



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

DEP File Number:  
SE69-603

**A. General Information**

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



From: Seekonk  
 1. Conservation Commission

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

3. To: Applicant:

Michael Oliveira  
 a. First Name b. Last Name c. Company

71 Shore Drive  
 d. Mailing Address

Barrington RI 02806  
 e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

a. First Name b. Last Name c. Company

d. Mailing Address

e. City/Town f. State g. Zip Code

5. Project Location:

Windhamshire Drive Seekonk  
 a. Street Address b. City/Town

10 282  
 c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known (note: electronic filers will click for GIS locator):  
 e. Latitude f. Longitude

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

Bristol  
 a. County b. Certificate (if registered land)

8101 129  
 c. Book d. Page

7. Dates: 10/31/06 12/11/06 12/29/06  
 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):

Existing & Propose Site Plan, Windhamshire Drive, Plat 10 Lot 282, Seekonk, MA Sheets 1 - 3  
 a. Plan Title

Narragansett Engineering, Inc. Kamal Hingorany  
 b. Prepared By c. Signed and Stamped by

10/10/06 1" = 40'  
 d. Final Revision Date e. Scale

f. Additional Plan or Document Title g. Date



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**B. Findings**

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act. Check all that apply:

- a.  Public Water Supply
- b.  Land Containing Shellfish
- c.  Prevention of Pollution
- d.  Private Water Supply
- e.  Fisheries
- f.  Protection of Wildlife Habitat
- g.  Groundwater Supply
- h.  Storm Damage Prevention
- i.  Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

**Approved subject to:**

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

**Denied because:**

- b.  the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect these interests, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c.  the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**

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

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. cu.yd dredged	f. cu.yd dredged		



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**B. Findings (cont.)**

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

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

10. <input type="checkbox"/> <b>Designated Port Areas</b>	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> <b>Land Under the Ocean</b>	_____ a. square feet	_____ b. square feet		
	_____ c. cu.yd dredged	_____ d. cu.yd dredged		
12. <input type="checkbox"/> <b>Barrier Beaches</b>	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> <b>Coastal Beaches</b>	_____ a. square feet	_____ b. square feet	_____ c. c/y nourishmt.	_____ d. c/y nourishmt.
14. <input type="checkbox"/> <b>Coastal Dunes</b>	_____ a. square feet	_____ b. square feet	_____ c. c/y nourishmt.	_____ d. c/y nourishmt.
15. <input type="checkbox"/> <b>Coastal Banks</b>	_____ a. linear feet	_____ b. linear feet		
16. <input type="checkbox"/> <b>Rocky Intertidal Shores</b>	_____ a. square feet	_____ b. square feet		
17. <input type="checkbox"/> <b>Salt Marshes</b>	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
18. <input type="checkbox"/> <b>Land Under Salt Ponds</b>	_____ a. square feet	_____ b. square feet		
	_____ c. cu.yd dredged	_____ d. cu.yd dredged		
19. <input type="checkbox"/> <b>Land Containing Shellfish</b>	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
20. <input type="checkbox"/> <b>Fish Runs</b>	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	_____ a. cu.yd dredged	_____ b. cu.yd dredged		
21. <input type="checkbox"/> <b>Land Subject to Coastal Storm Flowage</b>	_____ a. square feet	_____ b. square feet		



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

(only applicable to approved projects)

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - a. the work is a maintenance dredging project as provided for in the Act; or
  - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
7. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
8. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to this Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MA DEP"]

"File Number \_\_\_\_\_"



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

10. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before DEP.
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
12. The work shall conform to the plans and special conditions referenced in this order.
13. Any change to the plans identified in Condition #12 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
14. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
15. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
16. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
17. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
18. All work associated with this Order is required to comply with the Massachusetts Stormwater Policy Standards.

Special Conditions:

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

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**D. Findings Under Municipal Wetlands Bylaw or Ordinance**

1. Is a municipal wetlands bylaw or ordinance applicable?  Yes  No
2. The Seekonk Conservation Commission hereby finds (check one that applies):
3.  that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:  
Seekonk Conservation Commission General Wetlands Bylaw and Regulations Sec 7(Bylaw), Sec 2.2.2.2 and 2.2.2.4

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

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

a. Municipal Ordinance or Bylaw

b. Citation

The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

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

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



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**E. Issuance**

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

12/29/06  
 1. Date of Issuance  
6  
 2. Number of Signers

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.

Signatures: Richard C. Waller [Signature]  
Christopher Clay [Signature]  
[Signature] [Signature]  
[Signature] [Signature]

**Notary Acknowledgement**

Commonwealth of Massachusetts County of Bristol

On this 11 Day of December 2006  
 Month Year

Before me, the undersigned Notary Public, personally appeared Richard C. Wallace  
 Name of Document Signer

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

personally known  
 Description of evidence of identification

to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

As member of Seekonk City/Town Conservation Commission

**MY COMMISSION EXPIRES  
 JULY 2, 2010**

Bernadette DeBlasier  
 Signature of Notary Public  
Bernadette DeBlasier  
 Printed Name of Notary Public  
July 2, 2010  
 My Commission Expires (Date)

Place notary seal and/or any stamp above

This Order is issued to the applicant as follows:

by hand delivery on \_\_\_\_\_  
 by certified mail, return receipt requested, on 12/29/06  
 Date Date



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## **F. Appeals**

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate DEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request of Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant. Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order or Determination, or providing written information to the Department prior to issuance of a Superseding Order or Determination.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act, (M.G.L. c. 131, § 40) and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

**Section G, Recording Information is available on the following page.**





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**G. Recording Information**

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 Page 7 of this form shall be submitted to the Conservation Commission listed below.

Seekonk  
 Conservation Commission

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

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To:

Conservation Commission

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

Project Location

DEP 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

1. The Seekonk Conservation Commission performed a site visit on December 6, 2006 to acquaint the members with the site and the wetland crossing issues. The Commission finds that the bordering vegetated wetland is a mature forested swamp with significant tree canopy. The Commission finds the wetland to be significant to the interests listed in The Wetlands Protection Act Regulations 310 CMR 10.01(2) "protection of public and private water supply, protection of groundwater supply, flood control, storm damage prevention, prevention of pollution, protection of fisheries, and protection of wildlife habitat."
2. The Seekonk Conservation Commission finds that the project does not meet the performance standards at 310 CMR 10.55(4)(b) which states "In the exercise of this discretion, the issuing authority shall consider the magnitude of the alteration and the significance of the project site to the interests identified in M.G.L. c. 131, S 40, the extent to which adverse impacts can be avoided, the extent to which adverse impacts are minimized".
3. The Seekonk Conservation Commission finds that the applicant did not try to avoid the adverse impacts to the bordering vegetated wetland.
4. The Seekonk Conservation Commission finds that there is another feasible alternative that would allow a single family house, septic and driveway without filling wetlands and reducing the loss of tree canopy. The Commission finds that this alternative would have significantly less adverse impacts on the bordering vegetated wetland. The Commission brought this alternative to the applicant's attention and suggested revising the plans accordingly.
5. The Seekonk Conservation Commission finds that the applicant did not submit revised plans showing an alternative project with less adverse impacts on the bordering vegetated wetland.
6. The Seekonk Conservation Commission finds that the applicant requested a decision on the proposed plans as submitted without revisions.
7. The Seekonk Conservation Commission denies the Order of Conditions based on the fact that the applicant did not avoid adverse impacts to the bordering vegetated wetland and there is another feasible alternative which would have significantly less adverse impacts on the bordering vegetated wetland.