



June 24, 2022

Hand Delivered

John Marc-Aurele, PE  
MassDevelopment  
33 Andrews Parkway  
Devens, MA 01434

**Re: Lovell Road Resurfacing, Bridge Repair and Drainage Improvements Project - Devens, MA  
Unified Permit Approval**

Dear Mr. Marc-Aurele,

At its June 16, 2022 special meeting meeting, the Devens Enterprise Commission approved a Wetland Order of Conditions and a Unified Permit Record of Decision for the above-referenced project. Enclosed is the original signed Unified Permit Record of Decision (ROD) issued by the Devens Enterprise Commission (DEC) and the signed Wetland Order of Conditions and Special Conditions.

Please note, prior to the commencement of work, the Wetland Order of Conditions must be recorded in the Middlesex Registry of Deeds. Once recorded, please ensure you complete page 12 of 12 of the Order (G. Recording Information) and return it to the DEC office. The ROD will also need to be recorded in the Middlesex County Registry prior to the commencement of any work. Please notify the DEC office of the Volume and Page number once the ROD has been recorded. Please also note, there is a 30-day appeal period that expires on July 17, 2022. Commencement of any approved activities within this period is at your own risk. A pre-construction meeting will be required prior to commencement of any site work so please contact our office when you are ready to schedule this meeting.

Please also be sure to provide our office with an updated copy of the Devens Roadway Operations and Maintenance Plan for our records. Thank you for your continued cooperation and feel free to contact me with any questions.

Sincerely,

Peter Lowitt, FAICP

Director/Land Use Administrator

cc: Ayer Town Clerk  
Harvard Town Clerk  
Shirley Town Clerk  
MassDevelopment  
MA DEP



**DEVENS ENTERPRISE COMMISSION**

33 Andrews Parkway • Devens, MA 01434 • Phone: (978) 772-8831 • Fax: (978) 772-1529



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

Provided by MassDEP:  
 352-0047  
 MassDEP File #  
 eDEP Transaction #  
 Devens  
 City/Town

## A. General Information

**Please note:**  
 this form has  
 been modified  
 with added  
 space to  
 accommodate  
 the Registry  
 of Deeds  
 Requirements

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



1. From: Devens Enterprise Commission  
Conservation Commission
2. This issuance is for  
 (check one): a. ☒ Order of Conditions b. ☐ Amended Order of Conditions
3. To: Applicant:
 

<u>John</u>	<u>Marc-Aurele</u>	
a. First Name	b. Last Name	
<u>MassDevelopment</u>		
c. Organization		
<u>33 Andrews Parkway</u>		
d. Mailing Address		
<u>Devens</u>	<u>MA</u>	<u>01434</u>
e. City/Town	f. State	g. Zip Code
4. Property Owner (if different from applicant):
 

<u></u>	<u></u>	
a. First Name	b. Last Name	
<u></u>		
c. Organization		
<u></u>		
d. Mailing Address		
<u></u>	<u></u>	<u></u>
e. City/Town	f. State	g. Zip Code
5. Project Location:
 

<u>Lovell Road/Catacoonamug Brook</u>	<u>Devens</u>	
a. Street Address	b. City/Town	
<u>NA</u>	<u>NA (Road ROW)</u>	
c. Assessors Map/Plat Number	d. Parcel/Lot Number	
Latitude and Longitude, if known:	<u>42d32m28.8s</u>	<u>71d38m14.2s</u>
	d. Latitude	e. Longitude



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## A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):  
 Middlesex  
 a. County  
 26317  
 c. Book  
 b. Certificate Number (if registered land)  
 3  
 d. Page
7. Dates: 4/11/22 6/16/22 6/24/22  
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):  
 MassDevelopment Plan and Profile of Lovell Road (Bridge No. S-13-017)  
 a. Plan Title  
 BSC Group  
 b. Prepared By  
 3/16/22  
 d. Final Revision Date  
 Temporary Bridge Repairs and Drainage Improvements  
 Lovell Road over Catacoonamug Brook  
 Kathryn Egan, PE  
 c. Signed and Stamped by  
 1"= 20'  
 e. Scale  
 April 2022; Revised  
 6/2/22

