



Gale Associates, Inc.

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February 10, 2025

Mr. Mark Connors
Town of Hamilton Conservation Commission
650 Asbury Street, P.O. Box 429
Hamilton, MA 01982

Re: Letter of Understanding
Enforcement Order (September 6, 2024)
HWRHS Athletic Facilities Improvements Project
DEP File Number: 172-0642

Dear Mr. Connors,

The intent of this letter is to provide a chronological summary of Gale Associates, Inc. (Gale)'s records and experience regarding efforts to date specific to addressing the open Enforcement Order issued by the Hamilton Conservation Commission (HCC) to the Hamilton-Wenham Regional School District (HWRSD) on September 6, 2024. This Enforcement Order pertains to the Hamilton Wenham Regional High School (HWRHS) Athletic Facilities Improvements Project, which was permitted under the Wetlands Protection Act (WPA) and Massachusetts Department of Environmental Protection (DEP) File Number 172-0642. While there are two (2) active, separate WPA and DEP permits associated with the scope of work currently under contract and in construction on the applicant parcel, DEP Permit 172-0593 and DEP Permit 172-0642, the open Enforcement Order is in exclusive reference to the latter.

DEP Permit 172-0642 is specific to a proposed synthetic turf softball field, including five athletic lights, modular dugouts, temporary bleacher seating, a synthetic turf batting tunnel, and a proposed four battery bituminous concrete tennis court with temporary bleacher seating, as well as limited miscellaneous track and field events. To provide sufficient historical context regarding the environmental permitting and construction efforts for this project scope, a brief timeline is provided below:

Permitting & Construction Timeline:

January 10, 2023

- The original Notice of Intent was filed with HCC and DEP.

February 22, 2023

- An initial HCC public hearing was held and the application item continued.

April 12, 2023

- The final public hearing was held and the application item closed.
- Five total HCC hearings were held between February 22, 2023 and April 12, 2023.

April 28, 2023

- The Order of Conditions (OOC) with DEP General and HCC Special Conditions was issued.

SINCE 1964



May 23, 2023

- The OOC was recorded at the local registry by HWRSD.
- Note: The local WPA permit lists an expiration date of April 12, 2024, in contrast to the standard DEP Permit, which expires after three (3) years, on April 12, 2026.

May 28, 2024

- The construction contract was signed with Argus Construction Corporation (ACC).
- This contract pertains to the full scope of work for both permits (172-0593 & 172-0642).

June 3, 2024

- ACC mobilized on site.
- Initial mobilization was limited to securing the site, establishing the limit of work, and placing all erosion control measures.

June 11, 2024

- A pre-construction and erosion control inspection meeting was held on-site with HCC, in accordance with Special Condition 22. HCC stated the erosion control required corrective measures.
- During this meeting, HCC verbally acknowledged the potential that the WPA permit had expired on April 12, 2024. HCC stated they were reviewing this item internally and would provide formal direction to the applicant once a determination was reached.

June 17, 2024

- A second on-site erosion control inspection meeting was held on-site.
- HCC provided verbal acceptance of the installed erosion controls and the established project limit of work at this meeting.

June 18, 2024

- Based on HCC acceptance, HWRSD directed ACC to begin construction operations.

On June 25, 2024, Gale received a stop work order via email from the HHC Conservation Agent, Ms. Kristan Farr, specific to Permit 172-0642. The email read, "Per town counsel, work under DEP #172-0642 must stop until a new Order is issued. Work under DEP #172-593 can go on." In accordance with this written order, HWRSD directed ACC to cease associated construction operations. It is Gale's understanding the basis of this stop work order was the expiration of the WPA Permit on April 12, 2024, expiring two (2) years prior to the accompanying DEP Permit on April 12, 2026.

To lift this work stoppage, HCC directed Gale to resubmit the original Notice of Intent application package. This resubmittal included a cover letter, revised WPA Form 3, the original Notice of Intent package, the original Permit Plan Set, and an original Response to Comment Letter. This permit application was included on the HCC hearing agenda for July 24, 2024, at which time the HCC voted to renew the WPA permit, replicating the original Order of Conditions. A mail certified copy of the OOC was received by Gale on August 5, 2024. On August 7, 2024, HWRSD received email confirmation from the HCC that construction operations could resume.

In total, this HCC directed work stoppage resulted in a forty-two (42) day cessation of construction operations relative to the applicable permit scope of work. Due to this delay, ACC submitted a proposed



change order requesting reimbursement for overhead and general conditions costs accrued over the shut-down period, as well as a formal forty-two (42) extension of the contract duration. This request was executed by Gale and HWRSD on September 16, 2024, for a total of \$24,804.00 and extending the contract completion date from June 27, 2025, to August 8, 2025.

As acknowledged in HCC's letter to Gale, dated February 3, 2025, as a result of the Commonwealth's passage of Section 280 of Chapter 238 of the Acts of 2024, executed November 20, 2024, the original WPA Permit and OOC issued April 28, 2023, remain binding. As such, the subsequent reapplication effort and associated August 5, 2024, WPA Permit and OOC documents are superseded by the original.

Permitting & Construction Timeline, Continued:

August 27, 2024

- HWRSD and Gale received an email request directly from HCC to schedule an on-site meeting and site inspection.

August 28, 2024

- HWRSD and Gale received an email notice directly from HCC that the project is out of compliance.
- HCC did not provide specifics as to which conditions or items were out of compliance.

August 29, 2024

- HCC extended a notice of apparent non-compliance, as well as an invitation to the upcoming site meeting to the Hamilton Select Board and Planning Board.

September 5, 2024

- A site meeting is held with representatives from HWRSD, ACC, Gale, and HCC.
- HCC notified all parties of perceived non-compliance and provided a hard copy list specifying conditions qualifying as "out of compliance" or "requires discussion".
- HCC notified all parties an Enforcement Order is imminent and will include a work stoppage requirement.

September 6, 2024

- HCC hand delivered the Enforcement Order to HWRSD, which included a stop work order.
- HWRSD issued a stop work directive to ACC.

It is Gale's understanding and interpretation the September 6th HCC stop work order did not arise from an observed breach of exterior limit of work erosion control measures or perceived resource area contamination, but rather an instance of insufficient soil containment at an interior top-soil stockpile, as well as incomplete written documentation or reporting requirements. The list of HCC identified violations is as follows:

- WPA General Condition 1 – Compliance is Mandatory
 - Requires satisfaction of all conditions.
- WPA General Condition 13 – Conformation to Plans & Special Conditions
 - Requires satisfaction of all conditions.



- WPA General Condition 14 – Report Changes to Plans
 - Listed as “Discussion required.”
- WPA General Condition 19 – Stormwater Standards
 - Listed as “Unknown.”
- WPA Special Condition 1 – Compliance is Mandatory
 - Requires satisfaction of all conditions.
- WPA Special Condition 11 – Report Changes to Plans
 - Listed as “Discussion required.”
- WPA Special Condition 17 – Emergency Contact List
 - Failure to provide.
- WPA Special Condition 18 – PFAS Baseline Stream Testing
 - Testing provided to date is missing a required fourth testing location.
- WPA Special Condition 19 – PFAS Testing of Turf, Infill, and Shock Pad
 - Failure to provide.
- WPA Special Condition 20 – Weekly Reporting (Ongoing)
 - Failure to provide.
- WPA Special Condition 24 – Supervision by Third Party Wetland Scientist (Ongoing)
 - Failure to provide.
- WPA Special Condition 26 – Wetland Resource Area Signage (Required HCC Decision)
 - Requires HCC direction.
- WPA Special Condition 41 – Proper Containment of Stockpiled Earth
 - Stockpile observed without proper silt sock perimeter erosion control measures.
- WPA Special Condition 51 – Waste Material Disposal Destination Records
 - Failure to provide.

At the HCC hearing on September 11, 2024, the September 6th Enforcement Order was listed as an agenda item and discussed with Gale and HWRSD in attendance as project representatives. Prior to this hearing, Gale had provided additional documentation to HCC to satisfy previously identified conditions violations. As a result of the documentation received, HCC voted to issue a revised Enforcement Order, releasing the current work stoppage while imposing a deadline to provide all documentation deemed to remain outstanding as of September 30, 2024. Failure to do so would result in a reimplementation of the stop work order. This revised Enforcement Order was issued on September 13, 2024.



Since its original issuance on September 6, 2024, Gale has attended six (6) hearings to date on the Enforcement Order as representatives of the applicant, HWRSD. As of this writing, and despite Gale and HWRSD's compliance with the OOC in all aspects, the order remains open and is anticipated to be included on the forthcoming HCC hearing agenda. The following is a timeline of pertinent hearings and associated efforts to date:

Enforcement Order Hearing Timeline:

September 11, 2024 (Hearing Held)

- Documents provided to HCC:
 - Special Condition 17* – Emergency contact list.
 - Special Condition 18 – Revised stream testing services and executed purchase order.
 - Special Condition 19 – Memorandum of PFAS turf testing procurement limitations.
 - Turf testing cannot be procured until submitted, approved, and ordered by ACC.
 - September 30, 2024 deadline may not be achievable.
 - Special Condition 20* – Weekly reporting (ongoing/perpetual).
 - Special Condition 24 – Third-party proposal for wetland scientist supervision.
 - Special Condition 41* – Photograph of rectified soil stockpile erosion controls.
 - Special Condition 51* – Waste material disposal records.
 - Special Condition 53 – Dark Sky certification per HCC special request (not a violation).
- HCC voted to issue a revised Enforcement Order, subsequently dated September 13, 2024, removing the conditions above marked with an asterisk (*) from the list of violations and releasing the current work stoppage while imposing a deadline of September 30, 2024, to provide all documentation deemed to remain outstanding.
- Please note, as of this writing, this is the last HCC hearing for which meeting minutes appear to have been posted for public access on the HCC website.
- The meeting agenda noted HCC's consideration of hiring a consultant to interpret PFAS testing results.
- The Enforcement Order agenda item is continued without motion or vote.

September 25, 2024 (Hearing Held)

- Documents provided to HCC:
 - Special Condition 18 – Gale letter summarizing original stream testing proposal.
 - Original proposal unintentionally omitted a required fourth testing location.
 - Revised testing services purchase order provided on September 11, 2024.
 - Due to third-party nature, September 30th deadline may not be achievable.
 - Special Condition 20 – Weekly reporting (ongoing/perpetual).
 - Turf laydown area sketch provided per HCC special request.
- The Enforcement Order agenda item was continued without motion or vote.



