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617.832.1000 main  
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Adam P. Kahn  
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November 7, 2023

**Via FedEx**

Hans P. van Lingen  
Sr. Permitting Manager  
New England Wind Development  
125 High Street, 6<sup>th</sup> Floor  
Boston, MA 02110

Re: Park City Wind LLC  
Edgartown Conservation Commission Permit  
MassDEP File No. 010-1640

Dear Hans:

I enclose the original Permit for Work to be Performed under Edgartown Wetlands Protection By-Law issued to Park City Wind by the Edgartown Conservation Commission, recorded in Dukes County Registry of Deeds, Book 1667, Page 215, along with the official recording receipt.

Please let me know if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "APK", written over a light blue horizontal line.

Adam P. Kahn

APK/nw  
Enclosure



EDGARTOWN CONSERVATION COMMISSION  
BOX 5130 EDGARTOWN, MASSACHUSETTS 02539  
TELEPHONE: 508-627-6165  
FAX: 508-627-6123



Bk: 1667 Pg: 215 Doc: PERMIT  
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**PERMIT FOR WORK TO BE PERFORMED UNDER  
EDGARTOWN WETLANDS PROTECTION BY-LAW**

Issued to:

**PARK CITY WIND LLC**

**MassDEP File No. 020-1640**

Edgartown, Mass.  
Town Clerk's Office  
September 29, 2023  
Rec'd for Record

10 57 A



After a public hearing on September 13, 2023, pursuant to the Edgartown Wetlands Protection By-law, Ch. 169 (the "By-law"), the Edgartown Conservation Commission hereby **RESCINDS** its denial Order of Conditions under the By-Law issued to applicant Park City Wind LLC ("Park City Wind") on February 13, 2023, and **APPROVES**, with conditions, the work requested to be performed by Park City Wind pursuant to the single Notice of Intent submitted to the Commission on March 24, 2022 (MassDEP File No. 020-1640) (the "Work").

In performing the Work, Park City Wind shall comply with all conditions set forth in the Superseding Order of Conditions issued by the Massachusetts Department of Environmental Protection dated May 16, 2023, attached hereto as Attachment A.

This Permit is valid for three years from the date of issuance and may be renewed prior to its expiration. The Work shall be completed prior to expiration of this Permit.

**Date of Issuance:**

**Signatures:**

  
\_\_\_\_\_  
 Maximilian Gibbs

\_\_\_\_\_  
Kathleen C Province

\_\_\_\_\_  
Patricia A. Aesch

\_\_\_\_\_  
Jeff Adams

# **ATTACHMENT A**





**A. General Information (cont'd)**

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

<u>Dukes</u>	<u>N/A</u>
a. County	b. Certificate (if registered land)
<u>N/A</u>	<u>N/A</u>
c. Book	d. Page

7. Dates: March 24, 2022 N/A February 13, 2023  
 a. Date NOI Filed b. Date of Site Visit c. Date of Issuance of Local Order

8. Final Approved Plans and Other Documents (attach additional plans or document references):

<u>Marine Survey Charts (1 – 3)</u>	
a. Plan Title	
<u>Epsilon Associates</u>	<u>N/A</u>
b. Prepared By	c. Signed and Stamped By
<u>March 2, 2022</u>	<u>various</u>
d. Final Revision Date	e. Scale
<u>NOI Figures 1 to 5</u>	<u>various</u>
f. Additional Plan or Document Title	g. Date

**B. Findings**

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

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

2. This Department hereby finds the project, as proposed, is (check one):

**Approved** subject to:

- a.  the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. 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.



**B. Findings (cont'd)**

Denied because:

- b.  the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect these interests, and a final Order of Conditions is issued. A description of the performance standards which the proposed work cannot meet is attached to this Order.
- c.  the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the 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.**

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

- 3.  Buffer Zone Impacts: Shortest distance between limit of project disturbance and wetland boundary (if available) \_\_\_\_\_ a. linear feet

