

JANE SWIFT Governor

COMMONWEALTH OF MASSACHUSETTS EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS DEPARTMENT OF ENVIRONMENTAL PROTECTION SOUTHEAST REGIONAL OFFICE

20 RIVERSIDE DRIVE, LAKEVILLE, MA 02347 508-946-2700

BOB DURAND Secretary

LAUREN A. LISS Commissioner



JUL 12 2001

Paul D. Pettegrove, Trustee Gorda Realty Trust 248 Andover Street Peabody, Massachusetts 01960 RE: AQUINNAH Wetlands
File No. SE 27-237
Superseding Order of
Conditions

Dear Mr. Pettegrove:

Following an in depth review of the above referenced file and in accordance with Massachusetts General Laws, Chapter 131, Section 40, the Department of Environmental Protection is issuing the enclosed Superseding Order of Conditions (SOC). This Order approves the proposed project subject to certain conditions.

The Department has determined that the project site contains bordering vegetated wetland (BVW), as defined in 310 CMR 10.55(2); and inland Bank, as defined in 310 CMR 10.54(2). In accordance with the Wetlands Protection Act, and its regulations (310 CMR 10.00), BVW and inland Bank are presumed significant to public and private water supply, ground water supply, flood control, storm damage prevention, prevention of pollution and the protection of fisheries and wildlife habitat.

The proposed project consists of the construction of a single-family dwelling, well, subsurface sewage disposal system and access driveway. The proposed dwelling, well and septic system will be constructed within the 100-foot buffer zone to the BVW and inland Bank. The proposed driveway and 2" PVC sewer line will cross BVW and inland Bank. A bridge has been proposed to reduce the amount of BVW impacted by the driveway crossing to 2362 square feet.

The enclosed SOC requires that an erosion control barrier be installed and maintained along the edge of the BVW. The SOC establishes the erosion control barrier as the limit of work. The SOC conditions the construction methodology for the installation of the 2" PVC sewer line beneath the stream. The SOC contains additional requirements to protect the interests of the Act.

In the opinion of the Department the reasons given here are sufficient to justify the enclosed SOC. However, the Department reserves the right to raise additional issues and present further evidence as may be appropriate should there be further proceedings in this matter.

If you have any questions regarding the enclosed SOC or need additional information, please contact Daniel F. Gilmore at (508) 946-2808.

Very truly yours,

Tena J. Davies

Bureau of Resource Protection

D/DFG/dg

Enclosure

CERTIFIED MAIL #7099 3400 0008 7890 3595 RETURN RECEIPT REQUESTED

Cc: Aquinnah Conservation Commission

James J. Decoulos, P.E., L.S.P. Decoulos & Company 248 Andover Street Peabody, MA 01960

Jack & Joanne Fruchtmann 1807 Kenway Road Baltimore, MD 21209

Hanni Dinkeloo Mass Wildlife Field Headquarters Rabbit Hill Road Westborough, MA 01581



DEP File Number:

SE 27-237 Provided by DEP

Ge	eneral Information	n					
-							
Fro	m:						
	Department of Environn	nental Prote	ection				
	Issuing Authority						
Thi	s issuance is for a (chec	k one).					
	5 10 0 dd 110 0 10 10 1 d (51.00						
	Superseding Order	of Condition	ns				
	Amended Supersed	ling Order o	of Conditions				
то.	Applicant:			Proporty Owner (if diff	iorant from analia		
10.				Property Owner (if diff	erent nom applic	anı).	
	Gorda Realty Trust	*****		Same			
	Name			Name			
	248 Andover Street			Same			
	Mailing Address		04000	Mailing Address			
	Peabody City/Town	MA	01960	Same	D1-4-	7: 0 1	
	City/ i own	State	Zip Code	City/Town	State	Zip Code	
1.	Project Location:						
	Moshup Trail			Aquinnah			
	Street Address			City/Town			
	12			38			
	Assessors Map/Plat Number			Parcel/Lot Number			
2.	Property recorded at the	e Registry o	f Deeds for:				
	Dukes			65	180		
	County			Book	Page		
						-	
_	Certificate (if registered land)						
3.	Dates:						
	March 15, 2000						
	Date Notice of Intent Filed		Date Public Hearing	ng Closed Date	of Issuance of Local	Order	
4.	Final Approved Plans a	nd Other Do	cuments (see	attached additional plan r	eferences on Pa	ge 7):	
	Proposed Conditions, M				2/12/01	• •	
	Title	Date					
	Proposed Bridge Crossi	2/12/01					
	Title	Date					
	Proposed Replication P	2/12/01					
	Title	Date					
	Proposed Septic System Asse	6/27/01					
	Title // Signed & Stamped by	Date					
_	Final Plans and Decuments Proposed by:						
	Final Plans and Documents Prepared by:						
	Decoulos & Company;						
	Name						
6.	Total Fee:						

