



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Northeast Regional Office • 205B Lowell Street, Wilmington MA 01887 • 978-694-3200

Charles D. Baker  
Governor

Karyn E. Polito  
Lieutenant Governor

Kathleen A. Theoharides  
Secretary

Martin Suuberg  
Commissioner

September 27, 2021

Ms. Corey Schutzman  
c/o Boston Gas Company  
40 Sylvan Road  
Waltham, MA 02451

RE: WETLANDS/LOWELL  
DEP File #206-0804  
Boston Gas Company easement  
between 32 Reiss Avenue and  
Wilbur Street  
**SUPERSEDING ORDER OF  
CONDITIONS**

Dear Ms. Schutzman:

Following an in-depth review of the file referenced above, and in accordance with Massachusetts General Laws, Chapter 131, Section 40, the Northeast Regional Office of the Massachusetts Department of Environmental Protection, Wetlands Program (MassDEP), is issuing the enclosed Superseding Order of Conditions (SOC) approving the project based upon: 1) information and plans submitted; 2) information gathered during a site inspection; and 3) reasons MassDEP has deemed necessary to protect the statutory interests identified in the Wetlands Protection Act (the "Act") and Regulations, 310 CMR 10.00.

The project site consists of an approximately 2 mile stretch of an existing gas pipeline right-of way in Lowell, Massachusetts, known as the Wilbur Lateral. This right-of-way crosses several local roadways, including near 61 and 63 Wilbur Street for the Wilbur Gas Regulator Station, as well as Interstate 495, the Lowell Connector, and US Route 110. In addition, the gas pipeline right-of-way passes through the Mount Pleasant Golf Club, paved parking areas, and several commercial properties.

Since the proposed project exceeds the Massachusetts Environmental Policy Act (MEPA) review threshold because it required a Section 401 Water Quality Certification and would alter one or more acres of Bordering Vegetated Wetlands (BVW) (310 CMR 11.03(3)(a)(1)(a), you were required to file an Environmental Notification Form (ENF) with the MEPA office. On November 16, 2018, the project received a MEPA Certificate (EEA#15786) from the Secretary of Energy and Environmental Affairs, stating the project required the filing of a Final

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.  
TTY# MassRelay Service 1-800-439-2370  
MassDEP Website: [www.mass.gov/dep](http://www.mass.gov/dep)

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Environmental Impact Report (FEIR). On June 14, 2019, a MEPA Certificate on the FEIR was issued that determined the project may proceed to permitting.

In November 2020, the Boston Gas Company (Boston Gas) filed a Notice of Intent (NOI) for work associated with a portion of the Lowell Area Gas Modernizing Project. The overall project entails the upgrade and replacement of an existing 6-inch and 8-inch diameter natural gas pipeline system with a continuous 12-inch diameter pipeline through Lowell, Chelmsford, and Tewksbury. The 2.4-mile gas pipeline replacement project in Lowell (the "project") will occur within and adjacent to the existing 20-foot-wide Boston Gas pipeline right-of-way, which traverses through private and public properties, upland forested areas, as well as forested and marsh wetlands. Upon completion of the project, the utility right-of-way will be expanded to 30 feet wide. The proposed project will replace the existing gas pipeline under Interstate 495 and the Lowell Connector interchange using Horizontal Directional Drilling (HDD) for approximately 1,000 linear feet. In addition, open cut trenching and placement of construction mats will be used to replace the "Wilbur Lateral" line, which is located adjacent to US Route 3, residential neighborhoods, and commercial properties. The upgrade of the gas pipeline will also cross over Black Brook, River Meadow Brook, and the Middlesex Canal. A receiver will also be installed at the Wilbur Gas Regulation Station. Trench excavation, placement of construction mats and access for heavy equipment requires a contiguous 75-foot-wide temporary construction corridor throughout the 2.4-mile project site, with the exception of a 50-foot-wide temporary construction corridor on paved areas. To create this corridor, all vegetation will need to be cleared to allow for work to proceed. The project was filed as a Limited Project pursuant to 310 CMR 10.53(3)(d) for the construction, reconstruction, operation, and maintenance of underground and overhead public utilities. The project will result in the temporary alteration of 411 linear feet of Bank; 369,327 square feet of BVW (8.48 acres), 5,475 square feet of Land Under Waterbodies and Waterways (LUWW); 210,937 square feet of Bordering Land Subject to Flooding (BLSF), and 9,326 square feet of Riverfront Area associated with Black Brook and River Meadow Brook. There are no permanent wetland alterations proposed.

The NOI states that all temporary wetland impacts will be fully restored in accordance with the *Reforestation Monitoring Plan (RMP)*. This plan includes long term monitoring of all restored wetland areas for up to ten (10) years, an invasive species control plan component, and installation of supplemental plantings if natural succession is unsuccessful after five (5) years. In addition, the RMP calls for habitat replacement to be incorporated through techniques such as snag tree creation and brush piles. Of the 369,327 square feet of temporary BVW alteration, 24,365 square feet will be restored within the new 30-foot-wide right-of-way in two (2) areas; approximately 9,322 square feet of existing BVW located within 20 feet of the new pipeline will be converted to a herbaceous plant community and 15,043 square feet of BVW located within five feet on either side of this 20-foot section will be converted to a scrub-shrub wetland. The 30-foot-wide utility right-of-way will be maintained by Boston Gas as a herbaceous/shrub community in perpetuity through right-of-way management. The remaining 344,952 square feet of temporary BVW alterations from clearing, construction mats and open-cut trenching will be restored to either a forested or herbaceous marsh wetlands through natural succession by relying on existing root and seed stock of herbaceous and woody vegetation. Similarly, the alteration to Bank, LUWW, BLSF and Riverfront will be restored in kind. In some areas the alignment of the

new 30-foot right-of-way will shift slightly away from the existing right-of-way; thereby restoring approximately 4,000 square feet of maintained BVW to a scrub-shrub/forested wetland.

