



Office of the
CONSERVATION COMMISSION

Town of Townsend,
272 Main Street
Townsend, Massachusetts 01469
978-597-1700, ext. 1739 978-597-8135 fax
conservation@townsend.ma.us

John Stonefield, Chairman

Eric Johnson, Clerk

Michele Cannon

Karen Chapman, Vice-Chairman

Jennifer Pettit

Linda Mack

Mary Small

April 29, 2009

Joseph E. and Rhonda M. Gallant
28 Adams Road
Townsend, MA 01469

Re: Violation of the Massachusetts Wetlands Protection Act (Ch. 131, s40) and its Rules and Regulations (310 CMR 10.00) and the Townsend General Wetlands Bylaw (Ch.138) and its Rules and Regulations (Ch.150) at 28 Adams Road in Townsend (Assessors Map 27, Parcel 36, Lot 2, Middlesex South Registry of Deeds, Book 23098, Page 090)

Dear Mr. and Mrs. Gallant:

At the regularly scheduled meeting open to the public on Wednesday, April 22, 2009, the Conservation Commission discussed their site visit to your property on Wednesday, April 15, 2009. They appreciate your hiring a wetland scientist in an effort to resolve this matter; however, they are not in agreement with the findings. Consequently, they voted unanimously to issue an Enforcement Order for unauthorized activity beyond the scope of work permitted by your Determination of Applicability (TWB #2008-61). The unauthorized activity included placing fill in the 35' No Disturb Buffer Zone under the Townsend Wetlands Bylaw, the 100' Buffer Zone under the Massachusetts Wetlands Protection Act and possibly within a wetland resource area. As you know, under the Massachusetts Wetlands Protection Act and the Townsend General Wetlands Bylaw, no person shall remove, fill, dredge or alter any Resource Area without filing written notice of his intent to do so, and receiving and complying with a permit from the Conservation Commission

This Enforcement Order requires that you file a Notice of Intent with the Conservation Commission within 30 days of receipt of this letter. The Notice of Intent shall include plans to remove the fill in the wetland resource area and buffer zone, and stabilize and restore the entire area that was disturbed when the trash and fill at the site of the old barn was removed. Furthermore, you must immediately install silt fence and straw bales around the disturbed area in order to prevent any further alteration of the wetland and the buffer zone until the matter is resolved.

If you wish, your Notice of Intent may include the work required for your proposed "Blue Bird Berry Farm". Because so much clearing and other activity has taken place on the property since the wetland delineation was done in the late 1980's, an up-to-date delineation will be necessary to accurately determine the location

of the wetland resource areas on your property. As you know, work within wetland resource areas or the buffer zone requires the filing of a Notice of Intent. Should you wish to restrict the planting of the blueberry bushes to the area that is already lawn to the rear of the property, no filing would be required.

Please note that failure to comply with these requirements will result in fines for the violations observed as well as any violation of the requirement ordered above. According to section 9 of the Townsend General Wetlands Bylaw:

"Any person who violates any provision of this Bylaw shall be punished by a fine of not more than six hundred dollars. Each day or portion thereof of continuing violation shall constitute a separate offense; and each provision of the bylaw regulations, or permit violated shall constitute a separate offense."

The Massachusetts Wetlands Protection Act provides that:

"No person shall remove, fill, dredge or alter any area subject to protection under this section without the required authorization, or cause, suffer or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with an enforcement order issued pursuant to this section. Each day such violation continues shall constitute a separate offense except that any person who fails to remove unauthorized fill or otherwise fails to restore illegally altered land to its original condition after giving written notification of said violation to the conservation commission and the department shall not be subject to additional penalties unless said person thereafter fails to comply with an enforcement order or order of conditions. Whoever violates any provision of this section, (a) shall be punished by a fine of not more than twenty-five thousand dollars or by imprisonment for not more than two years, or both such fine and imprisonment; or (b), shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each violation."

Please do not hesitate to call the office if you have any questions. We look forward to continuing to work with you to resolve this matter.

