



Massachusetts Department of Environmental Protection  
 Bureau of Resource Protection - Wetlands  
**WPA Form 8A – Request for Certificate of Compliance**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:  
SE49-324  
 Provided by DEP

**A. Project Information**

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



Upon completion of the work authorized in an Order of Conditions, the property owner must request a Certificate of Compliance from the issuing authority stating that the work or portion of the work has been satisfactorily completed.

1. This request is being made by:

Blair Bailey  
 Name  
City of New Bedford , 133 William Street  
 Mailing Address  
New Bedford MA 02740  
 City/Town State Zip Code  
5089791429  
 Phone Number

2. This request is in reference to work regulated by a final Order of Conditions issued to:

City of New Bedford  
 Applicant  
11/29/2001 SE 49-324  
 Dated DEP File Number

3. The project site is located at:

John Vertente Blvd. Extension New Bedford  
 Street Address City/Town  
135 2  
 Assessors Map/Plat Number Parcel/Lot Number

4. The final Order of Conditions was recorded at the Registry of Deeds for:

Property Owner (if different)  
Bristol County (S.D.) Registry 5254 272  
 County Book Page

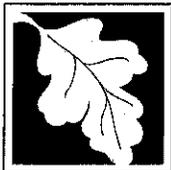
Certificate (if registered land)

5. This request is for certification that (check one):

- the work regulated by the above-referenced Order of Conditions has been satisfactorily completed.  
 the following portions of the work regulated by the above-referenced Order of Conditions have been satisfactorily completed (use additional paper if necessary).

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

- the above-referenced Order of Conditions has lapsed and is therefore no longer valid, and the work regulated by it was never started.



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

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**A. Project Information (cont.)**

6. Did the Order of Conditions for this project, or the portion of the project subject to this request, contain an approval of any plans stamped by a registered professional engineer, architect, landscape architect, or land surveyor?

Yes

If yes, attach a written statement by such a professional certifying substantial compliance with the plans and describing what deviation, if any, exists from the plans approved in the Order.

No

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**B. Submittal Requirements**

Requests for Certificates of Compliance should be directed to the issuing authority that issued the final Order of Conditions (OOC). If the project received an OOC from the Conservation Commission, submit this request to that Commission. If the project was issued a Superseding Order of Conditions or was the subject of an Adjudicatory Hearing Final Decision, submit this request to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html>).



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

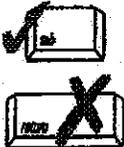
DEP File Number:

SE49-324

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**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:

New Bedford  
Conservation Commission

**BK 5254 PG 272**  
11/29/01 11:01 AM 35897  
Bristol Co. S.D.

This issuance is for (check one):

- Order of Conditions  
 Amended Order of Conditions

To: Applicant:

City of New Bedford  
Name  
133 William Street  
Mailing Address  
New Bedford Mass 02740  
City/Town State Zip Code

Property Owner (if different from applicant):

same  
Name  
\_\_\_\_\_  
Mailing Address  
\_\_\_\_\_  
City/Town State Zip Code

1. Project Location:

John Vertente Blvd New Bedford  
Street Address City/Town  
135 2  
Assessors Map/Plat Number Parcel/Lot Number

2. Property recorded at the Registry of Deeds for:

Bristol 2744 299  
County Book Page

Certificate (if registered land)

3. Dates:

8-31-01 11/13/01 11/29/01  
Date Notice of Intent Filed Date Public Hearing Closed Date of Issuance

4. Final Approved Plans and Other Documents (attach additional plan references as needed):

New Bedford North Freight Rail Facility (sheets G-1 to G-3; C-1 to C-11; C-15 to C-18; C-21; C-23; C-27; C-28; C-31 to C-33; E-1 & E-2). rev. 11/13/01  
Title Date  
\_\_\_\_\_  
Title Date

5. Final Plans and Documents Signed and Stamped by:

Paul C. King P.E. & Robert M. Field P.E.  
Name

6. Total Fee:

exempt  
(from Appendix B: Wetland Fee Transmittal Form)

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**WPA Form 5 – Order of Conditions**  
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## 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 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.



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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 SE49-324 "
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.

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**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.

See attached Special Conditions # 18-54

**Findings as to municipal bylaw or ordinance**

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

- that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

\_\_\_\_\_  
Municipal Ordinance or Bylaw

\_\_\_\_\_  
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.

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

\_\_\_\_\_  
Municipal Ordinance or Bylaw

\_\_\_\_\_  
Citation

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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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

BK 5254 PG 276

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Provided by DEP

#### 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.

November 29, 2001

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:

Richard H. Brown  
Gregg H. Kow  
John P. Murray

On

Day

13<sup>th</sup>

Month and Year

November 2001

before me personally appeared

I have Conservation Commission member

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.