On February 12, 2021, the Lowell Conservation Commission (LCC) issued an OOC denying the project because they did not believe that the proposed RMP coupled with a financial contribution proposed by Boston Gas to the City of Lowell Parks and Conservation Trust for additional tree planting in other parts of the City would sufficiently offset the project's wetland impacts.

On February 26, 2021, your representative filed an appeal on your behalf stating that it was your opinion that the project complies with the Limited Project provision pursuant to 310 CMR 10.53(3)(d)1 through 4. In addition, the appeal states that the LCC did not identify any reason to deny the project under the Act and its Regulations.

On April 6, 2021, MassDEP conducted a site inspection. In attendance were you, your representatives, and a representative from the LCC. At the site visit, MassDEP discussed the project and observed existing site conditions with a focus on where wetland alterations are proposed along the gas pipeline right-of-way, specifically where the HDD construction techniques and construction mats are proposed, as well as the extent of clearing for the temporary construction corridor.

Based upon review of the project site and information contained in the file, MassDEP has determined that the site contains the following Areas Subject to Protection under the Act and Regulations: 1) Bank; 2) BVW; 3) LUWW; 4) BLSF; and 5) Riverfront Area associated with Black Brook and River Meadow Brook. These areas are presumed to protect one or more statutory interests identified in the Regulations and are noted in the attached SOC. Portions of the project site are located with two (2) Zone AEs (base flood elevation ranging from 110 to 111 NAVD88 associated with Black Brook and elevation 104 NAVD88 associated with River Meadow Brook, respectively) as determined by FEMA (National Flood Insurance Program and Flood Insurance Rate Map, Map Number 25017C0251F and 25017C0252F, effective date July 7, 2014).

During its review of the project, MassDEP received several emails from residents of Lowell expressing concerns related to the location and the methodology of installing the new gas pipeline, the impacts it will have on wetland resource areas, the amount of tree clearing proposed coupled with the recolonization of invasive species, and potential impacts to wildlife.

On June 3, 2021, MassDEP issued you a letter requesting clarification of the amounts of temporary alterations proposed in wetland resource areas, revisions to the plans to show and notate where all wetland alterations and restoration areas are proposed, where temporary erosion and sedimentation controls will be located, to clarify the minimum diameter at breast height (DBH) for trees that will remain in the 75-foot-wide corridor, and seed mix specifications for restoration activities. In addition, MassDEP requested that you submit a site-specific restoration and stabilization plan for Bank and LUWW associated with the stream crossings at Black Brook and River Meadow Brook. MassDEP also expressed concerns with Boston Gas' proposal to rely on "natural succession without interference" to restore the areas beyond the new 30-foot right-of-

DEP File #206-0804  
Superseding Order of Conditions

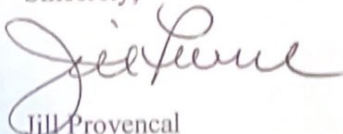
way and the potential for invasive species to re-establish and spread within the first couple years after the project's completion. It is MassDEP's opinion that this method did not meet the Limited Project criteria in 310 CMR 10.53(3) to provide wetland restoration to the maximum extent practicable. Therefore, MassDEP requested that you provide a supplemental wetland planting plan that includes native shrubs and appropriate seed mix in this area.

On July 6, 2021, you submitted a letter and plans that addressed MassDEP's questions and concerns. The revised plans show the amount of all wetland alterations in each location, proposed erosion control, and other best management practices (BMPs) including check dams and catch basin protection. Seed mix specifications for upland and wetland restoration areas was also provided. You also proposed to incorporate a *Reforestation Monitoring Plan- Corrective Plan Invasive Species Control Plan (ISCP)*, which would be implemented upon the removal of the construction matting from forested wetlands while native tree and shrub species are establishing to prevent invasive species from growing. The ISCP proposes a herbicide treatment to target invasive species, followed by a seasonal monitoring schedule for four (4) consecutive growing seasons and re-implementation, as needed, if successful establishment of native trees and shrub species is not achieved. In addition, you submitted a *Wetland Reforestation-Supplemental Shrub Planting Plan* that would be executed, one (1) year after the ISCP was implemented, in targeted locations where native seedlings and stump/root sprout growths do not meet growth targets for one or two growing seasons. These shrub plantings would occur beyond the 30-foot right-of-way up to the 75-foot temporary construction corridor at a density of approximately 100 specimens per 11,250 square feet (or just over ¼ acre) combined with an appropriate seed mix.

Based on review of the revised information and site plans, it is MassDEP's opinion that the project, as currently proposed, meets the Limited Project criteria in 310 CMR 310 CMR 10.53(3)(d). It is MassDEP's position that the enclosed SOC approving this project as proposed and conditioned serves to protect the statutory interests identified in the Act and its Regulations. However, MassDEP reserves the right, should there be further proceedings in this matter, to raise additional issues and present further evidence as may be appropriate. Should you or any concerned party dispute these findings, your attention is directed to the language at the end of attached SOC specifying the rights and procedures for appeal.

