

DEP File No: SE 69-410

City/Town: Seekonk
Applicant: Westmoreland Co., Inc.

Form 5

Commonwealth
of Massachusetts

ORDER OF CONDITIONS

Massachusetts Wetlands Protection Act and Seekonk Conservation Commission By-Laws, G.L. c. 131, § 40

From SEEKONK CONSERVATION COMMISSION Issuing Authority.

To Westmoreland Co., Inc. N&R Realty & Leasing Assoc.
(Name of person making request) (Name of property owner)

Address 200 Randolph Avenue, Huntsville, AL 35801 Address 1015 Newman Avenue, Seekonk, MA 02771

This Order is issued and delivered as follows:

_____ by hand delivery to applicant or representative making request on _____ (date)

by certified mail, return receipt requested on May 25, 1999 (date)

This project is located at 1015 Newman Avenue, Plat 27, Lot 233.

The property is recorded at the Registry of Deeds, Bristol County North.
Book 3204 Page 215 Certificate (if registered) N/A

The Notice of Intent for this project was filed on March 11, 1999 (date)

The public hearing was closed on April 26, 1999 (date)

Findings

The Seekonk Conservation Commission has reviewed the above-referenced Notice of Intent and plans and has held a public hearing on the project. Based on the information available to the Conservation Commission at this time, the Conservation Commission has determined that the area on which the proposed work is to be done is significant to the following interests in accordance with the Presumptions of Significance set forth in the regulations for each Area Subject to Protection Under the Act (check as appropriate):

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> Public water supply | <input checked="" type="checkbox"/> Flood control | <input type="checkbox"/> Land containing shellfish |
| <input checked="" type="checkbox"/> Private water supply | <input checked="" type="checkbox"/> Storm damage prevention | <input type="checkbox"/> Fisheries |
| <input checked="" type="checkbox"/> Ground water supply | <input checked="" type="checkbox"/> Prevention of pollution | <input type="checkbox"/> Protect. of Wildlife Habitat |

Total Filing Fee Submitted \$ 525.00 State Share \$250.00 City/Town Share \$ 275.00

Total Refund Due \$ _____ City/Town Portion \$ _____ State Portion \$ _____

Therefore, the Seekonk Conservation Commission hereby finds that the following conditions are necessary, in accordance with the Performance Standards set forth in the regulations, to protect those interests checked above. The Seekonk Conservation Commission orders that all work shall be performed in accordance with said 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.

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, by-laws 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 and both that date and the special circumstances warranting the extended time period are set forth 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, containing 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. No work shall be undertaken until all administrative appeal periods from this Order have elapsed or, if such an appeal has been filed, until all proceedings before the Department have been completed.
8. **No work shall be undertaken until the Final Order 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 the Seekonk Conservation Commission on the form at the end of this Order 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 the size bearing the words, "Massachusetts Department of Environmental Protection, File Number SE 69-410 _____".

10. Where the Department of Environmental Protection is requested to make a determination and 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 forthwith request in writing that a Certificate of Compliance be issued stating that the work has been satisfactorily completed.
12. The work shall conform to the following plans and special conditions:

Plans:

Total	Dated	Signed and Stamped by:	On file with:
<u>(2)</u>	<u>3/5/98 & 3/29/99</u>	<u>Caputo & Wick, Ltd..</u>	<u>DEP, Seekonk Cons. Comm.</u>
_____	_____	_____	

Special Conditions (Use additional paper if necessary)

SPECIAL ORDERS OF CONDITIONS

13. Any changes made or intended to be made in the plans shall require the applicant to inquire of the Conservation Commission, in writing, whether the change is substantial enough to warrant filing a new Notice of Intent.
14. The Seekonk Conservation Commission may, at their discretion, require an as-built plan, signed and stamped by a professional engineer or land surveyor or registered in the Commonwealth of Massachusetts further to General condition #11.
15. Failure to comply with General Condition #8 shall be deemed cause to revoke these Orders of Condition. As an alternative, the Commission may record this Order in the Registry and charge the applicant the cost of recording.
16. Prior to the commencement of any work on the site:
- a. the applicant shall inform the Seekonk Conservation Commission in writing of the name, address, business and home telephone number of the project supervisor who will be responsible for insuring on-site compliance with this Order.
 - b. the Seekonk Conservation Commission shall be notified in advance of the date upon which construction activities on the site are to commence.
 - c. the border of the Resource areas on the site shall be clearly marked in the field by stakes or flags placed at 25 foot intervals. A continuous barrier shall be established between the work area and the designated Resource Areas, including those areas of proposed replication. The barrier shall consist of a hay/straw bale dike or acceptable alternative as specified on the plans. This barrier shall be inspected by the Seekonk Conservation Commission prior to start of any other on-site construction.

17. Members and Agents of the Seekonk Conservation Commission shall have the right to enter and inspect the site for the purpose of evaluating compliance with the conditions and performance standards stated in this Order, the Act, & 310CMR 10.0. The Commission reserves the right to request any additional data deemed necessary to further their evaluation.
18. The limit of work shall be as shown on plan presented and approved at the meeting.
19. All hay bales shall be staked.
20. It is the responsibility of the applicant to procure all other applicable federal, state, and local permits and approvals associated with this project.

Stormwater Management

1. It is the owner's responsibility to maintain all Best Management Practices (BMPs) and to confirm they are kept in proper working order.
2. All stormwater BMPs are to be inspected annually at a minimum, by a Registered Professional Engineer at the expense of the owner. The inspection report will be filed with the Conservation Commission.
3. Sediments captured in stormwater BMP's will be removed and disposed of off site in an approved manner.
4. The owner shall designate the person responsible for ensuring that operations are conducted in accordance with the operations and maintenance plan, that maintenance and inspections are conducted, and that operation, maintenance and inspection reports are completed and filed with the Seekonk Conservation Commission.
5. The owner shall provide the name, address, and telephone number of this contact person to the Seekonk Conservation Commission and shall update this information as required by personnel changes.
6. Catchbasins shall be cleaned out four times per year.
7. Any sealants used on the lot shall be approved by the Conservation Commission or its Agent.

Issued by Seekonk Conservation Commission

Signatures Warren P. Leach Robert M. Bowers
Robert M. Bowers R. M. Bowers
Oliver Wilbur _____

This Order must be signed by a majority of the Conservation Commission.

On this 26th day of April 1999, before me personally appeared Warren P. Leach, 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.

Wahlene J. Acconio
(Notary Public/Justice of the Peace)

June 25, 2004
(My Commission Expires)

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land upon which the proposed work is to be done or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the Department of Environmental Protection to issue a Superseding Order of Conditions, providing the request is made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form as provided in 310 CMR 10.03(7) within ten days from the date of issuance of this Determination. A copy of the request shall at the same time be sent certified mail or hand delivery to the Conservation Commission and the applicant.

Detach on dotted line and submit to the Seekonk Conservation Commission prior to commencement of work.

To Seekonk Conservation Commission Issuing Authority.

Please be advised that the Order of Conditions for the project at 1015 Newman Avenue, Seekonk, MA, File Number SE 69-410 has been recorded at the Registry of Deeds, Bristol County, North, and has been noted in the chain of title of the affected property in accordance with General Condition 8 on 19 .

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

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

Signature _____ Applicant.