September 30, 2024

- Documents provided to HCC:
 - Special Condition 18 – Revised stream testing baseline report.
 - Gale acknowledged this condition is not yet satisfied (fourth location).
 - Special Condition 19 – All turf, shock pad, and infill testing results received to date.
 - Gale acknowledged this condition is not yet satisfied (pad, infill missing HFPO-DA).
 - Special Condition 24 – Initial Wetland Scientist Supervision Report 01 (ongoing).
 - Performed by LEC Environmental Consultants.

October 2, 2024 (Hearing Cancelled)

- Meeting is cancelled per published agenda.

October 9, 2024 (Hearing Cancelled)

- On October 8, 2024, Gale is notified by HCC the Conservation Agent has been terminated.
- Meeting is cancelled per published agenda.
- Documents provided to HCC:
 - Special Condition 18 – Draft Stream Testing Analytical Report.
 - Revised to include fourth testing location and adjusting reporting.
 - Special Condition 20 – Weekly reporting (ongoing/perpetual).

October 11, 2024

- Documents provided to HCC:
 - Special Condition 18 – Final Stream Testing Analytical Report
 - It is Gale's interpretation this condition has been satisfied.

October 16, 2024 (Hearing Held, Enforcement Order Item Excluded)

- Enforcement Order is not included on meeting agenda, no reason provided.
- Gale does not attend.
- Documents provided to HCC:
 - Special Condition 20 – Weekly reporting (ongoing/perpetual).

October 23, 2024 (Hearing Held)

- There were no new documents to provide to HCC.
- The Enforcement Order agenda item was continued without motion or vote.

October 29, 2024

- Documents provided to HCC:
 - Special Condition 19 – Amended shock pad and infill PFAS testing reports.
 - It is Gale's interpretation this condition has been satisfied.
 - Special Condition 20 – Weekly reporting (ongoing/perpetual).
 - Special Condition 24 – LEC Environmental Supervision Report 02 (ongoing).

As of October 29, 2024, it is Gale's opinion all General and Special Conditions identified as "Out of Compliance" on the September 13, 2024, Enforcement Order have been satisfied to the best of our knowledge and ability. Although technically satisfied, Special Conditions 20 and 24 are considered "ongoing" conditions and will continue to be submitted regularly throughout the duration of



construction. For the remainder of this timeline summary, regular submissions of Special Condition 20 and 24 documents will not be listed for the purpose of length and clarity.

Enforcement Order Hearing Timeline, Continued:

November 9, 2024 (Hearing Postponed)

- Hearing is postponed to November 13, 2024.

November 13, 2024 (Administrative Only Hearing)

- Meeting listed as administrative only, no applications or open orders discussed.

November 20, 2024 (Administrative Only Hearing)

- Meeting listed as administrative only, no applications or open orders discussed.

November 25, 2024 (Hearing Held)

- Prior to this hearing, abutter Anne Gero issued a letter to HCC, dated November 20, 2024, concerning the proposed synthetic turf surfacing at the softball field.
 - HCC provided Gale a copy of this letter on November 22, 2024.
 - Ms. Gero was provided the opportunity to discuss this letter during the hearing.
 - Due to an ongoing lawsuit related to this project, in which this abutter was a plaintiff, Gale had been instructed by HWRSD not to provide comment on this letter.
- As this was the first hearing held since all Enforcement Order documentation had been provided as of October 29, 2024, Gale stated it was our understanding all Conditions deemed to be in violation had been rectified.
- Gale formally requested HCC provide written questions, directives, or comments to clarify for Gale and HWRSD what steps must be taken to close the open order, given all documentation had been provided as of October 29, 2024.
- The Enforcement Order agenda item was continued without motion or vote.

December 11, 2024 (Hearing Held)

- Immediately prior to this hearing, abutter Anne Gero issued a letter to HCC, dated December 11, 2024, concerning the synthetic turf testing results to date.
 - Ms. Gero was provided the opportunity to discuss this letter during the hearing.
 - Due to an ongoing lawsuit related to this project, in which this abutter was a plaintiff, Gale had been instructed by HWRSD not to provide comment on this letter.
 - Gale requested a copy of this letter for record and review. HCC did not provide this copy until January 15, 2025.
- Gale reiterated it was our understanding all Conditions deemed to be in violation had been rectified.
- Gale reiterated our request that HCC provide written questions, directives, or comments to clarify for Gale and HWRSD what steps must be taken to close the open order, given all documentation had been provided as of October 29, 2024.



- The Enforcement Order agenda item was continued without motion or vote.

January 15, 2024 (Hearing Held)

- Immediately prior to this hearing, abutter Anne Gero issued a letter to HCC, dated January 15, 2025, again concerning the synthetic turf testing results to date.
 - Ms. Gero was provided the opportunity to discuss this letter at length during the hearing.
 - Gale requested a copy of this letter for record and review. HCC provided a copy via email during the hearing.
 - As a copy of this letter was provided to Gale during the hearing, providing no time for prior review, Gale declined to provide opinion on the contents of the letter.
- Gale reiterated it was our understanding all Conditions deemed to be in violation had been rectified.
- Gale reiterated our request that HCC provide written questions, directives, or comments to clarify for Gale and HWRSD what steps must be taken to close the open order, given all documentation had been provided as of October 29, 2024.
- A Commission member motioned a vote to close the open Enforcement Order. This motion was not seconded.
- The Enforcement Order agenda item was continued without a vote.

January 29, 2025 (Hearing Held, Enforcement Order Item Excluded)

- In accordance with Gale's request for written questions, directives, or comments made at the November 25th, December 11th, and January 15th hearings, HCC agreed to provide a formal letter of inquiries regarding the turf material PFAS testing results.
- As HCC did not expect to complete this letter in time for Gale to review and provide comment before the January 29th hearing, HCC recommended via email the Enforcement Order item be removed from the meeting agenda.
- HCC issued this document to Gale on February 3, 2025, requesting Gale provide a formal response by February 7, 2025, so that it may be discussed at the hearing on February 12, 2025. Gale has since developed a Response to Inquiry Letter, which will be issued to HCC concurrently with this letter.

The intent of the timeline summary above is to provide a comprehensive accounting of the efforts Gale has taken on behalf of the permit holder, HWRSD, to rectify the unmet permit conditions identified in the September 6th and revised September 13th Enforcement Order. Although it is Gale's opinion all required documentation had been submitted as of October 29, 2024, this Enforcement Order continues to remain open over one hundred (100) days beyond that date.



Since October 23, 2024, only three (3) HCC hearings have been held in which this Enforcement Order was an item of discussion. Although Gale requested written direction and or comment from HCC as to what more was required to close this order as early as November 25, 2024, HCC did not provide a formal response until February 3, 2025. In addition to this, as previously noted, this Commission has not had a full-time Conservation Agent on staff since Ms. Farr was terminated on or around October 9, 2024. Communication between Gale and this Commission has since been filtered through three (3) interim agents, Mr. McCoy, who has since left the Commission, Mr. Reffett, and Mr. Connors. Furthermore, as of this writing, HCC has not published hearing minutes on the department's public website since September 11, 2024.

Typically, during construction, Gale's services involve site visits, site meetings, and continued coordination and administrative services between the Owner and the Contractor. These services are intended to assist in the completion of a constructed final product that meets the requirements of the Contract Documents and the goals of the Owner's vision and investment. While ongoing adherence to associated project permit requirements is rightfully included in this process, we reiterate it is Gale's opinion that compliance with the permit conditions had been achieved as of October 29, 2024. Gale's continued attendance as HWRSD's representative at the last three (3) hearings since all documentation was provided in which no vote has been taken, in addition to an estimated allowance for potential future hearings and documentation requests, has resulted in an \$18,500.00 increase due to additional Gale fees to HWRSD via time and expense contract amendment.

It must be noted the scope of work governed under WPA/DEP Permit 172-0642 has been permitted and approved via the Notice of Intent process twice, on April 28, 2023, and August 5, 2024, though the latter permit is now nullified. The general scope of the overall Athletics Complex Project and associated funding were approved twice via Town Meeting vote. The purpose of Gale's attendance at all applicable HCC hearings since September 11, 2024, has been to review actions taken and documents provided to date to bring all conditions identified in the Enforcement Order into compliance. This is not an open-ended process in which HCC and the public are intended to review proposed conditions for approval, as the proposed conditions have already been permitted and approved. An Enforcement Order identifies items of non-compliance during construction. Once those items are adequately addressed by the permit holder, the Enforcement Order should be closed. If not closed, the regulatory authority must specify why and what steps may be taken to achieve a resolution.

This is an active construction project, under contract as of May 28, 2024, and mobilized as of June 3, 2024, with a substantial completion date of August 7, 2025. As of November 15, 2024, completed construction at the proposed softball field governed under this permit included a majority of the earthwork and excavation, installation of the five (5) athletic light towers, installation of the perimeter concrete curb and fence cores, installation of the dugouts, backstop, and bleachers, and placement of all subsurface drainage infrastructure and base stone. Construction milestones slated for the spring include placement of the synthetic turf, scoreboard installation, reconstruction of the existing access drive in kind, and paving the walkway between dugouts, among other appurtenances. If this order continues to remain open without a viable path to closure, delivery of the softball field turf materials will continue to be delayed, as they are on hold until this order is resolved. This delay will inevitably impact construction operations and scheduling throughout the site, with the potential to result in cost increases to HWRSD via change order and a delay in proposed substantial completion beyond its current date of August 8, 2025.

Mr. Mark Connors
Town of Hamilton Conservation Commission
Re: HWRHS Athletic Facilities Improvements Project
February 10, 2025
Page 10



We hope this letter provides sufficient additional context with which to pursue the best outcome for this project and the Hamilton-Wenham Regional School District.

Best regards,

GALE ASSOCIATES, INC.

Kyle Rowan/cmh

Kyle Rowan
Project Manager

Peter Spanos/cmh

Peter Spanos
Director of Athletics

KFR/PS/cmh

Enclosures: Enforcement Order (September 6, 2024)
 Enforcement Order (September 13, 2024)

CC: Eric Tracy HWRSD

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TOWN OF HAMILTON Conservation Commission

Town Offices at Patton Homestead
650 Asbury Street, Hamilton, MA 01982
(978) 656-5247 <https://www.hamiltonma.gov>

September 06, 2024

Hand Delivered by Lee McCoy
Chair, Conservation Commission
Town of Hamilton

Hamilton-Wenham Regional School District
5 School Street
Wenham, MA 01984

Re: HWHS Athletic Fields Project DEP File Number: 172-0642

Dear Permit Holder,

This Enforcement Order is for the **Hamilton Wenham Regional High School Athletic Campus Improvements Project** permitted under the Wetlands Protection Act and DEP File Number 172-0642 and the Town of Hamilton Wetland Bylaw Chapter 17. This project is **NOT** in compliance with the Order of Conditions issued for the project on August 06, 2024. Condition 6 of the Special Conditions issued under the Wetland Bylaw specifies that "Any violation of these conditions will make the Applicant subject to an Enforcement Order."