\$ 250.00

(from Appendix B: Wetland Fee Transmittal Form)



DEP File Number:

SE 27-237 Provided by DEP

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, the Department finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act. Check all that apply:							
	Public Water Supply		Land Containing Shellfish	X	Prevention of Pollution		
X	Private Water Supply	X	Fisheries	X	Protection of Wildlife Habitat		
X	Groundwater Supply	X	Storm Damage Prevention	X	Flood Control		
Fui	thermore, the Department hereby	fino	ds the project, as proposed, is: (che	eck o	one of the following boxes)		
Аp	proved subject to:						
X	the following conditions which are necessary, in accordance with the performance standards set forth in the wetlands regulations, to protect those interests checked above. The Department orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.						
Denied because:							
	the proposed work cannot be conditioned to meet the performance standards set forth in the wetland 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(6)(c).						
_	. 10 100 / 1 10 1						

General Conditions (only applicable to approved projects)

- 1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
- 2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
- 3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.



DEP File Number:

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Findings (cont.)

- 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 is not 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 the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Department on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
- 9. A sign shall be displayed at the site not less then two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or. "MA DEP"]

"File Number SE 27-237"

- 10. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before DEP.
- 11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Department.
- 12. The work shall conform to the plans and special conditions referenced in this order.
- 13. Any change to the plans identified in Condition #12 above shall require the applicant to inquire of the Department in writing whether the change is significant enough to require the filing of a new Notice of Intent.
- 14. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Department for that evaluation.



DEP File Number:

SE 27-237 Provided by DEP

Findings (cont.)

- 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 be maintained until a Certificate of Compliance has been issued by the Department.
- 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 Department, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

	as the limit of work unless another limit of work line has
Special Conditions (use additional paper, if n	ecessary): See Attached Pages 7 & 8
Signature: Lenia J. Lanie Tena J. Davies, Bureau of Resource Prote	ection
on_iZh	of July 2001
Day before me personally appeared <u>Tena J. Davies</u> to r	
executed the foregoing instrument and acknowledge and deed.	ged that he/she executed the same as his/her free act
Allua Patrance Nótary Public	12-120102 My Commission Expires
This Order is issued to the applicant as follows: Description:	by certified mail, # 7099 3400 0008 7890 3595 return receipt requested, on JUL 12 2 1111
Date	Date



DEP File Number:

SE 27-237 Provided by DEP

Appeals

Notice of Appeal Rights:

A) Appeal Rights and Time Limits

The applicant, the owner, any person aggrieved by the Superseding Order, any owner of land abutting the land upon which the proposed work is to be done, or any ten (10) persons pursuant to M.G.L. c.30A, §10A, are hereby notified of their right to request an adjudicatory hearing pursuant to M.G.L. c.30A, § 10, providing the request is made by certified mail or hand delivery to the Department, with the appropriate filling fee and a DEP Fee Transmittal Form within ten (10) business days from the date of issuance of this Superseding Order, and addressed to:

> Docket Clerk Office of Administrative Appeals Department of Environmental Protection One Winter Street, 3rd Floor Boston, MA 02108.

A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission, the applicant, and the issuing office of the DEP at:

> **DEP Southeast Region** 20 Riverside Drive Lakeville, MA 02347

B) Contents of Hearing Request

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

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

C) Filing Fee and Address

A copy of the Notice of Claim along with a DEP Fee Transmittal Form and a valid check or money order payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100) must be mailed to:

> Commonwealth of Massachusetts Department of Environmental Protection Commonwealth Master Lockbox P.O. Box 4062 Boston, Massachusetts 02211

The request will be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver. The filing fee is not required if the appellant is a city or town (or municipal agency), county, or district of the Commonwealth of Massachusetts, or a municipal housing authority. The Department may waive the adjudicatory hearing filling fee pursuant to 310 CMR 4.06(2) for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file an affidavit setting forth the facts believed to support the claim of undue financial hardship together with the hearing request as provided above.

