



June 9, 2022

Charlemont Conservation Commission
Charlemont Town Hall
157 Main Street
Charlemont, MA 01339

Re: Request for Order of Conditions Amendment
Rice Brook Habitat Improvements Project
Massachusetts Department of Environmental Protection (MassDEP) File Number 127-0061

Dear Commissioner Harker, Commissioners and Ms. Atkeson:

On behalf of the Deerfield River Watershed Chapter of Trout Unlimited, we are writing to respectfully request an amendment to existing Order of Conditions (OOC) for the above noted project. Specifically, DRWTU has been coordinating with an abutting landowner and proposes to shift a portion of the previously approved ecological restoration work to an immediately adjacent property. The landowner of 55 Potters Road has agreed that a subset of the previously described habitat enhancement work be completed on his parcel (Charlemont Assessor's Map 53, Block 7, Parcel 58). Please see the accompanying figures for location of the previously approved and currently proposed work areas.

An OOC was initially issued by the Charlemont Conservation Commission and subsequently recorded on September 27, 2021 for habitat enhancement work across three existing parcels containing Rice Brook. The Project, as previously proposed, includes enhancements to approximately one and a half (1.5) miles of in-stream habitat in Rice Brook, through the addition of felled trees. Trees will be added to the brook from surrounding uplands to reach a target rate of approximately 150-200 pieces of large wood per stream mile. This project will help reconnect the river floodplain and restore the hydrologic and habitat connectivity within the existing forested watershed. Additional detail regarding the authorized work scope and associated conditions are available in the Project's OOC (attached for reference) and its accompanying Ecological Restoration Notice of Intent submittal (September 2021).

MassDEP issued guidance in its Wetlands Program Policy 85-4 regarding amending an existing Order of Conditions. Consistent with recommendations presented in MassDEP Policy 85-4, the changes currently proposed by DRWTU are relatively minor and will have no net impact on the interests protected by the Act. Additional detail, as well as representative site photos, are provided below.

Project Background

Rice Brook provides coldwater brook trout habitat within a previously altered forested landscape. The goal of this Project is to improve coldwater habitat, groundwater exchange, and sediment transport, while improving flood resilience for downstream communities. The addition of coarse woody debris (CWD) will allow for natural pool formation, temporary debris and floodwater retention and provision of coldwater refugia for native eastern brook trout (*Salvelinus fontinalis*), and other species – an important function as warming water trends continue statewide. Brook trout and other coldwater species will continue to rely on the groundwater spring-fed Rice Brook for thermal refuge.

Impacts to wetlands, other resource areas and associated buffers onsite will be limited to the footprint of the felled trees themselves. Trees to be cut range in size from approximately 8 to 18 inches or more

diameter at breast height (dbh) and would be selected based on: tree type (hardwoods preferred over softwoods); proximity to the brook; tree species; and, existing habitat value (existing snag trees and those with other unique habitat provision features [i.e. shagbark hickory] would typically be avoided. Work activities would be completed by hand using standard forestry equipment (chainsaws, grip-hoists, winches), no heavy equipment use is proposed.

The Project will require work within jurisdictional resource areas under the WPA: specifically, work will be required in the 200-foot Riverfront Area (measured from the mean annual high water mark of a perennial stream [Rice Brook]), in Land Under Water Bodies or Waterways (LUWW) and in buffer zones to Bordering Vegetated Wetlands (BVW) and to Bank. Tree felling work within the limits of BVW, as well as in the unnamed intermittent streams which contribute to Rice Brook, would be avoided. Due to anticipated project timing, including work window restrictions, and sufficient distances to known habitat areas, no impacts to state or federally listed species are anticipated as a result of this project.

Project Status and Amendment Request

Trout Unlimited employees and DRWTU volunteer members initiated approved work activities in fall 2021. The balance of the habitat enhancement efforts are planned for summer 2022. As noted above, an adjacent parcel owner is requesting a subset of this work be completed on his property. Overall impacts to jurisdictional areas would not change, as only approximately 15-20% of the work scope would be shifted north for completion on the subject parcel.

The onsite conditions at the NOI's original three subject parcels were investigated in spring 2021. A full description of onsite wetlands, intermittent and perennial streams is available in the Project's initial NOI. DRWTU volunteers revisited the 55 Potters Road parcel in 2022 and found onsite conditions to be comparable to those previously described. Specifically, Rice Brook, which constitutes the work area, is an incised perennial stream surrounded by steeply sloped, forested upland community with mid-stage successional habitat. Hillside seeps and small associated wetland areas border the stream. The northern reaches of Rice Brook are consistent with the previously described southern work areas.