If you have any questions concerning this SOC, please contact Pamela Merrill at [pamela.merrill@mass.gov](mailto:pamela.merrill@mass.gov).

Sincerely,



Jill Provencal  
Section Chief  
Wetlands Program- NERO



**Massachusetts Department of Environmental Protection**  
 Bureau of Water Resources – Wetlands Program  
**Superseding Order of Conditions**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File #

206-0804

**A. General Information**

1. From: Northeast Regional Office  
 Massachusetts Department of Environmental Protection (MassDEP/the Department)
  2. This issuance is for (check one):
    - a.  Superseding Order of Conditions
    - b.  Amended Superseding Order of Conditions
  3. To: Applicant
 

<u>Corey</u>	<u>Schutzman</u>	
a. First Name	b. Last Name	
<u>Boston Gas Company</u>		
c. Organization		
<u>40 Sylvan Road</u>		
d. Mailing Address Line 1		
<u>Waltham</u>	<u>MA</u>	<u>02451</u>
e. City/Town	f. State	g. Zip Code
  4. Property Owner (if different from applicant):
 

<u>Various- See attached list</u>		
a. First Name	b. Last Name	
<u></u>		
c. Organization		
<u></u>		
d. Mailing Address Line 1		
<u></u>	<u></u>	<u></u>
e. City/Town	f. State	g. Zip Code
  5. Project Location:
 

<u>Existing Colonial Gas Co. easement and surrounds between 32 Reiss Ave and Wilbur Street</u>	<u>Lowell</u>
	b. City/Town
<u>Various- See attached list</u>	<u></u>
c. Assessors Map/Plat Number	d. Parcel/Lot Number
- Latitude and Longitude, if known:
 

<u></u>	<u></u>
e. Latitude	f. Latitude



**A. General Information (cont'd)**

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

Middlesex North  
 a. County \_\_\_\_\_ b. Certificate (if registered land) \_\_\_\_\_  
 c. Book \_\_\_\_\_ d. Page \_\_\_\_\_

7. Dates: November 18, 2020 February 12, 2021 April 6, 2021  
 a. Date NOI Received b. Date Local Order Issued c. Date of SOC Site Visit

8. Final Approved Plans and Other Documents (attach additional plans or document references):

See Special Condition #20  
 a. Plan Title \_\_\_\_\_  
 b. Prepared By \_\_\_\_\_ c. Signed and Stamped By \_\_\_\_\_  
 d. Final Revision Date \_\_\_\_\_ e. Scale \_\_\_\_\_  
 f. Additional Plan or Document Title \_\_\_\_\_ g. Date \_\_\_\_\_

**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, the Department 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 Department hereby finds the project, as proposed, is (check one):

**Approved** subject to:

- a.  the following conditions which are necessary in accordance with the performance standards set forth in the wetland regulations. The Department 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.



**B. Findings (cont'd)**

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

3.  Buffer Zone Impacts: Shortest distance between limit of project disturbance and wetland boundary (if available) \_\_\_\_\_ a. linear feet

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input checked="" type="checkbox"/> Bank	411 a. linear feet	411 b. linear feet	411 c. linear feet	411 d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	369,327 a. square feet	369,327 b. square feet	369,327 c. square feet	369,327 d. square feet
6. <input checked="" type="checkbox"/> Land Under Waterbodies and Waterways	5,475 a. square feet	5,475 b. square feet	5,475 c. square feet	5,475 d. square feet
7. <input checked="" type="checkbox"/> Bordering Land Subject to Flooding Cubic Feet Flood Storage	e. c/y dredged 210,937 a. square feet	f. c/y dredged 210,937 b. square feet	210,937 c. square feet	210,937 d. square feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding Cubic Feet Flood Storage	e. cubic feet a. square feet	f. cubic feet b. square feet	g. cubic feet	h. cubic feet
9. <input checked="" type="checkbox"/> Riverfront area	c. cubic feet 9,326 a. total sq. feet	d. cubic feet 9,326 b. total sq. feet	e. cubic feet	f. cubic feet
Sq feet within 100 feet	9,326 c. square feet	9,326 d. square feet	9,326 e. square feet	9,326 f. square feet
Sq feet between 100-200 feet	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.  Buffer Zone Impacts: Shortest distance between limit of project disturbance and wetland boundary (if available) \_\_\_\_\_ a. linear feet

11.  Designated Port Areas - Indicate size under Land Under the Ocean, below

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
12. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		

13.  Barrier Beaches - Indicate size under Coastal Beaches and/or Coastal Dunes below.



**B. Findings (cont'd)**

14.  Coastal Beaches  
 a. square feet      b. square feet      c. c/y      d. c/y nourish.
15.  Coastal Dunes  
 a. square feet      b. square feet      c. c/y      d. c/y nourish.
16.  Coastal Banks  
 a. linear feet      b. linear feet
17.  Rocky Intertidal Shores  
 a. square feet      b. square feet
18.  Salt Marshes  
 a. square feet      b. square feet      c. square      d. square feet
19.  Land Under Salt Ponds  
 a. square feet      b. square feet
20.  Land Containing Shellfish  
 c. c/y dredged      d. c/y dredged  
 a. square feet      b. square feet      c. square      d. square feet
21.  Fish Runs - Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above
22.  Land Subject to Coastal Storm Flowage  
 a. c/y dredged      b. c/y dredged  
 a. square feet      b. square feet
23.  Riverfront area  
 a. total sq. feet      b. total sq. feet  
 Sq feet within 100 feet  
 c. square feet      d. square feet      e. square      f. square feet  
 Sq feet between 100-200 feet  
 g. square feet      h. square feet      i. square      j. square feet