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



DEP File Number:

SE 27-237 Provided by DEP

Recording Information

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on Page 7 of Form 5 shall be submitted to the Department at the address listed below.

Department of Environmental Protection Southeast Regional Office 20 Riverside Drive Lakeville, Massachusetts 02347

Detach on dotted line, have stamped by th		
To:		
Department of Environmental Protect	ion	
Issuing Authority		
Please be advised that the Order of Cond	itions for the Project at:	
Moshup Trail, Map 12, Lot 38	SE 27-237	
Project Location	DEP File Number	
nas been recorded at the Registry of Dee	ds of:	
Dukes		
County	Book	Page
for:		
Gorda Realty Trust		
Property Owner		
Book	Page	
n accordance with the Order of Condition	s issued on:	
Date		
If recorded land, the instrument number io	lentifying this transaction is:	
Instrument Number		
If registered land, the document number in	dentifying this transaction is:	
Document Number		
Signature of Applicant		



DEP File Number:

SE 27-237 Provided by DEP

PLANS (continued):

Wetland Replication Sequencing, Map 12, Parcel 38 (Set-Off Lot 232), Figure 7 Title	2/14/01 Date
Proposed Bridge Details, Map 12, Parcel 38 (Set-Off Lot 232), Figure 8 Title	2/14/01 Date
Proposed Bridge Details, Map 12, Parcel 38 (Set-Off Lot 232), Figure 9 Title	2/15/01 Date
Final Plans and Documents Prepared by: <u>Decoulos & Company</u>	
<u>Proposed Septic System Details Assessor Map 12, Parcel 38, (Sheet 2 of 2)</u> Title // Signed & Stamped by James J. Decoulos, RPE	6/27/00 Date

SPECIAL CONDITIONS:

- The proposed wetland crossing and replication shall be constructed in accordance with the sequence set forth in Section 3.1 of the Notice of Project Change, prepared for Gorda Realty Trust, Aquinnah, Massachusetts, EOEA # 12248, DEP File # 27-237, prepared by Decoulos & Company, dated: February 15, 2001.
- When excavating, transporting and stockpiling wetland soils, the organic layers shall be segregated from the mineral soils.
- A copy of the construction sequence referenced in Special Condition 1 shall be provided to any contractor or other person performing work conditioned by this Order.
- A copy of the construction sequence shall be kept available on site during construction of the project.
- Step 14 of the Proposed Wetland Replication sequence shall be amended to specify the placement of 18 inches of transplanted wetland soil within the replication areas, as shown on Figure No. 7.
- The wetland replication and/or restoration areas shall be 75% established within two
 growing seasons (310 CMR 10.55 (b) (6.) Should the replication and/or restoration
 areas fail to meet this standard, the Department may require additional measures
 necessary to achieve compliance.
- 7. In order to protect the integrity of the stream channels, the pressure sewer line shall be horizontally directionally drilled, or Jacked, beneath the streams. Trenching for installation of the pressure sewer line shall not occur within twenty-five feet on either side of the centerline of the stream channels.
- The pressure sewer line shall be installed a minimum of two feet below the bottom of the channel bed.

SPECIAL CONDITIONS:

- Dewatering effluent shall be discharged in the upland portion of the site either through a filter fabric bag or within a hay bale enclosure to prevent silt laden water from entering the wetland or stream channel.
- Trench plugs shall be installed on the pressure sewer line, at the wetland upland interface.
- 11. Upon completion of the project, a Certificate of Compliance shall be requested from the Department in accordance with General Condition No. 11, and under the provisions of 310 CMR 10.05(9)(d). An "As-Built" plan and a statement from a Registered Professional Engineer certifying compliance with the conditions of this Order shall accompany the request for a Certificate of Compliance.

wpaform5.doc • Appendix E • rev. 7/10/01



Massachusetts Department of Environmental Protection Bureau of Resource Protection – Wetlands and Waterways Program

Fee Transmittal Form - Request for Adjudicatory Hearing

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



Person/Party Making (if appropriate, name		sentative)	Applicant (if applicable):			
Name			Name			
Street Address			Street Address			
City/Town	State	Zip Code	City/Town	State Zip Code		
Phone Number	Fax Number	(if applicable)	Phone Number	Fax Number (if applicable)		
Project Location						
Street Address	· · · · · · · · · · · · · · · · · · ·					
City/Town			State	Zip Code		
DEP File Number:						