Under the proposed, amended scope of work, tree felling activities will avoid these wetland and intermittent stream features. The previously noted tree-felling and placement practices would be followed. In summary, TU representatives would perform the same amount of tree felling work noted in the original NOI and OOC; it will just be distributed across a larger area (i.e. further up the stream). Consistent with the DEP Policy 85-4, no increase in impacts to resource areas or listed species is anticipated as a result of the proposed changes. As such, we respectfully request your approval of the same.

If an amended OOC is deemed appropriate, DRTWU would be pleased to supply the Commission with any additional requested information (i.e. a signed statement from the landowner) and coordinate public notices, hearing advertisements, etc. as appropriate. Thank you for your consideration of this request.

Sincerely,



Kris van Naerssen, PWS
DRWTU Board Member

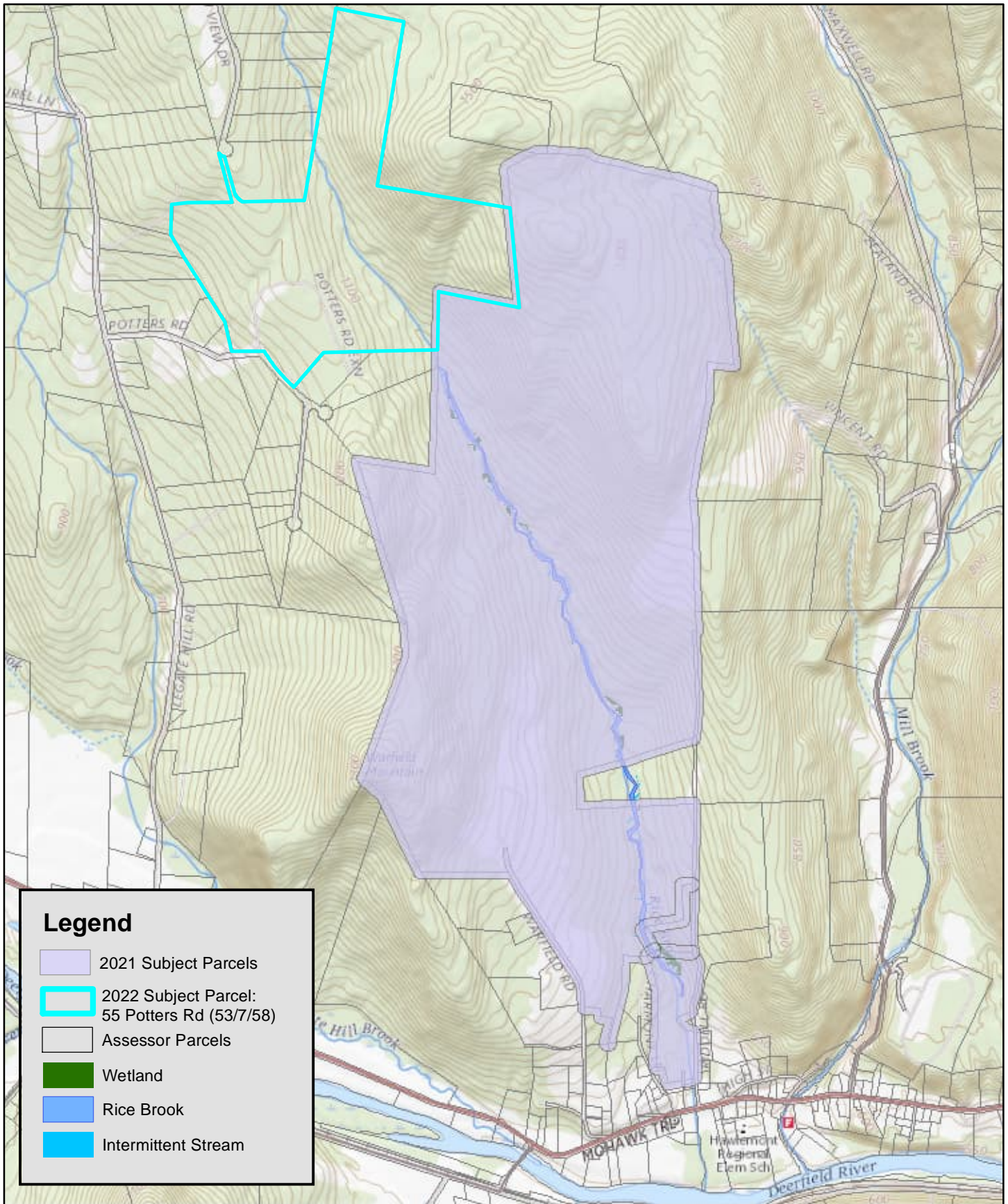


Mike Vito
DRWTU Past President & Project Sponsor

Attachments: Original OOC; Site Photos; Figures



Attachment 1 – Site Locus



Legend

- 2021 Subject Parcels
- 2022 Subject Parcel:
55 Potters Rd (53/7/58)
- Assessor Parcels
- Wetland
- Rice Brook
- Intermittent Stream

