



TOWN OF MONTEREY Conservation Commission Enforcement Order

435 Main Rd. P.O. Box 308
Monterey, MA 01245

This Enforcement Order is being issued by the Monterey Conservation Commission.

Date: 2/23/09

Issued To: Applicant, Architect, Engineer, Construction Manager, Landscape Contractor, and logger
**AND MAILED TO EACH ONE

Name of Violator: same

Mailing Address of Violator: Address

Location of Violation: 26 Eaton Rd **Map #:** 107 **Lot #:** 035

Extent and Type of Activity: The Property Owner, Architect, Engineer, Construction Manager **NAME OTHERS** and all and any contractors and sub-contractors hired in service of the project by the Property Owner and their agents clear-cut steep slopes protected under the Scenic Mountain Act as well as clear-cut in Resources and the Buffer Zone protected under the Wetlands Protection Act. The applicant also failed to conduct the required and necessary pre-construction meetings with Contractor or Construction Manager, sub-contractors and a member of the Monterey Conservation Commission. The applicant also failed to file both the Orders of Conditions in the Southern Berkshire Registry of Deeds as required to maintain a valid Order of Conditions.

Findings. The issuing authority has determined that the activity described above is in violation of the Berkshire Scenic Mountains Act, Chapter 131, §39A of Massachusetts General Laws because: 1. The Property Owner and his appointed agents have exceeded the activities permitted in the issued OOC. 2. The illegal activities conducted caused an Alteration to Resource areas on slopes upto about 75 or 80 degrees and will change the sedimentation and oxygen content of L Garfield. 3. The illegal activities conducted will destabilize the areas resulting in erosion of lake shore. 4. This identical swath of land had been illegally clear cut some 15 - 20 years ago and has just now reached a condition of stabilizing the hillside, of providing vegetative canopy and shade, and of beginning to protect surface flows of water. 5. The applicant has altered the scenic qualities of this previously degraded area and will disrupt the enjoyment of lake-side neighbors for at least a decade or more.

The issuing authority hereby orders the following:

1. The Property Owner, his agents, permittees, and all others shall immediately cease and desist from any activity affecting the Scenic Mount mapped areas.
2. A restoration plan shall be filed with the issuing authority on or before 13 April 2009 in order to i) stabilize all disturbed areas in the 'sapling forest'; ii) use of trees larger than 5" DBH and a minimum of 20 feet in height, whichever is larger; iii) Use of like species in replanting.

Phone: 413.528.1443 **Fax:** 413.528.9452

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www.montereyma.gov



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3. The restoration shall be completed in accordance with the conditions and timetable established by the Monterey Conservation Commission.
4. The Property Owner shall present a stabilization plan to the Monterey Conservation Commission. The plan shall be presented no later than the next regularly scheduled meeting of the Monterey Conservation Commission on 9 March 2009, if not before, and shall be installed prior to any destabilization of the hillside from any weather or environmental condition, anticipated or not. The applicant would be advised that BTA will be viewed as more cooperative than BMP.
5. We require the altered areas to be mapped, in a clear graphic manner, by a licensed surveyor on the existing Proposed Cutting Plan originally submitted by the applicant.
6. Please identify date, time, and participants of job meeting with a Monterey Conservation Commission project manager regarding the two orders of conditions.
7. We require the OOC's to be filed in the Registry.
8. We require the attendance of the Property Owners' representatives who obtained the original OOC's at the next regularly scheduled Conservation Commission meeting.
9. Note the Commissions ability to levy fines in regard to these violations.

Failure to comply with this order may constitute grounds for additional legal action. Questions regarding this Enforcement Order should be directed to:

Chairperson: Rick Andrus
evenings

Phone Number: 413-528-1723

Hours/Days Available:

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:

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