

Town of

P.O. Drawer 519

**Department of Planning &
Inland Wetlands Agency**

*Gary A. Goeschel II, Director of Planning /
Inland Wetlands Agent*



East Lyme

108 Pennsylvania Ave
Niantic, Connecticut 06357

Phone: (860) 691-4114

Fax: (860) 860-691-0351

MEMOANDUM

TO: East Lyme Inland Wetlands Agency

FROM: Gary A. Goeschel II, Director of Planning/ Inland Wetlands Agent

DATE: February 24, 2020

RE: NOTICE OF VIOLATION – 297 Boston Post Road,
Assessor's Map# 30.1 Lot# 57, East Lyme, Connecticut

I conducted an inspection of the above referenced property today along with Mr. Pazzaglia. As demonstrated by the Figures 2 – 4, a significant amount of construction equipment, construction materials, have been relocated to an area further upland away from the lake shore and the stockpiles of earthen materials including but not limited to yard debris, mulch, woodchips, gravel, topsoil, and other woody debris within 100-feet of a wetlands and watercourse have been removed off-site. The landowner and contractor are continuing to remove a few remaining piles of miscellaneous debris and relocate some of the equipment. Once the remaining piles are removed and work completed, I will conduct a final inspection.

cc: Inland Wetlands Agency
Mark C. Nickerson, First Selectman
Steven Way, Building Official
William Mulholland, Zoning Official
Daniel Holmes, RS, Ledge Light Health District
File

NOTICE OF VIOLATION – 297 BOSTON POST ROAD

FIGURE-1



FIGURE -2



NOTICE OF VIOLATION – 297 BOSTON POST ROAD

FIGURE 3



NOTICE OF VIOLATION – 297 BOSTON POST ROAD

FIGURE 4



**EAST LYME INLAND WETLANDS AGENCY**

Approved On: 9/12/2016

PERMIT NUMBER: 16-20

Expires On: 9/18/2021

297 BOSTON POST RD

Map Lot: 30.1 57

Approved By:

Inland Wetland Agency

Applicant Name: Alfred Smith

Owner Name: SMITH ALFRED H JR

Owner Address: 36 LOVERS LN
EAST LYME CT 06333

Site Plan Title:

Erosion and Sedimentation Control Agent:

Alfred Smith (860) 739-9664

Activity Permitted:

Stockpile up to 100 cubic yards of topsoil within 100' of a waterbody.

Conditions:**STANDARD CONDITIONS**

1. NOTIFY WETLANDS ENFORCEMENT OFFICER AT LEAST 2 DAYS PRIOR TO CONSTRUCTION TO INSPECT EROSION CONTROLS.
2. NOTIFY WETLANDS ENFORCEMENT OFFICER AT COMPLETION OF PERMIT FOR FINAL INSPECTION AND SIGN OFF.
3. ADDITIONAL WORK BEYOND THIS PERMIT IN THE WETLANDS OR WATERCOURSE OR ITS 100' REGULATED AREA WILL REQUIRE APPROVAL FROM THE INLAND WETLANDS AGENCY OR ITS CERTIFIED AGENT.
4. CHANGES TO THE PLAN LISTED ON THIS PERMIT REQUIRE NOTIFICATION TO THE WETLANDS ENFORCEMENT OFFICER AND MAY REQUIRE AGENCY APPROVAL- A NEW PLAN WILL BE GIVEN TO AGENT BEFORE WORK BEGINS.