**C. General Conditions Under Massachusetts Wetlands Protection Act**

**Brief Project Description of Permitted Activities:**

This SOC permits a portion of the overall Lowell Area Gas Modernizing Project that entails the upgrade and replacement of approximately 2 miles of an existing 6 inch and 8 inch diameter natural gas pipeline system with a continuous 12" diameter pipeline within or adjacent to the existing Boston Gas pipeline right-of-way. The project was filed as a Limited Project pursuant to 310 CMR 10.53(3)(d) and will result in the temporary alteration of 411 linear feet of Bank; 369,327 square feet of BVW (8.48 acres), 5,475 square feet of Land Under Waterbodies and Waterways (LUWW); 210,937 square feet of Bordering Land Subject to Flooding (BLSF) and 9,326 square feet of Riverfront Area associated with Black Brook and River Meadow Brook. All temporary wetland impacts will be restored in kind.



**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

(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. If this Order constitutes an Amended Superseding Order of Conditions, this Amended Superseding Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Superseding Order will expire on \_\_\_\_\_ unless extended in writing by the Department.
7. 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.
8. 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.
9. 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 the Department 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.
10. 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 206-0804 "



**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

11. 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.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Department of Environmental Protection.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Department in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. 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.
16. 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.
17. 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 Department.
18. 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 Department, 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.

**NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS**

19. **The work associated with this Order (the "Project") is (1)  is not (2)  subject to the Massachusetts Stormwater Standards. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:**
  - a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.



**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
  - ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
  - iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
  - iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
  - v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 19(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMPs Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, and acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

- g) The responsible party shall:
  - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
  - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
  - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

**Special Conditions (See attached sheet(s) or below for additional Special Conditions numbered 20 through 76.)**

See the attached document for a list of Special Conditions.

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Massachusetts Department of Environmental Protection  
 Bureau of Water Resources – Wetlands Program  
**Superseding Order of Conditions**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File #

206-0804

**D. Findings Under Municipal Wetlands Bylaw or Ordinance**

To the extent that the Order is based on a municipal bylaw or ordinance, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no jurisdiction to supersede the local by-law order.

**E. Issuance**

This Order is valid for three years from the date of issuance, unless otherwise specified as a special condition pursuant to General Conditions # 4 or # 6.

Issued by: **Massachusetts Department of Environmental Protection:**

Northeast Regional Office  
 MassDEP Regional Office  
  
 Wetland Section Chief Signature  
 Jill Provencal  
 Wetland Section Chief Printed Name

September 27, 2021  
 Date

This Order is issued to the applicant as follows:

by Hand delivery on

by certified mail on:

\_\_\_\_\_  
 Date

September 27, 2021  
 Date



## F. Appeal Rights and Time Limits

The applicant, the landowner, the conservation commission, any person aggrieved by the Superseding Order, Determination or other Reviewable Decision as defined at 310 CMR 10.04, who previously participated in the proceedings leading to this Reviewable Decision, the conservation commission, or any ten (10) residents of the city or town where the land is located if at least one resident was previously a participant in the permit proceeding, are hereby notified of their right to appeal this Reviewable Decision pursuant to M.G.L. c.30A, § 10, provided the request is made by certified mail or hand delivery to the Department, along with the appropriate filing fee and a MassDEP Fee Transmittal Form within ten (10) business days of the date of issuance of this Superseding Order or Determination, and addressed to:

Case Administrator  
Office of Appeals and Dispute Resolution  
Department of Environmental Protection  
One Winter Street, 2<sup>nd</sup> Floor  
Boston, MA 02108

A copy of the request (hereinafter also referred to as Appeal Notice) shall at the same time be sent by certified mail or hand delivery to the Conservation Commission, the applicant, the person that requested the Superseding Order or Determination, and the issuing office of the MassDEP at:

MassDEP – Northeast Region  
Wetlands Program  
205B Lowell Street  
Wilmington, MA 01887

In the event that a ten-resident group requested the Superseding Order or Determination, the Appeal Notice shall be served on the designated representative of the ten resident group, whose name and contact information is included in this Reviewable Decision (when relevant).

### Contents of Appeal Notice

An Appeal Notice shall comply with the Department's Rules for Adjudicatory Proceedings, 310 CMR 1.01(6) and 310 CMR 10.05(7)(j), and shall contain the following information:

- a) the MassDEP Wetlands File Number, name of the applicant, landowner if different from applicant, and address of the project;
- b) the complete name, mailing address, email address, and fax and telephone numbers of the party filing the Appeal Notice; if represented by consultant or counsel, the name, fax and telephone numbers, email address, and mailing address of the representative; if a ten residents group, the same information for the group's designated representative;
- c) if the Appeal Notice is filed by a ten (10) resident group, then a demonstration of participation by at least one resident in the previous proceedings that led to this Reviewable Decision;



