



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Western Regional Office • 436 Dwight Street, Springfield MA 01103 • 413-784-1100

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September 21, 2020

James McGrath
Park, Open Space, and Natural Resource Program Manager
Community Development
City of Pittsfield
70 Allen Street
Pittsfield, MA 01201
(413) 499-9344
jmcgrath@cityofpittsfield.org

RE: Onota Lake

Dear Mr. McGrath:

Enclosed are draft suggested conditions that MassDEP has prepared as guidance for the City and Conservation Commission in anticipation of an impending filing of a Notice of Intent for the drawdown of Onota Lake. Although the Notice of Intent has not yet been filed, the City has provided some details with respect to the anticipated filing. Many of the suggested conditions are designed to address compliance concerns that have arisen relative to standards in prior drawdown permits. The suggested standards are intended to provide clarity and reference points for future drawdowns allowing all interested parties to understand and monitor permit compliance.

Please note that MassDEP may provide additional comments at the time of filing. MassDEP also reminds the City of the requirements of the GEIR (Generic Environmental Impact Report) in permitting lake management projects. Finally, the Department is required to reserve all of its rights, including its right to issue a Superseding Order of Conditions in the event of an appeal of any Order of Conditions that may be issued.

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

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Should you have any questions regarding this issue, please contact the undersigned at (413) 755-2138. Although we are working remotely, staff members are checking voicemail frequently.

Respectfully,

This final document copy is being provided to you electronically by the Department of Environmental Protection. A signed copy of this document is on file at the DEP office listed on the letterhead.

David Cameron, Section Chief
Division of Wetlands and Waterways

Enclosure: Permit Guidance

CC: Pittsfield Conservation Commission, rvanderkar@cityofpittsfield.org
Stephen N. Pagnotta, Donovan O'Connor & Dodig, LLP, spagnotta@docatty.com

SUGGESTED CONDITIONS

Order of Conditions for MassDEP Wetlands File # 263-XXXX

Findings:

- The activity, as defined at 310 CMR 10.04 Activity, described within the Notice of Intent, as amended at public hearing, will occur within the following jurisdictional Resource Area: Land Under Water Bodies and Waterways (LUWW) [as defined at 310 CMR 10.56(2)] associated with Onota Lake, a Lake as defined at 310 CMR 10.04 (hereinafter the Project Site as defined at 310 CMR 10.04). Alteration (as defined at 310 CMR 10.04) of LUWW will occur within 653 acres +/- of said Resource Area (as defined at 310 CMR 10.04), including X acres that will be dewatered, as shown on the plan(s) of record;
- The Mean Annual Low Water Level (MALWL) of Onota Lake is demarcated on the plan(s) of record, and represents the boundary of LUWW per 310 CMR 10.56(2)(c);
- The Pittsfield Conservation Commission has determined that: Bank (Inland) [see 310 CMR 10.54(2)], Bordering Vegetated Wetland [see 310 CMR 10.55(2)], and Bordering Land Subject to Flooding [see 310 CMR 10.57(2)(a)] occur adjacent to Onota Lake, the boundaries of which have not been determined by the Pittsfield Conservation Commission in this Order;
- The Pittsfield Conservation Commission has determined that the project, as proposed in the Notice of Intent and supplemental information, meets the General Performance Standards at 310 CMR 10.56(4)(a)1. and 2., and (c) as conditioned by this Order.
- On Month Date, 202X the Natural Heritage and Endangered Species Program of the Massachusetts Division of Fish and Wildlife (NHESP) issued the equivalent of a conditional “no adverse effect determination”. Upon the adoption of the presumptive conditions within this determination into this Order of Conditions, the project complies with 310 CMR 10.59.
- The Pittsfield Conservation Commission has determined that the project, as proposed in the Notice of Intent and supplemental information, meets the requirements and preconditions of an Ecological Restoration Limited Project for “X” per 310 CMR 10.53(4)(e)5.

Special Conditions:

Conditions Governing Operation of Onota Lake Dam Controls

18. This Order of Conditions hereby establishes that, for purposes of compliance with this Order, the “full summer pool” or “normal pool elevation*” of Onota Lake is 1,079.00 feet above mean sea level (AMSL, per NAVD 1988) per Fuss & O’Neill Phase I Inspection/Evaluation Report Date of Inspection November 13, 2018. This elevation is the level of the top of the spillway. Special Conditions within this Order which allow manipulation of controls within Onota Lake Dam shall be measured against this elevation.

*A **full summer pool** or **full pool** is the water level of a reservoir at normal operating conditions. (See: "Full pool". usbr.gov. Bureau of Reclamation Glossary).

19. Any drawdown shall commence on or after **October 15** of any calendar year. On the same day that the commencement of drawdown is initiated, the Permittee shall notify both NHESP and MassDEP-WERO-BWR-DWW via e-mail, and in a format agreed to by both Commonwealth agencies.