Below is the list of conditions issued for this permit and their current status. Please review this list and reference the complete text of the condition in the Order of Conditions. Please send to the Conservation Commission the documentation required to bring the project into compliance. Please indicate for each document you send which condition (or part of a condition) it is intended to satisfy and indicate that you have reviewed the document and condition and are confident it satisfies the requirements of the condition. For more complex documents, you can facilitate the review and certification process by indicating which section of a document are relevant to satisfying the requirements of a condition. Submitting documentation as complete that does not fully address the condition will result in delays in achieving compliance.

As indicated at our initial pre-construction meeting and the site visit on September 5, 2024, it is the responsibility of a permit holder to ensure they are in compliance with the Order of Conditions for their permit. If an applicant has questions about a condition and/or what will satisfy a particular condition, they should submit that question to the Conservation Commission for review and determination at a regularly scheduled meeting.

All sitework not specifically focused on bringing this project into compliance must immediately stop. The Conservation Commission will review this project at our September 11, 2024 meeting. At that meeting, we will review and potentially update this Enforcement Order, make determinations on outstanding issues identified at the site visit, and attempt to answer any questions the applicant may have. Work may resume when the project is brought into full compliance with the Order of Conditions.



TOWN OF HAMILTON
Conservation Commission

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650 Asbury Street, Hamilton, MA 01982
(978) 656-5247 <https://www.hamiltonma.gov>

Determination of compliance will be made by vote of the Conservation Commission at a regularly scheduled meeting.

Sincerely,

Lee McCoy
Chair, Hamilton Conservation Commission
Town of Hamilton

<Attachment: Summary of Conditions Status 2024-09-06>

Summary of Conditions Status 2024-09-06

Condition	Short Description	Due	Compliance Status	Notes
WPA 1	Compliance is mandatory	Ongoing	Out of compliance	
WPA 2	No grant of rights or privilege	Ongoing	Not relevant to this EO	
WPA 3	Comply with law	Ongoing	Not relevant to this EO	
WPA 4	3 year expiration with exception	Ongoing	Not relevant to this EO	
WPA 5	Extensions	Ongoing	Not relevant to this EO	
WPA 6	Amended has same issuance date	Ongoing	Not relevant to this EO	
WPA 7	Clean fill	Ongoing	Compliant on 2024-09-05	
WPA 8	Admin appeal period	Ongoing	Not relevant to this EO	
WPA 9	OOB must be registered	Complete	In compliance	
WPA 10	Signage	Ongoing	Compliant on 2024-09-05	
WPA 11	Superseding Orders	Ongoing	Not relevant to this EO	
WPA 12	Certificate of Compliance	Project Completion	Not relevant to this EO	
WPA 13	Conformation to plan and special conditions	Ongoing	Out of compliance	
WPA 14	Change to plans	Ongoing	Discussion required	
WPA 15	CC & DEP inspection	Ongoing	Not relevant to this EO	
WPA 16	OOB to successor	Ongoing	Not relevant to this EO	
WPA 17	Wetland flagging	Ongoing	Compliant on 2024-06-17	
WPA 18	Sediment barriers	Ongoing	Compliant on 2024-06-17	
WPA 19	Stormwater standards	Ongoing	Unknown	
Special 1	Compliance is mandatory	Ongoing	Out of compliance	
Special 2	Conform to plan approved	Ongoing	In compliance	Site plan has not changed from what was filed
Special 3	Wetland boundary	Ongoing	Not relevant to this EO	
Special 4	Additional conditions	Ongoing	Not relevant to this EO	
Special 5	OOB to successor	Ongoing	Not relevant to this EO	
Special 6	Enforcement Orders	Ongoing	EO authority	
Special 7	CC inspection and data request	Ongoing	Not relevant to this EO	

Summary of Conditions Status 2024-09-06

Condition	Short Description	Due	Compliance Status	Notes
Special 8	OOB and docs on site	Ongoing	Compliant on 2024-09-05	
Special 9	Limit of work	Ongoing	Compliant on 2024-09-05	
Special 10	No vehicles or equipment in resource areas	Ongoing	Compliant on 2024-09-05	
Special 11	Changes to plans	Ongoing	Discussion required	
Special 12	Notification of issues	Ongoing	Compliant on 2024-09-05	
Special 13	Certificate of Compliance	Project Completion	Not relevant to this EO	
Special 14	Perpetual conditions	Ongoing	Not relevant to this EO	
Special 15	Embankments	Ongoing	Compliant on 2024-09-05	
Special 16	Condition compliance	Ongoing	Not relevant to this EO	
Special 17	Contact list with emergency	Pre-Construction	Out of compliance	Requires emergency numbers
Special 18	Stream sampling	Pre-Construction	Out of compliance	Not all required chemicals were reported, not all sites tested
Special 19	Turf, infill, shock pad	Pre-Construction	Discussion required	Reporting requirements not met, memorandum requested for discussion
Special 20	Weekly reporting	Ongoing	Out of compliance	SWPPP do not cover this reporting requirement
Special 21	Construction sequence narrative	Ongoing	Compliant on 2024-09-05	
Special 22	Erosion control	Pre-Construction	In compliance	
Special 23	Preconstruction meeting	Pre-Construction	Not relevant to this EO	
Special 24	Work supervision	Ongoing	Out of compliance	Wetland scientist has not been overseeing work
Special 25	100' buffer zone	Ongoing	Compliant on 2024-09-05	
Special 26	Signage	Pre-Construction	Requires CC decision	
Special 27	Natural areas	Ongoing	Compliant on 2024-09-05	
Special 28	Hazard spill kit	Ongoing	Compliant on 2024-09-05	
Special 29	Trash removal	Ongoing	Compliant on 2024-09-05	

Summary of Conditions Status 2024-09-06

Condition	Short Description	Due	Compliance Status	Notes
Special 30	No clearing before pre-construction	Pre-Construction	Not relevant to this EO	
Special 31	Tree cutting	Ongoing	Not relevant to this EO	
Special 32	AT storage	Ongoing	Compliant on 2024-09-05	
Special 33	Clean fill	Ongoing	Compliant on 2024-09-05	
Special 34	Equipment cleaning	Ongoing	Compliant on 2024-09-05	
Special 35	Invasive species spread	Ongoing	Compliant on 2024-09-05	
Special 36	Invasive species control	Project Completion	Not relevant to this EO	
Special 37	Entrance/exit pad	Ongoing	Compliant on 2024-09-05	
Special 38	Erosion control	Ongoing	Compliant on 2024-09-05	
Special 39	Removal of EC and flags	Project Completion	Not relevant to this EO	
Special 40	Burial & disposal in buffer zone	Ongoing	Compliant on 2024-09-05	
Special 41	Stockpiled earth	Ongoing	Out of compliance	Argus indicated they would immediately fix this issue
Special 42	Storage	Ongoing	Compliant on 2024-09-05	
Special 43	Long storage	Ongoing	Compliant on 2024-09-05	
Special 44	Time limits	Ongoing	Not relevant to this EO	
Special 45	AT natural infill	Ongoing	Not relevant to this EO	
Special 46	Stormwater monitoring	Ongoing	Not relevant to this EO	Proof of contract to accomplish immediate testing requested, required after turf installed
Special 47	Oil, CaCl, salt	Ongoing	Compliant on 2024-09-05	
Special 48	Equipment cleaning	Ongoing	Compliant on 2024-09-05	
Special 49	Fuel and lube operations	Ongoing	Compliant on 2024-09-05	
Special 50	Contaminants in resource or buffer	Ongoing	Compliant on 2024-09-05	
Special 51	Debris removed daily, destination records	Ongoing	Out of compliance	Argus will request disposal destination records from waste company

Summary of Conditions Status 2024-09-06

Condition	Short Description	Due	Compliance Status	Notes
Special 52	Stabilization	Project Completion	Not relevant to this EO	
Special 53	Dark sky certified lighting	Perpetual	Not relevant to this EO	
Special 54	Installed materials	Perpetual	Not relevant to this EO	
Special 55	Stormwater monitoring	Perpetual	Not relevant to this EO	Proof of ongoing contract to test immediately Plan for how this will be complied with
Special 56	No NaCl	Perpetual	Not relevant to this EO	
Special 57	Fertilizer, pesticides, herbicides	Perpetual	Not relevant to this EO	
Special 58	No work in resource area without approval	Perpetual	Not relevant to this EO	
Special 59	Fuel storage	Perpetual	Not relevant to this EO	
Special 60	Repair work	Perpetual	Not relevant to this EO	
Special 61	AT handling	Perpetual	Not relevant to this EO	
Special 62	Signage	Perpetual	Not relevant to this EO	
Special 63	Landscaping plants	Perpetual	Not relevant to this EO	



**TOWN OF HAMILTON
Conservation Commission**

Town Offices at Patton Homestead
650 Asbury Street, Hamilton, MA 01982
(978) 656-5247 <https://www.hamiltonma.gov>

**TOWN OF HAMILTON CONSERVATION COMMISSION
CONSERVATION BYLAW (Ch. 17) PERMIT**

To:

Applicant: Hamilton-Wenham Regional School District	Property Owner: Hamilton-Wenham Regional School District
Address: 5 School Street, Wenham, MA 01984	Address: 5 School Street, Wenham, MA 01984

This project is located at 775 Bay Road, Hamilton, MA.

The Notice of Intent for this project was filed on July 1, 2024. The Public Hearing Closed on July 24, 2024.

Plans:

Title: Hamilton-Wenham Regional High School Athletic Campus Improvements	Dated: 1/10/2023	Signed and Stamped by: <i>Bree D. Sullivan, Civil Engineer #48441</i>
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Findings:

The commission finds that the area in which work is proposed is within the AURA, and with the buffer zone to bordering vegetated wetlands, and is subject to protection under the Hamilton Conservation Bylaw Chapter 17 and Regulations which are significant to the protection of interests identified in the Bylaw, specifically:

<i>Resource Area</i>	<i>Significant to the protection of:</i>
Associated Upland Resource Area	Public and Private Water Supply Groundwater Supply Pollution Prevention Protection of Wildlife Habitat

Primary Standard for the project: The primary standard to be applied in this project is that the applicant's structures and activities in Areas Subject to Protection under the Bylaw or adjacent Buffer Zone shall not alter an area subject to protection under the Bylaw in such a way as to adversely affect the protection provided by that area to the public interests identified in the Bylaw.