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	_____ a. linear feet	_____ b. linear feet	_____ c. linear feet	_____ d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	_____ a. square feet	_____ b. square feet	_____ c. square	_____ d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	_____ a. square feet	_____ b. square feet	_____ c. square	_____ d. square feet
	_____ e. c/y dredged	_____ f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding Cubic Feet Flood Storage	_____ a. square feet	_____ b. square feet	_____ c. square	_____ d. square feet
	_____ e. cubic feet	_____ f. cubic feet	_____ g. cubic feet	_____ h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding Cubic Feet Flood Storage	_____ a. square feet	_____ b. square feet		
	_____ c. cubic feet	_____ d. cubic feet	_____ e. cubic feet	_____ f. cubic feet
9. <input type="checkbox"/> Riverfront area	_____ a. total sq. feet	_____ b. total sq. feet		
Sq feet within 100 feet	_____ c. square feet	_____ d. square feet	_____ e. square	_____ f. square feet
Sq feet between 100-200 feet	_____ g. square feet	_____ h. square feet	_____ i. square	_____ j. square feet



**B. Findings (cont'd)**

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

10.  Designated Port Areas - Indicate size under Land Under the Ocean, below

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
11. <input checked="" type="checkbox"/> Land Under the Ocean	65.8-73.9 <u>acres</u> 76,000 c. c/y dredged	65.8-73.9 <u>acres</u> 76,000 d. c/y dredged		

12.  Barrier Beaches - Indicate size under Coastal Beaches and/or Coastal Dunes below.

13.  Coastal Beaches

<u>a. square feet</u>	<u>b. square feet</u>	<u>c. c/y</u>	<u>d. c/y nourish.</u>
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14.  Coastal Dunes

<u>a. square feet</u>	<u>b. square feet</u>	<u>c. c/y</u>	<u>d. c/y nourish.</u>
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15.  Coastal Banks

<u>a. linear feet</u>	<u>b. linear feet</u>
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16.  Rocky Intertidal Shores

<u>a. square feet</u>	<u>b. square feet</u>
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17.  Salt Marshes

<u>a. square feet</u>	<u>b. square feet</u>	<u>c. square</u>	<u>d. square feet</u>
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18.  Land Under Salt Ponds

<u>a. square feet</u>	<u>b. square feet</u>
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<u>c. c/y dredged</u>	<u>d. c/y dredged</u>
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19.  Land Containing Shellfish

<u>4.7 acres</u>	<u>4.7 acres</u>		
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20.  Fish Runs - Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above

<u>a. c/y dredged</u>	<u>b. c/y dredged</u>
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21.  Land Subject to Coastal Storm Flowage

<u>a. square feet</u>	<u>b. square feet</u>
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## **C. General Conditions Under Massachusetts Wetlands Protection Act**

(only applicable to approved projects)

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - a. the work is a maintenance dredging project as provided for in the Act; or
  - b. the time for completion has been extended to a specified date more than three years, but less than five years, 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. If this Order constitutes an Amended Superseding Order of Conditions, this Amended Superseding Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Superseding Order will expire on \_\_\_\_\_ unless extended in writing by the Department.
7. 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.
8. 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.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the 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.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

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

"File Number    SE 20-1640    "





**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before DEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Department of Environmental Protection.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Department in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Department.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the 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.

**NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS**

19. **The work associated with this Order (the "Project") is (1)  is not (2)  subject to the Massachusetts Stormwater Standards. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:**
  - a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.



**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
  - ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
  - iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
  - iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
  - v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 19(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMPs Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, and acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
  2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
  3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Brief Project Description: Installation of two 275 kV offshore electric transmission cables within Edgartown waters.

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Special Conditions (See pages 13, 14, 15, & 16) for Special Conditions numbered 1 through 24.)

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

To the extent that the Order is based on a municipal bylaw or ordinance, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no jurisdiction to supersede the local by-law order.



**WPA Form 5 – Superseding Order of Conditions**  
**Massachusetts Department of Environmental Protection**  
Bureau of Water Resources – Wetlands  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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**E. Issuance**

This Order is valid for three years from the date of issuance, unless otherwise specified as a special condition pursuant to General Conditions 4 or 6.

