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DEP File No: SE 69-430

City/Town: Seekonk  
Applicant: Bruce Butterworth

Form 5

Commonwealth  
of Massachusetts

# ORDER OF CONDITIONS

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

From SEEKONK CONSERVATION COMMISSION Issuing Authority.

To: Bruce Butterworth  
(Name of person making request)

Name: Lorna O'Connell  
(Name of property owner)

Address: 24 Alta Street, Seekonk, MA 02771

Address: 75 Brookhill Drive, 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 March 7, 2000 (date)

This project is located at Arcade Avenue, Seekonk, MA, Plat 15, Part of Lot 31

The property is recorded at the Registry of Deeds, Bristol County North.  
Book 8194 Page 30 Certificate (if registered) N/A

The Notice of Intent for this project was filed on January 5, 2000 (date)

The public hearing was closed on February 14, 2000 (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 \$ 250.00 State Share \$ 112.50 City/Town Share \$ 137.50

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 69-430**".

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:

Total	Dated	Signed and Stamped by:	On file with:
<u>(2)</u>	<u>12/20/99 &amp; 2/14/2000</u>	<u>John W. Delano &amp; Assoc., Inc.</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 2 business days 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.
  - a. Wetland flags located along the line to the rear of the proposed dwelling will be marked with a planting of a 24" high winterberry shrub.
  - b. A stone and boulder wall will mark the area to the left of the proposed house. The grades are revised to a gentle slope with the creation of the stone/boulder wall.
  - c. The grades at the rear of the house have been pushed back to provide the homeowner with a flatter area.
  - d. Siltation devices have been changed to indicate the use of hay bales rather than silt fence.
  - e. Swamp azalea shrubs will be planted in replication area #2 in lieu of red maples with a 100% survival rate for a period of 2 years.
  - f. An as built plan shall be given to the Commission with a request for a Certificate of Compliance for the project.
  - g. Site work shall conform with the conditions and sequence specified in "Preliminary site work, Wetland Replications Plan", dated December 1999, attached hereto and incorporated herein.

The location of the first and second silt fences will be staked as shown on the plan by the surveyors. The first and second silt fence will be installed prior to the clearing of any trees for the driveway and the house construction site.

After the silt fences have been installed, the trees and brush will be cleared. The stumps shall be removed and transported off site to an authorized stump deposit area. The top and subsoil will be carefully scraped back to the first silt fence shown on the plan. The contractor will be instructed to separately stockpile the low chroma and value colored organic layer (black) and the A horizon (dark, grayish brown) from the low area within the limits of the proposed driveway.

The contractor shall only use a bobcat size machine in replication area #1. The contractor shall remove the organic and A horizons from both replication areas. The substrate will be lowered by about 12" and the substrate material is to be removed for use as fill for the lawn area. The contractor shall respread the organic and A horizons over the replication areas. The area between the silt fences shall be planted with nursery stock red maples, sweet pepper bush, northern arrowwood, and highbush blueberry as indicated on the replication plan.

The replication area will be planted, under the supervision of the wetland consultant, with 31 Red Maple (*Acer rubrum*) shrubs, 18" - 24" in height; 32 Sweet Pepperbush (*Clethra alnifolia*) shrubs, 18"-24" in height; 29 Highbush Blueberry (*Vaccinium corymbosum*) shrubs, 18"-24" in height; and 28 Northern Arrowwood 18"-24" in height. The replication area will be lightly covered with mulch to protect the soil and hold moisture in the soil. It is expected that plant species found in the adjacent wetlands would revegetate the replacement area as volunteer species. Also root shoots and seeds left in the organic layer should sprout new growth. A conservation seed mix will be spread over the soil prior to the mulch being spread.

The replication monitoring program will consist of a report being submitted at the end of each growing season for a two-year period. An evaluation of the relative success or failure of the replication area will be included in the report. If the evaluation shows that some of the plants have not successfully been established, additional plantings will be made.

#### ***GENERAL SEQUENCE OF CONSTRUCTION***

1. Prior to construction a site meeting with the contractor and wetland consultant will be held to properly plan the construction activities.
2. Prior to construction, the limits of the proposed work will be bordered by a silt fence erosion control barrier.
3. Trees and brush will be cut & removed. The stumps shall be removed and disposed of in an authorized processing site.
4. The O and A horizons in the replication areas shall be removed and stockpiled separately from other fill. The substrate shall be lowered by 12" and the O and A horizons respread and graded.
5. The wetland consultant will be called to inspect the excavated area to determine if the organic layer has been properly exposed. Any modifications needed will be made on the spot.
6. The organic soil area will be staked by the wetland consultant to designate the planting area.
7. Planting of the nursery stock wetland plants will be made.
8. Periodic inspections will be made by the wetland consultant to monitor the success of the germination of the nursery stock.

Issued by Seekonk Conservation Commission

Signatures

<u>Warren P. Leach</u>	<u>[Signature]</u>
<u>[Signature]</u>	
<u>[Signature]</u>	
<u>[Signature]</u>	

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

On this 14th day of February, 2000, 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.

William J. Sciorio  
(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 Arcade Avenue, Plat 15, Part of Lot 31, File Number SE 69-430 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      20  .

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

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

Signature \_\_\_\_\_ Applicant.

*[Faint, illegible stamp or text]*