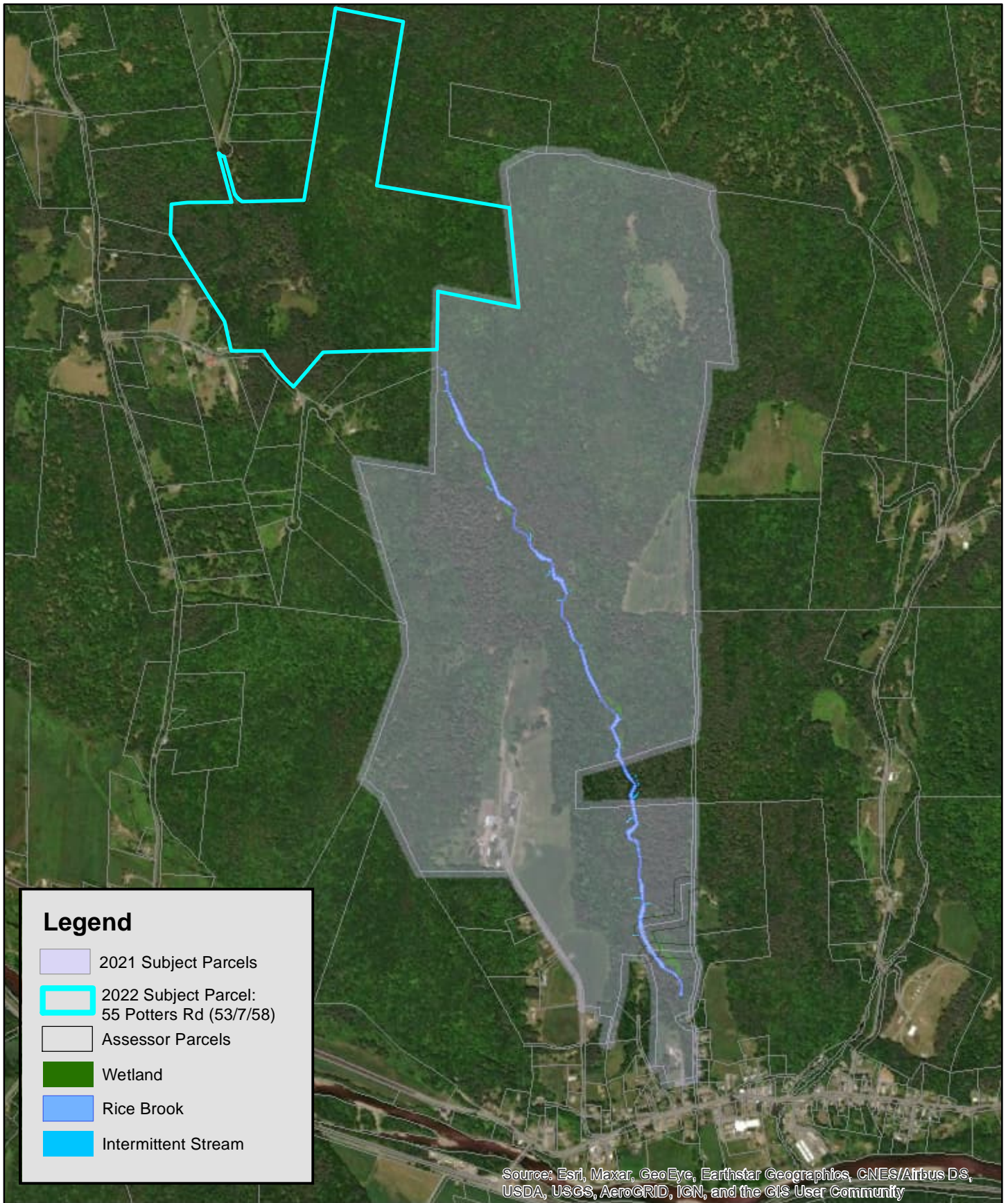
Rice Brook Habitat Enhancements

Deerfield River Watershed Trout Unlimited
 Amended OOC Request - Figure 1: Assessor's Parcels
 55 Potters Road, Charlemont, MA (Parcel 53/7/58)



0 5001,000 2,000
 Feet





Rice Brook Habitat Enhancements

Deerfield River Watershed Trout Unlimited
 Amended OOC Request - Figure 2: Orthoimagery
 55 Potters Road, Charlemont, MA (Parcel 53/7/58)




0 5001,000 2,000
 Feet



Attachment 2 – Site Photos

PHOTOGRAPHIC LOG

Site Location: Charlemont, MA		Project Name Rice Brook	
Photo No. 1	Date: 06/04/2022		
Direction Photo Taken: North – Photo Location 1			
Description: View of Rice Brook near the previously approved work areas. Tree felling activities are proposed.			

Photo No. 2	Date: 06/04/2022		
Direction Photo Taken: North			
Description: View of Rice Brook in the habitat enhancement area.			

PHOTOGRAPHIC LOG - CONSTRUCTION PHASE

Site Location: Charlemont, MA		Project Name Rice Brook	
Photo No. 3	Date: 06/04/2022		
Direction Photo Taken: North			
Description: View looking upstream at Rice Brook.			

Photo No. 4	Date: 06/04/2022		
Direction Photo Taken: South			
Description: Proposed ecological restoration work areas near the newly proposed 55 Potters Road parcel.			



Attachment 3 – Project Order of Conditions

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:
 MassDEP File #:127-0061
 eDEP Transaction #:1308207
 City/Town:CHARLEMONT

A. General Information

1. Conservation Commission CHARLEMONT
2. Issuance a. OOC b. Amended OOC
3. Applicant Details
 a. First Name MICHAEL b. Last Name VITO