B. Instructions

 Send this form and check or money order for \$100.00 payable to the Commonwealth of Massachusetts to the DEP Lockbox at:

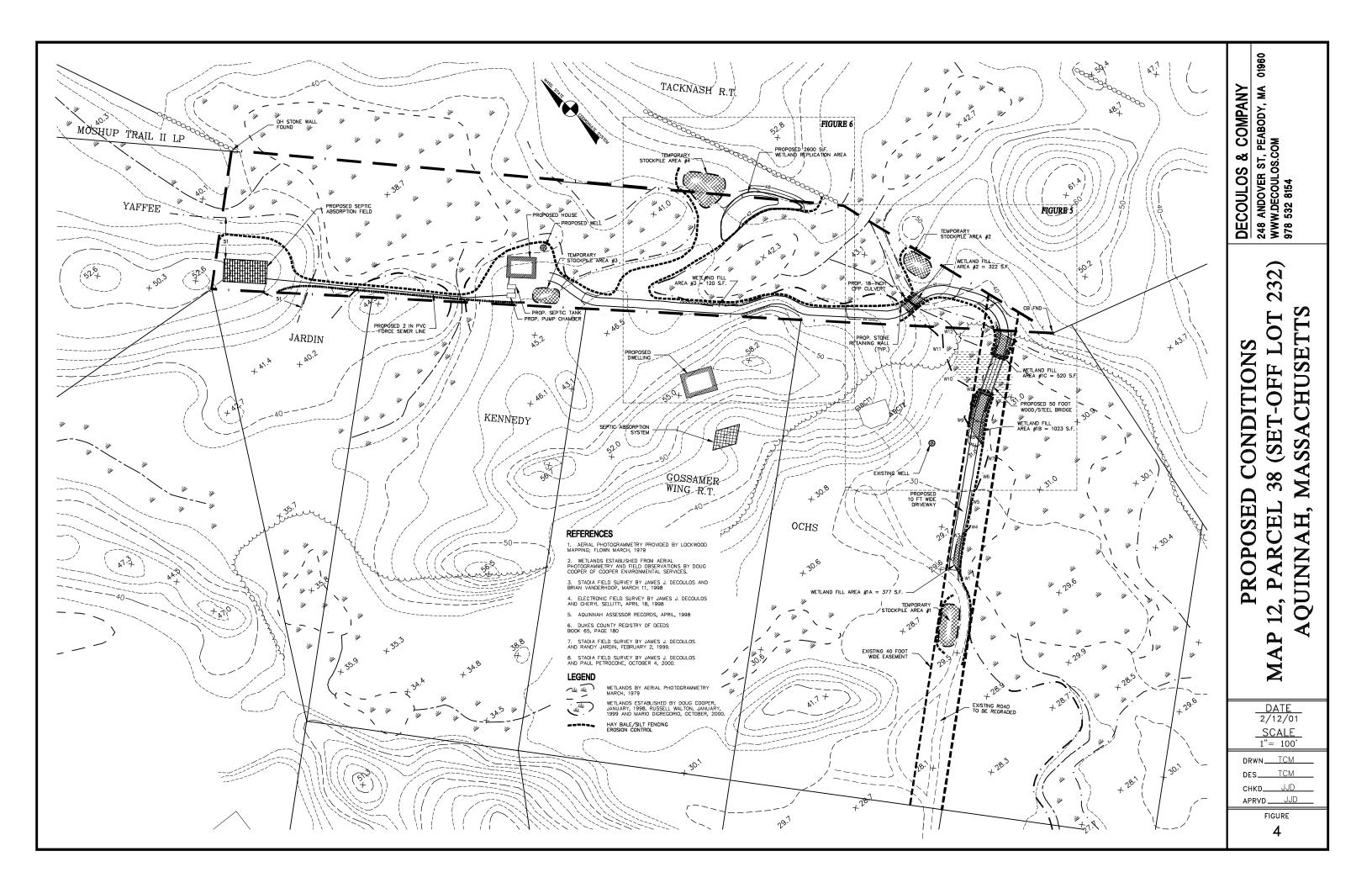
> Department of Environmental Protection Commonwealth Master Lockbox Box 4062 Boston, MA 02211

