

Commonwealth  
of Massachusetts

BK 11292 PAGE 551

DEP File No.

2-342

(Note changed by DEP)

City/Town

AMESBURY

Applicant

HOWARD SMITH

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

From AMESBURY CONSERVATION COMMISSIONTo HOWARD SMITH SAME  
(Name of Applicant) (Name of property owner)Address 11 WEST WHITEHALL RD. Address SAME  
AMESBURY, MA, 01813

This Order is issued and delivered as follows:

☒ by hand delivery to applicant or representative on 5/13/92 (date)☐ by certified mail, return receipt requested on \_\_\_\_\_ (date)This project is located at 11 WEST WHITEHALL RD. Assessor's Map 57 (2) 41The property is recorded at the Registry of ESSEXBook 4352 Page 148Certificate (if registered) N/AThe Notice of Intent for this project was filed on 4/27/92 (date)The public hearing was closed on 5/4/92 (date)**Findings**The 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      ☒ Flood control      ☐ Land containing shellfish  
☐ Private water supply      ☒ Storm damage prevention      ☐ Fisheries  
☒ Ground water supply      ☐ Prevention of pollution      ☐ Protection of wildlife habitat
Total Filing Fee Submitted 250.00 State Share 100.00City/Town Share 150.00 (1/2 fee in excess of \$25)Total Refund Due \$ \_\_\_\_\_ City/Town Portion \$ \_\_\_\_\_ State Portion \$ \_\_\_\_\_  
(1/2 total) (1/2 total)

Effective 11/10/89 5-1

1992 MAY 15 10 54

000223

05/15/1992 Doc: 0223



4

Therefore, the 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 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 Commission 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 2-342 (Not on a Live Tree)"
10. Where the Department of Environmental Protection is requested to make a determination and to issue a Superseeding 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:

5

Plans

Title: SITE PLAN OF LAND IN  
AMESBURY, MA - II  
WEST WHITEHALL RD.  
 Date: 4/16/92 Signed and Stamped by: PAUL F. NICHOLS, C.E. On File with: Commission  
 Job # 202-92

Special Conditions (Use additional paper if necessary)

13. When any change is made or intended to be made in these plans, the applicant shall be required to file a new Notice of Intent or to inquire of the Commission in writing whether the change is substantial enough to require a new filing.
14. That members and their agents of the Amesbury Conservation Commission shall have the right to enter and inspect the premises to evaluate compliance with the Order of Conditions and requires the submittal of any data deemed necessary by the Commission for that evaluation.
15. That this Order of Conditions shall apply to any successor in interest or successor in control.
16. That proper siltation/sedimentation controls be in place before the site is disturbed by any construction or its associated equipment.
17. If any fill material is to be removed from the project site, applicant shall provide the Commission with a letter stating where the fill is to be taken and whom will be accepting delivery of it. Said letter will be provided to the Commission prior to the commencement of excavation of said fill.
18. THAT NO ALTERATION OF ANY VEGETATION INSIDE THE  
EDGE OF WETLAND SETOWN ON THE PLAN SHALL OCCUR DURING  
CONSTRUCTION OR ONCE CONSTRUCTION IS COMPLETE. THIS CONDITION  
WILL NOT EXPIRE WITH THE CERTIFICATE OF COMPLIANCE ISSUANCE.

Plans:

Title

Dated

Signed and Stamped by:

On File with:

|  |  |  |  |
|--|--|--|--|
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

Special Conditions (use additional paper if necessary)

(Leave Space Blank)

Issued By Amassbury Conservation Commission

Signature(s) \_\_\_\_\_

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

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 7/2/92

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.

46