The Commission finds the design and mitigating measures proposed by the applicant in the Notice of Intent and adjunct documents and plans referenced on page one above, with the Standard and Additional Conditions attached to this Permit, will serve as a sufficient basis to commence the project with satisfactory protection to the interests of the Bylaw. The applicant's responsibility is not limited to following these procedures, however, but additionally to assure that the Primary Standard is met. Therefore, additional or alternative measures may be called for if the Commission finds there is field evidence of any failure to meet that standard.

In such a case, applicants shall, within a time deemed reasonable by the Commission propose alternative or additional measures to meet the standard, for the approval of the Commission.



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The applicant or representatives shall be responsible for notifying the Commission within 48 hours if they become aware of any evidence of any adverse effect on the interests of the Bylaw.

Further findings are contained on the attached Conditions

Conditions

The conditions for this permit are the same as those issued under the WPA Form 5 "Order of Conditions" and attached to the WPA Form 5 issued for this work under DEP File #172-0642. This permit shall be recorded at the Southern Essex Registry of Deeds.

This Permit is issued by the Town under its Bylaw and its effect is independent of any Wetlands Protection Act Order of Conditions so that it is unaffected by any appeal of an Order of Conditions to the Department of Environmental Protection, or by any superseding order from the Department. This Permit must be signed by a majority of the Conservation Commission.

By Vote on December 13, 2023, the individuals listed below have authorized the Conservation Administrator to sign on their behalf pursuant to the signature authorization recorded with the Southern Essex Registry of Deeds in Book 41941 Page 46. They also intend for their typed names below to serve as their electronic signatures for any entity (Mass DEP) that accepts electronic signatures.

Issued by Hamilton Conservation Commission

Signature(s):

- /Lee McCoy/
- /Kathy Simons/
- /Sandy Coddling/
- /Virginia Cookson/
- /Michael Stoltzfus/

Kristan Farr, Conservation Administrator, duly authorized (Book 41941 Page 46).

By hand delivery on

By certified mail, return receipt requested on

August 5, 2024

This permit EXPIRES three years from the date of issuance, August 5, 2027.

Either all work pursuant to this permit is completed by the expiration date, or the Applicant must obtain an extension from the Commission.

Applications for extensions must be filed no later than 30 days prior to the expiration date.

**ATTACHMENT A
SPECIAL CONDITIONS**

**Order of Conditions (OOC) Under the Hamilton Wetland Bylaw Only
Hamilton-Wenham Regional School District, 775 Bay Road, Hamilton**

Under the Order of Conditions (hereafter “OOC”, “Order”, or “Conditions”), issued under MassDEP File Number **172-0642**, the Hamilton Conservation Commission (“the Commission”) hereby finds that in addition to the General Conditions Under the Massachusetts Wetlands Protection Act (WPA) on the MA DEP’s WPA Form 5, the following Special Conditions are necessary in accordance with the Performance Standards set forth in the regulations to protect the interests of the WPA for this project. Any violation of these Conditions will make the Applicant subject to an Enforcement Order. The following Conditions and Findings are being issued under both the WPA and Hamilton’s Conservation Bylaw (Ch. 17).

Findings:

The Hamilton Conservation Commission (HCC) makes the following findings:

Under the WPA, the property contains 100' Buffer Zone to Bordering Vegetated Wetlands, Bordering Vegetated Wetlands, Inland Bank, and 100' Buffer Zone to Inland Bank. Under the Bylaw and its associated Regulations, further Resource Areas and their respective buffers exist, including Freshwater Wetlands greater than 1,000 sq. ft, 100' Buffer Zone to Freshwater Wetlands greater than 1,000 sq. ft, and Associated Upland Resource Area (AURA).

Under Hamilton’s Conservation Bylaw, the more restrictive No-Build and No-Disturb Zones in the Regulations apply, and the Commission has waived the enforcement of these zones as the project is not disturbing any previously disturbed areas, and there is no demonstrable way to accomplish the goals of this project in a different location, or a different layout.

Property Description:

The property is the campus of Hamilton Wenham Regional High School.

Project:

In this Notice of Intent (NOI), the proposed project seeks to replace the existing softball and tennis courts on the school’s campus. The tennis court aspect of the project generated relatively little conversation during the public review process, with the focus on that area having more to do with the nearby ropes course, and the trails through the woods required for that course. The softball field generated much more conversation, as the new field is proposed to be artificial turf. With the continuing evolution of the science surrounding PFAS and related chemicals, the recent addition of these chemicals to the EPA’s list of Superfund chemicals, and that much of the science links health impacts on youth to these chemicals, the Commission did not feel that the use of the turf field would be ecologically beneficial, benefit water quality, or benefit the health of Hamilton’s youth. Yet, no studies have investigated the impact of this group of chemicals on ecosystems, or their component flora and fauna. The Commission is also tasked with some aspects of protecting drinking water, and no public water supply wells are currently operational in the Miles River Basin. Current regulations for PFAS are limited to the allowable levels of PFAS in drinking water, rather than in the air, the soil, or wild harvested foods. The Commission maintains its concerns regarding

PFAS, and this is reflected in the stringent water quality testing Conditions contained herein, with water testing taking place prior to, during, and after construction, as well as perpetually for the remainder of the field's useful life. Should the science or regulation of PFAS change, the School District and the Commission will both have the data needed to maintain compliance with all applicable laws. Additionally, while the burden of proof is generally on the Applicant to prove that their proposed project will not harm a Resource Area, or impair any of the values protected by the Wetlands Protection Act or the Hamilton Wetlands Bylaw, the Commission recognizes that the evolving science of PFAS and related chemicals is not currently relevant to the habitat protection aspects of either law, while all extant drinking water regulations are not applicable to this particular project. Therefore, while the Commission does not feel that this class of chemicals should be utilized in this location, for this purpose; the Commission does not feel that requiring the school to make a different choice is an action that is within its power. The infiltration system, as designed, will also contain the majority of rainfall upon the field, and the stormwater discharge point is expected to discharge water infrequently. The school has therefore met the goal of minimizing the impact of this project on the surrounding wetlands.

Unless extended, the Order of Conditions, DEP # 172-0642 will expire on 4/12/2026 under the Massachusetts Wetlands Protection Act.

Unless extended, this Order will expire three years from the date of issuance on 8/5/2027 under the Hamilton Wetland Bylaw, Chapter 17.

The Commission orders that all work shall be performed in accordance with said Conditions and with the referenced Notice of Intent and all other relevant documents listed below in Condition 22. 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 prevail.

GENERAL CONDITIONS (CONTINUED FROM WPA FORM 5)

Please review the preceding General Conditions on the DEP WPA Form 5, particularly Condition 1 in the Order of Conditions under the Massachusetts Wetlands Protection Act.

1. All work must be in compliance with the Hamilton Wetland Protection Bylaw, Regulations, and Policies.
2. The work shall conform to the following plans and documents unless otherwise specified in this Order:

FOR REFERENCE:

ORIGINAL PLANS APPROVED UNDER THE ORDER OF CONDITIONS ISSUED ON
APRIL 12, 2023

- a. WPA Form 3/Notice of Intent:
Submitted For: Notice of Intent and Accompanying Stormwater Management Report
Hamilton-Wenham Regional School District
Hamilton-Wenham Regional High School Athletic Campus Improvements
January 2023

ATTACHMENT A – SPECIAL CONDITIONS
775 Bay Road – Hamilton-Wenham Regional School District– Hamilton, MA

Hamilton Wetland Bylaw Only

Submitted By: Matthew S. Kinlin, E.I.T., Gale Associates Inc., 163 Libbey Parkway, Weymouth, MA 02189

Stamped By: Bree D. Sullivan, Civil Engineer #48441

b. Site Plan:

Gale Associates Inc., 163 Libbey Parkway, Weymouth, MA 02189

Athletic Campus Improvements Hamilton-Wenham Regional High School 775 Bay Road Hamilton, MA 01982 Hamilton-Wenham Regional School District 5 School Street Wenham, MA 01984

Permit Plan Set - 1/10/2023, updated 3/6/2023 with accurate No-build and No-Disturb Zones

c. Other:

3/21/2023 Letter from Wayne Castonguay, Ipswich River Watershed Association
By Email: Re: Hamilton Wenham School District Athletic Field Project on Bay Road

2/15/2023 Letter from Gale Associates
Request for Information – PFAS Contamination in Turf Fields & Stream Determination
Gale JN# 718600

PFAS in the Commonwealth of Massachusetts
Final Report of the PFAS Interagency Task Force – April 2022

FOR REFERENCE:

CURRENT PLANS APPROVED UNDER THE ORDER OF CONDITIONS ISSUED AUGUST 5, 2024

d. WPA Form 3/Notice of Intent:

Submitted For: Notice of Intent and Accompanying Stormwater Management Report
Hamilton-Wenham Regional School District
Hamilton-Wenham Regional High School Athletic Campus Improvements
January 2023

Submitted By: Matthew S. Kinlin, E.I.T., Gale Associates Inc., 163 Libbey Parkway, Weymouth, MA 02189

Stamped By: Bree D. Sullivan, Civil Engineer #48441

e. Site Plan:

Gale Associates Inc., 163 Libbey Parkway, Weymouth, MA 02189

Athletic Campus Improvements Hamilton-Wenham Regional High School 775
Bay Road Hamilton, MA 01982 Hamilton-Wenham Regional School District 5
School Street Wenham, MA 01984

Permit Plan Set - 1/10/2023

f. Other:

7/1/2024 Letter from Gale Associates
Cover letter regarding resubmittal of Notice of Intent under the Hamilton Wetland
Bylaw, Gale JNL# 718601

6/22/2024 Letter from Eric Tracy, Superintendent, Hamilton-Wenham Regional
School District to Lee McCoy, Chairperson, Hamilton Conservation Commission

7/22/2024 Article dated October 25, 2023, submitted by Kathy Simons via email,
titled EGLE established new surface water values for two additional PFAS
chemicals

Undated Photometric Plan-Edge of Wetland

April 2022 EPA Fact Sheet: Draft 2022 Aquatic Life Ambient Water Quality
Criteria for Perfluorooctanic acid (PFOA) and Perfluorooctane Sulfonic Act
(PFOS)

4/11/2023 Letter from Neponset River Watershed Association to John Kiernan,
Chair, Milton Conservation Commission

