

# Attachment A – Findings and Special Conditions

DEP File #: 200-0196

Applicant/Property Owner: Friends of Leverett Pond, Inc.

Property: Leverett Pond

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## Referenced Documents and Plans

This Order of Conditions (OOC) is based on the following Documents:

- The Notice of Intent (NOI) prepared by Mitchell Mulholland and the Friends of Leverett Pond, Inc. signed October 26, 2020.
- WPA Form 3 (NOI), Including Appendix A, Ecological Restoration Limited Project Checklist
- Figures and map of properties associated with this Order
- Supplemental Information and attachments prepared by Friends of Leverett Pond
- Leverett Pond Wildlife Habitat Assessment Report dated September 2021 by SWCA Environmental Consultants.
- Eutrophication and Aquatic Plant Management in Massachusetts: Final Generic Environmental Impact Report, 2004.

## Findings

1. This OOC is issued under the Massachusetts Wetlands Protection Act and Regulations (WPA; 310 CMR 10.00). Bordering Vegetated Wetlands (BVW), Land Under Water, Bank, have been identified as Resource Areas subject to protection under the Wetlands Protection Act Regulations. These Resource Areas are significant to protecting the interests of the WPA.
2. This Order of Conditions is valid for five (5) years.
3. The Commission finds that the proposed project is intended to improve the capacity of the resource areas at the project site and to protect the interests of the WPA and is therefore eligible to be permitted as an Ecological Restoration Limited Project under 310 CMR 10.53 (4).
4. The goal of the project is to implement an Ecological Restoration Project which involves managing invasive vegetation in Leverett Pond in a manner that will enhance protection of the interests of the WPA within the Wetland Resource Areas.
5. Hydro-raking or manual removal is permitted by these Orders. Dredging of more than 99 cubic yards of material over five (5) years requires additional permitting.
6. The approved work involves the following activities:
  - Invasive aquatic vegetation control measures in Leverett Pond by hand-raking.
  - Invasive aquatic vegetation control in Leverett Pond by mechanical harvesting.
  - Invasive vegetation control in Leverett Pond by manual harvesting.
  - Invasive aquatic vegetation control measures in Leverett Pond by herbicide application.

- Installation of benthic barriers
- Management of nuisance aquatic vegetation in areas to include the public boat launch access, the dry hydrant and public access channels, or as approved by the Conservation Commission.

### **Special Conditions**

1. Job site posting of a sign clearly visible from Depot Road not less than two square feet or more than three square feet with the words,  

Massachusetts Department of Environmental Protection [or MassDEP]  
 File Number 200-0196
2. Signs indicating that an herbicide application is underway shall be posted by Applicant at public access areas. Reentry times, as indicated on herbicide label, shall be included on the signs.
3. Residents abutting the pond shall be notified in writing by the Applicant when herbicide applications and/or hydro raking activities are scheduled to occur. Applicant will be responsible for posting such notifications on the Town of Leverett website, the Leverett Town Transfer Station and the Leverett Library.
4. The Applicant shall be responsible for compliance with the conditions of this OOC.
5. Proof of recording of the Order of Conditions at the Franklin County Registry of Deeds shall be provided to the Commission prior to the commencement of any work on the site.
6. The Conservation Commission, its employees, and its agents shall have a right of entry to inspect or verify compliance with the provisions of this OOC.
7. This OOC applies only to the scope of work described in Finding #6 above. Any future work not approved within the OOC subject to jurisdiction under the WPA will require the filing, at a minimum, of a Request for Determination of Applicability, a Request to Amend the Order, or a new Notice of Intent with the Commission.
8. All work shall be done in accordance with the documents listed above and as approved by this OOC. Any deviation must be approved by this Commission in writing prior to commencing work involved in this deviation.
9. Any changes to the plans identified 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.
10. 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.
11. The Applicant or their designee shall obtain a valid BRP WM 04 Permit for the application of aquatic herbicides and/or algicides for designated target species and a copy of such BRP WM 04 permit shall be submitted to the Conservation Commission prior to initiating any treatment of aquatic vegetation permitted by this Order.

