Proponents of the project shall work with the Town of Kingston and other project partners to monitor and control invasive species within the project corridor according to a Commission-approved Invasive Species Management Plan;
2. Should herbicide application be proposed for treatment of invasive species, the herbicide shall be applied by a Licensed Applicator. The Conservation Commission shall be provided with the contact information for the Licensed Applicator and shall be notified of the dates of application;
3. The Licensed Applicator shall only apply herbicide at recommended doses, during dry & calm weather patterns, and in a selective manner for maximum effect as well as minimal impact to the environment/non-target species; and
4. Results of all post-removal assessments shall be submitted to the Conservation Commission.