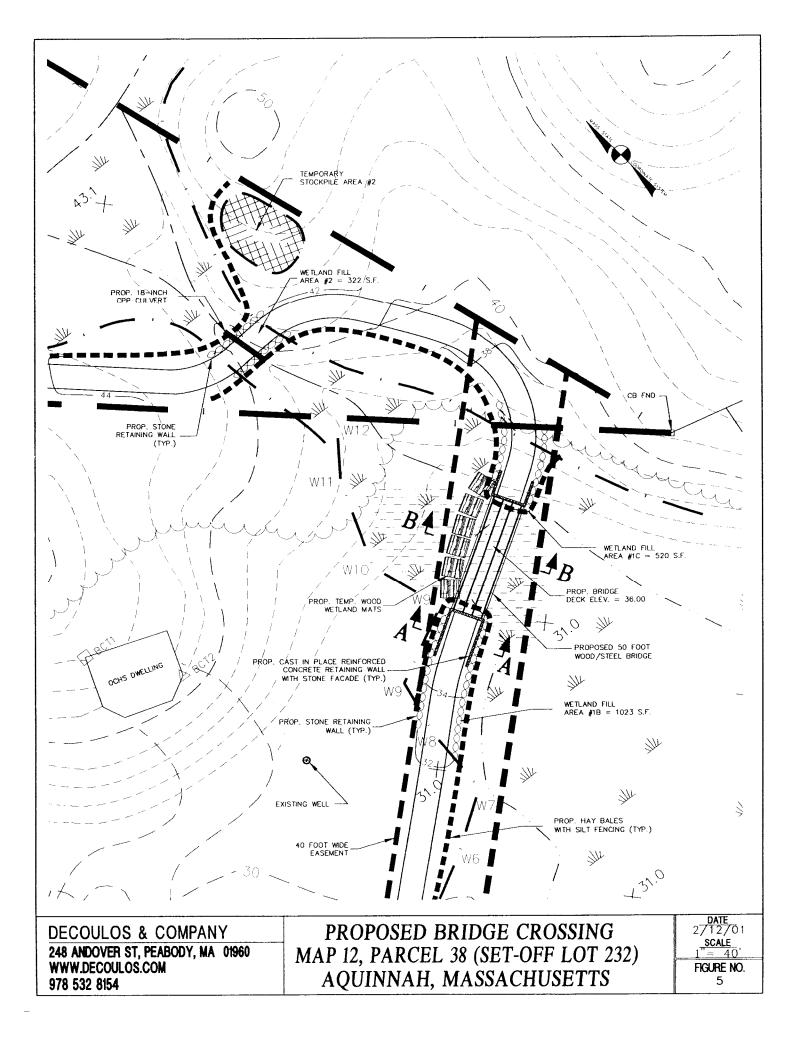
2. Send a copy of this form and a copy of the check or money order with the Request for an Adjudicatory Hearing to:

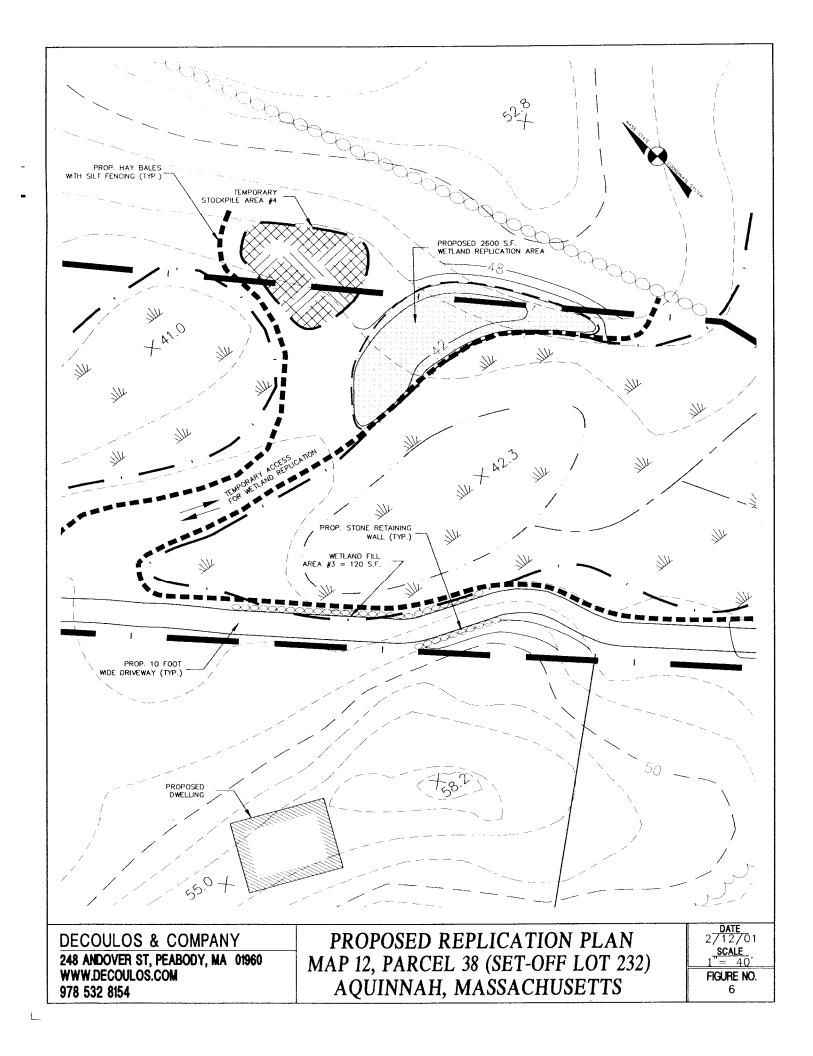
Docket Clerk
Office of Administrative Appeals
Department of Environmental Protection
One Winter Street
Boston, MA 02108