12/6/2023 Lighting Specification prepared for Hamilton Wenham High School

2/9/2024 Letter from Jeff Gearhart, Research Director, Ecology Center to Marnie
Crouch, Chair, Hamilton Planning Board

6/14/2024 Clean Water Action PFAS Product Restrictions-Effective Dates

7/23/2024 Letter from Erin Bonney Casey, Executive Director, Ipswich River
Watershed Association

7/22/2024 Letter from Anne Gero to Lee McCoy, Chair, Conservation
Commission

7/23/2024 Letter from Anne Gero to Conservation Commission

7/22/2024 Letter from Nancy Baker to Conservation Commission

Undated Five Lighting Principles for Responsive Outdoor Lighting

3. **The approved wetland boundaries pertaining to this Order are only valid for this particular project, and not for any future projects.**
4. The Commission reserves the right to require additional conditions if deemed necessary to protect the resource areas and interests as defined in MGL Chapter 131 Section 40 (310 CMR 10.00) with proper notification of all parties.
5. **This Order shall apply to any successor(s) in interest or successor(s) in control of any part of the Resource Areas or their buffers displayed on the plans referenced by this document, which may be divided off of the parcel currently known as 775 Bay Road., Hamilton Assessor’s Map 40, Parcel 11 and shall survive the issuance of the Certificate of Compliance (COC), specifically for the project permitted as DEP # 172-0642. The Conditions listed in, and inclusive of, Condition #25 & Condition #34: Conditions 52 – 59 in the Order issued April 12, 2023, under the Massachusetts Wetlands Protection Act are considered perpetual conditions.** Within ten (10) calendar days inclusive of the transfer of ownership of the subject parcel, in whole or in part, including lots or buildings conveyed under individual deeds, the Conservation Commission shall be notified in writing by the seller of the name and address of the new owner.

Within ten (10) calendar days inclusive of such transfer, a written, signed, and notarized affidavit shall be filed with the Conservation Commission by the seller, stating that the new owner(s):

- o Has read and understands the Order of Conditions;
- o Understands all terms applicable to the project site;
- o Understands that any work within 100 feet of wetlands or within 200 feet of perennial streams requires a permit from the Conservation Commission;
- o Understands that the dumping of yard waste, brush, or other materials in the wetlands is not allowed;
- o Intends to comply with all provisions of the Order, including obtainment of a Certificate of Compliance if the seller has not already done so;
- o In addition, this affidavit shall include the following sentence: “I, _____, the new owner of _____, understand that any work within 100 feet of wetlands or within 200 feet of perennial streams requires approval by the Hamilton Conservation Commission and that dumping of yard waste, brush, or other materials in the wetlands is not allowed.”;
- o This affidavit shall also include a plan of the lot indicating the wetland boundary, building(s), and any other features.

All current and future new tenants shall be provided with a copy of this Order and a signed affidavit acknowledging receipt shall be provided to the Commission.

6. Any violation of these conditions will make the Applicant subject to an Enforcement Order.
7. Members and agents of the Commission shall have the right to enter and inspect the premises to evaluate compliance with these conditions and to require the submittal of any data deemed necessary by the Commission for that evaluation.

8. **The Applicant, contractor, or site engineer responsible for the project's completion shall have on-site at all times a copy of this Order**, including all referenced documents, while activities regulated by this Order are being performed.
9. The Commission designates the "limit of work" under this Order as the erosion control barriers and the limit of work line as depicted on the project site plans approved by the HCC as referenced herein.
10. No vehicles or equipment are to enter or cross wetland resource areas at any time unless the location of the disturbance is marked on the plans referenced in this Order and is within the limit of work shown on the plan.
11. Any change in the plans approved under this OOC, including those due for review by other boards or resulting from the aforementioned conditions, must be submitted to the Commission in writing for approval prior to implementation. The 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 OOC. Any errors found in the plans or information submitted by the Applicant shall be considered as changes.
12. If any unforeseen problem occurs during the Project which affects any of the seven statutory interests of the Massachusetts Wetlands Protection Act and/or the Hamilton Wetland Protection Bylaw and Regulations, the Applicant shall notify the Conservation Commission and an immediate (within 24 hours) meeting shall be held between the Commission, the Applicant, the Applicant's representative and/or engineer/contractor, and other concerned parties to determine the corrective measures agreed upon. In the event of a dispute amongst the participants of any meeting, the Commission's view shall prevail.
13. Upon completion of this project the owner or his designee shall submit the following to the Conservation Commission to receive a Certificate of Compliance per Condition 12 in the Order of Conditions under the Massachusetts Wetlands Protection Act issued April 28, 2023:
 - a. A **written request** from the Applicant/Property Owner or his designee for a Certificate of Compliance (WPA Form 8A) for DEP File # **172-0642**.
 - b. A written statement from a registered professional engineer of the Commonwealth of Massachusetts certifying that the work has been completed in compliance with this Order of Conditions and the approved plans referenced herein (or approved revisions). Any discrepancies shall be noted. If the work completed differs significantly from the work proposed in the Notice of Intent and approved by the Commission, the Commission may require the Applicant to implement measures necessary to comply with this Order.
 - c. An as-built topographic plan signed and stamped by a registered professional land surveyor of the Commonwealth of Massachusetts, showing post-construction conditions for the public record. This plan will include as-built elevations of all drainage ways constructed within 100 feet of any wetland or 200 feet of a perennial stream, distances to all structures, and elevations within 100 feet of wetlands and 200 feet of perennial streams. The as-built plan must show

all wetland resource area boundaries with associated buffer zones and any No Cut/No Disturbance Zones taken from the plan(s) approved in this OOC. The as-built plan must show elevations of all filled, altered, or replicated wetlands. This as-built plan MAY NOT be the originally submitted final approved site plan with changes highlighted and explained.

14. The following special conditions shall extend beyond the issuance of a Certificate of Compliance, in perpetuity, and shall be referred to in all future deeds to this property. **This Condition shall survive the issuance of the Certificate of Compliance.**

- 25. Regarding notification of new property owners.
- 34. Regarding Perpetual Conditions
- 51. Regarding light pollution
- 52. Regarding the chemical composition of installed materials
- 53. Regarding water quality monitoring
- 54. Regarding a prohibition on the use of sodium chloride
- 55. Regarding a prohibition on the use of fertilizers, pesticides, and herbicides
- 56. Regarding a prohibition on tree removal
- 57. Regarding a prohibition on underground fuel storage
- 58. Regarding Conservation Commission notification of maintenance activities
- 59. Regarding a prohibition on invasive species
- 62. Regarding signage of Resource Areas

15. No proposed earthen embankment in the buffer zone shall have a slope steeper than 2H:1V, (or as shown on the project site plans approved by the HCC as referenced herein) without prior written approval of the Commission.

16. Failure of the Applicant to comply with one or more individual conditions set forth in this OOC does not exonerate the Property Owner, successor in control, or successor in interest of the property described in the Notice of Intent in meeting or complying with the remaining conditions in this OOC.

PRIOR TO CONSTRUCTION

Please note General Conditions 8, 9, and 10 in the Order of Conditions issued on April 28, 2023, under the Massachusetts Wetlands Protection Act.

17. Prior to the commencement of any work on the site, the Applicant shall submit in writing to the Commission the names, addresses, and telephone numbers (both business and 24-hour emergency numbers) of the person(s) responsible on-site for compliance with this Order and his/her alternate. The Applicant shall also notify the Commission in writing of any changes to this information.
18. Prior to the Commencement of work on-site, the Applicant shall engage an independent testing laboratory to conduct stream sampling for PFAS, PFOA (Perfluorooctanoic acid), PFOS (Perfluorooctane Sulfonic Acid), and “Gen X” chemicals PFBS (perfluorobutane sulfonic acid and its potassium salt) and HFPO – hexafluoropropylene oxide dimer acid and its ammonium salt), using best available methodology. Stream sampling will be conducted at least 100 ft upstream of where stormwater overflow from the turf field will enter the waterway, the area where the stormwater will enter the stream, and at the

mouth of the stream just prior to, and just after it reaches the waters of the Miles River Marsh. These same locations will be utilized for any future water monitoring requirements. Documentation of water quality monitoring shall include photographs that include the exact location of the photo in the photo's file data.

- a. Should the initial site(s), data, water analysis service provider, or other unforeseen factors prove to be incompatible with the goals of this Condition, which is to establish a reliable location for subsequent water quality monitoring and data collection to establish scientifically robust baseline data, the Conservation Commission or its Agent may require subsequent rounds of baseline data acquisition.
 - b. The Commission expects that the chemicals regulated by the Commonwealth's Department of Environmental Protection, and the U.S. Environmental Protection Agency will continue to change. The most up-to-date list of regulated PFAS and "Gen X" chemicals from both agencies shall form the basis for this water testing condition and the version of both agencies' list used shall be referenced in all reporting documents.
 - c. The Commission expects a summary of all PFAS reported as a chemical class, rather than as individual chemicals, to be a component of the required testing and reporting regimen.
 - d. Should neighboring landowners refuse permission to monitor the stream on their properties, monitoring beyond the single discharge source on school properties shall not be enforced.
19. Prior to the Commencement of work on-site, the applicant will engage an independent testing laboratory to test the turf, infill, and shock pad for PFAS, PFOA (Perfluorooctanoic acid), PFOS (Perfluorooctane Sulfonic Acid), and "Gen X" chemicals PFBS (perfluorobutane sulfonic acid and its potassium salt) and HFPO – hexafluoropropylene oxide dimer acid and its ammonium salt), using best available methodology The results of these tests will be submitted to the Commission before work is begun.
- a. The Commission reserves the right to require additional Conditions should the result of this test reveal unacceptably high levels of one of these compounds.
 - b. The Commission expects that the chemicals regulated by the Commonwealth's Department of Environmental Protection, and the U.S. Environmental Protection Agency will continue to change. The most up-to-date list of regulated PFAS and "Gen X" chemicals from both agencies shall form the basis for this water testing condition and the version of both agencies' list used shall be referenced in all reporting documents.
 - c. The Commission expects a summary of all PFAS reported as a chemical class, rather than as individual chemicals, to be a component of the required testing and reporting regimen.
 - d. Should neighboring landowners refuse permission to monitor the stream on their properties, monitoring beyond the discharge source on school properties shall not be enforced.
20. The Applicant or designee shall report in writing (via e-mail or US mail service) to the Hamilton Conservation Commission prior to the commencement of construction, every week during construction, and for as long thereafter as the ground remains unstable, as well as upon completion of the project until such time as the Certificate of Compliance

(COC) is issued for the project. These reports shall include an update on the status of the erosion controls, what work within 100 feet of wetlands or within 200 feet of perennial streams has been completed to date, and what work is proposed for the next month.

