

A.6. GENERAL PROJECT DESCRIPTION

Introduction.

This Notice of Intent constitutes continued implementation of the Leverett Pond Management Plan (attached), and is the third lake management project to be conducted under the Plan. The Leverett Pond Management Plan serves as a guide for projects that may take place under this permit. The Plan was produced under a matching grant from the Massachusetts Department of Environmental Management (now Department of Conservation and Recreation) in 1999 and updated in 2004 and 2010. The Plan and its associated projects are a continuation of a nuisance vegetation management effort and fisheries habitat improvement conducted under an earlier permit issued by the Massachusetts Department of Environmental Protection in 1994 (File Number 200-104). The project is conducted in the spirit of Integrated Pest Management, in which mechanical and chemical means are combined, with public education an important component. Chemical applications are to be minimized and short-term solutions reduced over time.

Proposed Project.

This project is considered a "limited project" because it will improve the Natural Resource capacity of Leverett Pond. A major goal of this project is to improve fisheries habitat by removing exotic monoculturistic nuisance aquatic vegetation and improving edge. In areas treated, eutrophication will be lessened, and dissolved oxygen will be increased.

The project is to be conducted by the Friends of Leverett Pond, Inc. (FLP) and the Town of Leverett, with close cooperation with the Leverett Conservation Commission (LCC). All annual projects to be proposed by the FLP or the Town must be approved by the LCC.

This first action of the Plan proposes to selectively manage nuisance aquatic vegetation in Leverett Pond, Leverett, Massachusetts (Figures 1 through 4).

- Of particular concern is an infestation of two exotic species (Figure 2). The target species are Eurasian Water Milfoil (*Myriophyllum spicatum*) first discovered in 1993, and a recent (2007) infestation of variable Milfoil (*M. heterophyllum*). The variable milfoil identified may be a hybrid. Chemical applications are required to continue control of the milfoil using the chemical 2-4-D. The area of application is along the shoreline and is approximately 4-8 acres in total within a 100-114 acre pond. The chemical applications will be conducted by Aquatic Control Technology, Inc. of Sutton, Massachusetts, under separate state permit and license.
- A small area (less than one acre) at the public right of way on the south end of the pond will be selectively cleared of vegetation to make way for a proposed raised walkway that has been funded by the Community Preservation Act (Figure 3). Preparation of the area is included in this proposal. Other permits for the construction of walkway itself are separate from this proposal. This project will be overseen by the Town of Leverett.

- It is proposed that two narrow boating channels (Figure 3) and some waterfront areas be cleared of vegetation to allow access from the right of way at south end of the pond to the open water area in the north. A mechanical hydro-rake will be employed to remove limited areas of lily pads and water shield (*Nuphar*, *Nymphaea*) (Figure 4). The systemic chemical glyphosate may be used as well. This chemical was used in the past with excellent results. Mechanical methods will not be used until areas with milfoil have been treated chemically and the plant has been eradicated in these areas. Removal will improve fisheries habitat by controlling monoculturistic exotic plants and other nuisance vegetation (including some noninvasive, but problematic lily pads, water shield and bladderwort). In some areas of the pond these plants cover 100 percent of the surface contributing to poor fisheries habitat.

Three-Year Weed Management Plan.

The management approach is a three-year plan which begins with herbicide control of milfoil using 2,4-D in limited areas. This will be followed at a later date by removal of vegetation from waterfronts using a hydro-rake. The hydro-rake will be used on portions of the proposed channels. The chemical Rodeo (*glyphosate*) may be used for the lily pads in the channels. Hand-pulling (possibly SCUBA in some areas) and "touch-up" applications of 2,4-D are proposed as a follow-up (possibly annually) to eliminate or retard re-growth of Milfoil. Mechanical hydro-raking is proposed in areas with no milfoil (or those that have been cleared of milfoil chemically), to remove occasional floating root mats from channels following the chemical application, and to manually remove water shield in limited areas along the channels. Proposed application and subsequent mechanical harvesting begins in Year 1, and "touch-up" applications or mechanical methods may occur in the subsequent Years 2 and 3 (only as needed). All applications or use of mechanical equipment will require the prior annual approval of the Leverett Conservation Commission before they may occur. The Friends of Leverett Pond, Inc. will supply the LCC with a report of results annually.

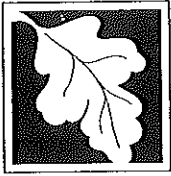
All weeds removed by mechanical or manual means will be placed on the shore to dry, and will either be left in place, or removed to a non-wetland area.

Monitoring of Results.

Weed monitoring will take place annually in the late spring following the season of treatment. A report on the findings and results of the treatment will be provided to the LCC.