## F. Appeal Rights and Time Limits (cont.)

- d) if the Appeal Notice is filed by an aggrieved person, then a demonstration of participation in the previous proceeding that led to this Reviewable Decision and sufficient written facts to demonstrate status as a person aggrieved;
- e) the names, telephone and fax numbers, email addresses, and mailing addresses of all other interested parties, if known;
- f) a clear and concise statement of the alleged errors contained in the Department's decision and how each alleged error is inconsistent with 310 CMR 10.00 and does not contribute to the protection of the interests identified in the Wetlands Protection Act, M.G.L. c.131, § 40, including reference to the statutory or regulatory provisions that the party filing the Appeal Notice alleges has been violated by the Department's Decision, and the relief sought, including any specific desired changes to the Department's decision;
- g) a copy of the Department's Reviewable Decision that is being appealed and a copy of the underlying Conservation Commission decision if the Reviewable Decision affirms the Conservation Commission decision;
- h) a statement that a copy of the request has been sent by certified mail or hand delivery to the applicant and the conservation commission; and
- i) if asserting a matter that is Major and Complex, as defined at 310 CMR 10.04(1), a statement requesting that the Presiding Officer make a designation of Major and Complex, with specific reasons supporting the request.

### Filing Fee and Address

A copy of the Appeal Notice along with a MassDEP Fee Transmittal Form and a valid check or money order payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100) must be mailed to:

Commonwealth of Massachusetts  
Department of Environmental Protection  
Commonwealth Master Lockbox  
P.O. Box 4062  
Boston, Massachusetts 02211

The request will be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver. The filing fee is not required if the appellant is a city or town (or municipal agency), county, district of the Commonwealth of Massachusetts, or a municipal housing authority. The Department may waive the adjudicatory hearing filing fee pursuant to 310 CMR 4.06(2) for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file an affidavit setting forth the facts believed to support the claim of undue financial hardship together with the hearing request as provided above.

## SUPERSEDING ORDER OF CONDITIONS

### SPECIAL CONDITIONS

**Boston Gas Company Easement  
between 32 Reiss Avenue and Wilbur Street  
Lowell, MA  
DEP File No. 206-0804**

20. All work shall conform to the Notice of Intent, plans, reports and special conditions:
  - a. National Grid Environmental Guidance Documents (EG-303NE)
  - b. *Lowell Area Gas Modernization Project Wetland Reforestation Monitoring Plan*, prepared by VHB, dated November 2020
  - c. Correspondence from Corey Schutzman, National Grid to MassDEP, dated July 6, 2021, which included the following documents:
    1. Plan set entitled, "Lowell Area Gas Modernization Project: Attachment B Project Plans- Index Map, Lowell, MA" consisting of 16 Sheets, dated July 2, 2021, prepared by VHB
    2. Plan set entitled, "Lowell Area Gas Modernization Project Erosion Control Plan, Lowell, Chelmsford and Tewksbury, MA," consisting of 22 Sheets, dated December 11, 2018, prepared by VHB
    3. *Restoration Monitoring Plan- Corrective Action Invasive Species Control Plan (ISCP)* (not dated)
    4. *Lowell Area Gas Modernization Project: Wetland Reforestation- Supplement Shrub Planting Plan* (not dated)
    5. *SEC-10 Seeding Options- Upland Seed Mixes*, prepared by National Grid, dated April 17, 2019
    6. *SEC-11 Seeding Options- Wetlands Seed Mix*, prepared by National Grid, dated April 17, 2019
21. This Superseding Order of Conditions (Superseding Order) supersedes all previous Orders issued for the project, DEP File #206-0804. All work shall conform to the plans and documentation referenced above unless otherwise specified in the Superseding Order. In case of a conflict, the conditions of this Superseding Order shall prevail.
22. A copy of this Superseding Order shall be included in all construction contracts and shall supersede any conflicting requirements.

23. A copy of this Superseding Order as well as the plans and reports referenced in Special Condition No. 20 shall be available on site while activities regulated by this Superseding Order are being performed. In addition to the owners, all contractors and subcontractors shall be held responsible for compliance with this Superseding Order.
24. No work shall commence on-site until all appeal periods have elapsed and this Superseding Order has been recorded with the Registry of Deeds and MassDEP has been formally notified via the form provided at the end of this Superseding Order.
25. This Superseding Order shall apply to any successor or assigns in interest or control and any other party engaging in activity on the property identified in the Notice of Intent. The applicant shall notify MassDEP in writing within 30 days of all transfers of title of any portion of property that takes place prior to the issuance of a Certificate of Compliance.
26. Any proposed or executed change in the plans approved under this Superseding Order shall require the applicant to file a new Notice of Intent with the Lowell Conservation Commission (LCC) or to inquire of MassDEP in writing whether the change is substantial enough to require a new filing. A copy shall be sent at the same time to the LCC. Any errors in the plans or information submitted by the applicant shall be considered changes and the above procedures shall be followed.
27. Members and agents of MassDEP and the LCC shall have the right to enter and inspect the premises to evaluate compliance with the conditions contained in this Superseding Order and may require the submittal of any data deemed necessary by MassDEP for that evaluation.
28. The applicant shall retain a wetland scientist who will serve as the project's Environmental Monitor (EM). This person shall be competent in wetland ecology, soil science and have a minimum of five (5) years of experience in stream and Bank restoration, BVW restoration, as well as expertise with stream crossing projects, erosion control and general construction practices. Prior to the pre-construction meeting, the applicant shall provide MassDEP and a copy sent to the LCC, with the name(s), address(es) and telephone number(s) of EM and their alternate including their qualifications and contact information for MassDEP's approval. The EM or their backup shall be available on a 24-hour basis.
29. The EM shall be responsible for overseeing all activities within Bank, BVW, LUWW, BLSF, the Riverfront Area, and the 100-foot Buffer Zone on the project site, including, but not limited to: activities related to the removal of the existing gas pipeline and the installation of the new pipeline; installation of coffer dams (or equivalent to) and stream bypass system; evaluation of the stream channel substrate; dewatering activities; restoration of wetland resource areas; and regular inspections and replacement of erosion and sedimentation controls.