Sincerely,



Leslie W. Gabriliska
Acting Conservation Agent
978-597-1700, ext. 1739

CC: Karen Chapman, Townsend Land Use Coordinator
Richard Hanks, Building Commissioner
Susan Funaiolo, Town Clerk
Greg Barnes, Town Administrator
Townsend Board of Selectmen



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number: _____

WPA Form 9 – Enforcement Order

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

And Town of Townsend General Wetlands Bylaw

A. Violation Information

Important:

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



This Enforcement Order is issued by:

Townsend

Conservation Commission (Issuing Authority)

4/28/09

Date

To:

Joseph E. and Rhonda M. Gallant

Name of Violator

28 Adams Road

Address

1. Location of Violation:

Property Owner (if different)

28 Adams Road

Street Address

Townsend

City/Town

Map 27

Assessors Map/Plat Number

01469

Zip Code

36-2

Parcel/Lot Number

2. Extent and Type of Activity (if more space is required, please attach a separate sheet):

Determination of Applicability (Negative #3) stipulated that "No additional soil may be removed from the site (where a former barn stood) beyond what is required to return the topography to its original elevations" The Zoning Board permit stipulated that the soil be removed from the site. However, the property owners spread the fill down gradient of the site. Instead of returning the site of the old barn to its original topography, they added 2 - 3 feet to the elevation below the barn site, which is in the buffer zone and possibly a wetland resource area. Violation consists of unauthorized placement of fill in the buffer zone and likely Bordering Vegetated Wetland.

B. Findings

The Issuing Authority has determined that the activity described above is in a resource area and/or buffer zone and is in violation of the Wetlands Protection Act (M.G.L. c. 131, § 40) and its Regulations (310 CMR 10.00), because:



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number: _____

WPA Form 9 – Enforcement Order

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

☐ the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone without approval from the issuing authority (i.e., a valid Order of Conditions or Negative Determination).

B. Findings (cont.)

☒ the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone in violation of an issuing authority approval (i.e., valid Order of Conditions or Negative Determination of Applicability) issued to:

Joseph E. and Rhonda M. Gallant

Name

7/29/08

Dated

TWB #2008-61 (Determination of Applicability)

File Number

See "Other" below

Condition number(s)

☐ The Order of Conditions expired on (date):

Date

☐ The activity violates provisions of the Certificate of Compliance.

☐ The activity is outside the areas subject to protection under MGL c.131 s.40 and the buffer zone, but has altered an area subject to MGL c.131 s.40.

☒ Other (specify):

Determination of Applicability Negative #3: No additional soil may be removed from the site beyond what is required to return the topography to its original elevations. Violation consists of 1. unauthorized placement of fill in the buffer zone, 2. unauthorized placement of fill in a possible Bordering Vegetated Wetland. 3. unauthorized activity in a buffer zone or Resource Area beyond the scope of the Determination of Applicability.

C. Order

The issuing authority hereby orders the following (check all that apply):

- ☒ The property owner, his agents, permittees, and all others shall immediately cease and desist from any activity affecting the Buffer Zone and/or resource areas.
- ☒ Resource area alterations resulting from said activity shall be corrected and the resource areas returned to their original condition.
- ☒ A restoration plan shall be filed with the issuing authority on or before

June 1, 2009

Date

for the following:



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number: _____

WPA Form 9 – Enforcement Order

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

The restoration shall be completed in accordance with the conditions and timetable established by the issuing authority.

C. Order (cont.)

- ☒ Complete the attached Notice of Intent (NOI). The NOI shall be filed with the Issuing Authority on or before:

June 1, 2009

Date

for the following:

The Notice of Intent shall include plans to remove the fill in the wetland resource area and buffer zone that was spread down gradient of the site of the former barn, and stabilize and restore the entire disturbed area. The NOI may include the work required for the proposed "Blue Bird Berry Farm", to include a current wetland delineation in order to accurately determine the wetland resource areas.

No further work shall be performed until a public hearing has been held and an Order of Conditions has been issued to regulate said work.

- ☒ The property owner shall take the following action (e.g., erosion/sedimentation controls) to prevent further violations of the Act:

install silt fence and straw bales at the toe of the slope to prevent erosion of fill in buffer zone/wetland resource areas

Failure to comply with this Order may constitute grounds for additional legal action. Massachusetts General Laws Chapter 131, Section 40 provides: "Whoever violates any provision of this section (a) shall be punished by a fine of not more than twenty-five thousand dollars or by imprisonment for not more than two years, or both, such fine and imprisonment; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each violation". Each day or portion thereof of continuing violation shall constitute a separate offense.

D. Appeals/Signatures

An Enforcement Order issued by a Conservation Commission cannot be appealed to the Department of Environmental Protection, but may be filed in Superior Court.