## B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:
- Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:
- a. ☐ Public Water Supply b. ☐ Land Containing Shellfish c. ☒ Prevention of Pollution  
 d. ☐ Private Water Supply e. ☐ Fisheries f. ☐ Protection of Wildlife Habitat  
 g. ☐ Groundwater Supply h. ☒ Storm Damage Prevention i. ☒ Flood Control
2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

### Approved subject to:

- a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



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**B. Findings (cont.)**

Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. ☒ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 2  
a. linear feet

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. <input checked="" type="checkbox"/> Bordering Land Subject to Flooding	600	600	600	600
	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	0	0	60	60
	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



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## B. Findings (cont.)

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

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	cu yd c. nourishment	cu yd d. nourishment
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	cu yd c. nourishment	cu yd d. nourishment
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		
22. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet





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## B. Findings (cont.)

\* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. ☐ Restoration/Enhancement \*:

a. square feet of BVW

b. square feet of salt marsh

24. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

## C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are 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.
  - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
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. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on June 16, 2025 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.



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

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 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.
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, "MassDEP"]  
 "File Number                      352-0047 "
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 MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
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 Conservation Commission 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.



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

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 Conservation Commission.
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 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.
19. The work associated with this Order (the "Project")
  - (1) ☒ is subject to the Massachusetts Stormwater Standards
  - (2) ☐ is NOT 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.
- 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;





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

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 18(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 BMP 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, 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 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(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.



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**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 (if you need more space for additional conditions, please attach a text document):

**See attached Wetland Order of Conditions – Special Conditions Lovell Road Resurfacing, Bridge Repair and Drainage Improvements Project (MA DEP File #352-0047) dated June 14, 2022**

- 20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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## D. Findings Under Municipal Wetlands Bylaw or Ordinance

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

1. Municipal Ordinance or Bylaw	2. 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.	
  - b. ☒ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:
 

Devens Rule and Regulations: Wetland Protection	974 CMR
1. Municipal Ordinance or Bylaw	4.06
3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.  
 The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

See attached Wetland Order of Conditions – Special Conditions Lovell Road Resurfacing, Bridge Repair and Drainage Improvements Project (MA DEP File #352-0047) dated June 14, 2022



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## E. Signatures

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

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

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

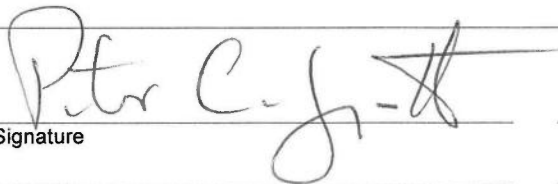
6/24/22

1. Date of Issuance

1

2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.



Signature

Peter Lowitt

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

☒ by hand delivery on


☐ by certified mail, return receipt requested, on

6/24/22

Date

Date

Devens Enterprise Commission, by

s/   
 Peter C. Lowitt

Land Use Administrator/Director

Pursuant to Certificate of Authority

Recorded in Middlesex South Registry of Deeds  
 Book 76756, Page 448



**DAWN M BABCOCK**  
 Notary Public  
 Commonwealth of Massachusetts  
 My Commission Expires  
 March 2, 2029



**Massachusetts Department of Environmental Protection**  
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## **F. Appeals**

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.





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 City/Town

## G. Recording Information

Prior to commencement of work, 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 this page shall be submitted to the Conservation Commission listed below.