12. All applications of herbicides approved for use by this Order shall be applied by an applicator licensed (in the aquatic weed category) by the Massachusetts Department of Agricultural Resources (DAR), Pesticide Bureau. Applications shall follow all product label directions.
13. The Conservation Commission shall be notified prior to use of herbicides or mechanical weed harvesting with the name of the firm conducting the work, Massachusetts Pesticide Applicators license numbers of persons applying the herbicide, and the anticipated dates of work.
14. The Applicant shall provide the Conservation Commission with a year-end report, submitted no later than December 15 of each year. The report shall contain the following information as applicable:
  - Summary of work conducted during the year, including an assessment of the level of success achieved.
  - GPS data indicating areas treated.
  - Map of Leverett Pond with GPS location data of areas treated.
  - Name of herbicide used, EPA Registration number, date(s) of application, amount of herbicide applied and name of applicator.
  - Photographic documentation of conditions before and two weeks to a month following treatment.
  - Copies of any water quality laboratory reports, or water quality measurements.
  - Recommendations for invasive species control for the following year.
15. The Applicant shall provide the Conservation Commission with a treatment plan for the current year, submitted no later than February 15 (with the exception of 2022) of each year, which must be approved prior to the initiation of any treatment that year. The report shall contain the following information as applicable:
  - Identify the current-year distribution of the target invasive species.
  - Summary of work to be conducted during the year, including professional-grade maps of treatment areas.
  - Assessment of each treatment area based on prior year treatment (percentage of new growth, changes in vegetation, etc.).
  - Timely (recent) photographic documentation of conditions in treatment areas.
  - Annual schedule of timing of treatments and herbicide applications.
  - Surveys to assess the prevalence and distribution of the invasive species in the pond and the effectiveness of the treatments shall be conducted by a qualified third party mutually agreed upon by both the Conservation Commission and the Friends of Leverett Pond.

16. The Leverett Conservation Commission reserves the right to request that the Applicant provide additional data on water quality, fisheries status, and impact of control work on populations of aquatic invasive vegetation.
17. Pond draw-down is not an approved practice under this permit.
18. In the event of any fish kill within Leverett Pond, the Applicant and licensed applicator shall immediately contact the Leverett Conservation Commission; the Department of Fish and Game's Westborough office at (508) 792-7270 (during normal working hours); and the Boston 24-hour response line at 1-800-632-8075.
19. Refueling, servicing, and repair of motorized watercraft and service vehicles associated with the pond surveys and treatments shall take place at least 100-feet from boundary of the resource area. Equipment operators shall be prepared to immediately respond to, and contain, accidental releases of fuel, motor oil, or aquatic herbicides. On-site absorbent materials shall be maintained for use in containing accidental spills. If an accidental release of fuel, motor oil, lubricating oils, etc. occurs, the Leverett Conservation Commission shall be immediately notified, and contaminated areas shall be treated according to guidelines established by the DEP's Bureau of Waste Site Cleanup (BWSC). Staging and long-term storage of aquatic herbicides and/or algicides shall take place outside the jurisdiction of the Leverett Conservation Commission.
20. Following completion of the project, the Applicant shall request a Certificate of Compliance and include an affidavit signed by the licensed applicator stating that the aquatic vegetation has been treated in accordance with the requirements of this Order of Conditions.
21. During mechanical cutting and harvesting projects, areas of target species for control and areas of non-target species shall be identified and indicated on a map of appropriate scale. The Applicant shall take all feasible measures to avoid impacts to non-target species.
22. Methods for controlling turbidity during mechanical cutting and harvesting shall be in place during the project if they are determined to be feasible.
23. Plant material that is cut shall be collected, removed from the water body, and stockpiled outside of the 100' boundary from any wetland and subsequently disposed of.