

file

310 CMR 10.99

Form 5



Commonwealth of Massachusetts

DEP File No. 69-209

(To be provided by DEP)

City/Town Seekonk

Applicant Arthur Smith, Trustee

Order of Conditions
Massachusetts Wetlands Protection Act
G.L. c. 131, §40

From SEEKONK CONSERVATION COMMISSION

To Mr. Arthur J. Smith (Name of Applicant) Anawan Realty Trust Arthur J. Smith, Trustee (Name of property owner)

Address 346 Taunton Avenue Seekonk, MA 02771 Address Same

This Order is issued and delivered as follows:

- by hand delivery to applicant or representative on
xx by certified mail, return receipt requested on December 14, 1989

This project is located at 346 Taunton Avenue, Plat 19, Lots 504 thru 512

The property is recorded at the Registry of Bristol, north

Book 3083 Page 266

Certificate (if registered)

The Notice of Intent for this project was filed on November 15, 1989 (date)

The public hearing was closed on December 11, 1989 (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 Commission at this time, the 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):

- Public water supply, Private water supply, Ground water supply, Flood control, Storm damage prevention, Prevention of pollution, Land containing shellfish, Fisheries, Protection of wildlife habitat

Total Filing Fee Submitted, State Share, City/Town Share, Total Refund Due \$, City/Town Portion \$, State Portion \$

Therefore, the Seekonk Con Comm 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 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. This 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 to be done. The recording information shall be submitted to the Seekonk Con Comm on the form at the end of this Order prior to 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,  
File Number 69-209
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:

Title	Dated	Signed and Stamped by:	On File with:
A Notice of Intent Submission, 11/89			DEP & Seekonk Con Comm

Special Conditions (Use additional paper if necessary)

(Leave Space Blank)

Plans:

Title	Dated	Signed and Stamped by:	On File with:
A Notice of Intent Submission, 11/89			DEP & Seekonk Con Comm

Special Conditions (use additional paper if necessary)

(Leave Space Blank)

Issued By \_\_\_\_\_ Seekonk Conservation Commission

Signatures: Spencer L. Martin  
Michael V. [unclear]  
Be Butten  
Harold E. [unclear]  
[unclear]  
[unclear]

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

On this 12 day of December 1989, before me personally appeared Spencer L. Martin, Jr., 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.

Emily Lagerquist  
Notary Public  
March 9 1990  
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, 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 by certified mail or hand delivery to the Conservation Commission and the applicant.

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

To \_\_\_\_\_ Issuing Authority

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

File Number \_\_\_\_\_ has been recorded at the Registry of \_\_\_\_\_ 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

Issued by the Department of Environmental Protection

Signature \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, 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

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 persons pursuant to G.L. c. 30A §10A, are hereby notified of their right to request an adjudicatory hearing pursuant to G.L. c. 30A, §10, 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 Superseding Order, and is addressed to: Docket Clerk, Office of General Counsel, Department of Environmental Protection, One Winter Street, 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 any other party.

A Notice of Claim for an Adjudicatory Hearing shall comply with the Department's Rules for Adjudicatory Proceedings, 310 CMR 10.01(6), and shall contain the following information:

- (a) the DEP Wetlands File Number, name of the applicant and address of the project;
- (b) the complete name, address and telephone number of the party filing the request, and, if represented by counsel, the name and address of the attorney;
- (c) the names and addresses of all other parties, if known;
- (d) a clear and concise statement of (1) the facts which are grounds for the proceeding, (2) the objections to this Superseding Order, including specifically the manner in which it is alleged to be inconsistent with the Department's Wetlands 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;
- (e) a statement that a copy of the request has been sent to the applicant, the conservation commission and each other party or representative of such party, if known.

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

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

To \_\_\_\_\_ Issuing Authority

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

File Number \_\_\_\_\_ has been recorded at the Registry of \_\_\_\_\_ 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