Education as a Preventative – and Long Term Management.

- FLP will train volunteer weed monitors on a regular basis to aid in monitoring following treatment. The weed management group will regularly monitor growth of problem species.
- A Newsletter will be produced at regular intervals, and sent to landowners around the pond, and other pond users. The Newsletter will provide discussion of preventative measures to minimize weed growth, and reduce the need for short-term treatment such as mechanical and chemical plant control. Tips for good pond-neighbor practices will be included such as avoidance of lawn fertilizers, or any form of nutrient discharge into the pond.
- A program discussing weed management issues will be presented at the meetings of the local pond associations and the Friends of Leverett Pond.
- Preventive signage will be placed at all boat launch points on the pond. FLP has a supply of signs from the Massachusetts Department of Conservation and Recreation that focus on minimizing the spread of nuisance vegetation.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Provided by MassDEP:

WPA Form 3 – Notice of Intent

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

MassDEP File Number

Document Transaction Number

Leverett

City/Town

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



Note:
Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

A. General Information

1. Project Location (Note: electronic filers will click on button to locate project site):

Leverett Pond	Leverett	01054
a. Street Address	b. City/Town	c. Zip Code
Latitude and Longitude:	42 27'17.52"N	71 30'20.66"W
n/a	d. Latitude	e. Longitude
f. Assessors Map/Plat Number	n/a	g. Parcel /Lot Number

2. Applicant:

Mitchell	Mulholland and Town of Leverett	
a. First Name	b. Last Name	
Friends of Leverett Pond, Inc. and Town of Leverett		
c. Organization		
c/o 35 Cider Mill Road, Box 209		
d. Street Address		
Leverett	MA	01054
e. City/Town	f. State	g. Zip Code
413-545-1626 (day)	413-577-1458	mulholland@tei.umass.edu
413-548-9161 (eve)	i. Fax Number	j. Email Address

3. Property owner (required if different from applicant): Check if more than one owner

a. First Name	b. Last Name	
c. Organization		
d. Street Address		
e. City/Town	f. State	g. Zip Code
h. Phone Number	i. Fax Number	j. Email address

4. Representative (if any):

Mitchell	Mulholland	
a. First Name	b. Last Name	
Friends of Leverett Pond, Inc. and Town of Leverett		
c. Company		
c/a 35 Cider Mill Road, PO Box 209		
d. Street Address		
Leverett	MA	01054
e. City/Town	f. State	g. Zip Code
413-545-1626 (day)	413-577-1458	mulholland@tei.umass.edu
413-548-9161 (eve)	i. Fax Number	j. Email address

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

\$0	\$0	\$0
a. Total Fee Paid	b. State Fee Paid	c. City/Town Fee Paid



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

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A. General Information (continued)

6. General Project Description:

Please see attached document for detail - Item 1. Work proposed is indicated in the Leverett Pond Management Plan (attached to this permit application). Work proposed is predominantly for control of nuisance aquatic vegetation. Methods include hydro-raking, mechanical harvesting, hand-pulling on foot or by scuba divers, and chemical control.

7a. Project Type Checklist:

- 1. Single Family Home
- 2. Residential Subdivision
- 3. Limited Project Driveway Crossing
- 4. Commercial/Industrial
- 5. Dock/Pier
- 6. Utilities
- 7. Coastal Engineering Structure
- 8. Agriculture (e.g., cranberries, forestry)
- 9. Transportation
- 10. Other

7b. Is any portion of the proposed activity eligible to be treated as a limited project subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

1. Yes No If yes, describe which limited project applies to this project:

- 1. Improve fisheries habitat by removing milfoil and some floating leaf vegetation per 310 CMR 10.53(4)
- 2. Limited Project

8. Property recorded at the Registry of Deeds for:

n/a	n/a
a. County	b. Certificate # (if registered land)
n/a	n/a
c. Book	d. Page Number

B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- 1. Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- 2. Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Bank	1. linear feet	2. linear feet
b. <input type="checkbox"/> Bordering Vegetated Wetland	1. square feet	2. square feet
c. <input checked="" type="checkbox"/> Land Under Waterbodies and Waterways	no alteration 7 ac out of 100	
	1. square feet	2. square feet
	no dredging	
	3. cubic yards dredged	



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

Provided by MassDEP:

MassDEP File Number _____

Document Transaction Number _____

Leverett _____

City/Town _____

B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
d. <input type="checkbox"/> Bordering Land Subject to Flooding	1. square feet _____ 3. cubic feet of flood storage lost _____	2. square feet _____ 4. cubic feet replaced _____
e. <input type="checkbox"/> Isolated Land Subject to Flooding	1. square feet _____ 2. cubic feet of flood storage lost _____	3. cubic feet replaced _____
f. <input type="checkbox"/> Riverfront Area	1. Name of Waterway (if available) _____	