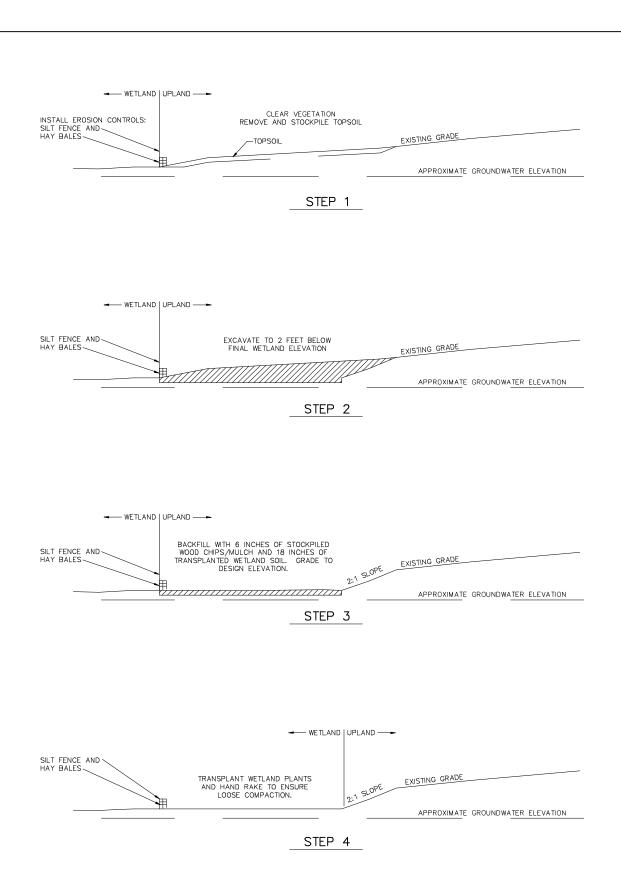
IMPORTANT

This form is intended for tee transmittal only. The contents of a request for an adjudicatory hearing (Notice of Claim) are established at 310 CMR 1.01 (6) and the substantive statutes and regulations governing the Department's action.



