



TOWN OF WAYLAND
MASSACHUSETTS
01778
CONSERVATION COMMISSION

TOWN BUILDING
41 COCHITUATE ROAD
TELEPHONE: (508) 358-3669
FAX: (508) 358-3606

August 13, 2002

Raytheon Company
1001 Boston Post Road
Marlborough, MA 01752

RE: DEP FILE 322 -532; 430 Boston Post Road, Wayland, MA
ORDER OF CONDITIONS

To Whom It May Concern,

Enclosed is the original of your Order of Conditions for the proposed additional site assessment at 430 Boston Post Road issued by the Wayland Conservation Commission. You are responsible for meeting all the conditions of this permit. Please read all the conditions carefully. If you are dissatisfied with any of the conditions placed on the project in this Order, you may appeal the Order to the Massachusetts Department of Environmental Protection (DEP) within ten days of the date of issue. If there are no appeals made by you or by any other person, the decision can be filed at the Middlesex South Registry of Deeds and once the Commission has evidence of that, work permitted by this Order may begin.

As per Condition #8, the *original* Order must be recorded at the South Middlesex Registry of Deeds before work can begin. The Middlesex Registry of Deeds is located at 208 Cambridge Street, Cambridge, MA, phone (617) 679-6300.

Please note that any modification of your plans must be reported to the Commission and may necessitate either an amendment to the Order of Conditions or the submission of a new Notice of Intent.

Please read all of the conditions of this permit. If you have any questions, feel free to call me at (508) 358-3669.

Sincerely,

Brian J. Monahan,
Conservation Administrator

Enc.

cc: DEP, Northeast Regional Office
Wayland Business Center
Board of Health
Building Inspector
Planning Board
Town Assessor
Water Department
ERM
File

WPA Form 5 – Order of Conditions

322-532

Provided by DEP

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

B. Findings

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:

- | | | |
|----------------------------------------------------------|-------------------------------------------------------------|--------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Public Water Supply | <input type="checkbox"/> Land Containing Shellfish | <input checked="" type="checkbox"/> Prevention of Pollution |
| <input checked="" type="checkbox"/> Private Water Supply | <input type="checkbox"/> Fisheries | <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| <input checked="" type="checkbox"/> Groundwater Supply | <input checked="" type="checkbox"/> Storm Damage Prevention | <input checked="" type="checkbox"/> Flood Control |

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

Approved subject to:

- the following conditions which are necessary, in accordance with the performance standards set forth in the wetlands 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 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:

- the proposed work cannot be conditioned to meet the performance standards set forth in the 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 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).

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.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
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B. Findings (cont.)

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 322-532"
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.

B. Findings (cont.)

- 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.

Special Conditions (use additional paper, if necessary):

See Attachment A with Special Conditions - attached. (Pages 1-5)

Findings as to municipal bylaw or ordinance

Furthermore, the Wayland 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 bylaw specifically:

Name _____ Municipal Ordinance or 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.

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

Name _____ Municipal Ordinance or Bylaw _____

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.

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B. Findings (cont.)

Additional conditions relating to municipal ordinance or bylaw:

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

8-12-02
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 also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office (see Appendix A) and the property owner (if different from applicant).

Signatures:

[Signature] _____
[Signature] _____
[Signature] _____
[Signature] _____

On 1st Day Of August, 2002 Month and Year

before me personally appeared Barbara Howell

1 member of the Conservation Commission

to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

[Signature]
Notary Public

11/02/2002
My Commission Expires

This Order is issued to the applicant as follows:

by hand delivery on

Date

by certified mail, return receipt requested, on

8/13/02
Date

WPA Form 5 – Order of Conditions

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

C. 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 Appendix E: 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.

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.

D. 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 Form 5 shall be submitted to the Conservation Commission listed below.

Conservation Commission

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D. Recording Information (cont.)

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

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

Project Description:

The application is to conduct additional site assessment investigations in accordance with the MCP at the former Raytheon site, 430 Boston Post Road. The assessment includes advancing monitoring wells, soil borings and collecting additional wetland soil and groundwater samples. Specific tasks include the installation of monitoring wells in a portion of the wetland and collection of shallow wetland soils. The application also includes after-the-fact filing for historical assessment activities for sampling of wetland sediments and soils within resource areas at the property dating back to 1998 that were not addressed with required applications to the Conservation Commission.

