|  | Massachusetts Department of Environmental Protection Bureau of Resource Protection - WetlandsWPA Form 9 – Enforcement OrderMassachusetts Wetlands Protection Act M.G.L. c. 131, §40 and the WestTisbury Wetlands Protection Bylaw and Regulations | DEP File Number:N/A |
| --- | --- | --- |
|  | 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: |
|  West TisburyConservation Commission (Issuing Authority) | As of August 24, 2021Date |
| To: |
|  Nancy B. Eppel, individually and as Trustee of the Nancy B. Eppel Revocable Trust u/d/t dated October 31, 2014\* and Cheryl C. Eppel of 199 Palfrey Street Apt 1. Watertown, MA 02472Name of Violator |
|  \*37 Pond View Farm Road West Tisbury, MA 02575 and 771 Shady Lake NN Vero Beach FL 32963 “ ( ( the “Eppels”)Address |
| 1. Location of Violation: |
|  Robert A. Doane and Cynthia L. Doane, Trustees of the Irrevocable Living Trust of the Doane Children, u/d/t dated May 3, 1989 as amended ( “the Doanes”)Property Owner (if different) |
|  21 New LaneStreet Address |
|  West TisburyCity/Town | 02575Zip Code |
|  31Assessors Map/Plat Number | 48Parcel/Lot Number |
|  | 2. Extent and Type of Activity (if more space is required, please attach a separate sheet): |
|  |  See Exhibit A and Attachment 1 attached hereto and incorporated herein by this reference.     |
|  |
|  |
|  |
|  |
|  |
|  |
|  |  |
|  | 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), and the West Tisbury Wetlands Protection Bylaw and Regulations (Bylaw) because: |
|  |
|  |  [x]  the activity has been/is being conducted in an area subject to protection under the Bylaw and c. 131, § 40 or the Bylaw 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): |
|  | [x]  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. |
|  | [x]  A restoration plan shall be filed with the issuing authority on or before | September 14, 2021Date |
|  | for the following: |
|  | The Doanes shall submit a written narrative and plan showing the area to be restored by the property owner. The narrative shall include a plant list stating proposed species ( size and quanity) to be planted, if any. The Eppels may also submit a restoration plan  |
|  |
|  | 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: |
|  |  Maria McFarland, Board AdministratorName  |
|  |  508-696-6404Phone Number |
|  |  M-Th 12PM-4:30 PMHours/Days Available |
|  | Issued by: |
|  |  West TisburyConservation 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  | John BrannenPrinted Name |
|  |  Signature | Geraldine BrooksPrinted Name  |
|  | Signature  | Whit GriswoldPrinted Name  |
|  | Signature  |  Angela LuckeyPrinted Name  |
|  |  Signature  | Donna PaulnockPrinted Name |
|  |  Signature | Peter RodegastPrinted Name  |
|  | Signature  |      Printed Name  |
|  | Signature  |       Printed Name  |
|  |  |  |
|  |  |  |
|  |  Signature of delivery person or certified mail number |  |