2. Width of Riverfront Area (check one):

- 25 ft. - Designated Densely Developed Areas only
- 100 ft. - New agricultural projects only
- 200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: _____ square feet

4. Proposed alteration of the Riverfront Area:

a. total square feet _____	b. square feet within 100 ft. _____	c. square feet between 100 ft. and 200 ft. _____
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5. Has an alternatives analysis been done and is it attached to this NOI? Yes No

6. Was the lot where the activity is proposed created prior to August 1, 1996? Yes No

3. Coastal Resource Areas: (See 310 CMR 10.25-10.35)

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users:
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
a. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below	
b. <input type="checkbox"/> Land Under the Ocean	1. square feet _____ 2. cubic yards dredged _____	
c. <input type="checkbox"/> Barrier Beach	Indicate size under Coastal Beaches and/or Coastal Dunes below	
d. <input type="checkbox"/> Coastal Beaches	1. square feet _____	2. cubic yards beach nourishment _____
e. <input type="checkbox"/> Coastal Dunes	1. square feet _____	2. cubic yards dune nourishment _____



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

MassDEP File Number _____

Document Transaction Number _____

Leverett _____

City/Town _____

B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
f. <input type="checkbox"/> Coastal Banks	1. linear feet _____	
g. <input type="checkbox"/> Rocky Intertidal Shores	1. square feet _____	
h. <input type="checkbox"/> Salt Marshes	1. square feet _____	2. sq ft restoration, rehab., creation _____
i. <input type="checkbox"/> Land Under Salt Ponds	1. square feet _____	
	2. cubic yards dredged _____	
j. <input type="checkbox"/> Land Containing Shellfish	1. square feet _____	
k. <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	
	1. cubic yards dredged _____	
l. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	1. square feet _____	
4. <input type="checkbox"/> Restoration/Enhancement	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.2.b or B.3.h above, please enter the additional amount here.	
	a. square feet of BVW _____	b. square feet of Salt Marsh _____

C. Other Applicable Standards and Requirements

Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to <http://www.mass.gov/dfwele/dfw/nhesp/nhregmap.htm>.

a. Yes No **If yes, include proof of mailing or hand delivery of NOI to:**

Natural Heritage and Endangered Species Program
Division of Fisheries and Wildlife
Route 135, North Drive
Westborough, MA 01581

2008 _____

b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.C, and include requested materials with this Notice of Intent (NOI); OR complete Section C.1.d, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*



WPA Form 3 – Notice of Intent

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

Provided by MassDEP:

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C. Other Applicable Standards and Requirements (cont'd)

1. c. Submit Supplemental Information for Endangered Species Review *

1. Percentage/acreage of property to be altered:

(a) within wetland Resource Area

8 acres max

percentage/acreage

(b) outside Resource Area

percentage/acreage

2. Assessor's Map or right-of-way plan of site

3. Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work **

(a) Project description (including description of impacts outside of wetland resource area & buffer zone)

(b) Photographs representative of the site

(c) MESA filing fee (fee information available at:

<http://www.mass.gov/dfwele/dfw/nhosp/nhenvmesa.htm>)

Make check payable to "Natural Heritage & Endangered Species Fund" and **mail to NHESP** at above address

Projects altering 10 or more acres of land, also submit:

(d) Vegetation cover type map of site

(e) Project plans showing Priority & Estimated Habitat boundaries

d. OR Check One of the Following

1. Project is exempt from MESA review.

Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, <http://www.mass.gov/dfwele/dfw/nhosp/nhenvexemptions.htm>; the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

2. Separate MESA review ongoing.

a. NHESP Tracking Number

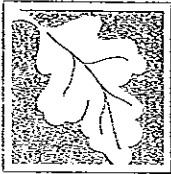
b. Date submitted to NHESP

3. Separate MESA review completed.

Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see www.nhosp.org regulatory review tab). Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

** MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.

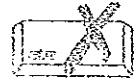


Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:
 200-0166

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: Leverett
 1. Conservation Commission

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

3. To: Applicant:

<u>Mitch</u>	<u>Mullholland</u>	<u>Town of Leverett/Friends of Leverett Pond</u>	
a. First Name	b. Last Name	c. Company	
<u>c/o 35 Cider Mill Road, Box 209</u>			
d. Mailing Address			
<u>Leverett</u>	<u>MA</u>	<u>01054</u>	
e. City/Town	f. State	g. Zip Code	