PERMIT NOTES

1. ANY APPLICATION TO RENEW A PERMIT SHALL BE GRANTED UNLESS THE AGENCY FINDS THAT THERE HAS BEEN A SUBSTANTIAL CHANGE IN CIRCUMSTANCES. NO PERMIT SHALL BE VALID FOR MORE THAN 10 YEARS.
2. NO PERMIT SHALL BE ASSIGNED OR TRANSFERRED WITHOUT THE WRITTEN PERMISSION OF THE INLAND WETLANDS AGENCY OR ITS AGENT.
3. THIS AGENCY HAS RELIED IN WHOLE OR PART ON INFORMATION PROVIDED BY THE APPLICANT, IF SUCH INFORMATION PROVES TO BE FALSE, DECEPTIVE, INCOMPLETE OR INACCURATE, THE PERMIT MAY BE MODIFIED, SUSPENDED OR REVOKED.
4. CONSERVATION TAGS, IF REQUIRED FOR THIS PERMIT, ARE PROVIDED BY THE WETLANDS ENFORCEMENT OFFICER AND INSTALLED BY PERMIT OWNER.
5. IF THE ACTIVITY AUTHORIZED BY THE AGENCY'S PERMIT ALSO INVOLVES AN ACTIVITY WHICH REQUIRES ZONING OR SUBDIVISION APPROVAL, SPECIAL PERMIT, VARIANCE, OR SPECIAL EXCEPTION, UNDER SECTIONS 8-3G, 8-3C, OR 8-26 OF THE CT GENERAL STATUTES, NO WORK PURSUANT TO THE WETLAND PERMIT MAY BEGIN UNTIL SUCH APPROVAL IS OBTAINED.
6. THE PERMITEE SHALL IMPLEMENT SUCH MANAGEMENT PRACTICES CONSISTENT WITH THE TERMS AND CONDITIONS OF THE PERMIT AS NEEDED TO CONTROL STORM WATER DISCHARGES AND PREVENT EROSION AND SEDIMENTATION AND TO OTHERWISE PREVENT POLLUTION OF WETLANDS AND WATERCOURSES. EROSION DEVICES SHALL BE REMOVED UPON COMPLETION OF THE WORK, AND THE DISTURBED AREAS SHALL BE STABILIZED.

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Inland Wetlands Agent*



East Lyme

108 Pennsylvania Ave
Niantic, Connecticut 06357

Phone: (860) 691-4114

Fax: (860) 860-691-0351

June 10, 2020

Certified: 7018 0680 0000 9737 3610
7018 0680 0000 9737 3405

Al Smith
36 Lovers Lane
East Lyme, CT 06333

Jason Pazzaglia
27 Darrow's Ridge Road
East Lyme, CT 06333

REGULAR AND CERTIFIED MAIL – RETURN RECEIPT REQUESTED

**RE: CEASE DESIST AND RESTORE ORDER– 297 Boston Post Road,
Assessor's Map# 30.1 Lot# 57, East Lyme, Connecticut**

Messieurs Smith and Pazzaglia:

As you know, I issued a Notice of Violation on April 18, 2019. I conducted an inspection for compliance on February 24, 2020 for the removal of the storage of equipment and construction materials. My inspection revealed a significant amount of construction equipment, construction materials, have been relocated to an area further upland away from the lake shore and the stockpiles of earthen materials including but not limited to yard debris, mulch, woodchips, gravel, topsoil, and other woody debris within 100-feet of a wetlands and watercourse had been removed off-site. However, upon a subsequent site walk by the Inland Wetlands Agency on June 6, 2020, revealed equipment still being stored within the 100-foot upland review area and additional equipment had been brought back on to the site and was being stored within 100-feet of a wetlands and watercourse without an Inland Wetlands Permit for said outside storage of equipment and construction materials. As these activities are considered to have been conducted in violation of the Inland Wetland and Watercourses Regulations of the Town of East Lyme and having failed to comply with the April 18, 2017 Notice of Violation by not ceasing the above activities, I hereby issue the attached Cease and Desist Order for failure to comply with Section 6 of the Wetlands Regulations.

If you have any questions regarding this letter, the enclosed Cease and Desist Order, or any of the Inland Wetlands and Watercourses Regulations please do not hesitate to contact me at (860) 691-4114 or visit our office to arrange a meeting to discuss the violation and your plans for restoration and remediation.

