

*File*



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 S. 40  
& Shirley Non-Zoning Wetlands Bylaw

DEP File Number

284-388

Provided by DEP

**A. General Information**

From: Shirley Conservation Commission

1. Conservation Commission

2. This issuance is for (check one):  Order of Conditions  Amended Order of Conditions

3. To: Applicant:

Les Smith Lake Shirley Improvement Corp.

a. First Name

b. Last Name

c. Company

P. O. Box 567

d. Mailing Address

Shirley

MA

01464-

e. City/Town

f. State

g. Zip Code

4. Property Owner (if different from Applicant)

Daniel M. Keyes Chief Admin. & Fin. Officer Town of Lunenburg

a. First Name

b. Last Name

c. Company

Town Hall

d. Mailing Address

Lunenburg

MA

01462-

e. City/Town

f. State

g. Zip Code

5. Project Location:

Lake Shirley, ~~Lunenburg~~ / Shirley / Lunenburg SHIRLEY

a. Street Address

b. city/town

36-A-1 (dam)

c. Assessor Map/Plat Number

d. Parcel/Lot Number

Latitude and Longitude, if known

e. Latitude

f. Longitude

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

Middlesex South Registry of Deeds

a. county

b. Certificate (if registered land)

18809

346

c. Book

d. Page

7. Dates: 12/20/2006

3/28/2007

4/18/2007

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 references as needed):

See attached list of documents

a. Plan Title

b. Prepared by

c. Signed and stamped by

d. Final Revision Date

e. Scale

9. Total WPA Fee Paid: \$500.00

\$237.50

\$262.50

a. Total Fee Paid

b. State Fee Paid

c. City/Town Fee Paid



**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 area in which work is proposed is significant to the following interest of the Wetlands Protection Act (check all that apply):

- a.  Public Water Supply
- b.  Land Containing Shellfish
- c.  Prevention of Pollution
- d.  Private Water Supply
- e.  Fisheries
- f.  Protection of Wildlife Habitat
- g.  Groundwater Supply
- h.  Storm Damage Prevention
- i.  Flood Control

2. This Commission hereby finds that the project as proposed is (check one of the following boxes):

**Approved** subject to:

- The following conditions which are necessary, in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all the 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:

- The proposed work cannot be conditioned to meet the performance standards set forth in the wetlands 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 these interests 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.
- 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).

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

- Buffer Zone Impacts: Shortest distance between limit of project disturbance and wetland boundary (if available)

linear feet

**Resource Area**

- 3.  Bank
- 4.  Bordering Vegetated Wetland
- 5.  Land Under Water Bodies and Waterways

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
3. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
4. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
5. <input checked="" type="checkbox"/> Land Under Water Bodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. cu.yd dredged	f. cu.yd dredged		

PLEASE SEE ATTACHED



WPA Form 5 - Order of Conditions

B. Findings (cont.)

Resource Area

6.  Bordering Land Subject to Flooding  
Cubic Feet Flood Storage

Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
a. square feet	b. square feet	c. square feet	d. square feet
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet

7.  Isolated Land Subject to Flooding  
Cubic Feet Flood Storage

Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
a. square feet	b. square feet		
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet

8.  Riverfront Area

Sq ft within 100 ft

Sq ft between 100-200 ft

Proposed Alteration	Permitted Alteration
<input type="text"/>	<input type="text"/>
a. square feet	b. square feet
<input type="text"/>	<input type="text"/>
c. square feet	d. square feet
<input type="text"/>	<input type="text"/>
e. square feet	f. square feet

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

9.  Designated Port Areas

Indicate size under Land Under the Ocean, below

10.  Land Under the Ocean

<input type="text"/>	<input type="text"/>
a. square feet	b. square feet
<input type="text"/>	<input type="text"/>
c. cu.yd dredged	d. cu.yd dredged

11.  Barrier Beaches

Indicate size under Coastal Beaches and/or Coastal Dunes Below

12.  Coastal Beaches

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.

13.  Coastal Dunes

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.