4. Property Owner (if different from applicant):

<u>N/A</u>		
a. First Name	b. Last Name	c. Company
<u></u>		
d. Mailing Address		
<u></u>		
e. City/Town	f. State	g. Zip Code

5. Project Location:

<u>Depot Road</u>	<u>Leverett</u>
a. Street Address	b. City/Town
<u>N/A</u>	<u>N/A</u>
c. Assessors Map/Plat Number	d. Parcel/Lot Number
<u>Latitude and Longitude, if known (note: electronic filers will click for GIS locator):</u>	<u>N/A</u>
	e. Latitude
	<u>N/A</u>
	f. Longitude

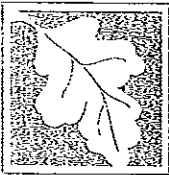
6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

<u>N/A</u>	<u>N/A</u>
a. County	b. Certificate (if registered land)
<u>N/A</u>	<u>N/A</u>
c. Book	d. Page

7. Dates: 4.6.10 9.7.10 9.29.10
 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):

<u></u>	
a. Plan Title	
<u></u>	<u></u>
b. Prepared By	c. Signed and Stamped by
<u></u>	<u></u>
d. Final Revision Date	e. Scale
<u>MESA Letter 10-28503</u>	
<u></u>	<u>9.9.10</u>
f. Additional Plan or Document Title	g. Date



WPA Form 5 – Order of Conditions

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

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:

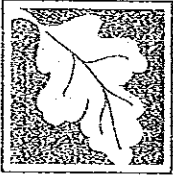
- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special 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. <input checked="" type="checkbox"/> Buffer Zone Impacts: Shortest distance between limit of project disturbance and wetland boundary (if available)			0	
			a. linear feet	
Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet 225	b. square feet	c. square feet 225 in situ	d. square feet 225 in situ
6. <input checked="" type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet 25 e. cu.yd dredged	b. square feet f. cu.yd dredged	c. square feet	d. square feet



B. Findings (cont.)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
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

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

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



Massachusetts Department of Environmental Protection
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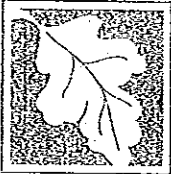
C. General Conditions Under Massachusetts Wetlands Protection Act

(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 200-0166"



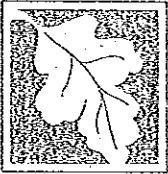
C. General Conditions Under Massachusetts Wetlands Protection Act

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 if 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:

1. Place removed vegetation more than 50 from any wetland resource areas to dry out prior to composting.
2. Compost dried or frozen vegetation more 100 feet or more from any wetland resource areas.
3. All work will be conducted as described in document "A.6. General Project Description" dated 7.29.10

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



WPA Form 5 – Order of Conditions

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

D. Findings Under Municipal Wetlands Bylaw or Ordinance

- 1. Is a municipal wetlands bylaw or ordinance applicable? Yes No
- 2. The _____ hereby finds (check one that applies):
Conservation Commission
- 3. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

a. Municipal Ordinance or Bylaw _____ b. 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.

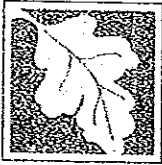
- 4. that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

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:

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



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:

200-0166
MassDEP File #

eDEP Transaction #

Leverett
City/Town

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.

9.29.10

1. Date of Issuance

Please indicate the number of members who will sign this form.

4

This Order must be signed by a majority of the Conservation Commission.

2. Number of Signers

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:

[Handwritten signatures]

Christine Nelson

by hand delivery on

by certified mail, return receipt requested, on

Date

9.29.10

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.



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:
200-0166

F. Appeals

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

*Suggested Additional Information for FLP/Town of Leverett Notice of Intent
MassDEP File Number 200-0166*

November 1, 2010

On October 6, 2010, Mark Simpson of the MDEP offered comments related to the FLP/Town of Leverett Notice of Intent 200-0166. The following is a response by FLP/Town of Leverett presented to the Leverett Conservation Commission on November 1, 2010:

Dredging

Regarding our statement in the NOI: "If necessary, in the area nearest the shore, where the water is too shallow to float the hydro-rake, use of a backhoe or Drott ("Grade-all") is planned." What about protecting water quality if this is done? And...

Again our statement in the NOI, "We would do minor dredging only if there is insufficient flow back to the channel. Should dredging be necessary, the Conservation Commission will be contacted for their permission, and a maximum of 25 cubic yards will be dredged."

Resolution: A silt curtain will be placed at the lake side of the excavation to minimize the migration of silt into other parts of the pond.

Safe Zones

Have they updated the map to show the important wildlife areas?