Questions regarding this Enforcement Order should be directed to:

Leslie W. Gabriliska, Acting Conservation Agent

Name

978-597-1700, ext.1739

Phone Number

Monday - Friday, 9 am - 1 pm

Hours/Days Available

Issued by:

Townsend

Conservation Commission



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 9 – Enforcement Order

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

DEP File Number: _____

Conservation Commission signatures required on following page.

D. Appeals/Signatures (cont.)

In a situation regarding immediate action, an Enforcement Order may be signed by a single member or agent of the Commission and ratified by majority of the members at the next scheduled meeting of the Commission.

Signatures:

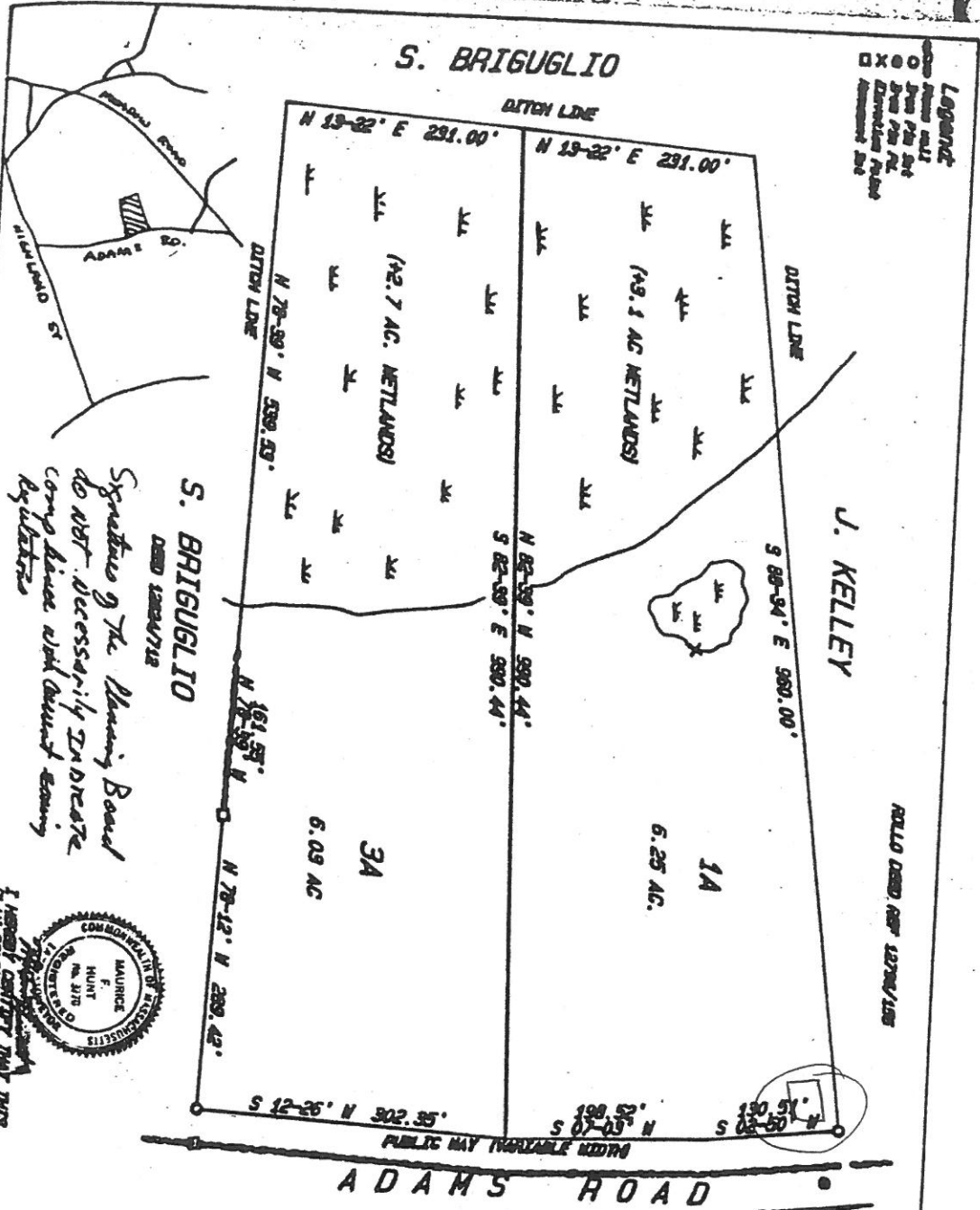
Paul W. Gribble, Acting Conservation Officer