 c. Organization TROUT UNLIMITED- DEERFIELD RIVER CHAPTER
 d. Mailing Address 28 BEATTIE DRIVE
 e. City/Town FLORENCE f. State MA g. Zip Code 01062
4. Property Owner
 a. First Name JON b. Last Name SCHAEFER
 c. Organization 133 WARFIELD REALTY, LLC
 d. Mailing Address 133 WARFIELD ROAD
 e. City/Town CHARLEMONT f. State MA g. Zip Code 01339
5. Project Location
 a. Street Address RICE BROOK, WARFIELD ROAD,NORTH STREET AND RIDDELL ROAD
 b. City/Town CHARLEMONT c. Zip Code 01339
 d. Assessors 053/7; 053/2 e. Parcel/Lot#90.0;34.0;92.0
 Map/Plat#
 f. Latitude 42.64339N g. Longitude 72.88160W
6. Property recorded at the Registry of Deed for:
- | a. County | b. Certificate | c. Book | d. Page |
|-----------|----------------|---------|---------|
| FRANKLIN | | 6585 | 277 |
| FRANKLIN | | 7615 | 1 |
| FRANKLIN | | 5032 | 52 |
7. Dates
 a. Date NOI Filed : 9/1/2021 b. Date Public Hearing Closed: 9/7/2021 c. Date Of Issuance: 9/8/2021
8. Final Approved Plans and Other Documents

a. Plan Title: b. Plan Prepared by: c. Plan Signed/Stamped by: d. Revised Final Date: e. Scale:

FIGURE 1,2,3 AND PHOTOS INCLUDED ENTITLE ATTACHMENT A, NO DATE INCLUDED



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B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act
 Following the review of the the above-referenced Notice of Intent and based on the information provided in this

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WPA Form 5 - Order of Conditions
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application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act.