Findings:

- The resource areas involved with the proposed activity are: Land Subject to Flooding, Riverfront Area, and Bordering Vegetated Wetlands (BVW).
- These areas have values relating to: the protection of public and private water supplies, prevention of pollution, wildlife habitat, prevention of flooding, stormwater damage, and ground water.
- The Public Hearing was held on July 17, 2002.
- Much of the sampling is occurring within the bordering vegetated wetlands and riverfront area.
- Only a limited number of soil samples are being collected within the area of stressed vegetation and three wells are being installed north of that area within bordering vegetated wetlands, riverfront and land subject to flooding. .
- The Conservation Commission is particularly concerned with the identification of contaminants in the soil within the area of stressed vegetation.
- The Commission will seek timely submission to the Commission test results within the b.v.w. resource area and areas of the fill/bank near the outlet.
-
- The Commission discussed during the hearing the failure to file for past multiple sampling events in the b.v.w. over several years. The applicant indicated that they had contacted the agent of the Conservation Commission at that time and were not told to file.
- The Commission considers that sampling work for an environmental assessment or other studies within a b.v.w. must be approved by the Conservation Commission and is not subject to any exemption under the Wetlands Regulations including 310 CMR 10.058(6)(a).
- Because contaminated materials are being sampled the equipment must be decontaminated. The Commission will require proper containment and disposal of decontamination materials as well as siting of the decontamination activity area.
- Drilling methods in the b.v.w. area proposed for installation of wells will need to be conducted in a manner to minimize impact from the activity.
- The Commission recognizes the soil types in the b.v.w. may influence the methods used however, low impact methods must be first attempted by the applicant.
- The Commission must be kept informed in a timely manner when work is being done in the b.v.w. Timely notice means prior to commencing an activity or change in method used for sampling/drilling.
- Work is being proposed within an actual habitat of five state-protected rare wildlife species.
- The Natural Heritage & Endangered Species Program (NHESP) determined that the proposed activities will have negligible effects on actual rare wildlife habitat, provided that no heavy equipment is driven into the wetland resource areas and that wash water and well tailings are confined and all tailings and sediment are removed from the site after drilling operations.

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Map 23 Parcel 52
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- The Commission prefers that the work be done when water levels are low in the Sudbury River. If work is done with higher water conditions the applicant will be required to coordinate with the Commission's agent and take steps to mitigate the impacts from that activity.

Therefore, the Conservation Commission hereby finds that the following conditions are necessary, in accordance with Performance Standards set forth in the regulations, to protect those interests checked above. The Commission orders that all work shall be performed in accordance with said 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.

12. The work shall conform to the Project Description as provided in the Notice of Intent dated June 27, 2002 except as herein conditioned:

Conditions 1 – 17 as noted on WPA Form 5 "Order of Conditions"; Pages 1 - 4

Special Conditions Issued by the Wayland Conservation Commission:

EFFECTIVE PRIOR TO ANY ALTERATION, EXCAVATION, OR CONSTRUCTION

18. No work shall be undertaken until the original Order has been recorded in the Registry of Deeds (refer to Condition #8).
19. This Order of Conditions shall apply to any successor in interest or successor in control of this property. The Conservation Commission shall be notified in writing, at the time of such transfer, or any transfer in title for all or part of the property that occurs prior to the issuance of the Certificate of Compliance. Prior to any transfer of title the Order of Conditions shall be filed at the Registry of Deeds. A lack of such required written notification to the Conservation Commission shall delay the issuance of the Certificate of Compliance.
20. **Prior to commencing any work** the applicant shall submit to the Commission a schedule of proposed activities. No alteration, excavation or construction shall begin until Conservation Administrator has approved this schedule.
21. **Prior to commencing any work** the applicant shall provide written notice, not less than two or more than five business days prior to commencing any activity permitted by this Order, to the Conservation Commission.
22. **Prior to commencing any work at the site** the applicant shall give the Commission a written list of the names, addresses, business phone number and home phone number of both the project supervisor who will be responsible for ensuring on-site compliance, with particular attention given to maintaining the required sediment and erosion controls, with this Order and his or her alternate. In the event another individual is responsible for maintaining the sediment barriers this person shall also be identified in this notice.
23. A copy of this Order shall be included in any bid document.

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24. A copy of this Order shall be provided to the project supervisor and shall be available on the site at all times during construction.

25. There shall be a preconstruction conference on the site between the contractor who will do the work, the project engineer, and Conservation Administrator. The purpose of the pre-construction meeting is to allow for final inspection of the site prior to construction and to resolve any outstanding issues at that time. All parties shall be provided with a minimum of 72 hours notice of the pre-construction meeting.

