



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD MA 01742-2751

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

February 21, 2019

Regulatory Division
File No. CENAE-R-2019-00171

Jon Delli-Priscoli
42 Westboro Rd
North Grafton, Massachusetts 01536

NOTICE OF VIOLATION

Dear Mr. Delli-Priscoli:

This letter is in reference to work that was conducted at 1 Fitzgerald Drive in Hopedale, Massachusetts. The work involved the discharge of fill material below ordinary high water within an unnamed tributary that flows to the Mill River, and in wetlands abutting this tributary. Information received in this office indicates that you are a party associated with this activity, either as a property owner or a person performing or causing the performance of this work.

These aquatic resources are regulated by the Corps of Engineers pursuant to Section 404 of the Clean Water Act (CWA). The CWA (33 USC § 1344) prohibits discharges of dredged or fill material into waters of the United States, including wetlands, without the proper authorization. Violations of Section 404 can result in civil fines of up to \$37,500 per day for each violation. Injunctive relief, including restoration, is also available.

Some or all of the work undertaken at the property identified above appears to be within Corps of Engineers jurisdiction, and we have no record that you have obtained a Corps of Engineers permit. A fact sheet that includes a summary of our authority, jurisdiction, definitions and permit requirements is enclosed to this letter. Violations of the CWA can result in administrative penalties, civil penalties of up to \$37,500 per day of violation, criminal fines or imprisonment. Every day unauthorized fill remains in place is a separate day of violation. In addition, restoration of the area to its pre-violation condition may be required.

No additional regulated work within our jurisdiction may be started or allowed to continue until you receive a permit signed by the District Engineer or his authorized representative. Any such future work without a permit may be considered willful, repeated, or flagrant per 33 CFR Part 326.5(a) warranting legal action.

Federal Regulation requires that we investigate any unauthorized work that has occurred in areas subject to our jurisdiction. To assist us in this investigation we request that you respond, in writing, to the following questions:

1. Provide the name of all persons or entities that have ownership interest in the parcel(s) identified above and when that ownership was attained.

2. Submit a description of the work that you have undertaken (land clearing, discharge of fill in wetlands and in named waters and unnamed tributaries) in areas subject to Federal jurisdiction (wetlands and waters below ordinary high water).

3. Identify the footprint (area in square feet or acres) of impact to each water and/or wetland. This should include those areas grubbed (removal of stumps), graded or covered with fill material, and otherwise altered through modification of drainage patterns.

4. Identify the timeframe (e.g. days, months, years) that the work was undertaken. Be as specific as possible, giving the starting and ending dates for each area or type of activity under Corps jurisdiction.

5. Identify the types of equipment used to excavate or move soil material within the wetland or waters. State the names and addresses of the owners/operator of the equipment for this work.

6. Identify where the fill/soil material was acquired from, and if this material was clean and contained no contaminants.

Please respond to our request for information within **fifteen (15) days** of the date of this letter. If you fail to respond to this notification or to provide the requested information within the specified time frame we may seek immediate legal action to halt any ongoing activity, conduct our investigation with the information available to us and take enforcement action as allowed by federal law. Our action may include referral to the U.S. Environmental Protection Agency, the U.S. Attorney's Office or the Environment and Natural Resources Division of the U.S. Department of Justice.

In summary, we request that you respond to our information request within 15 days of the date of this letter. Also, note that this letter will not foreclose our options to initiate appropriate legal action. If we determine there has been a violation of Federal law, you must either remove all work within our jurisdiction, thereby completely restoring the area to preconstruction conditions, or apply for and receive an after-the-fact permit to retain or modify the work.

Pease contact Katelyn Rainville at 978-318-8677 for information regarding restoration or a permit application.

Sincerely,



Barbara Newman
Chief, Permits & Enforcement Branch
Regulatory Division

Enclosure

cc:

Denise Child, MA DEP Central Regional Office – Wetlands, 8 New Bond Street, Worcester, Massachusetts 01606, denise.child@state.ma.us

Jackie LeClair, US EPA New England, Region I, OEP Wetland Enforcement, 5 Post Office Square - Suite 100, Boston, Massachusetts 02109-3912, Leclair.Jackie.@epa.gov

Vanessa Calabrese, Chairperson, Town of Hopedale Conservation Commission, 78 Hopedale Street, Hopedale, Massachusetts, hopedaleconcom@gmail.com

Peter Gerrity, Property Owner of 1 Fitzgerald Drive, 98 Tuttle Road, Cumberland, Maine 04021



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Peter F. Gerrity
98 Tuttle Road
Cumberland, Maine 04021

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Sincerely,



Barbara Newman
Chief, Permits & Enforcement Branch
Regulatory Division

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Denise Child, MA DEP Central Regional Office – Wetlands, 8 New Bond Street, Worcester, Massachusetts 01606, denise.child@state.ma.us

Jackie LeClair, US EPA New England, Region I, OEP Wetland Enforcement, 5 Post Office Square - Suite 100, Boston, Massachusetts 02109-3912, Leclair.Jackie.@epa.gov

Vanessa Calabrese, Chairperson, Town of Hopedale Conservation Commission, 78 Hopedale Street, Hopedale, Massachusetts, hopedaleconcom@gmail.com

Jon Delli Priscoli, Grafton & Upton Railroad, 42 Westboro Rd, North Grafton, Massachusetts 01536