

EAST LONGMEADOW CONSERVATION COMMISSION

Wednesday, February 8, 2023

Time: 6:00 PM Eastern Time

Place: School Committee Conference Room

MINUTES

Chair William Arment opened the meeting at 6:01 PM

ATTENDANCE

Present William Arment, Chair
Elizabeth Stoughton, Vice Chair
Anthony Zampiceni
Absent Michael Carabetta, Clerk
Thomas O'Brien
Nicholas Turnberg
Staff Present Nina Fazio, Planning & Community Development Administrative Assistant

APPROVAL OF MINUTES

- January 25, 2023

Motion to approve made by Commissioner Anthony Zampiceni; second by Vice Chair Elizabeth Stoughton and approved by unanimous vote three (3)-zero (0).

PROJECT MONITORING

- 383 Porter Road

The Commission reviewed the Massachusetts Endangered Species Act (MESA) Letter of Non-Compliance issued by the Massachusetts Division of Fisheries & Wildlife (Attachment A). The Commission conducted a site visit on Wednesday, February 8, 2023 at 5:30 PM and spoke with Mr. Tim Carlin, who was unwilling to be compliant or work with the Commission on rectifying the unpermitted clearing of vegetation along the bank of South Branch Mill River. The Commission will continue to issue daily fines in the amount of \$300, in accordance with East Longmeadow General Bylaws §424-11(B), in an effort to gain compliance in restoring the area. The Commission will research if the Town can employ the services of an independent consultant who can restore the resource area, at Mr. Carlin's expense.

- 264 North Main Street

Chair William Arment stated he will continue to work with the DPW Water & Sewer Administrator to investigate the erosion at this property.

- 31 Benton Drive

Chair William Arment confirmed he drove by the project site and saw the reinstalled silt fence. The Commission stated this property can be removed from project monitoring.

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OTHER BUSINESS

1. Policies and Procedures of the Conservation Commission

The Commission reviewed expired Order of Conditions DEP File #150-0276 and the recent request by a property owner to begin clearing their land at 79 Favorite Lane (Lot 15) for residential development. The Commission expressed they would be willing to review a Request for Extension Permit to bring the existing, expired Order and Limit of Work Line up to date.

ADJOURN

Motion to adjourn made by Commissioner Anthony Zampiceni; second by Vice Chair Elizabeth Stoughton and approved by unanimous vote three (3)-zero (0) at 6:04 PM.



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581
p: (508) 389-6300 | f: (508) 389-7890
MASS.GOV/MASSWILDLIFE

Notice of Non-Compliance with the Massachusetts Endangered Species Act

February 3, 2023

Tim Carlin
383 Porter Road
East Longmeadow, MA 01028

Project Location: 383 Porter Road, east bank of the South Branch of the Mill River
Project Description: Unpermitted removal of vegetation within the Riverfront Area and Bank and the Buffer Zone to Resource Area.

NHESP Tracking No.: 14-33433
WPA EO: Issued 11/9/2022

To Whom it May Concern,

The MA Division of Fisheries and Wildlife was notified of unpermitted vegetation cutting along the South Branch of the Mill River and received a copy of the Enforcement Order issued by the East Longmeadow Conservation Commission on 11/09/2022. The unpermitted clearing of vegetation is located within *Priority Habitat of Rare Species*, as indicated in the Massachusetts Natural Heritage Atlas (15th Edition).

State-listed species and their habitats are protected pursuant to the Massachusetts Endangered Species Act (MESA) (M.G.L. c.131A) and its implementing regulations (321 CMR 10.00); state-listed wetland wildlife species and their habitats are also protected pursuant to the Wetlands Protection Act (WPA). Pursuant to the MESA and its implementing regulations, a project filing must be submitted to the Division for all projects or activities proposed within *Priority Habitat* prior to conducting said project or activity (321 CMR 10.18; certain exemptions may apply, see 321 CMR 10.14). The purpose of the Division's review under the MESA is to determine whether a Take of state-listed species will result from the proposed project or activity. For work located within *Estimated Habitat* and subject to the MA Wetlands Protection Act (WPA), a project filing must be submitted to the Division to determine if the proposed project or activity will adversely affect the actual Resource Area habitat of state-protected wildlife species (310 CMR 10.37, 10.58(4)(b), 10.59).

The Division has no record of any filing for work at this project site. Therefore, the work that has occurred or is occurring at this site is an ongoing violation of the MESA. Please note that violations of the MESA are subject to civil and criminal penalties as specified in 321 CMR 10.06 and may result in referral to the Massachusetts Attorney General's Office. The Project may also constitute a violation of the WPA if any portion(s) of the Project occurred in wetland resource areas jurisdictional under the WPA.

Any on-going work within *Priority Habitat* (as indicated in the 15th Edition of the Massachusetts Natural Heritage Atlas) must cease immediately. No additional work, construction, or land, soil, or vegetation alteration activities may occur until such time as a written authorization is issued by the Division.

MASSWILDLIFE

In order to bring the project back into compliance with the MESA, a MESA Project Review Checklist must be submitted to the Division. The MESA Project Review Checklist and additional information about the MESA review and filing process can be found on our website: <https://www.mass.gov/how-to/how-to-file-for-a-mesa-project-review>.

When submitting your MESA Project Review Checklist, you must provide:

- an accurate site plan showing surveyed limits of work for all work performed to date;
- a description of preexisting and current conditions within the surveyed limits of work, and a description of all work performed to date;
- a wetland delineation plan from a qualified wetland scientist;
- onsite photographs with locations and direction of the photos marked on a copy of the plan; and
- a plan, prepared by a qualified biologist, to restore the site to preexisting conditions.

No further work, including soil and vegetation alterations, shall be conducted within *Priority Habitat*, unless otherwise exempt, until a formal MESA filing has been submitted and the Division has completed its review. If you have any questions concerning this notice or believe it was issued in error, please contact Misty-Anne Marold, Senior Endangered Species Review Biologist, at (508) 389-6356 or misty-anne.marold@mass.gov.

Sincerely,



Everose Schlüter, Ph.D.
Assistant Director

cc: East Longmeadow Conservation Commission
Thomas Gruskos, MassDEP Western Regional Office