Check all that apply:

a. <input type="checkbox"/> Public Water Supply	b. <input type="checkbox"/> Land Containing Shellfish	c. <input checked="" type="checkbox"/> Prevention of Pollution
d. <input type="checkbox"/> Private Water Supply	e. <input checked="" type="checkbox"/> Fisheries	f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat
g. <input checked="" type="checkbox"/> Ground Water Supply	h. <input checked="" type="checkbox"/> Storm Damage Prevention	i. <input checked="" type="checkbox"/> Flood Control

2. Commission hereby finds the project, as proposed, is:

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.

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 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 interests of the Act, 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 310CMR10.02(1)(a).

a. linear feet

Inland Resource Area Impacts:(For Approvals Only):

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input checked="" type="checkbox"/> Bank	<u>1000</u> a. linear feet	<u>1000</u> b. linear feet	<u>1000</u> c. linear feet	<u>1000</u> d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
6. <input checked="" type="checkbox"/> Land under Waterbodies and Waterways	<u>4500</u> a. square feet	<u>4500</u> b. square feet	<u>4500</u> c. square feet	<u>4500</u> d. square feet
	<u>0</u> c. c/y dredged	<u> </u> f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	<u> </u>	<u> </u>	<u> </u>	<u> </u>

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	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	<u> </u>	<u> </u>		
	a. square feet	b. square feet		
Cubic Feet Flood Storage	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input checked="" type="checkbox"/> Riverfront Area	<u>25000</u>	<u>25000</u>		
	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	<u>25000</u>	<u>25000</u>		
	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	g. square feet	h. square feet	i. square feet	j. square feet

Coastal Resource Area Impacts:

Resource Area	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	<u> </u>	<u> </u>		
	a. square feet	b. square feet		
	<u> </u>	<u> </u>		
	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	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment
14. <input type="checkbox"/> Coastal Dunes	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment
15. <input type="checkbox"/> Coastal Banks	<u> </u>	<u> </u>		
	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u>	<u> </u>		
	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u> </u>	<u> </u>		
	a. square feet	b. square feet		
	<u> </u>	<u> </u>		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. square feet	d. square feet

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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 : "127-0061"

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 Mass DEP.
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. .
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.

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 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 Pollutant Discharge Elimination System Construction General Permit as required by Stormwater Standard 8. Construction period

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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; *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 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 Pollutant 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 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.
- 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")

**Massachusetts Department of Environmental
Protection**

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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:

UPON INSPECTION OF THE PROPOSED SITES IT HAS BEEN DETERMINED THAT TREE REPLACEMENT WILL BE WAIVED. YOUNG TREES WOULD NOT THRIVE BENEATH THE CURRENT CANOPY.

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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 Conservation Commission hereby (check one that applies):

a. DENIES the proposed work which 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 or Conditions is issued. Which are necessary to comply with a municipal ordinance or bylaw:

b. APPROVES the proposed work, subject to the following additional conditions.

1. Municipal Ordinance or Bylaw _____ 2. Citation _____

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:

Massachusetts Department of Environmental Protection

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E. Signatures

This Order is valid for three years from the date of issuance, unless otherwise specified pursuant to General Condition #4. If this is an Amended Order of Conditions, the Amended Order expires on the same date as the original Order of Conditions.

9/8/2021

1. Date of Original Order

Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

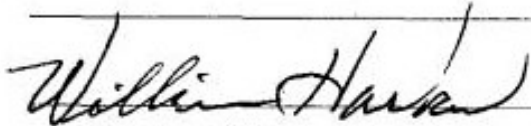
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2. Number of Signers

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.

Signatures:

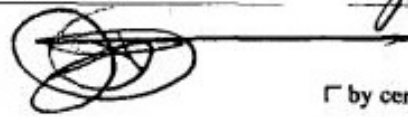
William Harker



Justin Maynard



Thorne Palmer



by hand delivery on

by certified mail, return receipt requested, on

Date September 27, 2021 C.F.N. Date

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

Massachusetts Department of Environmental Protection

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eDEP Transaction #:1308207

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(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.

G. Recording Information

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

CHARLEMONT

Conservation Commission

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

To:

CHARLEMONT

Conservation Commission

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

RICE BROOK, WARFIELD ROAD,NORTH STREET
AND RIDDELL ROAD

Project Location

127-0061

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for:

Property Owner JON SCHAEFER

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

**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:

MassDEP File #:127-0061

eDEP Transaction #:1308207

City/Town:CHARLEMONT

Document Number

Signature of Applicant

Rev. 4/1/2010