Issued by: **Massachusetts Department of Environmental Protection:**

Signature:

Gerard Martin, Deputy Regional Director  
Bureau of Water Resources

This Order is issued to the applicant as follows:

by Hand delivery on:

by certified mail on:

\_\_\_\_\_ Date

May 16, 2023

Date Certified Mail # 7021 0950 0000 9321 6164





## **G. Appeal Rights and Time Limits**

The applicant, the landowner, any person aggrieved by the Superseding Order, Determination or other Reviewable Decision as defined at 310 CMR 10.04, who previously participated in the proceedings leading to this Reviewable Decision, the conservation commission, or any ten (10) residents of the city or town where the land is located if at least one resident was previously a participant in the permit proceeding, are hereby notified of their right to appeal this Reviewable Decision pursuant to M.G.L. c.30A, § 10, provided the request is made by certified mail or hand delivery to the Department, along with the appropriate filing fee and a MassDEP Fee Transmittal Form within ten (10) business days of the date of issuance of this Superseding Order or Determination, and addressed to:

Case Administrator  
Office of Appeals and Dispute Resolution  
Department of Environmental Protection  
One Winter Street, 2<sup>nd</sup> Floor  
Boston, MA 02108

A copy of the request (hereinafter also referred to as Appeal Notice) shall at the same time be sent by certified mail or hand delivery to the Conservation Commission, the applicant, the person that requested the Superseding Order or Determination, and the issuing office of the MassDEP at:

MassDEP  
20 Riverside Drive  
Lakeville, MA 02347

In the event that a ten resident group requested the Superseding Order or Determination, the Appeal Notice shall be served on the designated representative of the ten resident group, whose name and contact information is included in this Reviewable Decision (when relevant).

## **Contents of Appeal Notice**

An Appeal Notice shall comply with the Department's Rules for Adjudicatory Proceedings, 310 CMR 1.01(6) and 310 CMR 10.05(7)(j), and shall contain the following information:

- (a) the MassDEP Wetlands File Number, name of the applicant, landowner if different from applicant, and address of the project;
- (b) the complete name, mailing address, email address, and fax and telephone numbers of the party filing the Appeal Notice; if represented by consultant or counsel, the name, fax and telephone numbers, email address, and mailing address of the representative; if a ten residents group, the same information for the group's designated representative;
- (c) if the Appeal Notice is filed by a ten (10) resident group, then a demonstration of participation by at least one resident in the previous proceedings that led to this Reviewable Decision;
- (d) if the Appeal Notice is filed by an aggrieved person, then a demonstration of participation in the previous proceeding that led to this Reviewable Decision and sufficient written facts to demonstrate status as a person aggrieved;
- (e) the names, telephone and fax numbers, email addresses, and mailing addresses of all other interested parties, if known;



**WPA Form 5 – Superseding Order of Conditions**  
**Massachusetts Department of Environmental Protection**  
Bureau of Water Resources – Wetlands  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File #

SE 20-1640

- (f) a clear and concise statement of the alleged errors contained in the Department's decision and how each alleged error is inconsistent with 310 CMR 10.00 and does not contribute to the protection of the interests identified in the Wetlands Protection Act, M.G.L. c.131, § 40, including reference to the statutory or regulatory provisions that the party filing the Appeal Notice alleges has been violated by the Department's Decision, and the relief sought, including any specific desired changes to the Department's decision;
- (g) a copy of the Department's Reviewable Decision that is being appealed and a copy of the underlying Conservation Commission decision if the Reviewable Decision affirms the Conservation Commission decision;
- (h) a statement that a copy of the request has been sent by certified mail or hand delivery to the applicant and the conservation commission; and
- (i) if asserting a matter that is Major and Complex, as defined at 310 CMR 10.04, a statement requesting that the Presiding Officer make a designation of Major and Complex, with specific reasons supporting the request.

### **Filing Fee and Address**

A copy of the Appeal Notice along with a MassDEP 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, district of the Commonwealth of Massachusetts, or a municipal housing authority. The Department may waive the adjudicatory hearing filing 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.



**WPA Form 5 – Superseding Order of Conditions**  
**Massachusetts Department of Environmental Protection**  
Bureau of Water Resources – Wetlands  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File #

