

Mailed Certificate

ORDER TO REMEDIATE

To: Kurt Boehm
33 Route 87
Andover, CT 06232
And
Sandra and Thomas Nicholas
41 Route 87
Andover, CT 06232

From: Joshua Snarski, Inland Wetlands and Watercourses Commission Enforcement Officer

Date: February 24th, 2020

Subject: Violation of The Town of Andover Inland Wetlands and Watercourses Regulations on properties known as 33 Route 87, Andover, CT and 41 Route 87, Andover, CT.

Facts

The following activities have been observed to have occurred on your property: Placement of a shed (including a flattened pad), deposition of material on the stream bank, material placed in piles beyond the property boundaries (placed on 41 Route 87, Andover, CT) and placement of material to create a leveled area within the upland review area (100') of a waterbody without an Inland Wetlands and Watercourse Permit. A Town of Andover Inland Wetlands and Watercourses permit is required for these regulated activities; such permit must be obtained *before* commencing any such activities.

Applicable Laws and Regulations

The Andover Inland Wetlands and Watercourses Regulations define, in relevant part, a "regulated activity" as "any operation within or use of wetland or watercourse involving removal or deposition of material, or any . . . alteration or pollution, of such wetlands or watercourses..." "Material" is defined to include "any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse or waste." The term "pollution" is defined to include: harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state by reason of any waste or other materials discharged or deposited therein by any public or private or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity.

The phrase "rendering unclean or impure" is further defined as: any alteration of the physical, chemical or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity or taste.

Furthermore, a "significant activity" is defined as: a (any) regulated activity, including, but not limited to, the following activities that may have a major effect:

1. Any activity involving a deposition or removal of material that will or may have a substantial effect on the wetland or watercourse or on wetlands or watercourses outside the area for which the activity is proposed; or
2. Any activity that substantially changes, or has the potential to substantially change, the natural channel or may inhibit the natural dynamics of a watercourse system; or
3. Any activity that substantially diminishes, or has the potential to substantially diminish, the natural capacity of an inland wetland or watercourse to: support fish aquatic, wildlife, or other biological life, plant or animal life and habitats; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or other functions; or
4. Any activity that is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse; or
5. Any activity that causes a substantial diminution of flow of a natural watercourse, or groundwater levels of the regulated area; or
6. Any activity that is likely to cause or has the potential to cause pollution of a wetland or watercourse; or
7. Any activity which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.

Section 4 of the Regulations addresses exemptions, and Section 6.1 provides that any regulated activity requires a permit.

Section 6.2 provides the parameters of the upland review area.

Section 6.3 states "any person found to be conducting or maintaining a regulated activity without the prior authorization of the Commission . . . shall be subject to the enforcement proceedings and penalties prescribed in Section 14 of these regulations and any other remedies as provided by law."

The deposition of material within the upland review area without a permit constitutes both a "regulated activity" and a "significant activity" under the Regulations and fall within no allowable exemption. Therefore, said activities constitute a violation of the Andover Inland Wetlands and Watercourses Regulations because of, at a minimum, the following condition:

- a. The "deposition or removal of material that will or may have a substantial effect on the wetland or watercourse."

Order

You are hereby ordered to remediate the disturbed areas within regulated areas or within one hundred (100') feet of a regulated area, specifically including, but not limited to, the removal of all the material deposited by the owner of 33 Route 87, Andover CT involved in the leveled area and along the stream

bank on the premise of 41 Route 87, Andover CT. Once all deposited material is removed from the area, the exposed soil will be re-stabilized by vegetative cover (seed and hay).

Furthermore, hay bales are to be staked at the base of the stream bank for the linear length of the remediation activities along the stream bank, in order to act as sediment controls to prevent material from entering the stream during the remediation project. These staked hay bale sediment controls will be installed prior to any remediation activity occurring and will remain until the grass seed has sufficiently stabilized the exposed soil. The Andover Inland Wetlands & Watercourses Agent is to be notified 48 hours prior to the commencement of any such remediation activity.

For each day during which the violation continues beyond the date of this Order, the Town may commence an enforcement action and seek a civil penalty of up to one thousand (\$1,000.00) dollars per day for such violation, plus its attorney's fees and costs.

Show Cause Hearing

In accordance with Section 15.7 of the Regulations, a Show Cause Hearing will be held on this Order on March 2, 2020 at 7 p.m. at the Andover Town Hall, 17 School House Road, Andover, Connecticut. At this hearing, you will be given an opportunity to be heard and to show cause why this Order should not remain in effect. Depending upon the decision of the Agency, a copy of this Order, or a modified version of it, may be filed on the Andover Land Records.

In accordance with Section 14.6(a), neither the issuance of this order nor the Show Cause Hearing shall delay or bar an enforcement action under Conn. Gen. Stats. §22a-44(b), nor a criminal action by the State's Attorney under Conn. Gen. Stats. §22a-44(c).

Dated at Andover, Connecticut, this 24th day of February 2020.

Joshua Snarski, Enforcement Officer of the Andover

Inland Wetlands and Watercourses Commission