



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 9 – Enforcement Order
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

090-1277

A. Violation Information

Important:
 When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



This Enforcement Order is issued by:

Andover
 Conservation Commission (Issuing Authority)

February 23, 2018
 Date

To:

Tom Fuerst
 Name of Violator
11 Arch Place Unit 368, Gaithersburg, MD 20878
 Address

1. Location of Violation:

Property Owner (if different)
24 Pomeroy Road
 Street Address
Andover 01810
 City/Town Zip Code
122 27
 Assessors Map/Plat Number Parcel/Lot Number

2. Extent and Type of Activity (if more space is required, please attach a separate sheet):

Extensive site work, which includes excavation, stockpiling, and water discharge without sufficient erosion controls installed, no inspection of the limited erosion controls, erosion controls not in place as specified in the Order of Conditions, no on-site absorbent materials or receipt of construction sequencing by the Andover Conservation Department. These findings are all in direct violation of Special Conditions No. 4, 7, 8, 11, and 14 included in the Order of Conditions issued on December 20, 2016. Site is in very close proximity to open water and wetland resource area boundaries.

Under the Massachusetts Wetlands Protection Act (310 CMR 10.00) : By conducting work within an Area Subject to Protection (wetland and buffer zone) in direct violation of an Order of Conditions issued by the Andover Conservation Commission, has violated the Wetlands Act, G.L. c. 131, sec. 40 and the Wetlands Regulations, 310CMR 10.05(4) and the Town of Andover Wetlands Protection By-Law.

B. Findings



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The Issuing Authority has determined that the activity described above is in a resource area and/or buffer zone and is in violation of the Wetlands Protection Act (M.G.L. c. 131, § 40) and its Regulations (310 CMR 10.00), because:

- the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone without approval from the issuing authority (i.e., a valid Order of Conditions or Negative Determination).

B. Findings (cont.)

- the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone in violation of an issuing authority approval (i.e., valid Order of Conditions or Negative Determination of Applicability) issued to:

Order of Conditions	December 20, 2016
Name	Dated
090-1277	B3, C13, C14, C18 and Special
File Number	Conditions 4, 7, 8, 11,14

- The Order of Conditions expired on (date): _____ Date
- The activity violates provisions of the Certificate of Compliance.
- The activity is outside the areas subject to protection under MGL c.131 s.40 and the buffer zone, but has altered an area subject to MGL c.131 s.40.
- Other (specify):

C. Order

The issuing authority hereby orders the following (check all that apply):

- The property owner, his agents, permittees, and all others shall immediately cease and desist from any activity affecting the Buffer Zone and/or resource areas.
- Resource area alterations resulting from said activity shall be corrected and the resource areas returned to their original condition.
- A restoration plan shall be filed with the issuing authority on or before _____ Date

for the following:



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The property owner shall appear before the Andover Conservation Commission at its regularly scheduled meeting on March 6, 2018 to discuss these violations.

The restoration shall be completed in accordance with the conditions and timetable established by the issuing authority.

C. Order (cont.)

Complete the attached Notice of Intent (NOI). The NOI shall be filed with the Issuing Authority on or before:

Date

for the following:

No further work shall be performed until a public hearing has been held and an Order of Conditions has been issued to regulate said work.

The property owner shall take the following action (e.g., erosion/sedimentation controls) to prevent further violations of the Act:

Cease and Desist all activity immediately. Install erosion controls around the site perimeter in accordance with the approved site plan and Special Condition 8. Once installed, contact the Andover Conservation Department for an inspection of the erosion controls. The Applicant may be obligated to pay for the service of a site monitor, at the discretion of the Andover Conservation Commission.

Failure to comply with this Order may constitute grounds for additional legal action. Massachusetts General Laws Chapter 131, Section 40 provides: "Whoever violates any provision of this section (a) shall be punished by a fine of not more than twenty-five thousand dollars or by imprisonment for not more than two years, or both, such fine and imprisonment; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each violation". Each day or portion thereof of continuing violation shall constitute a separate offense.

D. Appeals/Signatures

An Enforcement Order issued by a Conservation Commission cannot be appealed to the Department of Environmental Protection, but may be filed in Superior Court.

Questions regarding this Enforcement Order should be directed to:

Ben Meade

Name

978 623-8630

Phone Number

8 am - 3 pm/Monday-Friday

Hours/Days Available



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Andover
 Conservation Commission

Conservation Commission signatures required on following page.

D. Appeals/Signatures (cont.)

In a situation regarding immediate action, an Enforcement Order may be signed by a single member or agent of the Commission and ratified by majority of the members at the next scheduled meeting of the Commission.

Signatures:

Barbara K. Neale Agent

7006 0810 0006 3693 3712
 Signature of delivery person or certified mail number