



**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:

Hopedale
Conservation Commission (Issuing Authority)

7/14/2022
Date

To:

One Hundred Forty Realty Trust, Jon Dell' Prisco and Michael Milanoski, Trustees

Name of Violator

42 Westborough Road, North Grafton, Massachusetts

Address

1. Location of Violation:

One Hundred Forty Realty Trust

Property Owner (if different)

364 West Street

Street Address

Hopedale

City/Town

2

Assessors Map/Plat Number

01747

Zip Code

5

Parcel/Lot Number

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

The following activities done without permit or prior notification to the Commission citing exemptions, or a valid Determination of Applicability confirming or denying the exemption of such work:

1. Removal of vegetation within the following jurisdictional resource areas: Riverfront Area and Bank associated with the Mill River or its tributaries; Bufferzone associated with Vegetated Wetlands bordering on the Mill River or its tributaries.

2. Work within areas understood to be Bordering Vegetated Wetlands or Buffer Zone of Bordering Vegetated Wetlands which were not delineated prior to work.

3. Fill placed within area known to be wetland which was delineated after the fact, and for which delineations were not confirmed by either the Hopedale Conservation Commission nor MassDEP, and for



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which no permit was issued, or notice of exempt work received. The wetland of which borders a tributary to the Mill River, and of which is located shortly past the location of the bridge, where material was brought in and placed to allow vehicle traffic.

4. Construction of a Bridge crossing a tributary to the Mill River, affecting Bank, Land Under Water and Waterbodies, and Bordering Vegetated Wetlands. The bridge which originally consisted of a foot bridge of three small planks and one railing, which was changed by the violator to consist of rail ties, then three large boards capable of supporting vehicle traffic, and reported on July 13th, 2022 to the Conservation Commission to be worked on again to create a more permanent structure, which was observed to include work affecting Bank of a tributary to the Mill River.

5. Excavation activities in within areas known to Bordering Vegetated Wetlands or Buffer Zone of Bordering Vegetated Wetlands associated with a tributary to the Mill River, and in the proximity of the bridge.

All work described above was observed during site visits on abutter properties on the dates of November 4, 2020, September 15, 2021; and on the property in question on September 16, 2021 when invited on site by the violator in accompaniment with representatives of MassDEP and the Hopedale Town Administrator; and on May 19th, 2022 as viewed from the property entrance while flagging down an employee for sit eaccess, which was not granted, while in the accompaniment of a representative from MassDEP and representative of the EPA; and observed by photos and videos submitted to the Conservation Commission and/or the Town of Hopedale both by anonymous reports and residents, taken from the road or abutting properties; and by official satellite imagery dated 2021; and by aerial imagery of various dates and times as available through the Town's contract for a GIS system known as Lens provided by Upstream Tech, which provides commercially available aerial and satellite imagery for multiple times in a given year; and by aerial imagery and videos submitted by a resident taken by drone.

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):

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 October 3, 2022
Date

for the following:

Restoration of Bank, Riverfront Area, and Bordering Vegetated Wetland altered by the activities listed in this Order.

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:

Attend a Conservation Commission meeting to be held on July 19th at 6:00pm, during which this Order shall be discussed and voted on for ratification.

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:

Becca Solomon

Name

conservation@hopedale-ma.gov

Phone Number

Thursdays 5:00pm-8:00pm, Fridays 1:00pm-4:00pm

Hours/Days Available

Issued by:

Hopedale

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

Signature

Signature

Signature

Signature

Signature

Signature

Signature

Printed Name

Printed Name

Printed Name

Printed Name

Printed Name

Printed Name

Printed Name

Printed Name

certified mail # 7021 1970 0000 3329 4475
Signature of delivery person or certified mail number