Robert H. Jones

Notary Public

December 15, 2006

My Commission Expires

This Order is issued to the applicant as follows:

by hand delivery on

November 29, 2001

Date

by certified mail, return receipt requested, on

Date



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

DEP File Number:

## WPA Form 5 – Order of Conditions

SE49-324

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

Provided by DEP

### 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.

New Bedford

Conservation Commission

**SPECIAL CONDITIONS**

**DEP File Number SE49-324**

**New Bedford North Freight Rail Facility, map 135 lot 2**

**New Bedford, Mass. 02740**

18. No activity shall occur prior to obtaining all necessary and required permits, licenses, and approvals; and until copies of the same have been furnished to the Conservation Commission.
19. Any design modifications, alterations, amendments, or additions shall be subject to the approval of the New Bedford Conservation Commission. Requests for any changes shall be made in writing and shall be accompanied by a revised plan.
20. No modification to surface features, drainage or topography shall be permitted except as indicated by this Order of Conditions.
21. Contours shall remain unchanged except as permitted by this Order of Conditions.
22. There shall be no construction other than that proposed by the Notice of Intent and included on the submitted plan.
23. Immediately upon completion of the exterior construction and grading, permanent stabilization landscaping shall be carried out in order to minimize erosion.
24. All wet areas not to be altered shall be kept clear of rubbish, debris, and construction material.
25. All exposed soil or subsoil shall be replanted with vegetation such as grass, groundcover or shrubs so as to minimize erosion and siltation.
26. There shall be minimum disruption of existing grades and vegetation in order to minimize erosion.
27. No runoff shall be caused to drain on to adjoining property or on any public ways.
28. All excess material shall be removed from the site.
29. The owners shall notify the Conservation Commission of the work-start date prior to its commencement so that regular inspections may be made.
30. All work performed in accordance with said plans and this Order of Conditions shall be in compliance with the state building and/or plumbing code.
31. The Inspector and/or the Commission members shall have the right to enter upon the land for the purpose of the inspection and/or the taking of pictures to determine and evaluate compliance with this order.

(31)

32. The design engineer will certify, in writing, that this project has been complete in accordance with the above Order of Conditions before the Certificate of Compliance will be issued.
33. All facilities and equipment shall be continually operated and maintained so as to comply with this order of conditions and M.G.L. Ch. 131, S 40, the Wetlands Protection Act.
34. Certain conditions, such as maintenance or monitoring are on-going and are not to expire at the end of three years or with the issuance of a Certificate of Compliance.
35. This order of Conditions shall apply to any successor in interest or successor in control.
36. Any changes required by any other board or authority may require a new filing with the Conservation Commission.
37. At the discretion of the Conservation Commission, the applicant may be required to file with any or all of the following agencies:

**The Department of Environmental Protection  
Army Corps of Engineers  
Coastal Zone Management  
Division of Waterways**

38. The Conservation Commission and/or the City of New Bedford shall not be responsible or liable for the construction, the operation, or the maintenance of any part of this project and does not warrant the safety of the same.
39. Any fill and/or construction materials shall be placed in upland areas.
40. Any mitigation and resource protection devices and measures, e.g. hay bales, siltation fence, etc., are to be installed prior to initiation of any work under this Order of Conditions. The Conservation Agent shall be notified when in place for inspection and verification. No work to be undertaken under the Order of Conditions until written or verbal approval is received from the Conservation Commission or its Agent.
41. In accordance with Condition number thirteen (13), no activity shall take place until the applicant has furnished written documentation that the plans on file with the Conservation Commission are consistent with permits and approvals of other Town Boards.
42. Prior to any construction, an on-site inspection is to be held between the proposed contractor, the engineer, and the Conservation Commission Agent to go over the sequence of construction and all other restrictions and requirements as noted on the Order of Conditions. A written construction schedule to be received at that time.
43. All erosion control barriers shall be constructed of snow fencing, silt fencing and staked hay bales and clearly depicted on the plans, and placement shall be

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inspected both pre and post construction by Agent

44. Any changes in proposed drainage patterns will require written approval by the Conservation Commission.
45. Wetland flagging to remain in place until the project has been completed and Certificate of Compliance issued.
46. Notice of Intent, Order of Conditions and plans shall be retained on the site during construction and made available to all contractors.
47. All conditions are on going and do not expire until the issuance of a Certificate of Compliance.
48. The design engineer will certify, with an asbuilt plan, that this project has been complete in accordance with the above Order of Conditions before the certificate of Compliance will be issued.
49. The Operator of this facility shall be responsible for the submission of an Operation and Maintenance Plan for the entire facility prior to initiation of operations. This Plan shall incorporate the spill containment measures designed by STV and Field Engineering, and approved under this Order, and the maintenance of the Best Management Practices for the stormwater facilities, and any other operating requirements as may be required by other agencies.
50. Weekly construction monitoring reports, detailing the condition of the erosion controls, are to be submitted to the Conservation Commission.
51. The revised wetland replication plan narrative (dated 8/01) and date stamped received 11/13/01 by the Conservation Commission, is included as a part of this Order of Conditions with the following modifications: The monitoring of the wetland replication areas shall continue for 3 years if requested by the Conservation Commission. If at the end of three years, 75% cover of wetland vegetation has not been achieved, the applicant will, at the discretion of the Commission, be required to provide supplemental plantings until such time as a 75% cover of wetland vegetation has been established.
52. Failure to report any modifications to the stormwater management system, spill control methods, or any portion of the work permitted under this Order shall, at the discretion of the Commission, be grounds for revocation of the Order of Conditions.
53. Field changes to any portion of the work permitted under this Order as a result of unforeseen field conditions and/or the means and methods of the contractor shall be submitted to the agent for the Conservation Commission for review. Failure to report any field changes to any portion of the work permitted under this Order shall, at the discretion of the Commission, be grounds for revocation of the Order of Conditions.

54. Prior to the issuance of a Certificate of Compliance, an as-built of the completed work within the 100' Buffer Zone including but not limited to grading, subsurface drainage systems, stormwater outfalls, and limits of disturbance shall be prepared by a registered land surveyor. The as-built plan shall clearly identify any deviations in the work from the approved Order of Conditions documents.