

310 CHR 10.99

DEP File No.

SE20- 623

(To be provided by DEP)

Form 5

Edgartown
Town Clerk's Office

August 2 1996

Rec'd For Record

AT 8 - SA A M

City/Town Edgartown 15-96

Applicant Mass Highway Dept

Commonwealth
of MassachusettsOrder of Conditions
Massachusetts Wetlands Protection Act
G.L. c. 131, §40
and the Edgartown Wetlands Protection Act

From The Edgartown Conservation Commission Issuing Authority

To Bernard McCourt
Mass Highway Dept. DEM
(Name of Applicant) (Name of property owner)

Address 1000 County Street Taunton MA 02780 Address 100 Cambridge St.. Boston MA 02202

This order is issued and delivered as follows:

- ☐ by hand delivery to applicant or representative on _____ (date)
- ☐ by ~~certified~~ mail, ~~return receipt requested~~ on 2 August 1996 (date)

This project is located at Beach Road/Sengekontacket Pond

The property is recorded at the Registry of Dukes County

Book _____ Page _____

certificate (if registered) _____

The Notice of Intent for this project was filed on 31 May 1996 (date)

The public hearing was closed on 18 July 1996 (date)

Findings.

The Commission has reviewed the above-referenced Notice of Intent and plans and has held a public hearing on the project. Based on the information available to the Commission at this time, the Commission has determined that the area on which the proposed work is to be done is significant to the following interests in accordance with the Presumptions of Significance set forth in the regulations for each Area Subject to Protection Under the Act (check as appropriate):

- | | | |
|-----------------------------------------------|-------------------------------------------------------------|---------------------------------------------------------|
| <input type="checkbox"/> Public water supply | <input checked="" type="checkbox"/> Flood Control | <input type="checkbox"/> Land containing shellfish |
| <input type="checkbox"/> Private water supply | <input checked="" type="checkbox"/> Storm damage prevention | <input type="checkbox"/> Fisheries |
| <input type="checkbox"/> Ground water supply | <input checked="" type="checkbox"/> Prevention of pollution | <input type="checkbox"/> Protection of Wildlife Habitat |

Total Filing Fee Submitted Exempt State Share _____ (1/2 fee in excess of \$25)

City/Town Share _____

Total Refund Due \$ _____ City/Town Portion \$ _____ State Portion \$ _____
(1/2 total) (1/2 total)

Therefore, the Commission hereby finds that the following conditions are necessary, in accordance with the 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.

General Conditions

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, by-laws 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 and both that date and the special circumstances warranting the extended time period are set forth 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, containing 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. No work shall be undertaken until all administrative appeal periods from this Order have elapsed or, if such an appeal has been filed, until all proceedings before the Department have been completed.
8. No work shall be undertaken until the Final order 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 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 to be done. The recording information shall be submitted to the Commission on the form at the end of this Order prior to commencement of the 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,
File Number SE20-623"
10. Where the Department of Environmental Protection is requested to make a determination and to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before the Department.

Plans:

Title: Date Signed & Stamped by: On file with:

Project Plan 9 July 1996 Mass. Highway Commission

Special Conditions:

1. This order permits the dredging of Sengekontacket as described in the Notice of Intent and as shown on above captioned plan.
2. All work must comply with the conditions of this order. For any change in approved plans or work, the applicant shall file a new Notice of Intent or inquire, in writing, of the Commission whether the change is substantial enough to require a new filing.
3. It is the responsibility of the applicant, owner, and/or successor(s) to ensure that all conditions of this order are complied with.
4. No work is to be done from March 15th until after Labor Day to avoid interference with anadromous fish run, nesting sites, and recreation.
5. Upon completion of the project, a monitoring and maintenance program will be initiated as outlined in the Memorandum of Agreement. Quarterly reports will be submitted to the Commission for review.
6. This order shall be considered a maintenance order and shall remain in effect for a period of five years from the date of issuance.

Issued By The Edgartown Conservation Commission

signature (s) C. J. O'Connell

Richard S. Ball

Steve Ewing

Robert A. Neal

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

On this 1st day of August 19 96, before me personally appeared Steve Ewing, 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.

L. J. C. ✓

Notary Public

5 June 1998

My commission expires

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the Department of Environmental Protection to issue a Superseding Order, providing the request is made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form as provided in 310 CMR 10.03(7), within ten days from the date of issuance of this determination. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and the applicant.

Detach on dotted line and submit to the Commission prior to commencement of work.

To The Edgartown Conservation Commission Issuing Authority

Please be advised that the Order of Conditions for the project at Beach Rd (Mass H'Way)

File Number SE20- 623 has been recorded at the Registry of Dukes County and

has been noted in the chain of title of the affected property in accordance with General Condition 8 on

_____ 19____.

If recorded land, the instrument number which identifies this transaction is _____

If registered land, the document number which identifies this transaction is _____

Signature _____ Applicant