



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Northeast Regional Office • 205B Lowell Street, Wilmington MA 01887 • 978-694-3200

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Kathleen A. Theoharides
Secretary

Martin Suuberg
Commissioner

Mr. Andrew Zuroff
c/o Boston Clear Water, LLC
450 Wildwood Avenue
Woburn, MA 01801-2035

July 22, 2020

RE: DEP File No, 209-0604 & 209-0632
165 Lowell Street, Lynnfield, MA 01940

NOTICE OF NONCOMPLIANCE

THIS IS AN IMPORTANT NOTICE, FAILURE TO TAKE ADEQUATE ACTION IN RESPONSE TO THIS NOTICE COULD RESULT IN SERIOUS LEGAL CONSEQUENCES

Dear Mr. Zuroff,

Massachusetts Department of Environmental Protection (“MassDEP”) personnel have observed that your site is in noncompliance with the Massachusetts Wetlands Protection Act, M.G.L. c.131, Section 40 (“WPA”), and the WPA Regulations 310 CMR 10.00.

Attached hereto is a written description of (1) the activity referred to above, (2) the requirements violated, (3) the action MassDEP now wants you to take and (4) the deadline for taking the action.

If you fail to take action MassDEP now wants you to take by the prescribed deadline, or if you otherwise fail to remain in compliance in the future with requirements applicable to you, you could be subject to legal action, including but not limited to, criminal prosecution, court-imposed civil penalties, or civil administrative penalties assessed by MassDEP. A civil administrative penalty may be assessed for every day from now on that you are in noncompliance with the requirements referred to above in a cooperative and timely manner.

If you have any questions regarding this matter, please contact Michael Abell of this office at (978) 694-3257 or Michael.Abell@state.ma.us.

Sincerely,

Handwritten signature of Rachel Freed in cursive script.

Rachel Freed, Deputy Regional Director
Bureau of Water Resources – NERO

cc: Conservation Commission, 55 Summer Street, Lynnfield, MA 01940
Richard A. Nylén Jr., Lynch; DeSimone & Nylén LLP, 10 Post Office Square, Suite 970N, Boston MA 02109



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NOTICE OF NONCOMPLIANCE

NONCOMPLIANCE SUMMARY

Document Number: NON-00009911

NAME OF ENTITY(S) IN NONCOMPLIANCE:

Andrew Zuroff, c/o Boston Clear Water LLC (“Respondent”)

LOCATION(S) WHERE NONCOMPLIANCE OCCURRED OR WAS OBSERVED:

165 Lowell Street, Lynnfield, MA 01940

DATE(S) WHEN NONCOMPLIANCE OCCURRED OR WAS OBSERVED:

April 21, 2020

DESCRIPTION OF NONCOMPLIANCE:

On April 21, 2020 MassDEP staff observed that trees had been removed from the site and that woodchips were present. The area where work was conducted within the 100-foot Buffer Zone to Bordering Vegetated Wetlands (“BVW”), which is an subject to WPA jurisdiction. An Adjudicatory appeal is currently pending for this site.

DESCRIPTION OF REQUIREMENTS NOT COMPLIED WITH:

1. The WPA Regulations at 310 CMR 10.05(3)(a)(2) requires the filing of a Request for Determination or a Notice of Intent by any person who proposes work within the Buffer Zone.
2. Activity has taken place within the 100-foot Buffer Zone on the project site without the filing of a NOI or RDA and receipt of an Order of Conditions (“OOC”) or a Determination of Applicability (“DOA”).

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

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165 Lowell Street

NON-00009911

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ACTION(S) TO BE TAKEN AND THE DEADLINE FOR TAKING SUCH ACTION(S):

Respondent shall remain in compliance with the WPA Regulations:

Respondent shall immediately cease and desist all activity within the 100- foot Buffer Zone of wetland resource areas on the Site until a Final Order of Conditions has been issued.

Erosion controls already in place on the Site shall be maintained and remain in place until MassDEP approves their removal. .

Any questions about this Notice should be directed to Michael Abell at (978) 694-3257 or Michael.Abell@state.ma.us.

For MassDEP,

Rachel Freed

Rachel Freed, Deputy Regional Director
Bureau of Water Resources - NERO

Date: July 22, 2020