Devens Enterprise Commission  
 Conservation Commission

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

To:

Conservation Commission

Please be advised that the Order of Conditions for the Project at:

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for: Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant

**DEVENS ENTERPRISE COMMISSION**  
**Wetland Order of Conditions – Special Conditions**  
**Lovell Road Resurfacing, Bridge Repair and Drainage Improvements Project**  
**(MA DEP File #352-0047)**  
**June 14, 2022**

1. A preconstruction meeting shall be held with the contractor performing the work, including DEC Staff and MassDevelopment Staff.
2. Work associated with this project is confined to that as shown on the plans entitled: "MassDevelopment Plan and Profile of Lovell Road (Bridge No. S-13-017), in the Town of Devens (Shirley), Middlesex County, Federal Aid Project No.- 75% Submittal", dated 6-2-22 (21 pages), prepared by BSC Group. No wetland alterations are permitted as part of this project.
3. Limits of clearing shall be marked in the field and reviewed by DEC staff prior to any vegetation removal or ground disturbance.
4. Areas of rip rap shall be confined to those areas shown on the referenced site plan. Natural stabilization methods (vs. rip rap) shall be employed where feasible.
5. Prior to commencement of construction, the Applicant address the remaining peer review comments in the April 28, 2022 letter from Nitsch Engineering.
6. Prior to commencement of construction, the final plans shall be modified to include the following:
  - a) Enhanced soil media shall be added to the swale detail to address phosphorous removal.
  - b) Limits of disturbance/erosion controls shall be pulled back out of the wetlands.
  - c) Include a note that the portions of existing bituminous swales located within the limit of work shall be removed and properly stabilized/re-vegetated. Final stabilization of exposed areas shall be achieved using a native New England conservation seed mix. Use of Fertilizers and pesticides within 100 feet of the resource area is prohibited.
7. Prior to commencement of construction, the Applicant shall provide details on the timing, sequencing and duration of activities in the flood zone, as well as any de-watering measures that may be required. All work shall be performed within the existing limits of work. Plunge pool and drainage pipe installation shall be performed from the uphill side only.



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands

DEP File Number: \_\_\_\_\_

**Request for Departmental Action Fee Transmittal Form**

Provided by DEP \_\_\_\_\_

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

**A. Request Information**

1. Location of Project

a. Street Address \_\_\_\_\_

b. City/Town, Zip \_\_\_\_\_

c. Check number \_\_\_\_\_

d. Fee amount \_\_\_\_\_

2. Person or party making request (if appropriate, name the citizen group's representative):

Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

City/Town \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

Phone Number \_\_\_\_\_

Fax Number (if applicable) \_\_\_\_\_

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

City/Town \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

Phone Number \_\_\_\_\_

Fax Number (if applicable) \_\_\_\_\_

4. DEP File Number: \_\_\_\_\_

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



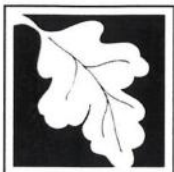
**B. Instructions**

1. When the Departmental action request is for (check one):

☐ Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)

☐ Superseding Determination of Applicability – Fee: \$120

☐ Superseding Order of Resource Area Delineation – Fee: \$120



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**Request for Departmental Action Fee**  
**Transmittal Form**

DEP File Number:

Provided by DEP

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

**B. Instructions (cont.)**

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection  
 Box 4062  
 Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>).
4. 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.

**Record of Decision**  
**Lovell Road Resurfacing, Bridge Repair and Drainage Improvements Project**  
**Lovell Road Right-Of-Way**  
**Devens (Shirley), MA**  
**Unified Permit**  
**June 16, 2022**

**1. Applicant:**

The Applicant and owner is MassDevelopment Finance Agency/Devens Engineering, 33 Andrews Parkway, Devens, MA 01434. Property located within the public Road Right-Of-Way along Lovell Road in Devens (Shirley), MA 01434 (Deed Reference: Bk 26317 pg. 3).

**2. Premises and Proposed Project:**

The Applicant, is seeking a Level 2 Unified Permit application for a Wetland Order of Conditions in order to construct temporary bridge deck surface repairs and stormwater and drainage improvements located along Lovell Road. The bridge carries Lovell Road over the Catacoonamug Brook which drains into the Nashua River. The property is located within an existing road right-of-way, Open Space Recreation District, Village Growth I District, and Aquifer Water Resources Protection Overlay District.