7005 0390 0000 6248-1476

Signature of delivery person or certified mail number

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S. BRIGUGLIO



ROLL DED. MAP 12780/108

J. KELLEY

S. BRIGUGLIO

Signature of the Planning Board
 do not necessarily indicate
 compliance with current zoning
 regulations



ADAMS ROAD

PLANNING BOARD

APPROVE UNDER THE SUBDIVISION
 CONTROL LAW NOT REQUIRED

Approved 3/19/85
By: [Signature]
Attest: [Signature]

FEL 10 - U.L.R.
 Middlesex Region of Dist.
 Southern District
 Cambridge Massachusetts
 Plan No. 329 of 1987
 Rec'd 3-12 1987
 ALL JAMES A. MCDONALD 418
 306 D. C. 02933 Pg. 567
 3/18/87

1 INCH = 100 FEET

PLAT

BRIAN ROLLO
 5 TOWNSEND TERR.
 TOWNSEND MASS.
 IN

TOWNSEND MA

NORTH AND ENGINEERS

SUPERVISED BY: M.F. HART
 C.E. HENRIKSEN BY: V.L. SMITH
 SCALE 1" = 100' DATE MAY 24, 1988
 PLAN/25 DRAWING NO. 8-3141

329

ORDER OF CONDITIONS (PERMIT)
GENERAL WETLANDS BY-LAW
TOWN OF TOWNSEND

BYLAW FILE: 308-189

PROJECT LOCATION: Lot 3A Adams Road

TO: Brian Rollo
9 Turnpike Terrace
Townsend, MA 01469

RE: Notice of Intent dated: 7/31/89

Plans Dated;

Date of Receipt by Conservation Commission: 8/2/89

Date of Public Hearing: Closed 11/10/90

Deed Reference: Book: 17933 Page: 567

Certified Mail # :

Pursuant to the authority of the General Wetlands By-Law, Town of Townsend, the Townsend Conservation Commission has considered your Notice of Intent and plans submitted therewith, and has determined that the area on which the proposed work is to be done is significant to one or more of the interests protected by this law. The Townsend Conservation Commission hereby orders that the following conditions are necessary and all work must be performed in strict accordance with said conditions and with the Notice of Intent plans, unless modified by said conditions:

CONDITIONS:

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. This Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, by-laws, and/or regulations.
4. The work authorized hereunder shall be completed within ^{three years} ~~one (1) year~~ from the date of this Order unless otherwise stated below. This Order may be extended by the issuing authority for one or more additional one year periods, or portions thereof, upon application to the said issuing authority at least thirty days prior to the ~~expiration date of the Order~~ or its extension.
5. Any fill used in connection with this project shall be clean fill, containing no trash, refuse, rubbish or debris, including, without limiting the generality of the foregoing, lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles or parts of any of the aforementioned.
6. No work may be commenced until all appeal periods have elapsed from the Order of the Conservation Commission.
7. No Work shall be undertaken until the final Order, with respect to the proposed project, has been recorded in the Registry of Deeds for the district in which the land is located within the chain of title of the affected property. Copy to be furnished to issuer of this Order showing book and page prior to commencement of work.

8. Upon completion of the work described herein, the applicant shall forthwith request, in writing, that a Certificate of Compliance be issued for all applicable work, stating the work has been satisfactorily completed.

9. The work shall conform to the following described plans and additional conditions:

See attached conditions/terms of denial

10. This Order of Conditions shall apply to any successor in interest or successor in control.

11. Members and agents of the Conservation Commission shall have the right to enter and inspect the premises to evaluate compliance with this Order of Conditions and to require the submittal of any data deemed necessary by the Conservation Commission for that evaluation.

12. All drainage facilities and related structures and equipment shall be continually operated and maintained so as to comply with this Order of Conditions. The operation and maintenance of these facilities and structures shall be on-going and will not expire at the end of one year or with the issuance of the Certificate of Compliance.

13. Any change made, or intended to be made, in the plans shall require the applicant to file a new Notice of Intent, or to inquire of the Commission, in writing, whether the change is substantial enough to require a new filing. An amendment to the Order of Conditions can be made after a filing of a new Notice of Intent showing the changes is filed with the Commission, and a Public Hearing is held, if the Conservation Commission so feels it would serve the purpose of the By-Law.