CEASE, DESIST, AND RESTORE ORDER – 297 BOSTON ROAD

Sincerely,



Gary A. Goeschel II
Director of Planning /
Inland Wetlands Agent

cc: Inland Wetlands Agency
Mark C. Nickerson, First Selectman
William Mulholland, Zoning Official
Mark Zamarka, Esq. Town Attorney
File



CEASE, DESIST AND RESTORE ORDER
EAST LYME
INLAND WETLANDS AGENCY

Owner (Respondent): Al Smith 36 Lovers Lane East Lyme, CT 06333 Jason Pazzaglia 21 Darrow's Ridge Road East Lyme, CT 06333	Property: 297 Boston Post Road East Lyme, CT 06333 Assessor's Map# 30.1, Lot# 57
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RESPONDENT IS HEREBY ORDERED TO CEASE & CORRECT THE VIOLATION OF THE EAST LYME INLAND WETLANDS AND WATERCOURSE REGULATIONS ON THE ABOVE REFERENCED PROPERTY.

AUTHORITY: The East Lyme Inland Wetlands Agency is duly authorized to carry out and effectuate the purposes and policies of Sections 22a-36 to 22A-45a, inclusive and has adopted regulations pursuant to 22a-42a of the CT General Statutes.

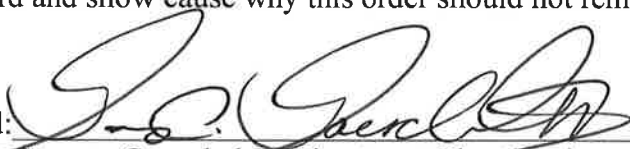
COMPLAINT: The outside storage of equipment, construction materials, and the stockpiling of other earthen materials including but not limited to yard debris, mulch, woodchips, gravel, topsoil, and other woody debris within the 100-foot Upland Review Area of a wetlands and watercourse (URA) without an Inland Wetlands Permit on property located at the above referenced address.

Said activity is hereby determined to be a regulated activity as defined by Section 2.1 of the Town of East Lyme Inland Wetland and Watercourses Regulations under the jurisdiction of the East Lyme Inland Wetlands Agency.

VIOLATION: In accordance with Sect. 6.1 of the Inland Wetland and Watercourse Regulations of the Town of East Lyme "No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the East Lyme Inland Wetlands Agency of the Town of East Lyme. Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Agency, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in section 14 of these regulations and any other remedies as provided by law." Respondent did not obtain any permit under the East Lyme Inland Wetlands and Watercourses Regulations authorizing the regulated activities.

CORRECTIVE ACTION: Respondent shall remove all of equipment, construction materials, miscellaneous debris, and earthen materials or make an application to the East Lyme Inland Wetlands Agency to conduct such activity within the 100-foot URA.

HEARING: A hearing shall be held on June 22, 2020 whereby the Respondent will be given the opportunity to be heard and show cause why this order should not remain in effect.

