



[Empty box for DEP File Number]

# WPA Form 5 - Order of Conditions

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

## A Applicant Information

From:  
Gill  
Conservation Commission

The Notice of Intent for this project was filed on:  
December 22, 2000  
Date

For:  
162-46  
Project File Number

The public hearing was closed on:  
March 15, 2001  
Date

To:  
Northeast Generation Services, Inc  
Applicant Name  
99 Millers Falls Road  
Mailing Address  
Northfield  
City/Town  
MA 01360  
State Zip Code

Title and Date of final Plans and Other Documents:  
Plan 1. Existing Conditions Urgiel South  
Plan 2. Proposed Conditions Urgiel South  
Plan 3. Existing Conditions Urgiel North  
Plan 4. Proposed Conditions Urgiel North

The project site is located at:  
Gill  
City/Town  
203 6  
Assessors Map/Plat # Parcel/Lot #

and the property is recorded at the Registry of Deeds for:  
Franklin 3604 21  
County Book Page  
N/A  
Certificate (if registered land)

## B Findings

Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this commission finds that the area in which work is proposed is significant to the following interests of the Wetlands Protection Act (check all that apply):

- Public Water Supply
- Private Water Supply
- Groundwater Supply
- Flood Control
- Land Containing Shellfish
- Fisheries
- Storm Damage Prevention
- Prevention of Pollution
- Protection of Wildlife Habitat

Furthermore, this Commission hereby finds that the project, as proposed, is:  
(check one of the following boxes)

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



# WPA Form 5 - Order of Conditions

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

## **B** Findings (cont.)

Denied because:

- the proposed work cannot be conditioned to meet the performance standards set forth in the wetlands regulations to protect those interests checked above. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect these interests, and a final Order of Conditions is issued.
- the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(b)(c).

### General Conditions

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - (a) the work is a maintenance dredging project as provided for in the Act; or
  - (b) the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
7. This Order does not become final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
8. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to this Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of the work.
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words, "Massachusetts Department of Environmental Protection" [or, "MA DEP"] "File Number 162-46".  
Project File Number \_\_\_\_\_
10. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before the Department.
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
12. The work shall conform to the following attached plans and special conditions:  
  
Final Approved Plans (attach additional plan references as needed) :  
  
Existing and Proposed Conditions  
Title  
12/00, revised 03/01  
Dated  
Michael J. Marcus  
Signed and Stamped by  
Gill Conservation Commission  
On file with \_\_\_\_\_



# WPA Form 5 - Order of Conditions

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

## **B** Findings (cont.)

13. Any changes to the plans identified in Condition # 12 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.

14. The Agent or members of the Conservation Commission and Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.

15. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.

16. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall serve as the limit of work (unless another limit of work line has been noted in the plans of record) and be maintained until a Certificate of Compliance has been issued by the Conservation Commission.

17. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary.

Special Conditions (Use additional paper if necessary)

See attached Special Conditions

### Findings as to municipal law, bylaw, or ordinance

Furthermore, the

\_\_\_\_\_  
*Conservation Commission*

hereby finds (check one that applies):

that the proposed work cannot be conditioned to meet the standards set forth in a municipal law, ordinance, or bylaw, specifically

\_\_\_\_\_  
*Name and citation of municipal law, bylaw, or ordinance*

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

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

\_\_\_\_\_  
*Name and citation of municipal law, bylaw, or ordinance.*

The Commission orders that all the work shall be performed in accordance with the said additional conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

Additional conditions relating to municipal law, bylaw, or ordinance:

N/A



# WPA Form 5 - Order of Conditions

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

## **B** Findings (cont.)

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

March 19, 2001

*Date*

This Order must be signed by a majority of the conservation commission. The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate regional office of the Department of Environmental Protection.

Signatures:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

On this

day of

*Month*

*Year*

before me personally appeared

to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

*Notary Public*

*My commission expires*

This Order is issued to the applicant as follows:

by hand delivery on

*Date*

by certified mail, return receipt requested, on

March , 2001

*Date*

## **C** Appeals

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

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



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March 19, 2001

Date

This Order must be signed by a majority of the conservation commission. The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate regional office of the Department of Environmental Protection.

Signatures:

*(i) Storm*  
*Anthony A. Thayer*  
*Paul D. Vassar*

On this 20<sup>th</sup>

day of March

Month

Year 01

before me personally appeared

Paul D. Vassar

to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

Barbara L. Kraus

Notary Public

1-22-04

My commission expires

This Order is issued to the applicant as follows:

by hand delivery on

Date

by certified mail, return receipt requested, on

March , 2001

Date

## **C** Appeals

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

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

## **D** Recording Information

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

Gill

*Conservation Commission*

on the form below, which must be stamped by the Registry of Deeds.