30. The EM shall oversee all activities involving preparation and construction of Bank, BVW, LUWW, BLSF and the Riverfront Area restoration areas, collectively referred to as the "wetland restoration areas." The EM shall be responsible for all aspects of these activities, including but not limited to: ensuring all wetland flagging are maintained prior to and after the temporary alteration of Bank and BVW; excavation of all wetland resource areas; storage of wetland soils and streambed material; identifying appropriate organic soils to be replaced into restored wetland areas; Bank restoration areas; restoration of streambed elevations; final grading of the BVW and BLSF restoration areas; invasive species control; plantings; transportation of soils and plant material; and submitting monitoring reports.
31. The EM shall monitor the site during and/or immediately after precipitation events of 0.5" or greater in a 24-hour period, or immediately after a winter snowmelt. The EM shall have the authority to modify existing erosion and sedimentation controls or require additional controls if he/she deems it necessary. The EM shall have the authority to stop construction for erosion control purposes and shall immediately notify MassDEP and the LCC if any discharges to a wetland resource area occur.
32. Prior to the pre-construction meeting, the applicant shall provide MassDEP with a contact list containing the telephone number, address and email for the project supervisor, site contractor(s) and EM, as well as their back-up contacts.
33. Prior to the pre-construction meeting, the applicant shall submit an overall construction schedule to MassDEP with a copy provided to the LCC. In addition, the applicant shall submit to MassDEP and the LCC a detailed construction schedule for the first phase of the gas line installation. For each phase of construction, the applicant shall submit an updated construction schedule to MassDEP and the LCC. Work shall not commence until MassDEP has received the overall and Phase 1 construction schedules.
34. Prior to the start of work on site, except for the installation of erosion controls, there shall be a pre-construction meeting between the applicant, the project supervisor, the contractor(s) performing the work, the EM, a representative from the LCC and MassDEP to ensure the requirements of the Superseding Order are understood. Arrangements for the meeting shall be with made with MassDEP at least two (2) weeks prior to any activity.
35. This project requires the filing of an EPA Stormwater Notice of Intent to meet the requirements of the National Pollutant Discharge Elimination System (NPDES). Prior to the start of construction, the Stormwater Notice of Intent shall be filed with EPA and a copy of the that application and the SWPPP shall be submitted to MassDEP.
36. Since the project site is approximately two (2) miles long, a DEP File Number sign shall be placed along the utility right-of-way where it crosses a street or parking lot that is located within the 100-foot Buffer Zone or Riverfront Area. The signs shall not be nailed to a living tree and shall be clearly visible.

37. Prior to the start of clearing of any vegetation within the 75-foot-wide temporary construction corridor, the applicant shall identify and clearly tag large trees with a diameter at breast height (DBH) of 16 inches or greater that will be saved. The applicant is aware of at least seven (7) trees that meet this criterion and is also committed to evaluating another eight (8) trees, at a minimum, prior to tree clearing. Grubbing of tree stumps and other vegetation is not permitted under this SOC. All stumps shall remain in place.
38. No more than **369,327 square feet of BVW may be temporarily altered** associated with the clearing activities for the 75-foot-wide construction corridor, placement of construction mats and construction trenching to remove the existing gas pipeline and the install the new 12" pipeline. All temporary BVW alterations will be restored in place as described in the *Lowell Area Gas Modernization Project: Wetland Reforestation Monitoring Plan and Supplement Shrub Planting Plan* referenced in Special Condition No. 20.
39. Of the 369,327 square feet of temporary BVW alteration, 9,322 square feet of existing BVW will be converted to a herbaceous plant community within the 20-foot centered along the new pipeline and 15,043 square feet will be converted to a scrub-shrub wetland within the outer five (5) feet of herbaceous new right-of-way. The 30-foot utility right-of-way will be maintained as herbaceous/shrub community in perpetuity.
40. During the alteration of any BVW, all organic topsoil shall be excavated and segregated from the subsoil to a maximum depth of 12 inches and reused in the restoration and replications areas after sub-grading is complete, thus restoring the original soil horizons. The soils excavated from the existing BVW must be separated from undisturbed wetlands by a silt fence line. The organic soils shall be stockpiled and adequately protected to ensure that they do not dry out.
41. All areas within BVW shall be graded to match the pre-existing site grades.
42. No more than **411 linear feet of Bank associated with Black Brook and River Meadow Brook may be temporarily altered** for activities associated with the removal of the existing gas pipeline and the installation of the new pipeline. Temporarily alterations to Bank shall be restored in place, using a coir logs (or equivalent) that are secured in place and planted with live stakes or tubelings of native species, biodegradable erosion control blanket (if deemed necessary by the EM) and seeded with a Wet mix. The exact sequence and configuration of the Bank restoration, as well as the type and quantity of species to be planted shall be determined by the project's EM with approval of MassDEP prior to installation.
43. No more than **5,475 square feet of LUWW may be temporarily altered** will be allowed under this Superseding Order associated with the two (2) stream crossings at Black Brook and River Meadow Brook. Work within LUWW includes the removal of the existing gas pipeline and the installation of the 12" pipeline along, as well as the with the installation and removal of the removal of the coffer dams (or equivalent to), stream