Signed: 
Gary A. Goeschel II, Director of Planning /
Inland Wetlands Agent


Date: 6/10/2020

CORRECTIVE ACTION PROCEDURE

- a. **Full compliance.** Respondent shall not be considered in full compliance with this Cease, Desist and Restore Order until all actions required by this Cease, Desist and Restore Order have been completed as approved and to the Agency's satisfaction.
- b. **Dates.** The date of issuance of this Cease, Desist and Restore Order is June 10, 2020. The date of submission to the Agency of any document required by this Cease & Desist Order shall be the date such document is received by the Agency or an authorized agent of the Agency. The date of any notice by the Agency under this Cease, Desist and Restore Order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or personally delivered, whichever is earlier. Except as otherwise specified in this Cease, Desist and Restore Order, the word "day" as used in this Cease, Desist, and Restore Order means calendar day. Any document or action which is required by this Cease, Desist and Restore Order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or a Connecticut or federal holiday.
- c. **Certification of documents.** Any document, including but not limited to any notice, which is required to be submitted to the Agency under this Cease, Desist and Restore Order shall be signed by Respondent, and by the individual(s) responsible for actually preparing such document, and Respondent and each such individual shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information is punishable as a criminal offense under section 53a-157b of the Connecticut General Statutes and any other applicable law."
- d. **Noncompliance.** Failure to comply with this Cease, Desist and Restore Order may subject Respondent to an injunction and penalties.
- e. **False Statements.** Any false statement in any information submitted pursuant to this Cease, Desist and Restore Order is punishable as a criminal offense under section 53a-157b of the Connecticut General Statutes.
- f. **Notice of transfer; liability of Respondent and others.** This order is being filed on the land records for this property as described herein. Respondent's obligations under this Cease, Desist and Restore Order shall not be affected by the passage of title to any property to any other person or municipality.
- g. **Agency's powers.** Except as provided hereinabove with respect to payment of civil penalties, nothing in this Cease, Desist and Restore Order shall affect the Agency's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Agency determines that the actions taken by Respondent pursuant to this Cease, Desist and Restore Order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Agency may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate violations or pollution.
- h. **Respondent's obligations under law.** Nothing in this Cease, Desist and Restore Order shall relieve Respondent of other obligations under applicable federal, state and local law.

- i. **No assurance by Agency.** No provision of this Cease, Desist and Restore Order and no action or inaction by the Agency shall be construed to constitute an assurance by the Agency that the actions taken by Respondent pursuant to this Cease, Desist and Restore Order will result in compliance or prevent or abate pollution.
- j. **Access to the site.** Any representative of the East Lyme Inland Wetlands Agency may enter the site without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Cease, Desist and Restore Order.
- k. **No effect on rights of other persons.** This Cease, Desist and Restore Order neither creates nor affects any rights of persons that are not parties to this Cease, Desist and Restore Order.
- l. **Notice to Agency of changes.** Within 15 days of the date Respondent becomes aware of a change in any information submitted to the Agency under this Cease, Desist and Restore Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Agency.
- m. **Notification of noncompliance.** In the event that Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this Cease, Desist and Restore Order or of any document required hereunder, Respondent shall immediately notify by telephone the Inland Wetlands Officer and shall take reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within 5 days of the initial notice, Respondent shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Agency, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Agency. Notification by Respondent shall not excuse noncompliance or delay, and the Agency's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically stated by the Agency in writing.
- n. **Submission of documents.** Any document required to be submitted to the Agency under this Cease & Desist and Restore Order shall, unless otherwise specified in writing by the Agency, be directed to:

Gary Upton, Chairman
East Lyme Inland Wetlands Agency
Town of East Lyme
P.O. Box 519, 108 Pennsylvania Avenue
Niantic, Connecticut 06357
(860) 739-6931 ext. 4114

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <i>Sam Yk</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Sam Yk</i> C. Date of Delivery <i>6/13/20</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>																
<p>1. Article Addressed to: <i>Al Smith 36 lovers Lane East Lyme CT 06333</i></p>  <p>9590 9402 3810 8032 5487 89</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Insured Mail</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td></td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Insured Mail		<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	
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<p>2. Article Number (Transfer from service label)</p>																	


PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

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<p>Certified Mail Fee</p> <p>Extra Services & Fees (check box, add fee as appropriate)</p> <p><input type="checkbox"/> Return Receipt (hardcopy) \$</p> <p><input type="checkbox"/> Return Receipt (electronic) \$</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery \$</p> <p><input type="checkbox"/> Adult Signature Required \$</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery \$</p>	<p>Postmark Here</p> <p><i>Inland Westford</i></p>
<p>Postage</p> <p>Total Postage and Fees</p>	
<p>Sent To <i>Jason Pezzaglia</i></p> <p>Street and Apt. No., or PO Box No. <i>Darrows Ridge</i></p> <p>City, State, ZIP+4® <i>East Lyme CT 06333</i></p>	
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

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<p>Postage</p> <p>Total Postage and Fees</p>	
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PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																
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