Detach on dotted line and submit to the Conservation Commission.

To: Gill

*Conservation Commission*

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

Munn's Ferry Road

162-46

*Project Location*

*DEP File Number*

has been recorded at the Registry of Deeds of

Franklin

*County*

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

*Book*

*Page*

in accordance with the Order of Conditions issued on

March 19, 2001

*Date*

If recorded land, the instrument number which identifies this transaction is

N/A

*Instrument Number*

If registered land, the document number which identifies this transaction is

*Document Number*

*Signature of Applicant*

**SPECIAL CONDITIONS**

Northeast Generation Services Co.  
Connecticut River Bank Stabilization  
Urgiel North and South Sites  
Gill, MA  
DEP file 162-46

**Special Conditions:**

Under the Massachusetts Wetlands Protection Act the work allowed under this filing shall also be subject to the special conditions listed below, which are hereby made a part of the Order of Conditions:

1. Plans: Except as noted in this Order, the work shall conform to the following plans:
  - a. Plan 1, Existing conditions site plan of Urgiel South; Plan 2, Proposed treatment and cross-sections of Urgiel South, Plan 3, Existing Conditions site plan of Urgiel North, Plan 4, Proposed treatment and cross sections of Urgiel North. December, 2000, prepared by New England Environmental, Inc. and signed by Michael J. Marcus.
  - b. Notice of Intent dated December 22, 2000, prepared by New England Environmental, Inc.

**General Pre-Construction Conditions**

2. The contractor(s) employed to execute filling and/or grading activities within the Resource Areas or the Buffer Zone must be provided with a copy of this Order and thereafter said contractor(s) will be held jointly responsible for any violation and the penalties under the law for such violation.
3. These Orders of Conditions shall be incorporated in all construction contracts for this project. All contractors working at the site shall be made aware of the provisions contained within these Orders of Conditions and shall adhere to the special provisions contained herein.
4. Members and designated agent(s) of the Gill Conservation Commission shall have the right to enter and inspect the premises to evaluate and ensure compliance with the Conditions and performance standards stated in this Order, the Act, and 310 CMR 10.00, and may acquire any information, measurements, photographs, observations and/or materials or may require the submission of any data or information deemed necessary by this Commission for that evaluation.
5. These Orders shall apply to any persons or entities in partial or full control, whether by

**SPECIAL CONDITIONS**

Northeast Generation Services Co.  
Connecticut River Bank Stabilization  
Urgiel North and South Sites  
Gill, MA  
DEP file 162-46

ownership or otherwise, and to any successor in control or successor in interest, of the property described in the Notice of Intent and accompanying plans and any revisions thereof.

6. It is the responsibility of the applicant to procure all other applicable federal, state, and local permits and approvals associated with this project.
7. There shall be no crossing of resource areas with equipment or any vehicles at any time before, during or after construction other than as described under the Notice of Intent and approved plans. No staging areas are to be located closer than 100 feet from the top of the bank. The ravine located at the southern end of the Urgiel site-North shall not be used as an access road for vehicles or equipment before, during or after construction.

**Erosion and Sedimentation Control**

8. Prior to commencement of construction on the site, erosion and sedimentation control measures adequate to ensure that no siltation or erosion shall occur in resource areas or the Connecticut River shall be implemented and maintained in effect throughout the entire construction phase, and until the site has become stabilized. Erosion and sedimentation controls shall be a turbidity curtain placed within the Connecticut River adjacent to the site work. Adequate measures to protect the site from motor boat wakes shall be implemented. In addition, erosion control silt fencing and/or staked haybales shall be used between stockpiled soil and the edge of any wetlands or the Connecticut River.
9. The areas of construction and/or disturbed soil shall remain in stable condition at the close of each construction day. Erosion controls shall be monitored at this time, and maintained or reinforced if necessary. It shall be the responsibility of the designated erosion control monitor (see below) to ensure inspection and maintenance of all erosion controls. No areas are to be left exposed without treatment or planting for periods greater than one week.
10. Following construction, all exposed upland areas shall be revegetated in accordance with the planting plan outlined in the Notice of Intent, which shall be modified to include Cottonwood trees, including trees at least 4-5 inches diameter at breast height.
11. The applicant shall designate an erosion control monitor to oversee any emergency



## **SPECIAL CONDITIONS**

Northeast Generation Services Co.  
Connecticut River Bank Stabilization  
Urgiel North and South Sites  
Gill, MA  
DEP file 162-46

placement of controls, seed, erosion control blankets, and/or regular inspection or replacement of erosion and sedimentation control devices. Erosion controls more stringent than those specified in the Notice of Intent dated December 22, 2000 and these Orders may be authorized by the Commission or the on-site erosion control monitor, should conditions warrant. Prior to construction the name and phone number of this person(s) shall be provided to the Conservation Commission so that this person(s) can be contacted in the event of an emergency at the site, during any 24 hour period, including weekends. This person(s) shall be given clear authority to stop construction, or to modify the construction plan for erosion control purposes. The erosion control monitor will be required to inspect all such devices and to oversee cleaning and the proper disposition of sediment and waste products. During active construction, the erosion control monitor shall submit brief weekly reports to the Conservation Commission regarding the status of the erosion control devices on the site, and current construction activities.