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**Special Conditions:**

1. A copy of this Order, referenced plans, and documents shall be provided to all contractors and kept available onsite during all phases of construction, until a Certificate of Compliance has been issued by MassDEP.
2. A copy of this Order, referenced plans, and documents shall be kept available on the major construction vessels during all phases of construction.
3. The File Number sign required by General Condition 10 shall be clearly displayed on any vessel supporting the cable laying equipment.
4. The permittee shall designate an Environmental Inspector for the project whose responsibilities shall include ensuring the project complies with the requirements of this Order and that all necessary reports are made on a timely basis.
5. Prior to the start of construction, the permittee shall provide MassDEP with the name, phone number and qualifications of the Environmental Inspector assigned to the project.
6. As stated in Section 4 of the NOI Narrative (page A-15), a pre-lay grapnel run will be made. No later than one week after the grapnel run is completed, the permittee shall submit the report to MassDEP, MA DMF, and MA CZM identifying potential modifications to the proposed final cable-laying strategy. Any snags, potential environmental disturbances, and unexpected conditions shall be included in this report.
7. Anchored vessels shall avoid sensitive seafloor habitats to the greatest extent practicable. Contractors will be provided with a map of sensitive habitats by the permittee prior to construction with areas to avoid and shall plan their mooring positions accordingly. Where it is considered impossible or impracticable to avoid a sensitive seafloor habitat, the use of mid-line anchor buoys shall be considered, where feasible and considered safe, as a potential measure to reduce and minimize potential impacts from anchor line sweep.
8. Prior to the commencement of cable laying operations, the permittee shall implement a pre-construction benthic habitat and benthic community monitoring plan based on the "New England Wind Draft Benthic Habitat Monitoring Plan"<sup>1</sup>. The monitoring plan should measure changes in seafloor topography and any disturbance of the seafloor habitats. High resolution multibeam bathymetry, or a similar method shall be used pre- and post-construction to determine the depth and extent of sedimentation arising from the project. The plan shall be prepared in consultation with MassDEP, CZM, DMF and other state and federal agencies. The plan should be submitted to MassDEP, CZM and DMF for timely review and MassDEP approval no later than 12 months before the start of cable laying activities. In the event the MassDEP determines that additional compensatory mitigation is due from the permittee as a result of construction related impacts to the benthic habitat, MassDEP may consult with other state and federal agencies and specify additional measures to be implemented by the permittee.

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1. According to an email from Stephanie Wilson, Avangrid Renewables, to multiple state and federal agencies, dated December 9, 2022.





**WPA Form 5 – Superseding Order of Conditions**  
**Massachusetts Department of Environmental Protection**  
Bureau of Water Resources – Wetlands  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File #

SE 20-1640

9. At least three months prior to the start of dredging activities, the permittee shall submit a Shellfish Survey Plan to MassDEP for review and approval. A post-construction survey shall be generated and submitted one year after the cable laying is completed.
10. Prior to the start of cable-laying activities, a survey plan of eelgrass beds at Cape Pogue shall be submitted to MassDEP for review and approval. A post-construction eelgrass map shall be generated and submitted one year after the cable laying is completed.
11. Based on a comparison of the pre-construction monitoring data and the results of the post-construction monitoring, if MassDEP determines that any resource areas disturbed by construction impacts have not substantially returned to their former productivity, the MassDEP may require compensatory mitigation. MassDEP may consult with other state and federal agencies and specify what additional measures are to be implemented by the permittee.
12. The applicant shall submit any updates to the existing "New England Wind Fisheries Monitoring Plan"<sup>2</sup> and results of the Plan to MassDEP for timely review and approval. Part of the project area provides habitats to several fisheries species such as the longfin squid, river herring, shad, sea herring, and striped bass. The purpose of the plan is to undertake fisheries surveys prior to-, during, and post construction to measure the project's impact on fisheries resources and recovery of the fish communities. The Plan shall be prepared in consultation with the University of Massachusetts Dartmouth School for Marine Science and Technology, the MA DMF, CZM, MassDEP, fisherman, the fisheries science community, and other stakeholders to inform that effort and design the study.
13. Before the start of cable-laying activities the permittee shall submit the results of an eelgrass survey at Cape Pogue. The map shall be submitted to MassDEP, DMF, and CZM. A similar post-construction eelgrass map shall be generated one year after the cable laying is completed. If eelgrass impact in any area including Cape Pogue cannot be avoided, the applicant shall develop and submit a mitigation plan to MassDEP, DMF and CZM for review and approval.
14. The permittee shall conduct turbidity monitoring during cable installation operations. The permittee shall submit a turbidity (NTU) and Total Suspended Solids (TSS) monitoring plan to MassDEP and CZM for acceptance eight weeks prior to the commencement of the cable installation operation. At a minimum the monitoring plan shall include monitoring locations, frequency of monitoring, type of monitoring equipment, proposed action level for implementation of corrective action or BMPs, level for stop work, background monitoring locations, and frequency. The monitoring report shall be submitted to MassDEP, CZM, and DMF in electronic format and include, at a minimum, a map of sampling stations, the results at each station, and how the results compare to background and threshold turbidity concentrations of interest to MassDEP.
15. Before any hard cover is placed to permanently protect areas of exposed cable, the permittee shall contract the Department (David Wong), CZM (Robert Boeri) and DMF (John Logan) and make every reasonable effort to use rock placement or a gabion system, as appropriate, to mimic native surficial material and reduce the use of concrete mats for permanent cable protection. Where temporary protection is needed, e.g., for periods of 12 months or less at a splice joint, the applicant should still notify the Department, CZM, and DMF, but may use concrete mats based on its engineering judgement. The permittee shall inform the Edgartown Conservation Commission of the choice of cable protection used.

