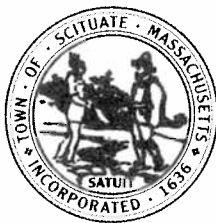


Town of Scituate



Neil F. Duggan
Building Commissioner
Zoning Enforcement Officer

600 CHIEF JUSTICE CUSHING HIGHWAY
SCITUATE, MASSACHUSETTS 02066
TOWN HALL (781) 545-8716
FAX (781) 545-8717

April 25, 2007

DELIVERED BY CONSTABLE

Mr. James Motzkin
Herring Brook Meadow, LLC
265 Newbury Street
Peabody, MA 09160


Re: 132 CJC Hwy-Enforcement Order

Dear Mr. Motzkin:

Enclosed, please find a Massachusetts Department of Environmental Enforcement Order, WPA Form 9, issued as an emergency order on April 24, 2007 with respect to activities at the referenced property. This emergency Enforcement Order was issued by me under my authority as the duly appointed Acting Conservation Agent for the Herring Brook c.40b project at 126/132 Chief Justice Cushing Highway, Scituate, MA.

Ratification of this order is on the Conservation Commission agenda at 6:00 PM April 26, 2007 in the Selectmens' hearing room at Town Hall, 600 Chief Justice Cushing Highway, Scituate, MA. You and/or your representatives are invited to attend.

Sincerely yours,


Neil F. Duggan
Building Commissioner
Acting Conservation Agent

Janet Stearns, Esq.
Rod Gaskill, SITEC
Gary Wyrosdic
Daniel Garson, AICP
Ken Conway, Chairman, Scituate Conservation Commission

NFD:nh

attachments: 4 pages



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:

SCITUATE
 Conservation Commission (Issuing Authority)

April 24, 2007
 Date

To:

James Motzkin Herring Brook Meadow, LLC
 Name of Violator
265 Newbury Street, Peabody, MA 01960
 Address

1. Location of Violation:

Property Owner (if different)
132 Chief Justice Cushing Highway
 Street Address
Scituate 02066
 City/Town Zip Code
58 1-5
 Assessors Map/Plat Number Parcel/Lot Number

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

In the Fall of 2003, approximately 15 acres of resource area and buffer zones at the subject property under the jurisdiction of the Conservation Commission were unlawfully altered by mowing, plowing and harrowing without filing an NOI and receiving approval from the Conservation Commission, in violation of M.G.L. c.131, section 140 and the Town of Scituate Wetland Protection bylaw, section 30710. The unlawful alterations occurred on land subject to coastal storm flowage, isolated land subject to flooding and within the buffer zones of bordering vegetated wetlands, saltmarsh, and riverfront. The activity appears to have altered or destroyed protected habitat and/or vernal pools by filling or otherwise. In addition, it has recently been brought to my attention that the subject 15 acre resource area was mowed in 2006. The illegally altered resource areas have not been restored and continue to constitute a violation of the aforementioned statute and bylaw.

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



Massachusetts Department of Environmental Protection
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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:

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):

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 July 25, 2007
 Date

for the following:

Restore unlawfully altered land to condition prior to any illegal alteration.



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DEP File Number: _____

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:

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:

Neil F. Duggan, Acting Conservation Agent

Name

781-545-8716

Phone Number

M-F 8:30 to 11:30

Hours/Days Available

Issued by: _____



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: _____

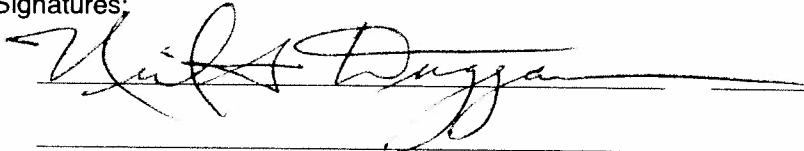
SCITUATE
Conservation Commission

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:



Signature of delivery person or certified mail number