Significant Wildlife Habitat Characteristics

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Significant Wildlife Habitat Characteristics

This project will improve fisheries habitat. The majority of the approximate 100-acre pond is fisheries habitat. A wildlife habitat evaluation was conducted by New England Environmental and is attached to the FLP management plan.

Safe zone within five feet (5') of:

* The perimeter of all lakes and ponds measured from the Mean Average Low Water Line (MALWL) horizontally into the lake or pond. In addition, if feasible, safe zones should be established around the perimeter of the other important habitat features listed below as follows:

The area to be treated by herbicides and mechanical means is situated within Leverett Pond. The pond is approximately 100 acres in area. The NOI proposes treatment of approximately 8 acres.

We have established safe zones as indicated in the attached figure. The safe zones are actually larger than indicated on the map because of what can effectively be shown on the figure. Weed management will be limited to the areas indicated in the NOI and will not stray outside of those areas.

Within five feet (5') of:

- * Any stand of indigenous emergent hydrophytes of sufficient density to provide escape shelter from predators, and/or nesting habitat for indigenous vertebrate wildlife.
- * Any stand of rooted, floating and/or submerged indigenous aquatic

plants that has the potential to provide egg attachment or deposition sites for amphibians, and/or serves as a food source, either directly, or indirectly, to any species of vertebrate wildlife;

The only plants identified in Leverett Pond that are listed in Appendix B are Cattails (*typha latifolia*) and Pickerelweed (*pontedaria cordata*). The only areas in which cattails will be removed is at the right-of-way along Depot Road, in which a small area of this species (.18 acre) will be removed (see map of right-of-way plans in NOI). The area of removal is within a large stand of cattails extending more than approximately five acres. The remainder of the cattails and other vegetation will be avoided. Cattails will not be affected in other parts of the pond.

Within forty feet (40') of:

- * Any muskrat house or feeding shelter;
- * Any active or abandoned beaver lodge, underwater dam or dam remnant, or by-pass canal;

The safe zones are in areas of two known beaver lodges (one abandoned), and are in the weedy areas of the south and north ends where muskrat activity is evident.

Drying Area in Proximity to Pond

The introduction of a distance of 50 feet for a drying area following hydro-raking was included in the Order of Conditions. FLP would like to include

reconsideration by the LCC to allow drying to take place a few days to allow the water to seep out of the plants. Given that the concern is to avoid plant parts re-entering the pond, we suggest using some of the suggestions provided below by the University of Connecticut.

The following is a note from Misty-Anne Marold of the Massachusetts Natural Heritage and Endangered Species Program:

Quoting "Marold, Misty-Anne (FWE)" <Misty-Anne.Marold@state.ma.us>:

RE: Request for clarifiant of the MESA letter dated 9/9/10

To all,

We are sorry that our letter led to confusion at this site. The filing was a bit unclear as to the disposition of the materials removed from the pond. Our intention was simply to be clear that the aquatic plants should be removed from the water and disposed of in a manner that would avoid re-infestation. Your description below including drying out on a lawn-like area are adequate provided the plant material is total dry and dead before being re-used in compost. The seeds of most aquatic invasives tend to be resistant to drying out and, in fact, composting. So, if the materials are insufficiently dried/killed, then the seeds remain viable and can re-infest the pond and other areas. I've pasted below five recommendations from the University of Connecticut:

1. Freeze (at least 24 hours) or dry them. This can be done in a driveway by placing non-fruiting plants on the asphalt to dry and then driving over them with your car.
2. Compost the plants by burying them. This prevents birds from inadvertently transporting fruits, seeds or viable parts of these plants. The plants can also be covered in heavy-grade plastic that will speed up the composting process as well as prevent birds from taking away fruits and seeds.
3. Make sure that the soil from the composting is not used along the edges of waterbodies, as the seeds can survive composting and get into these habitats.
4. Another way to dispose of the dry plants is burning them, if burning is a local option.
5. The dried plants can be sealed in a plastic bag and disposed of in the garbage.

Having the plant materials trucked to the town dump for composting would be another option, as described below, as long as the pile containing these invasive is given several seasons to "cook" and try to kill those sees.

I hope this clarifies. Misty-Anne

Misty-Anne R. Marold | Endangered Species Review Biologist | Natural Heritage
& Endangered Species Program | Division of Fisheries & Wildlife | 1 Rabbit Hill
Road | Westborough, MA 01581
Direct: 508-389-6356 | Fax: 508-389-7891

To allow harvested weeds to dry somewhat before removal to a composting area, FLP suggests that fabric silt fencing be placed between the weed pile and the pond, to avoid seeds re-infesting the pond.