**3. Submission:**

The following is a list of exhibits included as part of the record for this Application:

1. Unified Permit Application - Level 2 Submittal package entitled: "Temporary Bridge Repairs and Drainage Improvements, Lovell Road over Catacoonamug Brook Devens, MA, Notice of Intent Application" including the following:
  - Completed Level 2 Unified Permit Application form (D22-038) dated 4-11-22;
  - April 5, 2022 cover letter from BSC Group;
  - Completed WPA Form 3 – Notice of Intent (MA DEP File # 352-0047)
  - Project narrative
  - Site figures
  - Photographs
  - Stormwater Management Report
  - Site Plans
  - Certified Abutters List;
2. Plans Entitled: "Temporary Bridge Repairs and Drainage Improvements Lovell Road over Catacoonamug Brook, Devens, MA", dated April 2022, prepared by BSC Group;
3. Determination of Completeness Issued April 14, 2022;
4. Public Hearing Notice Memo to Town Clerks of Ayer, Harvard, Shirley, Lancaster and MassDevelopment, from Peter Lowitt, dated April 15, 2022;
5. Public Hearing Legal Notice e-mail to Nashoba Publications, from Peter Lowitt and Dawn Babcock, dated April 15, 2022 – to be published April 15 and May 31, 2022;
6. Copies of Legal notices from April 15 and May 31, 2022 from Nashoba Valley Voice;
7. Public Hearing Notice emailed to Community Service Cable Committee, from Peter Lowitt/Dawn Babcock, dated April 15, 2022;
8. Memo dated April 15, 2022 from Peter Lowitt to Towns of Ayer, Harvard and Shirley Board of Selectman and Planning Board;(notification of Public Hearing on May 31, 2022 at 6:45PM), including return receipts;
9. Memo dated April 15, 2022 from Peter Lowitt to Abutters and Interested Parties, including return receipts;



10. Public Hearing Notice to Secretary of State, from Peter Lowitt, dated April 15, 2022;
11. Staff Report dated 5/27/22 Re: Level 2 Unified Permit – Lovell Road Resurfacing, Bridge Repair and Drainage Improvements, prepared by Neil Angus;
12. Revised Plans Entitled: “Temporary Bridge Repairs and Drainage Improvements Lovell Road over Catacoonamug Brook, Devens, MA”, dated April 2022, prepared by BSC Group;
13. Lovell Road Bridge Pan Circulation Memo, dated 5/14/22;
14. Streamlined Stormwater Management Report, prepared by Kathryn Eagan, BSC Group, dated 4/20/22;
15. BSC-Responses to Determination of Completeness-Lovell Road Bridge 4-14-22;
16. John Marc Aurele 5/27/22 Responses to Nitsch Engineering Peer Review letter dated April 28, 2022;
17. Neil Angus responses to John Marc Aurele’s 5/27/22 Responses to Nitsch Engineering Peer Review letter dated April 28, 2022;
18. Wetland Notice of Intent request for extension of timeline in which to render a decision, dated 4/19/22;
19. Revised Plans entitled: “MassDevelopment Plan and Profile of Lovell Road (Bridge No. S-13-017), in the Town of Devens (Shirley), Middlesex County, Federal Aid Project No.- 75% Submittal”, dated 6-2-22 (21 pages), prepared by BSC Group.
20. Completed MA DEP WPA Form 5 – Draft, dated June 9, 2022;
21. Draft Special Conditions for MA DEP File #352-0047. Dated June 14, 2022;
22. Draft Record of Decision;
23. Mullin Rule Affidavit from Commissioner Debra Rivera for the May 31, 2022 public hearing, dated 6/14/22;
24. Streamlined Stormwater Report Lovell Road Bridge Repairs and Stormwater Improvements, Devens (Shirley), Massachusetts, Revised June 15, 2022 (78 pages);
25. E-mail correspondence as follows:

Date	From	To	Subject
4/12/22	Neil Angus	John Marc-Aurele	RE NOI submittal for Lovell Road
4/11/22	John Marc-Aurele	Neil Angus	RE: NOI submittal for Lovell Road1
4/11/22	John Marc-Aurele	Neil Angus	RE: NOI submittal for Lovell Road2
4/19/22	MA DEP	Diana Walden	eDEP Submittal Confirmation for DEP Transaction ID 1364873
4/21/22	Kathryn Eagan	Neil Angus	RE: Timeline for Lovell Rd NOI checklist1
4/26/22	Neil Angus	Jennifer Johnson	FW: Timeline for Lovell Rd NOI checklist
4/28/22	Paige Simmons	Neil Angus	RE: Timeline for Lovell Rd NOI checklist
4/28/22	Neil Angus	John Marc-Aurele	Lovell Street Bridge NOI
4/19/22	CERO NOI@MassMail.state.ma.us	Diana Walden	MassDEP NOI File Number
4/21/22	Kathryn Eagan	Neil Angus	RE: Timeline for Lovell Rd NOI checklist
4/14/22	Neil Angus	Jennifer Johnson	RE: Lovell Road Bridge Repair NOI
4/14/22	John Marc-Aurele	Peter Lowitt	Lovell Road NOI DOC
4/14/22	Neil Angus	John Marc-Aurele	Lovell Road NOI DOC
4/12/22	Neil Angus	John Marc-Aurele	RE: NOI submittal for Lovell Road
5/27/22	John Marc-Aurele	Neil Angus	RE: Lovell Street Project
5/27/22	John Marc-Aurele	Neil Angus	RE: Lovell Street Bridge NOI
4/11/22	John Marc-Aurele	Neil Angus	RE: NOI submittal for Lovell Road
4/26/22	Neil Angus	Jennifer Johnson	FW: Timeline for Lovell Rd NOI checklist
6/8/22	John Marc-Aurele	Neil Angus	FW: Lovell Street Bridge NOI
6/15/22	John Marc-Aurele	Neil Angus	FW: Lovell Street Bridge NOI

#### 4. Unified Permit Components and Actions:

The Unified Permit request includes a Wetland Order of Conditions in order to construct temporary bridge deck surface repairs and stormwater and drainage improvements located along Lovell Road within an existing road right-of-way, Open Space Recreation District, Village Growth I District, and Aquifer Water Resources Protection Overlay District.

**5. Process:**

BSC Group, on behalf of Devens Engineering, submitted a Level 2 Permit application package, including the application, Wetland Notice of Intent, project description, stormwater report, and plans on April 12, 2022. A Determination of Completeness was issued on April 14, 2022. Copies of the application were received by the surrounding Towns on April 19, 2022. Legal notices were placed in Nashoba Publications on April 29 and May 6, 2022. Certified Mail notice was sent to all abutters on April 15, 2022. The 30-day Town comment period expired on May 15, 2022. No comments were received. The Public Hearing opened on May 31, 2022, was continued to June 9, 2022 and June 16, 2022, and closed on June 16, 2022.

**6. Waivers**

No waivers were requested or granted as part of this Unified Permit Amendment.

**7. Findings**

The DEC made the following findings:

1. The proposed roadway and bridge improvements are required to ensure public safety.
2. The Applicant has incorporated measures to reduce pavement and improve overall water quality in Catacoonamug Brook and the Nashua River as part of this project.
3. Regarding the approval criteria listed in 974 CMR 3.03(2):
  - (a) The Plan complies with 974 CMR 3.00 and with the applicable provisions of the By-Laws.
  - (b) The development lies within a Road Right-Of-Way on a parcel of land that is recorded at the Registry of Deeds;
  - (c) The application is Complete.
  - (d) The road re-design will provide for safe vehicular and pedestrian travel.
  - (e) Access will enable prompt fire, police, and emergency response.
  - (f) Adequate capture, treatment, infiltration and discharge of stormwater and surface water runoff and compliance with applicable portions of the "Devens Stormwater Pollution Prevention Plan", has been included in the design.
  - (g) There are no changes to utility, power and communication systems.
  - (h) Facilities required under the Water Resources Protection Bylaw and the related Design Standards have been included.
  - (i) The plans are in compliance with the Landscaping Design Standards 974 CMR 3.04(8).
  - (j) A Wetlands Order of Conditions has been issued for this project.
  - (k) The Devens Fire Department has reviewed the application.
  - (l) The project is in compliance with the Devens Industrial Performance Standards.
  - (m) No parking is required as part of this project.
  - (n) Traffic control measures, with conditions, are adequate for this project.

- (o) The Applicant is participating in the Devens traffic management association.
- (p) There are no domestic water needs for this project.
- (q) There are no alterations to sanitary sewers as part of this project.
- (r) There are no new buildings as part of this application and therefore no requirement to meet any design standards as established by Mass Development for the district in which the project is located.
- (s) The project will comply with the Devens Soil Management Policy.
- (t) The development has been designed with due consideration for public health.
- (u) Adequate climate change mitigation, adaptation and greenhouse gas emissions mitigation measures have been incorporated in accordance with 974 CMR 4.11.

**8. Conditions:**

The DEC voted to impose the following conditions:

- 1. Wherever "Applicant" is referenced in the Conditions set forth herein, it refers to the Applicant, its successors and assigns. Wherever "DEC" is referenced, it shall refer to the Devens Enterprise Commission, its successors and assigns.
- 2. Once the appeal period has expired, the Applicant shall file the Record of Decision with the Registry of Deeds and proof of recordation shall be submitted to the DEC.
- 3. All applicable federal, state, and local permits necessary for this project must be obtained prior to completion of the project. Copies of permits issued by those other than the DEC must be filed with the DEC.
- 4. Prior to commencement of construction, the Applicant shall prepare a construction management and safety plan that includes project timing, road closure/diversion plans, and any additional information. Such plan shall be coordinated with the Devens Public Safety Officer and Army. All Devens Soil Management Policy and UXO policies and Procedures shall be included.
- 5. This approval is subject to the MA DEP File #352-0047 Wetland Order of Conditions and Special Conditions for the Lovell Road Resurfacing, Bridge Repair and Drainage Improvements Project, dated June 14, 2022.

**9. Decision:**

The DEC closed the hearing on June 16, 2022 and voted to issue findings, including that the application complied with Approval Criteria in 974 CMR 3.03(2), to impose conditions, and to approve the Level 2 Unified Permit application for a Wetland Order of Conditions in order to construct temporary bridge deck surface repairs and stormwater and drainage improvements located within the public Road Right-Of-Way along Lovell Road in Devens (Shirley), MA.

**10. Building Permit**

No building permit is required.

**11. Permit Duration**

In accordance with 974 CMR 1.10, unified permits shall remain in effect so long as the approved activities are commenced within six months of the date of the DEC's written decision and completed within two years. It is further noted that a thirty-day "reconsideration period" during which an applicant, a Town, or an aggrieved person may request the DEC reconsider its action (By-Laws, Article IV, Sections C through F). Work performed during this period, which begins on June 17, 2022 and terminates July 18, 2022, is "at risk".

Date: June 17, 2022

Approved by:

Peter C. Lowitt  
Peter C. Lowitt, AICP, Director  
Devens Enterprise Commission

***Certification***

***Middlesex, SS***

I certify the above is a true action and record of the Devens Enterprise Commission and that Peter C. Lowitt, Devens Land Use Administrator/Director, is empowered by the Devens Enterprise Commission to sign this Record of Decision on its behalf.

June 17, 2022  
Date

Dawn M. Babcock  
Dawn Babcock, Notary  
My Commission expires March 2, 2029