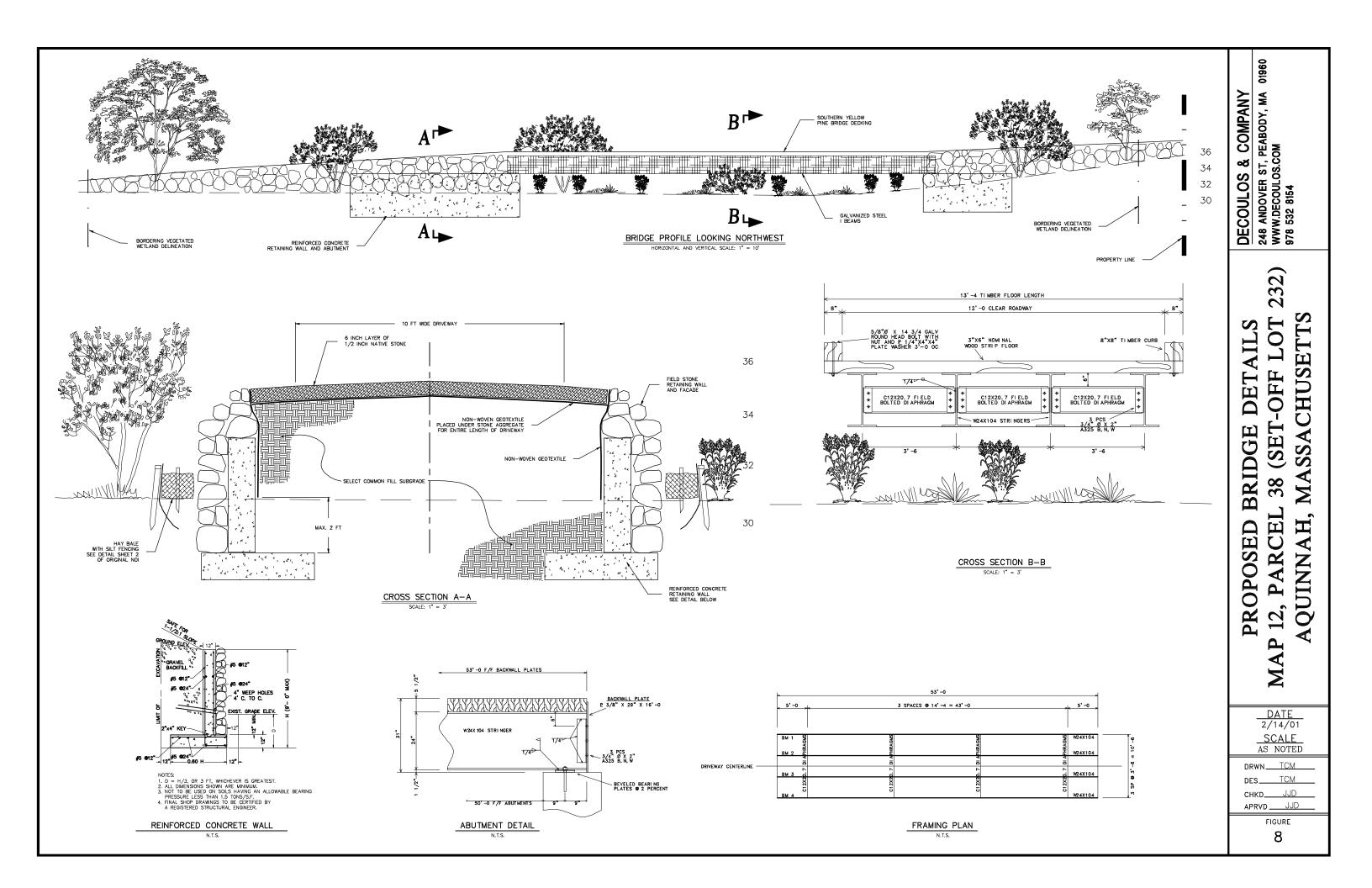






DECOULOS & COMPANY 248 ANDOVER ST, PEABODY, MA 01960 WWW.DECOULOS.COM 978 532 8154 WETLAND REPLICATION SEQUENCING MAP 12, PARCEL 38 (SET-OFF LOT 232) AQUINNAH, MASSACHUSETTS **DATE** 2/14/01 **SCALE** NTS

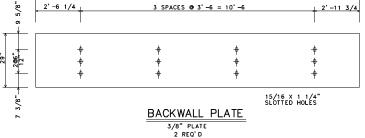
FIGURE NO.