14.  Coastal Banks

<input type="text"/>	<input type="text"/>
a. linear feet	b. linear feet

15.  Rocky Intertidal Shores

<input type="text"/>	<input type="text"/>
a. square feet	b. square feet

16.  Salt Marshes

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
a. square feet	b. square feet	c. square feet	d. square feet

17.  Land Under Salt Ponds

<input type="text"/>	<input type="text"/>
a. square feet	b. square feet
<input type="text"/>	<input type="text"/>
c. cu.yd dredged	d. cu.yd dredged

18.  Land Containing Shellfish

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
a. square feet	b. square feet	c. square feet	d. square feet

19.  Fish Runs

Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above

<input type="text"/>	<input type="text"/>
a. cu.yd dredged	b. cu.yd dredged

20.  Land Subject to Coastal Storm Flowage

<input type="text"/>	<input type="text"/>
a. square feet	b. square feet



### C. General Conditions Under Massachusetts Wetland Protection Act

(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, for the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. 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.
7. This Order does not become 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.
8. 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 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 this 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.
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" [or, "MA DEP"] File Number

"File Number 284-388"



**Massachusetts Department of Environmental Protection**

Bureau of Resource Protection - Wetlands

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10. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before DEP.
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
12. The work shall conform to the plans and special conditions referenced in this order.
13. Any changes to the plans identified in Condition #12 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.
14. The Agent or members of the Conservation Commission and 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.
15. This Order of Conditions shall apply to any successor 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.
16. 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.
17. 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.
18. All work associated with this Order is required to comply with the Massachusetts Stormwater Policy Standards.

Special Conditions (Use additional paper if necessary)

**See Attached**

ORDER OF CONDITIONS FOR LAKE SHIRLEY AQUATIC MANAGEMENT PROGRAM  
(ALGAECIDE AND HERBICIDE APPLICATION) (#284-388)

Findings: This Order of Conditions allows the application of copper sulfate to control algae blooms within Lake Shirley if certain conditions are met. By allowing the application of copper sulfate only under strict conditions, the project will potentially improve water quality and wildlife habitat. Uncontrolled algal blooms can decrease dissolved oxygen and can lead to fish kills.

This Notice of Intent (NOI) application general project description included the following: "Implementation of an integrated Aquatic Management Program at Lake Shirley to monitor, assess, and implement measures for control of nuisance algae and aquatic vegetation, specifically with the use of USEPA/state-registered aquatic herbicides/algaecides." However, use of herbicides/algaecides was the only measure detailed to control aquatic vegetation as part of this application. The NOI application was filed as a limited project under 310 CMR 10.53(4), "Improving the natural capacity of a resource area to protect interests of the Wetlands Protection Act." Hydro-raking has been occurring on an annual basis between 2002-2005, with typically 15-25 participants, each involving roughly 5,000 s.f., although hydro-raking is known to increase milfoil. In 2002, an NOI filing was made with the Town of Lunenburg for annual winter drawdown for weed control. Notices of Intent were approved in 2006 in both Shirley and Lunenburg for annual drawdowns.

The goal of the aquatic vegetation program is to reduce the amount and density of exotic aquatic invasives, primarily Eurasian and variable milfoil. This reduction of invasives will improve wildlife habitat by maintaining the diversity of the local flora. The limited project status is not allowed for purely recreational, aesthetics, or odor reasons. Application of herbicides is not without side effects and possible unknown impacts on wildlife habitat and water quality. As such, future applications of herbicides will only be allowed after detailed analysis of surveys indicate that applications are warranted to enhance the wetlands ability to protect wildlife habitat, as determined by a qualified aquatic wildlife biologist.

The use of Sonar is **not allowed** under this Order, since the applicant has agreed that additional information is required prior to approval. If Sonar is proposed in the future, a new Notice of Intent must be submitted or, alternatively, the applicant may request an Amendment to this Order.

GENERAL CONDITIONS (CON'T)

Please review the preceding General Conditions on the DEP Form 1 through 17, particularly Condition 1.

18. The work shall conform to the following plans and documents, unless otherwise specified in this Order:

- a. Notice of Intent filed by Lake Shirley Improvement Corp., submitted December 20, 2007.