14. The Conservation Commission shall have the right to file this Order of Conditions in the Registry of Deeds should the applicant fail to do so within 60 days, all fees to be forwarded and paid by the applicant named in the Order.

15. Accepted engineering and construction standards and procedures shall be followed in the completion of this project.

16. Temporary erosion control measures may be required if the Conservation Commission deems it necessary.

17. The Petitioner is advised that this Order in no way absolves him of responsibility to other property owners upon whose land he discharges water either directly or indirectly.

ORDER OF CONDITIONS

GENERAL WETLANDS BY-LAW

FORM D

The applicant, any person aggrieved by this Order, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to appeal this Order. An appeal pursuant to the General Wetlands By-Law shall be according to the provisions of the Massachusetts General Laws.

Issued by the Townsend Conservation Commission

1/24/90

Date of Issuance

Vin Davulis
Issuing Authority

Alie Baker

Luella

Don Morrison

On this day of JANUARY 30, 19 90, before me personally appeared VIN DAVULIS to me known to be one of the Townsend Conservation Commission members described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

Marjorie J. Kumpu
Notary Public

Marjorie J. Kumpu
My Commission Expires July 16, 1993

My Commission Expires

310 CMR 10.99

Form 5



Commonwealth
of Massachusetts

DEP File No.

308-189

(To be provided by DEP)

City/Town

Townsend

Applicant

Brian Rollo

SUPERSEDING

Order of Conditions

Massachusetts Wetlands Protection Act

G.L. c. 131, §40

From Department of Environmental Protection

Brain Rollo

Brian Rollo

To
(Name of Applicant)

(Name of property owner)

Address 427 Hurricane Hill Rd.
Mason, NH 03048

Address 427 Hurricane Hill Rd.
Mason, NH 03048

This Order is issued and delivered as follows:

☐ by hand delivery to applicant or representative on _____ (date)

☒ by certified mail, return receipt requested on 10-9-90 (date)

This project is located at Lot 3A, Adams Road

The property is recorded at the Registry of Middlesex South

Book 17933 Page 567

Certificate (if registered) n/a

The Notice of Intent for this project was filed on 8/2/89 (date)

The public hearing was closed on 4/11/90 (date)

Findings

The Department has reviewed the above-referenced Notice of Intent and plans and has held a public hearing on the project. Based on the information available to the Department at this time, the Department has determined that

the area on which the proposed work is to be done is significant to the following interests in accordance with the Presumptions of Significance set forth in the regulations for each Area Subject to Protection Under the Act (check as appropriate):

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

Total Filing Fee Submitted n/a

State Share

City/Town Share

(1/2 fee in excess of \$25)

Total Refund Due \$

City/Town Portion \$

State Portion \$

(1/2 total)

(1/2 total)

Effective 11/10/89

5-1

Marginal Reference: Instrument # 194 of May 26, 1992

MSD 06/05/92 12:18:14 356 14.00

open

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see
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CH-15

Smith

gallantr@aol.com
CAR/SHADUCK 2014

Therefore, the Department hereby finds that the following conditions are necessary, in accordance with the Performance Standards set forth in the regulations, to protect those interests checked above. The Department orders that all work shall be performed in accordance with said conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications or other proposals submitted with the Notice of Intent, the conditions shall control.

General Conditions

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. This Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state or local statutes, ordinances, by-laws or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - (a) the work is a maintenance dredging project as provided for in the Act; or
 - (b) the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance and both that date and the special circumstances warranting the extended time period are set forth in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill, containing no trash, refuse, rubbish or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles or parts of any of the foregoing.
7. No work shall be undertaken until all administrative appeal periods from this Order have elapsed or, if such an appeal has been filed, until all proceedings before the Department have been completed.
8. No work shall be undertaken until the Final Order has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is to be done. The recording information shall be submitted to the Department on the form at the end of this Order prior to commencement of the work.
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words, "Massachusetts Department of Environmental Protection,
File Number 308-189
10. Where the Department of Environmental Protection is requested to make a determination and to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before the Department.
11. Upon completion of the work described herein, the applicant shall forthwith request in writing that a Certificate of Compliance be issued stating that the work has been satisfactorily completed.
12. The work shall conform to the following plans and special conditions:

Plans

Title

Dated

Signed and Stamped by

On File with

SEE PAGE 4

Special Conditions (use additional paper if necessary)

SEE PAGES 4 THROUGH 7

(Leave Space Blank)

Wetlands/Townsend
 DEP File # 308-189
 Superseding Order of Conditions
 Page 4 of 8

12. Plans: On file with DEP and the Townsend Conservation Commission.

<u>Title</u>	<u>Date</u>	<u>Signed and Stamped</u>
Notice of Intent Plan Lot 3A, Adams Rd. Townsend, MA scale 1"=30'	12/27/89 revised 4/7/90 4/9/90 9/10/90 9/14/90	Timothy Beauchemin, P.E. of Beauchemin Eng., Inc. P.O. Box 1067 Townsend, MA 01469
AND		
Subsurface Sewage Disposal System scale 1"=20'	4/5/90 revised 5/2/90	

Prepared for:
 Brian Rollo
 427 Hurricane Hill Rd.
 Mason, NH 03048

SPECIAL CONDITIONS

13. This Superseding Order regulates activities proposed in the Notice of Intent within the Buffer Zone and Areas Subject to Protection Under MGL 131 S. 40. "Activity", "Buffer Zone", and "Areas Subject to Protection" shall be as defined under 310 CMR 10.04 (Definitions) of the Wetlands Protection Act Regulations. Any changes, additions and/or omissions in the plans identified in Condition # 12 above, unless specified otherwise in this Order, or any changes in activity herein regulated by this Order under M.G.L. Chapter 131, Section 40 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. Only those changes which have no potential adverse impact to the interests of the Act and those which reduce direct alteration to resource areas will be considered.

A copy of a request for a change shall at the same time be sent to the Conservation Commission for their review and comment. No change shall be undertaken until approval is given in writing by the Department.

14. No work permitted by this Order shall begin unless and until the applicant receives a valid subsurface sewage disposal system permit from the Townsend Board of Health.

Wetlands/Townsend
DEP File # 308-189
Superseding Order of Conditions
Page 5 of 8

15. Prior to the commencement of construction on the site, adequate erosion and sedimentation control measures shall be implemented and maintained in effect throughout the entire construction phase, and until the site has become stabilized with an adequate vegetative cover. Hay bale erosion control barriers shall be doubly staked, having their ends butted one against another without leaving appreciable space for sediment to travel through the barrier.
16. The wetland resource areas depicted on the plan shall be visibly staked every 20 feet. There shall be no crossing the wetland resource areas with equipment or vehicles, except at the location of the proposed driveway crossing.
17. The applicant shall notify the Department and the Conservation Commission, in writing, 48 hours before any activity regulated by this Superseding Order commences on the project site.
18. The contractor employed to execute filling and/or grading activities within resource areas or the Buffer Zone must be provided a copy of this Order and thereafter said contractor will be held jointly responsible for any violation and the penalties under law for such violation.
19. Hay bales or silt fence shall be properly installed on both sides of the driveway crossing through the wetland resource area at the toe of slope created by the crossing. The hay bale barrier shall serve as a work limit line for this project. Under no circumstances is any work allowed to take place on the resource area side of any of the hay bale barriers.
20. The areas of construction shall remain in a stable condition at the close of each construction day. Erosion controls should be monitored at this time, and maintained or reinforced if necessary.
21. Members and agents of the Conservation Commission and the Department shall have the right to enter and inspect the premises at reasonable hours to evaluate compliance with the conditions stated in this Superseding Order, and may require the submittal of any data deemed necessary by this Department for that evaluation.
22. All work within the wetland resource areas shall occur during periods of low groundwater elevation.