21. Prior to the commencement of any work on-site, the Property Owner or his designee **shall submit for approval by the HCC/staff a detailed Construction Sequence** with a timetable and details, including the **construction of compensation areas**, to be completed before other work begins on site.
22. Prior to the commencement of any work on-site, all erosion and sedimentation control measures shall be installed for inspection and approval by the Commission or its agent, in accordance with the SEDIMENT AND EROSION CONTROLS portion of this Order of Conditions. **The Commission must be notified at least seven (7) days prior to the commencement of work for such inspection.**
23. A Pre-construction meeting shall be held, between the Applicant and their designated Project Superintendent and Site Contractor with the HCC or its agent to review the proposed work and measures designed to mitigate any impact on the wetlands, and to ensure that all conditions of the OOC are understood.
24. It is the Applicant's responsibility to **ensure that the work to be performed hereunder will be properly supervised** by the design engineer and the wetlands biologist, or by persons of equivalent qualifications.
25. **No additional clearing or grading** in the 100' Buffer Zone to wetlands, other than what is shown on the approved plans, may be done without the written approval of the HCC/staff.
26. No Build and No Disturb areas are to be permanently demarcated and signed, and, in an area easily visible to the public, a sign will be erected with a map of the surrounding wetland area with a list of wetland values and restricted activities.
27. Natural areas within the designated work area that are not part of the explicit scope of work, are not to be used for parking of any vehicles, storing of any materials, or are otherwise allowed to be impaired by approved activities. Placing of temporary fences, approved by the HCC or its agent, around such areas to prevent accidental impairment is encouraged.
28. The Applicant/Responsible Party **shall ensure a hazardous materials spill containment kit is maintained on-site at all times** throughout construction. The kit **shall be appropriately sized** for the cumulative volumetric capacity of hazardous fluids contained by on-site equipment.
29. At the commencement of work, and again prior to the roadway and stormwater facility completion, the Applicant **shall collect and remove by hand all trash and loose man-made debris** from the site's resource areas and buffer zones.
30. **No clearing of vegetation, including trees, or disturbance of soil shall occur prior to the Pre- Activity Meeting.** Minimal disturbance of shrubs and herbaceous

plants may be allowed prior to the Pre-Activity Meeting if it is absolutely necessary in order to place erosion control marker stakes and to establish stakes designating the "limit of work" where required.

31. To ensure the accuracy of the tree cutting, the HCC/staff **recommends implementing a two-color system for marking the limit of work line.** The trees on the edge of the limit of work line to be cut should be marked with orange marking paint on the stump and then at breast height. The trees on the other side of the limit of work line NOT to be cut should have yellow caution tape tied around the trunk to provide a visual distinction to inform the tree clearing firm to reduce the possibility of excessive clearing.
32. All components of the artificial turf, including grass blades, infill, and pad, will be safely contained and stored prior to, during, and after completion of construction in such a manner as to prevent the possibility of unauthorized handling or removal, or chemical leaching into the ground and the surrounding wetland areas. This stockpile area is to be inspected for effectiveness by a member of the Commission or its Agent prior to its use.

INVASIVE SPECIES

33. Any fill or other materials brought on-site must be clean, debris-free, and devoid of invasive plants or their parts or seeds.
34. All construction vehicles must be cleaned of accumulated soil or plant matter from other sites prior to entering the site, through washing, brooming, or another method approved in advance by the HCC.
35. In order to prevent the spread of invasive species from one portion of the project site to another, construction vehicles may not enter locations infested with invasive species. If this is unavoidable, vehicles shall be washed or broomed clean prior to leaving the infested portion of the site.
36. An invasive species control plan is to be developed and executed prior to the submission of a Certificate of Compliance request. It is expected that at the time of the Certificate of Compliance request, no invasive species individuals or populations shall be present on the property which require tools to kill, inclusive of hand tools, mechanical tools, and/or herbicides. This means:
 - a. For woody plants, plants on-site at the time of inspection for the Certificate of Compliance are to be a size easily removed by hand, and no more than ten plants of any species are to be located in the 100 sq. meters most densely populated by said species.
 - b. For any given invasive herbaceous plant species, in addition to being removable by hand, no more than ten plants are to be located in the most densely populated 100 sq. meters.
 - c. For reference on which plants are to be considered invasive, please see Condition #63.

SEDIMENT AND EROSION CONTROLS

Please note General Condition 18 under the Order of Conditions issued on April 28, 2023, under the Massachusetts Wetlands Protection Act.

37. Installation of **temporary gravel or crushed stone construction entrance/exit pad** (30' x 50' minimum) to reduce off-site transport of soils into **Bay Road., shall occur prior to earth disturbance activities**. Possible specifications are: 6-1 O inch depth of 2–3-inch coarse aggregate over a geotextile fabric to stabilize the foundation.
38. Soil erosion and deposition into wetland resource areas shall be prevented at all times by effective control methods. The Applicant shall implement the methods indicated in the referenced Notice of Intent and as specified below:
- a. The *minimum* required erosion control barriers shall consist of a **staked compost filter sock, with the sock composed of biodegradable material**, and of an appropriate diameter (10" minimum), to be inspected and approved by the Commission or its agent before work commences. To minimize wildlife entanglement and plastic debris pollution, choose temporary erosion and sediment control products that either do not contain netting or that contain netting manufactured from 100% biodegradable non-plastic materials such as jute or sisal fiber. Degradable, photodegradable, UV-degradable, oxo-degradable, or oxo-biodegradable plastic netting (including polypropylene, nylon, polyethylene, and polyester) are not acceptable alternatives. Natural materials sourced from outside the U.S. are also unacceptable, due to the risk of importing exotic invasive pests. Netting used in these products should have a loose-weave wildlife-safe design with movable joints between the horizontal and vertical twines, allowing the twines to move independently and thus reducing the potential for wildlife entanglement. Avoid the use of silt fences reinforced with metal or plastic mesh. When no longer required, temporary erosion and sediment control products should be promptly removed.
 - i. Examples of products which qualify as compost include, but are not limited to: aged composted Filtrex® FiterMedia; heat-treated rice hull mixed with gravel such as what's used in "StormCatcher" weighted sediment filter tube; & rice hulls.
 - ii. Examples of sock products composed of biodegradable materials include, but are not limited to: Filtrex Cotton BioSoxx, Burlap, and CORE Bio Mesh.
 - iii. Erosion control suppliers/manufacturers include but are not limited to: Filtrex, Flexterra, Western Excelsior Corp, East Coast Erosion Control's ECX-1B, Profile Erosion and Vegetative Solutions, American Excelsior Corporation's Curlex products.
 - b. The use of haybales and woodchips is strictly prohibited for erosion control, unless specifically allowed by the Commission (as shown on the project site plans approved by the HCC as referenced herein), due to the potential for invasive species introductions and their inferior sediment and pollution controls compared to compost based erosion control materials.

- c. Erosion control measures shall be installed and maintained in accordance with U.S. Natural Resources Conservation Service recommended methods.
- d. The limit of work shall be the erosion control barriers beyond which no work shall occur. Erosion control barriers shall not be placed within 25 feet of the wetland boundary, (or as shown on the project site plans approved by the HCC as referenced herein) without written permission of the Commission.
- e. The Commission may require the Applicant to employ additional erosion and/or damage prevention measures as it deems necessary.
- f. Erosion controls shall be inspected weekly and immediately following storm events. Damaged or non-functioning erosion control devices shall be maintained, reinforced, or replaced as necessary.
- g. Any failure of erosion control measures resulting in the deposition of soil into the wetland resource area(s) shall be **immediately** reported to the Conservation Commission office at (978) 626-5247.
- h. The Applicant shall take immediate steps to control any erosion that occurs on site that impacts areas under the jurisdiction of the Wetlands Protection Act and the Hamilton Wetlands Bylaw and Regulations.
- i. Any sedimentation that occurs outside of the erosion control barriers shall be immediately removed using hand tools. The cause of the erosion/sedimentation shall be immediately addressed.
- j. All accumulated sediment shall be removed from the face of the erosion control barriers using hand tools (e.g. shovels, rakes, and wheelbarrows) whenever the level of sediment is within six (6) inches of the top of the barrier.
- k. The Applicant shall maintain a reserve of the approved erosion control materials equal to at least 10% of the maximum length of erosion control materials used on-site during the duration of the project, with stakes, to be used for emergency repairs. These materials are not to be used for daily maintenance of erosion controls.
- l. Soil, sediment, debris, or other material removed during maintenance or repair of erosion control barriers, or remediation of erosion damage, shall be disposed of outside the wetlands or riverfront buffer zone.
- m. Exposed soils shall be stabilized as soon as practical following disturbance. Slopes and other disturbed areas not subject to construction activities shall be stabilized (either temporarily or permanently) immediately following excavation/grading. Temporary stabilization shall consist of seeding with **annual oats** or other approved species, or installation of jute netting, staked mulches, or other Natural Resources Conservation Service accepted methods, maintaining respect to the minimum required erosion control barriers conditioned by this Order.

- n. Immediately following any storm event, the Applicant shall regularly inspect all stabilized areas for erosion, wash-out, rills, or other damage. Any noted damage shall be immediately reported to the HCC and repaired using the original stabilization method or other Natural Resources Conservation Service accepted methods.

39. **Erosion control devices and wetland flags shall remain in place until all disturbed surfaces have been permanently stabilized and a Certificate of Compliance is issued by the Commission.** The erosion control devices can only be removed once the Applicant has submitted a Request for Certificate of Compliance AND the HCC and/or its agent has conducted a site visit and granted permission to do so. The biodegradable erosion controls may be broken up and spread on-site, but not within any wetland resource area(s) or Conservation Easement. Any non-biodegradable material used within the erosion controls must be removed and discarded off-site. The erosion control devices must be removed prior to the final issuance of the Certificate of Compliance.

SOIL STOCKPILES AND FILL STORAGE

- 40. At no time shall debris or other material be buried or disposed of within the buffer zone, other than that fill which is allowed by this Order and as shown on the referenced plans.
- 41. Stockpiled earth and other materials **shall be located on the upland side of the temporary erosion control or limit-of-work line and shall have erosion control set at the base for a minimum of 67% of its circumference, or otherwise be stabilized** to prevent erosion into wetland resource areas and/or prevent any runoff from the construction area into a Resource Area. If stockpiles sprout invasive plant species, the HCC/staff may direct that appropriate control methods be employed to combat the invasive plants.
- 42. All fill, stumps, brush, logs, rubbish, construction debris, excavated materials, construction equipment, vehicles, and construction materials (i.e. gravel, bentonite, etc.), if permitted to be stored within the Commission's jurisdiction, shall be stored in a designated location approved by the Commission.
- 43. Any soil stockpiles that will remain within the Commission's jurisdiction for longer than two weeks must either be fully covered with an impermeable material or seeded with a short-lived (incapable of reseeding) annual herbaceous cover crop.