- b. Lake Shirley Aquatic Management Program Public Hearing Program Overview, by Aquatic Control Technology Inc., received January 10, 2007, with attachments.
- c. Letter to Shirley Conservation Commission and Les Smith, Lake Shirley Improvement Corp., from Massachusetts Division of Fisheries & Wildlife, dated January 15, 2007, RE: Natural Heritage & Endangered Species Program.
- d. Letter to Anne Gagnon from Jackie Ramondelli, dated January 18, 2007, with attached pictures/photos.
- e. Letter to Shirley Conservation Commission from Carl Luck, dated January 23, 2007, RE: NOI for Lake Shirley Aquatic Management Program.
- f. Email to Anne Gagnon from Dominic Meringolo, dated January 23, 2007, RE: Example Conditions for Lake Shirley.
- g. Letter to Shirley Conservation Commission from Jackie Ramondelli, Chairperson for the Lake Management Program, dated January 24, 2007, with attached petition signatures, letters, and newsletter.
- h. Letter to Shirley Conservation Commission from Jackie Ramondelli, Lake Shirley resident, dated January 24, 2007.
- i. Email to Anne Gagnon from Carl Luck, dated February 8, 2007, RE: New Information on Chemical Treatment and More, with attached Lake Cochituate/ Natick documents and Suggested Elements of Order of Conditions for Lake Shirley Chemical Treatment.
- j. Letter to Anne Gagnon, Shirley Conservation Commission, from Sue & Vin Bisceglia, dated February 8, 2007, with attached Lake Cochituate/Natick documents.
- k. Email to Anne Gagnon from Carl Luck, dated February 9, 2007, RE: LSIC Vegetation Surveys, with attached LSIC2002VegTallysheet and LSIC2002VegReportFINAL.
- l. Email to Anne Gagnon from Carl Luck, dated February 9, 2007, RE: 2005 Lake Shirley Survey, with attached LSIC2005ShirleyReportFINAL.
- m. Email to Anne Gagnon from Carl Luck, dated February 9, 2007, RE: 2006 Lake Shirley Survey, with attached LSIC2006LakeShirleyAssessmentFINAL.
- n. Email to Anne Gagnon from Carl Luck, dated February 12, 2007, RE: 2003 Lake Shirley Vegetation Survey Report, with attached FINAL2003ShirleyReport and LSICFebDensityReduction2002-2006.
- o. Memo to Anne Gagnon, Shirley Conservation Commission, from Dominic Meringolo, Aquatic Control Technology Inc., dated February 12, 2007, RE: Response to Questions - Aquatic Management Program at Lake Shirley.
- p. Email to Dominic Meringolo from Anne Gagnon, dated February 12, 2007, RE: Response to Questions - Lake Shirley.
- q. Email to Anne Gagnon from Heidi Ricci, dated February 13, 2007, RE: Response to Questions - Lake Shirley.
- r. Letter to Anne Gagnon, Shirley Conservation Commission, from Sue Bisceglia, dated February 16, 2007, with attached Lake Cochituate/Natick documents.
- s. Letter to Lunenburg Conservation Commission & Shirley Conservation Commission from Paula Valente, dated February 19, 2007.
- t. Email to Anne Gagnon from Jackie Ramondelli, dated March 13, 2007, RE: Suggested Conditions etc., with attached Response to Draft Conditions and Questions 2-13-07.doc, Suggested Conditions for Lake Shirley AMP 2-28-07.doc, and six other documents..

- u. Emails with Les Smith & Anne Gagnon, dated March 14, 2007, RE: Response to Questions - Lake Shirley.
  - v. Documents submitted at March 14, 2007, Public Hearing- including Memo from Nicholas Anastas to Tara Gallagher dated 28 June 1993 ,Memo from Nicholas Anastas to Tara Gallagher dated 07 September 1994, Letter to the Littleton Light & Water Dept. from Lee Lyman, Lycott Environmental, Inc. dated 10/18/05, List of Potable Water Supply Reservoirs/Lakes Treated with Sonar, Chart of Comparison of Well Characteristics, and A History of the Lake Shirley Dam 1852-1988.
  - w. Memos to Shirley Conservation Commission from Gerald Smith, Aquatic Control Technology Inc., dated March 14, 2007, RE: Acidity/Alkalinity Effects on Copper Sulfate Toxicity & RE: Lake Shirley NOI.
  - x. Email to Anne Gagnon from Les Smith, dated March 14, 2007, RE: "Why Aquatic Herbicides Affect Aquatic Plants and Not You!"
  - y. Letter from Carl Luck, dated March 14, 2007, RE: LSCI NOI: Shirley Hearing.
  - z. Information packet provided to Shirley Conservation Commission by Joanna Bilotta on March 15, 2007, containing notes on draft Order of Conditions and other documents.
  - aa. Letter to Massachusetts Department of Conservation and Recreation from SePRO Corp., dated March 16, 2006, RE: Lake Cochituate.
  - bb. Email to Les Smith, et al. from Anne Gagnon, dated March 21, 2007, RE: Lake Shirley Herbicides.
  - cc. Email from Gerald Smith to Anne Gagnon dated March 26, 2007 with attached responses to questions and list of MA Agency contacts.
19. This Order of Conditions is issued in addition to that issued under File #284-384.
20. Members and agents of the Shirley Conservation Commission shall have the right to enter and inspect the premises to evaluate compliance with these conditions and to require submittal of any data deemed necessary by the Shirley Conservation Commission for that evaluation.
21. The pesticide applicator shall have a copy of this Order of Conditions at the site and available for inspection during all phases of application. Each applicator must submit a written, notarized affidavit to the Shirley Conservation Commission that he/she has read the Order of Conditions and any applicable documents reference herein and will adhere to the Order.
22. Any change in the proposed applications approved under this Order, including those due to review by other boards or resulting from the aforementioned conditions, must be submitted to the Shirley Conservation Commission in writing for approval prior to implementation. The Shirley Conservation Commission will then decide whether the change is substantial enough to require a new Notice of Intent filing or a request for an amendment to this Order of Conditions. Any errors found in the plans or information submitted by the applicant shall be considered as changes.
23. Upon completion of this project, the owner or his designee shall submit the following to the Shirley Conservation Commission to receive a Certificate of Compliance per Condition 11:



- a. A letter from the owner or his designee requesting a Certificate of Compliance for File #284-388.
- b. A written statement from the pesticide applicator certifying that the work has been completed in compliance with this Order of Conditions and the approved submissions referenced herein (or approved revisions). Any discrepancies shall be noted.

#### PRIOR TO CONSTRUCTION

Please note General Conditions 7, 8, and 9.

24. Prior to the commencement of any work on site, the owner or his designee shall submit to the Shirley Conservation Commission for approval a detailed Sequence of Application with a timetable and information on dosage and locations. This does not include the application of algaecide, since it is not known in advance whether an application will be necessary. It does, however, require notification of algaecide per Condition 31. The owner or his designee shall also include the name(s) and telephone number(s) of the person(s) responsible on site for compliance with this Order.

#### OTHER CONDITIONS

25. All mixing operations shall be situated in an upland area at least 100 feet from any wetland resource area and outside the 200-foot riverfront protection area.

26. Copper sulfate shall be allowed for algae treatment when visibility is reduced to 4.5 feet as measured with a secchi disc or if algae counts exceed 50,000 cells/ml or if blue-green algae clumps become visually apparent at the surface. An algal expert will perform the algal identification and counts. The applicant shall monitor algal populations and water clarity weekly beginning no later than mid-June and continuing through mid-September. Samples will be collected from each of the three basins.

27. Algae treatment is allowed only if documented to be necessary and shall be documented in writing to the Shirley Conservation Commission at least 48 hours prior to treatment. The Shirley Conservation Commission shall be notified in writing of any proposed application of algaecide at least 48 hours prior to application of any algaecide to Lake Shirley.

28. Alkalinity shall be measured each year in each of the three basins. Test results shall be included in the annual report noted in condition #37.

29. The Shirley Conservation Commission shall be notified in writing at least one week prior to application of any herbicide (see Condition 27 above regarding algaecide) to Lake Shirley.

30. The consultant/contractor shall provide and post signs on the shoreline of Lake Shirley warning of the temporary water use restrictions 48 hours prior to the treatment with

