

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: _____

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:

Arlington
Conservation Commission (Issuing Authority)

8/7/2019

Date

To:

Mr. Peter Howard
Name of Violator
39 Wellington Street, Arlington MA 02476
Address

1. Location of Violation:

Arlington Park and Recreation Commission
Property Owner (if different)
0-Lot Pond Lane Parcel ID 121-6-2
Street Address
Arlington
City/Town
121.0
Assessors Map/Plat Number

02476

Zip Code

0002.0

Parcel/Lot Number

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

Clear-cutting of approximately 37 trees, ranging from 1 to 9 inches in diameter, and other vegetation within 100 feet of Spy Pond were clear cut without Conservation Commission approval under the Act and Arlington Wetlands Protection Bylaw. The trees were on town-owned land, owned by the Park and Recreation Commission. One small caliper tree was planted in the area, as well as some shrubs.

B. Findings

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).



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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:

Name _____

Dated _____

File Number _____

Condition number(s) _____

☐ 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):

The work within 100 feet of Spy Pond was performed in violation of the Wetlands Protection Act, Town of Arlington Wetlands Protection Bylaw, Title V, Art. 8 of the Town Bylaws and the Commission's Wetlands Regulations, as work was performed without approval from the Commission.

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.

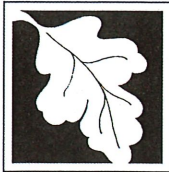
☐ A restoration plan shall be filed with the issuing authority on or before _____

Date _____

for the following:

Stop all work immediately. Install sedimentation barriers and erosion controls to protect Spy Pond, such as jute mat or another acceptable alternative. Attend the 9/5/2019 or 9/19/2019 Arlington Conservation Commission meeting with appropriate Town Parties and Departments to determine an appropriate restoration plan.

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



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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:

Immediately install a sedimentation barrier parallel to the Spy Pond shoreline at the water side of the clearing; Erosion control shall be a jute mat, or other acceptable alternatives.

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:

Emily Sullivan

Name

781-316-3012

Phone Number

Mon-Wed 8am-4pm, Thur 8am-7pm, Fri 8am-12pm

Hours/Days Available

Issued by:

Arlington

Conservation Commission

Conservation Commission signatures required on following page.



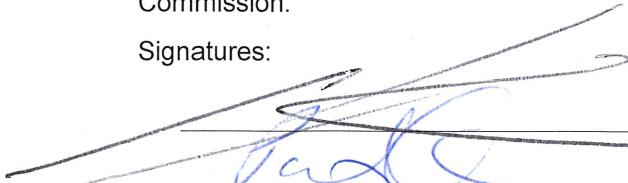

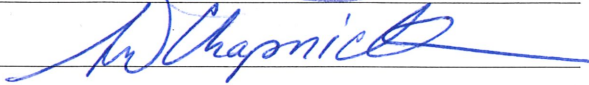

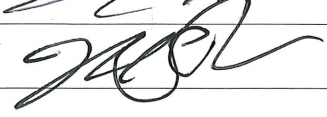
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D. Appeals/Signatures (cont.)

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:

Signature of delivery person or certified mail number