- bypass and dewatering devices. Temporary alterations to LUWW will be restored in place as shown on the plans referenced in Special Condition No. 20.
44. Work within Black Brook, River Meadow Brook and BVW shall be conducted, to the greatest extent possible, under low flow conditions as determined by the EM.
  45. Prior to any activities related to the utility stream crossing at Black Brook and River Meadow Brook, the applicant shall submit to a written narrative along with a plan MassDEP for review and approval identifying the specific methods for bypassing stream flows and a water control plan. This plan shall also include the location for each bypass and/or flume, pipe type(s) and size(s), as well as the locations and method for filtering dewatered water prior to discharge back to the wetland resource area. The plan(s) shall also include a contingency plan outlining the steps to be taken in the event flows exceed the capacity of the bypass system and overtopping of the cofferdam (or equivalent) is imminent or likely. This contingency plan should include, but not limited to, what measures will be taken to reduce damage(s) to the site and adjacent properties; measures to be taken to reduce the release of sediment downstream; and whether the cofferdam (or equivalent) will be intentionally breached or allowed to overtop.
  46. The bypass system must be operational at all times during the utility stream crossings until the stream flows can be redirected back into Black Brook and River Meadow Brook. The bypass system must be continuously maintained and monitored to ensure it is functioning correctly and adequately fueled (if needed).
  47. Prior to the removal of the existing gas pipeline and installation of the new pipeline, spot elevations shall be taken where the streambed will be temporarily altered within the confines of the coffer dams (or equivalent to) to ensure that LUWW is restored to pre-existing elevations.
  48. During the excavation trenching in Black Brook and River Meadow Brook, the streambed material that will be excavated within the limit of work shall be carefully removed and stockpiled to be reused for streambed restoration activities. This dredged material shall be adequately protected to ensure that it does not dry out.
  49. No more than **210,937 square feet of BLSF associated with Black Brook (Zone AE elevation ranging from 110 to 111 NAVD88) and River Meadow Brook (Zone AE elevation 104 NAVD88) may be temporarily altered** for activities associated with the removal of the existing gas pipeline and the installation of the new pipeline. These temporary alterations to BLSF shall be restored to pre-existing elevations and permanently restored. Filling of BLSF is not allowed under this SOC.
  50. No more than **9,326 square feet of 25-foot Riverfront Area** (associated with Black Brook and River Meadow Brook **may be temporarily altered** for activities associated with the removal of the existing gas pipeline and the installation of the new pipeline.

51. The EM shall submit weekly reports to MassDEP with copies sent to the LCC immediately upon the start of work. These reports shall summarize the site activities within or in close proximity to all wetland resource areas and confirm that all activities are in compliance with the conditions of this Superseding Order, including, but not limited to Special Conditions No. 37 through 50. The reports shall include, but are not limited to, a description of construction status and activities; overall site conditions; the stream bypass; the condition of erosion and sedimentation controls; invasive species control; all wetland restoration activities; and reports of any erosion, sedimentation, or pollution problems and how they were corrected, along with recommendations on how to prevent similar problems in the future. The EM shall immediately report any unauthorized discharges of sediments to MassDEP and the LCC, and the applicant shall take immediate steps to correct the problem.
52. Upon completion of construction, the EM shall submit monthly reports to MassDEP with copies sent to the LCC to indicate whether the site is in compliance with the conditions of this Superseding Order. These monthly reports shall be submitted until such time that erosion is no longer a concern due to seasonal conditions and the applicant submits a written request to MassDEP to temporarily cease monitoring. The monthly monitoring reports shall include, but are not limited to, a description of overall site conditions; the condition of erosion and sedimentation controls; and actions taken to address problems and any other recommendations for site management. The EM shall immediately report any unauthorized discharges of sediments to MassDEP, and the applicant shall take immediate steps to correct the problem.
53. At the start of work, additional erosion control materials shall be available on site (stored under cover) for emergency and routine replacement.
54. Erosion controls shall serve as the limit of work and shall be maintained in good repair until disturbed areas have been fully stabilized with vegetation or other means acceptable to MassDEP. At no time shall sediments be deposited in a wetland resource area.
55. MassDEP shall be immediately notified of any unauthorized discharges of sediments into the wetland resource areas, and the applicant shall take immediate steps to correct the problem. MassDEP reserves the right to require additional erosion controls and/or damage prevention controls that are deemed necessary.
56. Erosion controls shall remain in place until MassDEP approves their removal.
57. Wetland flags shall be maintained at all times and replaced if they are missing until Certificate of Compliance has been issued.
58. To avoid and reduce the inadvertent spread of invasive species, all construction mats must be properly cleaned prior to installation in any wetland resource area.