- herbicides. These restrictions shall include but not be limited to not allowing animals to drink out of the lake (per livestock restriction). These signs shall also be posted at Catacunemaug Road and Main Street in Shirley at their intersection with Catacunemaug Brook. Signs shall also be placed one mile downstream. This warning and a short description of the treatment shall be placed in a newspaper of local circulation (Shirley and Lunenburg) one week prior to application.
31. Due to the sensitive timing of algaecide treatments, the lake (and downstream locations) shall be posted 48 hours prior to treatment with no newspaper notice. The lake shall be closed to all uses on the day of treatment.
  32. Application of all herbicides/algaecides shall be by an applicator licensed by the Commonwealth of Massachusetts. The applicant shall supply the Shirley Conservation Commission with a copy of an approved Massachusetts DEP *License to Apply Chemicals* prior to any chemical application.
  33. The rate of herbicide/algaecide application shall be in accordance with the manufacturer's recommendations and within the guidelines of the Commonwealth of Massachusetts Department of Environmental Protection and the USEPA and at concentrations no higher than as described in the Notice of Intent submission. Reward shall be applied at a rate of 1.5 gallons per acre or less. Copper sulfate will be applied at 0.8 lbs/ac-ft (.08 ppm).
  34. Precautions shall be taken to prevent spillage of chemicals during the application.
  35. The herbicide/algaecide treatments and overall lake management program shall be performed in a manner consistent with the Massachusetts GEIR (2004) for *Eutrophication & Aquatic Plant Management in Massachusetts*.
  36. If a resident within the Town of Shirley with a shallow well adjacent to the lake is concerned, the applicant shall test the well for the herbicide three times over a 2 month period following the application of herbicides.
  37. An annual project completion report shall be provided to the Shirley Conservation Commission on or before November 30. This report shall include the application dates, locations, and rates and justification for applications (plant surveys and densities), certification of all required public notification, shellfish survey, results of well sampling (if required), as well as any anecdotal information regarding complaints, fish kills, etc.
  38. The Shirley Conservation Commission may deny future applications of Reward if it appears unnecessary to enhance wildlife habitat.
  39. The annual report must contain information on strategies, plans, and actions to pursue alternate maintenance methods to assure continued chemical treatment approval. These should include, at a minimum, activities in the areas of phosphorous source reduction,

watershed management, hydro-raking, drawdown, source reduction of new invasive plants, dredging, education, and ongoing investigation into new management techniques.

40. Application in future years is dependent on whether the conditions of the Order of Conditions are met and whether issues are raised.
41. Surveys shall be done in May to determine the amount of growth of milfoil as compared with native species to minimize impact to non-targeted species. This survey shall establish the need and location of treatment areas based on impacts to wildlife habitat and reduction of native flora diversity as determined by a qualified aquatic wildlife biologist. The Shirley Conservation Commission shall determine whether a person is qualified based on education <sup>and</sup> experience.
42. No treatment of copper sulfate is allowed within 200 feet of the dam. No treatment of Reward is allowed within 400 feet of the dam.
43. The applicant shall coordinate with the Massachusetts Division of Fisheries and Wildlife to determine whether the lake should be lowered one foot prior to application of Reward. If lowering does occur, minimum outflow must be met (7.3 cfs).
44. In late July of each year during the period of this permit, a vegetation survey shall be conducted by a qualified third party contractor to assess the species, dominance, biomass, and density of aquatic vegetation.
45. A baseline study of shellfish within the portion of Lake Shirley within the Town of Shirley and within one hundred feet downstream of the lake shall be conducted by a qualified aquatic wildlife biologist at the applicant's expense. The Shirley Conservation Commission shall determine whether a person is qualified based on education and experience. Another shellfish study is require subsequent to the application of Reward to determine whether there were any detrimental effects on shellfish prior to additional applications.



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

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

\_\_\_\_\_ a. Municipal Ordinance or Bylaw

\_\_\_\_\_ b. 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.

4.  that the following additional conditions are necessary to comply with a municipal law, bylaw or ordinance specifically

\_\_\_\_\_ a. Municipal Ordinance or Bylaw

\_\_\_\_\_ b. Citation

The Commission orders that all the work shall be performed in accordance with the said additional 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.

- c. The special conditions relating to municipal law, bylaw or ordinance are as follows:



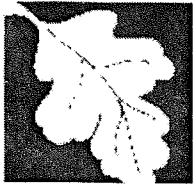


## F. Appeals

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 DEP 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 Determination, or providing written information to the Department prior to issuance of a Superseding Order or Determination.

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 of Environmental Protection has no appellate jurisdiction.

**Section G, Recording Information is available on the following page.**



### 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, the Final 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 shall be submitted to the

Shirley Conservation Commission

Conservation Commission

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



To Shirley Conservation Commission

Conservation Commission

Please be advised that the Order of Conditions for the project at

Lake Shirley, Lunenburg/Shirley

284-388

Project Location

DEP File Number

has been recorded at the Registry of Deeds of

Middlesex South Registry of Deeds

County

Book

Page

For: Town of Lunenburg

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 which identifies this transaction is

Instrument Number

If registered land the document number which identifies this transaction is

Document Number

Signature of Applicant