TIME LIMITS

- 44. All **disturbed areas in the Buffer Zone** will be stabilized by vegetation, heavy mulching, sodding, or matting **prior to November 15 each year.** No work within the Buffer Zone or resource areas may be done between **November 15 and March 15.**

OTHER CONDITIONS

- 45. The infill utilized for this artificial turf field shall be of a natural material such as, but not limited to, coir fibers, nut shells, sand, or cork.

46. Stormwater quality is to be monitored *immediately* following rainfall events totaling six (6) inches or more in a 12-hour (which is drawn from the NOAA Atlas 14) period for chemicals associated with the completed turf field. This monitoring is to be conducted at the discharge area, currently slated to only flow during “100-year” precipitation events, as well as at the locations outlined in pre-construction Special Condition #18.
- a. For the period this Order of Conditions is open, and a Certificate of Compliance has not been issued, any time this features discharges water, samples shall be taken and measured for PFAS, PFOA (Perfluorooctanoic acid), PFOS (Perfluorooctane Sulfonic Acid), and “Gen X” chemicals PFBS (perfluorobutane sulfonic acid and its potassium salt) and HFPO – hexafluoropropylene oxide dimer acid and its ammonium salt), using the best available methodology, and the results shared with the Conservation Commission directly from the provider of the water monitoring services.
 - b. The Applicant shall conduct stream sampling for PFAS at the same locations that baseline data was acquired from, as outlined in pre-construction Special Condition #18.
 - c. Should levels of PFAS in stormwater associated with the turf field, which should only be entering wetlands at the discharge pipe of the turf field, be found to be higher than those allowed by state or federal regulations, the Applicant shall provide the Commission with a Request to Amend this Orders of Conditions and shall submit a plan to reduce the PFAS load in stormwater to levels below those regulated by the State.
 - d. The Commission expects that the chemicals regulated by the Commonwealth’s Department of Environmental Protection, and the U.S. Environmental Protection Agency will continue to change. The most up-to-date list of regulated PFAS and “Gen X” chemicals from both agencies shall form the basis for this water testing condition and the version of both agencies’ list used shall be referenced in all reporting documents as well as related water testing conditions contained within this document.
 - e. Should neighboring landowners refuse permission to monitor the stream on their properties, monitoring beyond the discharge source on school properties shall not be enforced.
47. No oil, calcium chloride, or other salt shall be used within 100 feet of a wetland resource area or within 200 feet of a perennial stream during any construction phase for the control of dust.
48. Any runoff resulting from washing of vehicles or equipment shall neither be directed to, nor dumped into, any on-site drainage system or wetland resource area. Runoff shall be managed in accordance with the stormwater management plan developed for this project.
49. Equipment fuel storage, refueling, and lubrication operations shall be situated in an upland area outside the buffer zone. The Commission shall be notified *immediately* of any leakage of contaminants from this area and all fueling operations shall be suspended.
50. Pumps, generators, or other stationary equipment containing fuel, oil, hydraulic fluid, or other potential contaminants shall not be stored or operated within the resource area or buffer zone without written approval of the Commission. Equipment shall be located in a

containment area on an impervious barrier. The barrier shall be of light color to allow observation of any liquid spillage. If spillage is observed, the equipment shall be taken out of service immediately and repaired or replaced.

51. All vegetative debris, uprooted stumps, brush cuttings, and other debris shall be removed from the construction area and other Resource Areas and buffer zones, including existing on-site debris and construction debris, daily. The Applicant or his designee shall be responsible for removing and disposing of such materials and surplus soils promptly and properly to an off-site disposal area which complies with all federal, state, and local requirements and regulations. Records as to the destination of all materials, including stumps, brush, and excess fill, shall be kept and supplied to the Commission if requested.
52. **Prior to the issuance of the Certificate of Compliance, all disturbed areas shall be stabilized to the satisfaction of the Commission.**

PERPETUAL CONDITIONS – Including Conditions #5 & #14

53. Lighting fixtures and light sources shall be “Dark Sky” certified, or equivalent; Resource Areas are to be shielded from light pollution. **This condition shall survive the issuance of the Certificate of Compliance.**
54. A complete list of all non-natural materials installed as part of this project is to be maintained by the Applicant and made available upon request to the Commission. Any ingredients considered as a “trade secret” shall not be allowed to be installed within the jurisdictional areas of the Conservation Commission. This restriction on “trade secrets” is meant to ensure no unknown chemicals are unwittingly introduced to the Resource Area during construction, maintenance, or as a component of stormwater runoff. **This condition shall survive the issuance of the Certificate of Compliance.** This requirement is intended for but is not limited to:
- Infill materials utilized for these turf fields.
 - The turf itself.
55. Stormwater flow is to be monitored ***immediately*** following rainfall events totaling 6 inches or more in a 12-hour period for discharge from the field’s stormwater discharge location. Should water be found to be discharging, samples are to be taken for monitoring. This monitoring is to be conducted at the discharge area, currently slated to only flow during “100-year” precipitation events or greater, as well as at the locations outlined in pre-construction Special Condition #18. **This condition shall survive the issuance of the Certificate of Compliance.**
- Samples shall be taken and measured for PFAS, PFOA (Perfluorooctanoic acid), PFOS (Perfluorooctane Sulfonic Acid), and “Gen X” chemicals PFBS (perfluorobutane sulfonic acid and its potassium salt) and HFPO – hexafluoropropylene oxide dimer acid and its ammonium salt), using best available methodology, and the results shared with the Conservation Commission directly from the provider of the water monitoring services.
 - Monitoring records to be maintained by the Applicant and made available upon request to the Commission.
 - Monitoring shall be done at the same locations utilized for special conditions #18 & #46

- d. Should neighboring landowners refuse permission to monitor the stream on their properties, monitoring beyond the discharge source on school properties shall not be enforced.
56. No sodium chloride shall be used within 100 feet of a wetland resource area or within 200 feet of a perennial stream if the area will drain to a resource area and regulated buffer zone without significant dilution treatment, and any contract or agreement for snow or ice removal shall so stipulate. **This condition shall survive the issuance of the Certificate of Compliance.**
57. Non-organic fertilizers, pesticides, and herbicides shall not be used within 100 feet of a wetland resource area or within 200 feet of a perennial stream. Organic fertilizers used within 100 feet of a wetland resource area or within 200 feet of a perennial stream shall be slow release. **This condition shall survive the issuance of the Certificate of Compliance.**
58. No work or alteration, including but not limited to removal of any standing or fallen trees or vegetation, except as approved by the Commission and shown on the approved plan(s), shall be conducted within any wetland resource area or any area outside the limit of work under this Order. **This condition shall survive the issuance of the Certificate of Compliance.**
59. No underground storage of fuels is allowed within 100 feet of wetland resource areas or within 200 feet of a perennial stream. **This condition shall survive the issuance of the Certificate of Compliance.**
60. The Conservation Commission shall be notified in writing when any maintenance functions that may impact wetlands are to be performed, such as but not limited to replacing leach fields, repairing drains, road maintenance/repaving, and cleaning of stormwater appurtenances. **This condition shall survive the issuance of the Certificate of Compliance.**
61. All components of the artificial turf, including grass blades, infill, and pad, will be safely contained and stored prior to, during, and after any maintenance, upkeep, or replacement activities in such a manner as to prevent the possibility of unauthorized handling or removal, or chemical leaching into the ground and the surrounding wetland areas. This stockpile area is to be inspected for effectiveness by a member of the Commission or its Agent prior to its use. **This condition shall survive the issuance of the Certificate of Compliance.**
62. No Build and No Disturb areas are to be permanently demarcated and signed, and, in an area easily visible to the public, a sign will be erected with a map of the surrounding wetland area with a list of wetland values and restricted activities. **This condition shall survive the issuance of the Certificate of Compliance.**
63. No plants listed on the latest Massachusetts DAR Prohibited Plant List (available at http://www.mass.gov/agr/farmproducts/Prohibited_Plant_Index2.htm), the Massachusetts Invasive Plant Advisory Group's Invasive, Likely Invasive, Potentially Invasive, or Not Currently Meeting Criteria lists (<http://www.massnrc.org/mipag/index.htm>), the Connecticut Invasive Plant Working Group's Invasive and Potentially Invasive plant list

(http://cipwg.uconn.edu/invasive_plant_list/), the Rhode Island Natural History Survey Invasive Species List (http://rinhs.org/wp-content/uploads/2011/10/Rhode-Island-Invasive-Species_2013_b.pdf), New York's Prohibited & Regulated Invasive Species List (http://www.dec.ny.gov/docs/lands_forests_pdf/islist.pdf), Vermont's Noxious Weed List (<http://www.vtinvasives.org/plants/plant-quarantine-rule>), New Hampshire's Prohibited Invasive Species List (<http://agriculture.nh.gov/publications-forms/documents/prohibited-invasive-species.pdf>), and Maine's Noxious Weed List (<http://www.invasive.org/species/list.cfm?id=48>), may be brought onto or planted anywhere on the property. If at any point these hyperlinks are out of date, this Condition must still be observed, according to the prohibitions on each State's plant list. **This condition shall survive the issuance of the Certificate of Compliance.**



**TOWN OF HAMILTON
Conservation Commission**

Town Offices at Patton Homestead
650 Asbury Street, Hamilton, MA 01982
(978) 656-5247 <https://www.hamiltonma.gov>

RECD
9/13/24
2:30 PM
IN HAND
(initials)

September 12, 2024

Hamilton-Wenham Regional School District
5 School Street
Wenham, MA 01984

Re: HWHS Athletic Fields Project DEP File Number: 172-0642

Dear Permit Holder,

This Amended Enforcement Order is for the **Hamilton Wenham Regional High School Athletic Campus Improvements Project** permitted under the Wetlands Protection Act and DEP File Number 172-0642 and the Town of Hamilton Wetland Bylaw Chapter 17. This project is **NOT** in compliance with the Order of Conditions issued for the project on August 06, 2024. Condition 6 of the Special Conditions issued under the Wetland Bylaw specifies that "Any violation of these conditions will make the Applicant subject to an Enforcement Order."

