

TOWN OF NANTUCKET NATURAL RESOURCES DEPARTMENT

JEFF CARLSON, NATURAL RESOURCES DIRECTOR
2 BATHING BEACH ROAD
NANTUCKET, MA 02554

JCARLSON@NANTUCKET-MA.GOV
508-228-7230



12/04/2020

Robert K. & Grace Tuttle Noyes
c/o James Noyes
86 Victoria Drive
Aston, PA 19014

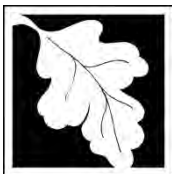
Dear Nantucket Property Owner,

While travelling down Washington Street one of our inspection personnel viewed that the wetland vegetation on the property at 27 Washington Street had been cut down. Upon review of Commission files no permits have been issued to allow for the disturbance of that vegetation. As you may not be aware the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40) and the Town of Nantucket Wetlands Bylaw (Chapter 136) requires a permit for any alteration of a resource area or within 100' feet of the same resource area.

Please contact our office at your earliest convenience to confirm the date in which you will appear in front of the Commission to discuss the violation and the plan of action to restore the area to its previous condition. Failure to meet the requirements of this Enforcement Order will result in punitive action.

Sincerely,

Jeff Carlson,
Town of Nantucket
Conservation Commission



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

DEP File Number: _____

WPA Form 9 – Enforcement Order

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
And the Nantucket Wetlands Bylaw (Chapter 136)

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:

Nantucket
Conservation Commission (Issuing Authority)

12/4/2020
Date

To:

Robert K. & Grace Tuttle Noyes
Name of Violator
86 Victoria Drive, Aston, PA 19014
Address

1. Location of Violation:

Robert K. & Grace Tuttle Noyes; c/o James Noyes
Property Owner (if different)
27 Washington Street
Street Address

Nantucket
City/Town

02554
Zip Code

42.3.2
Assessors Map/Plat Number

81
Parcel/Lot Number

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

Unpermitted cutting of wetland vegetation within a vegetated wetland and Land Subject to Coastal Storm Flowage

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 1/14/2021
Date

for the following:

Protection of vegetation and invasive species management plan.

The restoration shall be completed in accordance with the conditions and timetable established by the issuing authority.



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DEP File Number:

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:

Jeff Carlson or Joanne Dodd

Name

508-228-7230

Phone Number

M-F 9AM-3PM

Hours/Days Available

Issued by:

Nantucket

Conservation Commission

Conservation Commission signatures required on following page.

James A. Noyes
86 Victoria Drive
Aston, PA 19014
610-733-4301

January 7, 2021

Town of Nantucket Natural Resources Department
Attention: Jeff Carlson, Town of Nantucket Conservation Commission
2 Bathing Beach Road
Nantucket, MA 02554

Dear Mr. Carlson;

I am writing in response to your letter of December 4, 2020 concerning the unpermitted cutting of wetlands vegetation at 27 Washington Street. This property is titled in the names of my late father, Robert K. Noyes and my mother, Grace Tuttle Noyes. My mother is 92 years old and suffers from advanced dementia. I have handled her affairs as her durable power of attorney since 2017.

Your letter instructs me to contact your office in order to confirm a date to for me to appear in front of the Commission to discuss the violation and the restoration action plan. I am disabled and reside in Pennsylvania. Appearing before the Commission in-person is not possible. I am hopeful that the explanation of how the violation occurred, and the plan for restoration, as presented below will suffice.

Violation

The violation occurred as the result of a miscommunication between myself and a brush cutter about which section of my mother's property that I wanted to be mowed. My mother's property is L shaped with frontages on Washington St. and Coffin St. The property consists of 3 adjacent lots: 27 Washington St., 25R Washington St., and 10 Coffin St. In mid-October, I contacted a landscaper to cut the section of property between the orange door cottage at 27 Washington St. and my mother's house at 10 Coffin St. The landscaper agreed, and indicated that he would do the job within the following 6 weeks. In early November I was dismayed to learn that the landscaper had mistakenly mowed the section of property between the orange door cottage and Washington St.

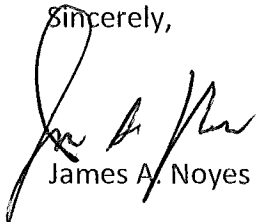
Proposed remediation

While the vegetation was cut back, thankfully nothing was dug up nor filled in. I therefore propose simply allowing the vegetation to regrow to its previous condition. I of course will also be extremely diligent to ensure that a similar mistake never happens again.

Town of Nantucket Natural Resources Department
Attention: Jeff Carlson, Town of Nantucket Conservation Commission
January 7, 2021
Page 2

In conclusion, I want to apologize to the Commission for this unfortunate mistake. I consider myself to be an environmentally conscientious person; and I would never have deliberately committed this violation. I hope the commission finds this letter to be a sufficient response. If, however, any additional information is required please contact me and I will respond accordingly.

Sincerely,



James A. Noyes