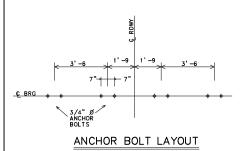


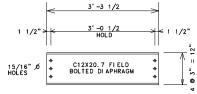
BOLT CHART	BOLT TYPE						
8021 01171111	3,	3/4" Ø A325 TYPE 1 GALVANI ZED					
		SI ZE					
LOCATION	1 3/4"	2"	2 1/4"	2 1/2"			
DI APHRAGM TO ANGLE		72					
BACKWALL PLATE TO BEAM		24					
TOTAL REQ'D		96					
TOTAL ORDERED		106					

	<u> </u>	16'	-0	
←9 5/8"	2'-6 1/4	3 SPACES ⊕	3'-6 = 10'-6	2'-11 3/4
29"	+ + +	† †	ф ф	† †

	MATERIAL SCHEDULE
QUANTI TY	DESCRI PTI ON
1 PC	BEAM 1 - W24X104 @ 53'-0 W TH 4 DIAPHRAGM CONNECTION ANGLES AND 2 BACKWALL CONNECTION ANGLES
1 EA 2 TOTAL	BEAMS 2 AND 3 - W24X104 @ 53'-0 WITH 8 DIAPHRAGM CONNECTION ANGLES AND 2 BACKWALL CONNECTION ANGLES
1 PC	BEAM 4 - W24X104 ♥ 53'-0 W TH 4 DIAPHRAGM CONNECTION ANGLES AND 2 BACKWALL CONNECTION ANGLES
12 PCS	DI APHRAGMS - C12X20.7 - 3'-3 1/2
2 PCS	BACKWALL PLATE - P 3/8" X 29" X 16'-0
16 PCS	BEARING PLATE - P 8" X 18"
14 PCS	8"X8" TIMBER CURB @ 10'-0
255 PCS	3"X6" TI MBER DECK @ 13'-4
212 PCS	GALV P 1/8" X 3" X 6 1/2" FLOOR CLI P
3 BOXES	50 LB BOX OF 50d NAILS
1 BOX	50 LB BOX OF 30d NAILS
36 PCS	5/8" Ø X 14 3/4" GALV BOLT WITH P 1/4X4X4 PLATE WASHER AND NUT
106 PCS	3/4" Ø X 2" A325 TYPE 1 GALVANIZED BOLT, NUT AND WASHER
16 PCS	3/4" Ø X 16" GALVANIZED ANCHOR BOLT WITH NUT AND WASHER

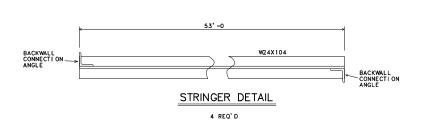






BOLTED DIAPHRAGM DETAIL

12 REQ' D



GENERAL NOTES

ALL STEEL BEAM BRIDGE

BRIDGE DESIGNED IN COMPLIANCE WITH AASHTO HS-20-44 LOADING

ALL SUPERSTRUCTURE STRUCTURAL STEEL ASTM A572 GR 50 GALVANIZED STEEL

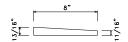
ALL WELDING PERFORMED IN COMPLIANCE WITH AMERICAN WELDING SOCIETY SPECIFICATIONS AND ACCOMPLISHED WITH ELECTRODE CLASS £7028

3"X6" NOMINAL WOOD STRIP FLOOR SOUTHERN YELLOW PINE GRADE NO. 2 OR BETTER CCA TREATED 0.4 LBS PENETRATION

ALL STRUCTURAL BOLTS TO BE ASTM A325 TYPE 1 GALVANIZED UNLESS OTHER NOTED

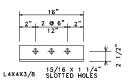


L4X4X3/8 24 REQ'D



BEARING PLATE BEVEL DIAGRAM

NOTE - BEVELED FOR 2 PERCENT GRADE



BACKWALL CONNECTION DETAIL 8 REQ'D

BEARING PLATE DETAIL

FIXED END (LOWER ELEVATION)

- 4 PCS P 1" X 8" X 18" W TH 1 1/8" Ø HOLES BEVELED AS PER DIAGRAM TOP PLATES 4 PCS P 3/4" X 8" X 18" W TH 1 1/8" Ø HOLES BOTTOM PLATES

EXPANSION END (HIGHER ELEVATION)

- 4 PCS P 1" X 8" X 18" W TH 1 1/8" X 3" SLOTTED HOLES BEVELED AS PER DIAGRAM TOP PLATES 4 PCS P 3/4" X 8" X 18" W TH 1 1/8" Ø HOLES BOTTOM PLATES

DECOULOS & COMPANY

248 ANDOVER ST, PEABODY, MA 01960 WWW.DECOULOS.COM 978 532 8154

PROPOSED BRIDGE DETAILS MAP 12, PARCEL 38 (SET-OFF LOT 232) **AQUINNAH, MASSACHUSETTS**

DATE 2/15/01 SCALE NTS

FIGURE NO.