20. Any drawdown shall cease on or before **December 1** of any calendar year.

21. Any drawdown shall not exceed the lowering of the “normal pool elevation” below the target elevation of **1,077.00** feet AMSL (i.e., 24 inches).

22. During active drawdown between **October 15** and **December 1** of any given calendar year, the rate of drawdown shall not exceed **3-inches** during any given calendar day (from midnight to 11:59 pm).

23. When drawn down in accordance with this Order, refilling of Onota Lake to the “normal pool elevation” of **1,079.00** feet shall be achieved on or before **April 1** of any given calendar year following the drawdown. Should the Permittee not achieve the “full summer pool elevation” due to icing or other conditions, it shall notify the Pittsfield Conservation Commission, NHESP and MassDEP-WERO-BWR-DWW via e-mail and provide an anticipated date to achieve the “full summer pool elevation” which shall not be later than April 15th. On the same day that the refill achieves the “full summer pool elevation”, the Permittee shall notify both NHESP and MassDEP-WERO-BWR-DWW via e-mail, and in a format agreed to by both Commonwealth agencies.

24. During drawdown, outflow from the low-level outlet at Onota Lake Dam shall not exceed **41.6** cubic feet per second.

25. Once the target water elevation is achieved, outflow shall reasonably equal inflow to the greatest extent possible until commencement of refill. The purpose of this manipulation is to

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maintain a stable water level elevation, which shall not, except temporarily as the result of a significant weather event, vary in excess of a range of 1,077.00 feet to 1,078.00 feet.

26. During refill, outflow from the low-level outlet at Onota Lake Dam shall meet or exceed 5.2 cubic feet per second.

Ancillary Conditions

27. The applicant and all others subject to this Order shall comply with and adhere to the “Contingency Plan” submitted in the Notice of Intent. In the event of any fish kill within Onota Lake, the permittee shall bear responsibility to immediately contact the MassDEP’s Emergency Response section at 413-755-2246; the Massachusetts Division of Fisheries and Wildlife at 508-792-7270 (during normal working hours); and the Massachusetts Environmental Police at 1-800-632-8075.
28. No drawdown permitted herein shall commence unless fish screens that have been approved in writing by NHESP are correctly placed at the outlet inverts, and remain in place until refill has been achieved, or unless NHESP grants written authority to not emplace a fish screen, and the Permittee provides a copied notice of such written authority to MassDEP.
29. No drawdown permitted herein, in excess of 2 feet below the Normal Pool Elevation, shall commence unless the coffer dam located at the upstream invert of the Dan Casey Memorial Drive causeway is replaced or repaired and then approved in writing by NHESP, and remains in place until refill has been achieved, or unless NHESP grants written authority to not emplace this coffer dam, and the Permittee provides a copied notice of such written authority to MassDEP.
30. Upon completion of the project, the applicant shall submit with their request for a Certificate of Compliance, an affidavit prepared by a professional qualified at 310 CMR 10.60(1)(b), stating that the project has been conducted in accordance with the requirements of this Order of Conditions and the referenced plans of record.
31. This Order shall expire five years from its date of issuance, and shall not be granted an Extension Permit, unless NHESP grants written authority to seek and obtain an Extension Permit, and the Permittee provides a copied notice of such written authority to MassDEP.

Compliance Monitoring Requirements

32. Prior to the initiation of any drawdown permitted herein, the Permittee shall obtain, install, and maintain a staff gauge, graduated in inches and feet, upon an appropriate vertical component of Onota Lake Dam for the use of authorized personnel; and at a publicly viewable location and of a size readable at each of the following locations:
 - a.) upon an appropriate vertical component of the Dan Casey Memorial Drive causeway structure as part of the new box culvert that is currently being designed / permitted by the City DPS. .
 - b.) On the fishing pier at Burbank Park.Upon these staff gauges, the Permittee shall distinctively demarcate and clearly label the “full pool” elevation, and the “target drawdown” elevation.
33. Provided that the Massachusetts Division of Ecological Resources or other state agency maintains a telemetry unit on Onota Lake, data collected by the transponder located upon the

structure of Onota Lake Dam shall be configured or modified to report water level elevations on an hourly basis. In addition, the Permittee shall maintain a logbook noting all modifications made to the low level outlet. . The attached table shall be used or automated to collect and report this data.

34. Data collected via the transponder shall minimally be collected between October 15 of any given calendar year, and the following April 1, unless the drawdown and refill are initiated and achieved within a shorter period between these dates.
35. In the event of the failure of the transponder, the Permittee shall use the staff gauges to manually collect at least daily data, until such time as the transponder has been repaired or replaced.
36. Data collected shall be available through an internet link tracking the telemetry unit measurements provided for on the Pittsfield Conservation Commission website. Data shall be recorded and presented in a format agreed upon and acceptable to the Commonwealth agencies listed above.