12. An adequate reserve of erosion control materials shall be on site at all times for emergency or routine replacement, and shall include a minimum of the following: 300 linear feet of silt fence material; 100 linear feet of hay bales; 300 square yards of the specified coconut/straw erosion control blanket; and a supply of stakes sufficient to install the stockpiled erosion control materials.

### **On-site Construction Conditions**

13. During construction for this project, the on-site foreman, directing engineer, designated construction manager(s) and environmental scientist shall have a copy of this Order at the site, shall familiarize him or herself with the conditions of this permit, and shall adhere to said conditions. The contractor(s) shall also have a copy of this Order at the site, and shall be familiar with the conditions of this permit and shall adhere to said conditions.
14. Construction material and equipment shall be stored in a manner and location that will minimize the compaction of soils, and the concentration of runoff and/or siltation.
15. Servicing of equipment (fueling, changing, adding or applying lubricants or hydraulic fluids) must be done at least 100 feet from the River edge. Equipment must be maintained to prevent leakage or discharge of such pollutants. Overnight storage of equipment must be a minimum of 100 feet from the River. Used petroleum products resulting from the maintenance of construction equipment and construction debris shall be collected and properly disposed of off-site. No on-site disposal of these items is allowed. Oil and gas

## **SPECIAL CONDITIONS**

**Northeast Generation Services Co.  
Connecticut River Bank Stabilization  
Urgiel North and South Sites  
Gill, MA  
DEP file 162-46**

spill control kits are to be kept on the site.

16. All debris, fill, excavated material and construction material shall be stockpiled more than 100 feet from the top of the bank and at a suitable location to prevent sediment from surface runoff from entering the River. At no time shall any debris, including trees, stumps, wood or other material be buried or disposed of in or within 100 feet of the Connecticut River, other than clean fill permitted explicitly in these Orders.
17. Trees cut shall be removed from the site, or stockpiled in an area approved by the adjacent landowner more than 100 feet from the top of the bank or wetland area.
18. Any excess sediment shall be removed from the site, or stockpiled in an area approved by the adjacent landowner more than 100 feet from the top of the bank or wetland.
19. Wetland vegetation planted on the slopes and within the River shall be native plants as described in the Notice of Intent application. All plants shall be container grown as specified in the Notice of Intent.

### **On site Bioengineering Conditions**

No additional areas of wetland alteration is permitted except as described in the Notice of Intent without prior approval of the Conservation Commission.

20. On the Urgiel South site, approximately 980 linear feet of river bank will be restored as shown on Plan 2 of 4 prepared by New England Environmental, Inc. and as described in the Notice of Intent. Any required field changes shall be permitted with the approval of the project Bioengineer provided such changes do not represent a substantial change to the project. The Commission shall be notified of all construction changes.
21. On Urgiel North, approximately 1,200 linear feet of bank will be restored as shown on Plan 4 of 4 prepared by New England Environmental, Inc. and as described in the Notice of Intent. Any required field changes shall be permitted with the approval of the project Bioengineer provided such changes do not represent a substantial change to the project. The Commission shall be notified of all construction changes.
22. The applicant shall provide brief written reports to the Commission prepared by the project Bioengineer, and/or project engineer, regarding the status of the on site

**SPECIAL CONDITIONS**

Northeast Generation Services Co.  
Connecticut River Bank Stabilization  
Urgiel North and South Sites  
Gill, MA  
DEP file 162-46

bioengineering work, and any deviations from the construction plans and the Notice of Intent. Reports shall be sent: (1) after planting; (2) after the first growing season; (3) after the second growing season; (4) after any deviation from the proposed plan.

**Other Special Conditions:**

23. Upon submission of a request for a Certificate of Compliance, or Partial Certificate of Compliance, the applicant shall submit a letter from the project Bioengineer stating that the slope stabilization and bioengineering restoration has been completed as designed and all work has been completed in compliance with this Order of Conditions.
24. The project shall not occur during the months of May and June to protect the emergence of the cobra clubtail dragonfly, a species listed as "Special Concern", pursuant to the Massachusetts Endangered Species Act (M.G. L. ch. 131A).