Below is the list of conditions issued for this permit and their current status. Please review this list and reference the complete text of the condition in the Order of Conditions. Please send to the Conservation Commission the documentation required to bring the project into compliance. Please indicate for each document you send which condition (or part of a condition) it is intended to satisfy and indicate that you have reviewed the document and condition and are confident it satisfies the requirements of the condition. For more complex documents, you can facilitate the review and certification process by indicating which section of a document are relevant to satisfying the requirements of a condition. Submitting documentation as complete that does not fully address the condition will result in delays in achieving compliance.

As indicated at our initial pre-construction meeting and the site visit on September 5, 2024, it is the responsibility of a permit holder to ensure they are in compliance with the Order of Conditions for their permit. If an applicant has questions about a condition and/or what will satisfy a particular condition, they should submit that question to the Conservation Commission for review and determination at a regularly scheduled meeting.

As discussed, and voted at the September 11, 2024 meeting of the Conservation Commission:

- The stop work order imposed on September 6, 2024 is removed.
- All conditions of the permit will be brought into compliance as soon as possible, but no later than September 30, 2024.
- If conditions are at risk of becoming non-compliant, the permit holder will bring those immediately to the Conservation Commission for discussion and resolution.
- Having ANY conditions out of compliance on September 30, 2024, or at any future point during this project, will immediately reimpose the stop work order.

* K. FARR HAND DELIVERED *



TOWN OF HAMILTON
Conservation Commission

Town Offices at Patton Homestead
650 Asbury Street, Hamilton, MA 01982
(978) 656-5247 <https://www.hamiltonma.gov>

Sincerely,

Lee McCoy
Chair, Hamilton Conservation Commission
Town of Hamilton

<Attachment: Summary of Conditions Status 2024-09-12>

Summary of Conditions Status 2024-09-06

Condition	Short Description	Due	Compliance Status	Notes
WPA 1	Compliance is mandatory	Ongoing	Out of compliance	
WPA 2	No grant of rights or privilege	Ongoing	Not relevant to this EO	
WPA 3	Comply with law	Ongoing	Not relevant to this EO	
WPA 4	3 year expiration with exception	Ongoing	Not relevant to this EO	
WPA 5	Extensions	Ongoing	Not relevant to this EO	
WPA 6	Amended has same issuance date	Ongoing	Not relevant to this EO	
WPA 7	Clean fill	Ongoing	Compliant on 2024-09-05	
WPA 8	Admin appeal period	Ongoing	Not relevant to this EO	
WPA 9	OOC must be registered	Complete	In compliance	
WPA 10	Signage	Ongoing	Compliant on 2024-09-05	
WPA 11	Superseding Orders	Ongoing	Not relevant to this EO	
WPA 12	Certificate of Compliance	Project Completion	Not relevant to this EO	
WPA 13	Conformation to plan and special conditions	Ongoing	Out of compliance	
WPA 14	Change to plans	Ongoing	Not relevant to this EO	
WPA 15	CC & DEP inspection	Ongoing	Not relevant to this EO	
WPA 16	OOC to successor	Ongoing	Not relevant to this EO	
WPA 17	Wetland flagging	Ongoing	Compliant on 2024-06-17	
WPA 18	Sediment barriers	Ongoing	Compliant on 2024-06-17	
WPA 19	Stormwater standards	Ongoing	Unknown	Please review and confirm compliance
Special 1	Compliance is mandatory	Ongoing	Out of compliance	
Special 2	Conform to plan approved	Ongoing	In compliance	Site plan has not changed from what was filed
Special 3	Wetland boundary	Ongoing	Not relevant to this EO	
Special 4	Additional conditions	Ongoing	Not relevant to this EO	
Special 5	OOC to successor	Ongoing	Not relevant to this EO	
Special 6	Enforcement Orders	Ongoing	EO authority	
Special 7	CC inspection and data request	Ongoing	Not relevant to this EO	

Summary of Conditions Status 2024-09-06

Condition	Short Description	Due	Compliance Status	Notes
Special 8	OOO and docs on site	Ongoing	Compliant on 2024-09-05	
Special 9	Limit of work	Ongoing	Compliant on 2024-09-05	
Special 10	No vehicles or equipment in resource areas	Ongoing	Compliant on 2024-09-05	
Special 11	Changes to plans	Ongoing	Not relevant to this EO	
Special 12	Notification of issues	Ongoing	Compliant on 2024-09-05	
Special 13	Certificate of Compliance	Project Completion	Not relevant to this EO	
Special 14	Perpetual conditions	Ongoing	Not relevant to this EO	
Special 15	Embankments	Ongoing	Compliant on 2024-09-05	
Special 16	Condition compliance	Ongoing	Not relevant to this EO	
Special 17	Contact list with emergency	Pre-Construction	Compliant on 2024-09-11	Requires emergency numbers
Special 18	Stream sampling	Pre-Construction	Out of compliance	Not all required chemicals were reported, not all sites tested
Special 19	Turf, infill, shock pad	Pre-Construction	Out of compliance	Reporting requirements not met, memorandum requested for discussion
Special 20	Weekly reporting	Ongoing	Compliant on 2024-09-11	SWPPP do not cover this reporting requirement
Special 21	Construction sequence narrative	Ongoing	Compliant on 2024-09-05	
Special 22	Erosion control	Pre-Construction	In compliance	
Special 23	Preconstruction meeting	Pre-Construction	Not relevant to this EO	
Special 24	Work supervision	Ongoing	Out of compliance	Wetland scientist has not been overseeing work, contract with LEC
Special 25	100' buffer zone	Ongoing	Compliant on 2024-09-05	
Special 26	Signage	Pre-Construction	Requires CC decision	
Special 27	Natural areas	Ongoing	Compliant on 2024-09-05	
Special 28	Hazard spill kit	Ongoing	Compliant on 2024-09-05	

Summary of Conditions Status 2024-09-06

Condition	Short Description	Due	Compliance Status	Notes
Special 29	Trash removal	Ongoing	Compliant on 2024-09-05	
Special 30	No clearing before pre-construction	Pre-Construction	Not relevant to this EO	
Special 31	Tree cutting	Ongoing	Not relevant to this EO	
Special 32	AT storage	Ongoing	Compliant on 2024-09-05	
Special 33	Clean fill	Ongoing	Compliant on 2024-09-05	
Special 34	Equipment cleaning	Ongoing	Compliant on 2024-09-05	
Special 35	Invasive species spread	Ongoing	Compliant on 2024-09-05	
Special 36	Invasive species control	Project Completion	Not relevant to this EO	
Special 37	Entrance/exit pad	Ongoing	Compliant on 2024-09-05	
Special 38	Erosion control	Ongoing	Compliant on 2024-09-05	
Special 39	Removal of EC and flags	Project Completion	Not relevant to this EO	
Special 40	Burial & disposal in buffer zone	Ongoing	Compliant on 2024-09-05	
Special 41	Stockpiled earth	Ongoing	Compliant on 2024-09-10	Argus indicated they would immediately fix this issue
Special 42	Storage	Ongoing	Compliant on 2024-09-05	
Special 43	Long storage	Ongoing	Compliant on 2024-09-05	
Special 44	Time limits	Ongoing	Not relevant to this EO	
Special 45	AT natural infill	Ongoing	Not relevant to this EO	
Special 46	Stormwater monitoring	Ongoing	Not relevant to this EO	Proof of contract to accomplish immediate testing requested, required after turf installed
Special 47	Oil, CaCl, salt	Ongoing	Compliant on 2024-09-05	
Special 48	Equipment cleaning	Ongoing	Compliant on 2024-09-05	
Special 49	Fuel and lube operations	Ongoing	Compliant on 2024-09-05	
Special 50	Contaminants in resource or buffer	Ongoing	Compliant on 2024-09-05	
Special 51	Debris removed daily, destination records	Ongoing	Compliant on 2024-09-10	Argus will request disposal destination records from waste company

Summary of Conditions Status 2024-09-06

Condition	Short Description	Due	Compliance Status	Notes
Special 52	Stabilization	Project Completion	Not relevant to this EO	
Special 53	Dark sky certified lighting	Perpetual	Not relevant to this EO	
Special 54	Installed materials	Perpetual	Not relevant to this EO	
Special 55	Stormwater monitoring	Perpetual	Not relevant to this EO	Proof of ongoing contract to test immediately Plan for how this will be complied with
Special 56	No NaCl	Perpetual	Not relevant to this EO	
Special 57	Fertilizer, pesticides, herbicides	Perpetual	Not relevant to this EO	
Special 58	No work in resource area without approval	Perpetual	Not relevant to this EO	
Special 59	Fuel storage	Perpetual	Not relevant to this EO	
Special 60	Repair work	Perpetual	Not relevant to this EO	
Special 61	AT handling	Perpetual	Not relevant to this EO	
Special 62	Signage	Perpetual	Not relevant to this EO	
Special 63	Landscaping plants	Perpetual	Not relevant to this EO	



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

WPA Form 9 – Enforcement Order

172-642

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40 and
Town of Hamilton Wetland Bylaw, Chapter 17

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:

Hamilton
Conservation Commission (Issuing Authority)

September 13, 2024
Date

To:

Hamilton-Wenham Regional School District
Name of Violator
5 School Street, Wenham, MA 01984
Address

1. Location of Violation:

Property Owner (if different)

775 Bay Road
Street Address

Hamilton
City/Town

01982
Zip Code

40

11

Assessors Map/Plat Number

Parcel/Lot Number

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

Violations of an Order of Conditions, DEP #172-642. Refer to the attached letter dated September 12, 2024 for additional details.

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:

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).



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

WPA Form 9 – Enforcement Order

172-642

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40 and
Town of Hamilton Wetland Bylaw, Chapter 17

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:

Hamilton-Wenham Regional School District

August 6, 2024

Name

Dated

172-642

See attached list

File Number

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):

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 _____ Date

for the following:

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



WPA Form 9 – Enforcement Order

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40 and
Town of Hamilton Wetland Bylaw, Chapter 17

C. Order (cont.)

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

Date

for the following:

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:

All conditions of the permit (Order of Conditions) shall be brought into compliance as soon as possible, but no later than September 30, 2024.

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:

Kristan Farr, Conservation Coordinator

Name

(978) 626-5247, kfarr@hamiltonma.gov

Phone Number

Hours/Days Available

Issued by:

Hamilton

Conservation Commission

Conservation Commission signatures required on following page.



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 and
Town of Hamilton Wetland Bylaw, Chapter 17

DEP File Number:

172-642

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:

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature of delivery person or certified mail number

hand-delivered Sept. 13, 2024