59. While dewatering activities are occurring, the applicant shall have an additional pump(s) shall be on site, connected to the intake and discharges hose and be ready to be deployed in the event of a significant precipitation event.
60. Discharges from any dewatering activities shall not cause scouring or erosion of BVW or Buffer Zone.
61. All soil stockpiles to be stored longer than 24-hours shall be located outside the 100-year floodplain associated with (Black Brook (Zone AE elevation ranging from 110 to 111 NAVD88) and River Meadow Brook (Zone AE elevation 104 NAVD88) and shall be surrounded by erosion controls.
62. All heavy equipment shall be stored beyond the limits of the delineated wetland resource areas and confined to the upland side of the erosion controls.
63. Following completion of construction activities, all construction mats shall be removed from jurisdictional areas within 30 days. Matting shall be removed by "backing" out of the site, removing mats one at a time.
64. Within three (3) days following construction mat removal, the EM shall inspect the vegetation within the BVW areas that had been disturbed. Any portion of the BVW is unvegetated and/or extensively regraded shall be immediately seeded with a New England Wetland Seed Mix and mulched with straw at the direction of the EM.
65. Immediately upon the removal of the construction mats within forested BVW, the applicant shall implement the *Invasive Species Control Plan (ISCP)* (as referenced in Special Condition 20), for at least four (4) years and re-implemented where invasive growth is inhibiting the successful establishment of native trees and shrub species, as determined by the EM and MassDEP. Any change to the treatment schedule must be submitted in writing to MassDEP for review and approval prior to implementation.
66. Following the completion of the gas pipeline, the applicant shall comply with scheduling and specifications outlined in the *Lowell Area Gas Modernization Project Wetland Reforestation Monitoring Plan*, prepared by VHB, dated November 2020.
67. After one (1) full year of implementing the ISCP (Special Condition 64), the applicant shall implement the *Wetland Reforestation Supplemental Shrub Planting Plan* where warranted based on growth rates of native and non-native species and as determined by the EM. The intent is to provide a competitive advantage to native species through supplemental shrub plantings and herbaceous vegetation. If supplemental planting is needed, the applicant and the EM shall submit a planting plan to MassDEP for review and approval using the suggested species, sizing and densities outlined in Tables 1 through 3 in the *Wetland Reforestation Supplemental Shrub Planting Plan*.
68. If supplement wetland shrub plantings are necessary, planting of the restoration areas shall not take place between November 15<sup>th</sup> and May 1<sup>st</sup>. If seasonal conditions do not

permit planting, it shall be done as soon as weather conditions are appropriate. Any plants that die shall be immediately replaced.

69. The EM shall monitor the wetland restoration areas at the beginning and end of the growing season for each year for at least three (3) consecutive growing seasons after construction mats have been removed and construction trenches have been backfilled. If supplemental wetland shrubs and/or the application of wetland seed mix are needed in the restoration areas, then the season monitoring shall start after this has been done. Written reports shall be submitted annually to MassDEP and copied to the LCC **by October 31<sup>st</sup>** of each successive calendar year. A Certificate of Compliance will not be issued until this condition has been met.
70. Monitoring reports shall include photographic stations for "before" and "after" photographic documentation. All monitoring reports shall clearly and comprehensively describe the site conditions, wetland restoration conditions, including, but not limited to, the presence of appropriate hydrology, stream flow, the stability, health, growth and vigor of the planted species, wildlife habitat, presence of invasive species, and any enhancement activities performed or remedial actions necessary to be undertaken for restoration success to ensure that all wetland areas are functionally restored to their pre-altered conditions. There shall be a minimum of 75% wetland vegetation surface cover. Any plants that die shall be promptly replaced with a similar plant species. All reports shall be sent to:

Pamela Merrill  
MassDEP Wetlands Program  
Northeast Regional Office  
205B Lowell Street  
Wilmington, MA 01887  
or via email to [pamela.merrill@mass.gov](mailto:pamela.merrill@mass.gov)

and shall reference the DEP File No. 206-0804 and shall be copied to the LCC.

71. Excess soils, rock and debris excavated or generated during the course of this project shall be removed from the site and disposed in a legal manner. Records of the destination of all materials, including excess fill and loam, to be removed from the site shall be kept on file and shall be provided to MassDEP and the LCC upon request.
72. At no time during or after construction shall fill or other material be placed, slump into or fall beyond the limit of grading as shown on the plan. The applicant and its EM shall be responsible for inspecting and maintaining all slopes and shall immediately notify the MassDEP and the LCC if slumping, erosion, or encroachment occurs.
73. Storing, servicing, or cleaning of equipment, including but not limited to fueling, changing, adding, or applying lubricants or hydraulic fluids, or washing/rinsing of trucks or equipment, shall be performed outside the 100-year floodplain and the 100-foot Buffer Zone unless prior authorization is obtained from MassDEP.

74. There shall be no discharge or spillage of fuel, oil, or other pollutants, including sediments, onto any part of the site. The applicant shall take all reasonable precautions to prevent the release of pollutants by ignorance, accident, or vandalism.
75. Immediately upon completion of construction, all exposed soils shall be seeded with appropriate vegetation or otherwise stabilized by a method acceptable to MassDEP. Where necessary, loam and seed shall be held in place using jute matting or other biodegradable materials for permanent stabilization against soil erosion. All materials not to remain on the site shall be removed and disposed of in a legal manner.
76. Upon completion of the project, the applicant shall request a Certificate of Compliance (WPA Form 8A) from MassDEP and shall submit the following information with the request:
  - a. A written statement prepared and signed by a professional engineer registered in the Commonwealth of Massachusetts certifying compliance with the approved plans referenced above and this Superseding Order and setting forth deviations if any exist;
  - b. A final report prepared and signed by the EM describing the wetland restoration areas including but not limited to, a list of the surviving plants (with the quantity of each species) and relative health growth and vigor of the plantings, the presence of appropriate hydrology, stream flow, the stability of restored stream Banks, wildlife habitat, presence of invasive species, and any enhancement activities performed or remedial actions necessary to be undertaken for restoration success to ensure that all wetland areas are functionally restored to their pre-altered conditions. This report shall be accompanied by photographs with the date(s) they were taken.