Special Conditions Effective upon Commencement of Alteration, Excavation or Construction (Issued by the Wayland Conservation Commission):

26. During all phases of construction, any disturbed or exposed areas shall be brought to final finished grade and stabilized with loam and seed. Permanent seeding shall conform to the specifications in "Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas", prepared by Franklin, Hampden, Hampshire Conservation Districts, Northampton, MA, March 1997; pages 175 – 183, except as modified by these conditions.

27. Disturbed ground that cannot be permanently stabilized within 30 days shall be stabilized by temporary measures, such as jute netting, hydroseeding, or other method accepted in advance by the Commission.

28. The applicant shall proceed with drilling in the wetlands utilizing the least invasive method first, as discussed during the public hearing for this work. In the event soil conditions necessitate a change in drilling methodology the applicant shall first provide written notice to the Conservation Commission of this change before proceeding with the alternate methods.

29. There shall be no heavy equipment used in the wetland resources areas per the requirements of the NHESP correspondence dated July 29, 2002.

30. Any dewatering or drawdown activities shall not be directly discharged into a wetland resource area but shall make use of a sedimentation tank and appropriate treatment before the water is released, or the material shall be transported off-site for legitimate disposal.

31. Any debris, which falls into any pond, stream, or wetland, shall be removed immediately by hand.

32. A small supply of extra haybales shall be stockpiled for emergency use only. The applicant shall immediately control any erosion/sedimentation problems that occur on the site and shall also immediately notify the Commission. Any additional erosion/sedimentation controls found to be necessary by either the applicant or the Commission during construction shall be implemented by the applicant, with the approval of the Commission.

33. Tabulated test results, a scaled sample location plan, and copies of laboratory test reports from the wetlands groundwater sampling, wetlands soil samples, and samples taken from the bank/buffer zone, shall be provided to the Conservation Commission within thirty days of the sampling unless a written explanation has been submitted to and accepted by the Conservation Commission seeking a longer period of time to submit the sample results.

34. Equipment shall not be refueled or serviced within 100 feet of the bordering vegetated wetlands or within bordering land subject to flooding. **Prior to commencing any drilling activity within the buffer**

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zone or a resource area the applicant shall provide documentation to the Conservation Commission as to how they will achieve compliance with this Condition.

35. The decontamination area shall be located outside any resource area with the exception of existing paved area within Riverfront resource area. The decontamination area location shall be approved in advance by the Conservation Commission.

36. Drilling materials, wash water, and all other materials generated during the installation of the test wells shall be containerized and properly disposed of by the applicant. When the Commission receives a request for a Certificate of Compliance evidence of proper disposal of these materials shall be provided to the Conservation Commission.

Special Conditions Taking Effect after Completion of the Project
(Issued by the Wayland Conservation Commission):

37. The Conservation Commission and/or Conservation Administrator may require the removal and dispersal of the erosion controls after the site has been fully stabilized to their satisfaction.

38. The applicant shall use [WPA Form 8A] to request a Certificate of Compliance and shall submit the following items with his request:

- a) A detailed narrative prepared by a Professional Engineer (Civil) or Professional Land Surveyor registered in the Commonwealth of Massachusetts specifically addressing each condition and certifying compliance with the approved plans referenced above and this Order of Conditions and setting forth any deviations that exist with a note as to how it may be corrected. This request shall be submitted not later than 180 calendar days prior to the expiration of this Order. Work that is not complete shall be detailed in a schedule of planned completion dates prior to expiration of the Order with a certification to the commitment of resources by an authorized official representative of the applicant to complete the work prior to expiration of the Order.
- b) Two sets of as-built site plans prepared by a registered land surveyor or registered professional engineer showing the wetland resource areas, grades, utilities, building footprint and landscaping. These plans shall include the locations of prior sampling locations within the BVW resource area. These plans shall include the date/s of fieldwork. Note: This requirement may be waived by the Conservation Commission particularly if future filings show the location of sampling and test wells permitted by this decision.
- c) A copy of the as built shall be submitted on a computer disk in autocad format dxf, dwg or may be e-mailed to the Town Surveyor at MTB_surveyor@msn.com (if this is not possible please contact the Commission). Note: This requirement may be waived by the Conservation Commission particularly if future filings show the location of sampling and test wells permitted by this decision.

39. The work authorized hereunder shall be completed within three years from the date of this Order unless 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. A request for an Extension shall be filed with the Conservation Commission not less than thirty days prior to the expiration date of this Order. 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.

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This Order expires on August 12, 2005.

If necessary, an extension must be filed before July 1, 2005.