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2. The document linked in the email from Holly Johnston, Epsilon Associates, Inc., to David Wong, Massachusetts Department of Environmental Protection, dated March 7, 2023



**WPA Form 5 – Superseding Order of Conditions**  
**Massachusetts Department of Environmental Protection**  
Bureau of Water Resources – Wetlands  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File #

SE 20-1640

16. In construction areas where large boulders are encountered, boulder relocation may be employed prior to cable installation. Boulder relocation may be accomplished by means of a grab that lifts the boulders clear of the cable corridor, or by using a plow-like tool that pushes the boulders aside.
17. If, pursuant to Special Condition 8 of this Order, the MassDEP determines that any resource areas disturbed by construction impacts have not substantially returned to their former productivity, the MassDEP in consultation with the other state and federal agencies and the Edgartown Conservation Commission shall specify what additional measure(s) are to be implemented by the permittee to include consideration of restoration measures, non-compensatory mitigation measures, and compensatory mitigation.
18. When the permittee prepares a decommissioning plan(s) for project components subject to this Order, it will provide a copy of such plan(s) to the Edgartown Conservation Commission for a 30-day review and comment period, and, as applicable, will seek approval under the Act.
19. The permittee shall submit a notification procedure outlining the reporting process to the MassDEP for incidents relating to the cable laying activities that could have potential impacts to surrounding resource areas and habitats such as, but not limited to, observed dead or distressed fish or other aquatic organisms, observed oily sheen on surface water, sediment spill, excessive turbidity plumes beyond the deployed BMPs, and barging or equipment accident/spill. If at any time during implementation of the project any incident results in impacts such as those listed above the MassDEP reserves the right to halt site related activities that caused or could have caused the incident until the source of the problem is identified and adequate mitigating measures are employed to the satisfaction of the MassDEP.
20. Upon completion of construction activities, and in conjunction with requesting a Certificate of Compliance, the permittee shall prepare and submit an "As-Built" plan depicting the final cable location and depth.
21. When the permittee is required to make submissions under this Order to the MassDEP for review and approval such submissions shall be provided simultaneously to the Edgartown Conservation Commission for its review and comment to the MassDEP on matters within the scope of the Act and applicable to activities within the Town of Edgartown. Any comment submitted by the Commission shall also be simultaneously provided to the permittee. The Commission shall supply any comments within 30 calendar days of receipt of the Applicant's submission, except otherwise noted in the Order. Date of receipt shall be considered the actual date for an emailed document (or link to an on-line file sharing system) or one business day after the document is sent to the Commission recognized overnight delivery carrier.
22. In addition, when the permittee is required to make submissions under this Order to the MassDEP that do not require MassDEP's approval such submissions shall be provided simultaneously to the Edgartown Conservation Commission.
23. If the MassDEP initiates consultation with other state and federal agencies the MassDEP shall also consult with the Edgartown Conservation Commission.

24. The permittee shall promptly report any emergency repairs, or instances in which the cable becomes exposed, in each instance within the Town of Edgartown, and any actions taken or planned to be taken by the permittee in response to such conditions to the Edgartown Conservation Commission. Notwithstanding the foregoing, (1) cable and other structures authorized by this SOC may be maintained as authorized by the applicable Wetlands Regulations and other applicable law, and (2) if the cable requires emergency repair, the permittee may make such emergency repairs except to the extent prohibited by applicable law. If the permittee plans activities relating to cable or other structures authorized by this SOC within the Town of Edgartown that require submission of a Notice of Intent under the Act, then the permittee will submit a Notice of Intent compliant with then-applicable law. Regardless of whether a Notice of Intent is required, the permittee will provide information reasonably requested by the Commission as to the cause of the incident, actions taken or plans to correct the incident.

ATTEST: Paulo C. DeOliveira, Register  
Dukes County Registry of Deeds