Wetlands/Townsend

DEP File # 308-189

Superseding Order of Conditions

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23. All fill brought onto the site shall be spread and graded the same day. No stockpiling of fill brought in from off the site shall be allowed under this Superseding Order. Only topsoil cleared from this construction area shall be allowed to be stockpiled at this site and shall occur at the location designated on the plan as "Soil stockpile area".
24. In addition to the sedimentation controls depicted on the above-referenced plan, a row of staked hay bales shall surround the soil stockpile area to prevent sedimentation of the wetland resource areas.
25. A wetland replication monitoring report for the compensatory Bordering Vegetated Wetland, prepared by the wetlands specialist shall be submitted annually to the Department. Each report shall include an observed plant species list, relative abundance of each species, per cent cover of wetland and upland species, the viability of the plantings, and proposed remedial measures to ensure replacement of the Bordering Vegetated Wetland within two growing seasons. If monitoring data indicates that this objective can not be met a corrective plan of action shall be submitted to the Department for approval, and implemented under the supervision of a wetlands specialist.
26. This Superseding Order shall apply to any successor in control or successor in interest of the property described in the Notice of Intent and accompanying plans.
27. Upon completion of all work regulated by this Superseding Order under M.G.L. Chapter 131, Section 40, the applicant shall submit with their request for a Certificate of Compliance, a statement in writing signed and stamped by a professional engineer or land surveyor, registered in the Commonwealth of Massachusetts, certifying that the site has been developed in accordance with the conditions of this Superseding Order and the site plan referenced within.
28. A copy of the plan referenced in condition # 12 shall be recorded with this Superseding Order of Conditions in accordance with General Condition # 8. In addition, the following statement shall be recorded on the Deed for this property:

"A portion of this lot is subject to the Massachusetts Wetlands Protection Act, MGL, Ch. 131 S. 40 and the regulations promulgated thereto, 310 CMR 10.00. Any activity within 100 feet of the wetland resource areas shall require the property owner to notify the Townsend Conservation Commission or the Department of Environmental Protection to determine if the activity will require a Notice of Intent."

Wetlands/Townsend
DEP File # 308-189
Superseding Order of Conditions
Page 7 of 8

29. Certain conditions are ongoing and do not expire upon the completion of the project or the issuance of a Certificate of Compliance. These conditions are:

- a. The property owner shall be responsible for the cleaning and maintenance of the proposed 18 inch culvert to insure proper function.
- b. Any use of fertilizers, herbicides, or pesticides at this site shall be used in accordance with all local, state, and federal regulations. Furthermore, the use of these materials shall be restricted to occur beyond 10 feet of the wetland boundary.
- c. The use of de-icing chemicals shall be minimized. Salt or salt-based deicing chemicals shall be avoided.

30. This Order of Conditions supersedes all previous Orders of Conditions issued for the project file number 308-189.

END OF CONDITIONS

Issued by the Department of Environmental Protection

Signature

On this 9th day of October, 1990, before me
personally appeared James P. Rubin to me known to be the person
described in and who executed the foregoing instrument and acknowledged that he/she executed the same
as his/her free act and deed.

Notary Public

My commission expires

The applicant, the person approved by the Superseding Order, any owner of land abutting the land upon which the proposed work is to be done, or any other persons pursuant to G.L.c. 26A §10A, are hereby notified of their right to request an adjudicatory hearing pursuant to G.L.c. 26A §10; providing the request is made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form as provided in 310 CMR 17.00(7), within ten days from the date of issuance of this Superseding Order, and is addressed to: Document Control, Office of General Counsel, Department of Environmental Protection, One Winter Street, Boston, MA 02108. A copy of the request shall at the same time be sent by certified mail or hand delivery to the conservation commission, the applicant, and any other party.

A Notice of Claim for an Adjudicatory Hearing shall comply with the Department's Rules for Adjudicatory Proceedings, 310 CMR 1.01(6), and shall contain the following information:

- (a) the DEP Wetlands File Number, name of the applicant and address of the project;
- (b) the complete name, address and telephone number of the party filing the request, and, if represented by counsel, the name and address of the attorney;
- (c) the names and addresses of all other parties, if known;
- (d) a clear and concise statement of (1) the facts which are grounds for the proceeding; (2) the objections to this Superseding Order, including specifically the manner in which it is alleged to be inconsistent with the Department's Wetlands Regulations (310 CMR 10.00) and does not constitute to the protection of the interests identified in the Act; and (3) the relief sought through the adjudicatory hearing, including specifically the changes desired in the Superseding Order;
- (e) a statement that a copy of the request has been sent to the applicant, the conservation commission and each other party or representative of such party, if known.

Failure to submit all necessary information may result in a dismissal by the Department of the Notice of Claim for an Adjudicatory Hearing.

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

To Department of Environmental Protection Issuing Authority

Please be advised that the Order of Conditions for the project at Lot 3A, Adams Rd.

File Number 308-189 has been recorded at the Registry of _____ and

has been noted in the chain of title of the affected property in accordance with General Condition 8 on _____, 19____

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

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

Signature _____ Applicant