

EX-25

INSPECTION REPORT

Inspection Date: 08-16-07  
Inspection Time: 9:00 AM  
Date of Report: 08-17-07  
Inspected By: Robert J. McCollum, Program Chief, Wetlands & Waterways  
Site: Assessors Map 11A Plot 03 Mashapaug Road, Holland, Massachusetts,  
both east and west sides of Mashapaug Road (the "Site")  
Weather Conditions: Sunny, mild, warm 80°  
Photographs taken: Photos taken by Timothy McKenna, as attached to his inspection  
report

Present: Robert J. McCollum, Program Chief Wetlands & Waterways  
Timothy McKenna  
James Soper, DCR  
Richard Johnson  
James LaMountain, Michael LaMountain, Richi

Purpose:

On the afternoon of Thursday, August 16, 2007 I met with James LaMountain, Michael LaMountain, and Richi at the entrance road to their property located on Mashapaug Road at the north side of Amber Brook. The meeting represented an announced inspection and agreed to by James LaMountain to further the Departments' understanding of issues. A major focus of the meeting would be the ongoing work on the portion of the property west of Mashapaug Road that was subject of a Forest Cutting Plan (permit) approved by DCR as entitled:

Forest Cutting Plan Certificate, File # 135-2599-7  
Issued to Northeast Concepts/Huguenot Farm, Holland, dated 8-29-06 [Attachment A]

In advance of this meeting staff from DCR, James Soper, and staff were contacted and attended the site meeting for the purpose of observing the status of work and degree of compliance with the permit. Before the meeting began I explained the purpose and objectives for the meeting. While LaMountain maintained that he thought we were only going to view the property east of Mashapaug Road (beach area) and discuss the violations, he did acknowledge my purpose in making sure there were no additional issues/violations of the Forest Cutting Plan or the Massachusetts Wetlands Protection Act (the Act) on the west side of the road. I also explained that a second purpose for the site meeting was for the Department to better understand from DCR, and LaMountain the initial intention for landings and storage areas for harvesting operations in view of statements made by LaMountain at the enforcement conference of August 2, 2007 that he needed to store cordwood on the east side of the road due to impassible access road conditions during April. LaMountain agreed and the party traversed westerly along the existing access road to the interior portions of the site.

Results of Coordinated Site Inspection- The meeting began as we walked up the access road into the western portion of the site.

Background - Initially, the Department had issued a Unilateral Administrative Order UAO-WE-06-6W010 (Order 1) to Northeast Concepts on August 10, 2006 based upon observations made on an inspection along this access road on July 20, 2006. At the time Tim McKenna had observed some cutting of vegetation involving some earth movement within the Riverfront Area to Amber Brook. No Notice of Intent had been filed or Final Order of Conditions issued for this work. The land was not Land in Agricultural Use as defined under wetland regulations 310 CMR 10.04. Later on August 29, 2006 DCR had issued a Forest Cutting Plan under the provisions of G. L. c. 132 for harvesting of timber on portions of the site located along the west side of Mashapaug Road. Order 1 required LaMountain, as operator or agent of Northeast Concepts to cease and desist from all unauthorized activity at the site in protected resource areas until a final Order of Conditions was issued or until a Forest Cutting Plan was issued. Order 1 also required that LaMountain immediately stabilize the site to avoid the discharge of sediment to resource areas. While LaMountain appealed Order 1, ultimately the appeal was dismissed as moot as LaMountain maintained he had complied with Order 1 requirements. The Department at the time had no evidence that LaMountain had violated Order 1.

As we walked along the access road Michael and Jim began to explain how during last April the road at one point became extremely muddy and impassible. This location was near the point where the road opens into the site and meets a crest. The road was comprised of exposed hardened compacted sand without any provisions for drainage. DCR staff indicated that when the use of the road began that water bars were in place and working well. These have been compacted and flattened such that no water bars exist anymore. LaMountain agreed that he did not actively maintain the road since initial use. He also agreed that reconstruction of the road with proper drainage would solve this problem yet due to cost this project would take place long-term. He also maintained that his consultants were working up plans for the road long-term. We observed an erosion and sedimentation control barrier offset from the road and roughly parallel with the road but within a few tens of feet from Amber Brook. The Riverfront Area extends 100 ft. along the north side of the brook toward, and including the access road at places. The erosion control barrier apparently was installed along the southern portion of the Riverfront Area thereby leaving the Riverfront Area unprotected from site construction/forest harvesting activities.

We traversed to the high point along the road which swung around in a northerly direction leading to a landing area near a high bedrock knoll at the site. Much of the entire site along the road and extending across the steeply sloping areas of the site has been cleared of vegetation, with excavation and filling site preparation taking place. LaMountain explained that he was harvesting the forest, and also developing the land so he and his two sons could construct houses in the knoll area. He desired to lower the knoll by blasting the rock to create house sites that would have a clear view of the lake. The entire site existed in a disturbed and highly unstable condition. I explained to LaMountain that the present unstable site conditions having exposed soils, steep slopes, and fine grained soils creates a

25

high potential for erosion during severe storms with transportation of sediment down slope to protected resource areas. LaMountain attempted to reject this yet I asked that we walk down slope and follow past evidence of site erosion and transport of sediment. We then walked back down the road southerly following erosion rills that coalesced to form gullies and eventually an area extending within the Riverfront Area of Amber Brook where the entire surface of the ground exhibited evidence of deposition of this sediment eroded from the unstable upland areas. I explained to LaMountain that the deposition of sediment at this location into the Riverfront Area represented a new violation of the Act. I asked Tim McKenna to inspect this area and photograph the impacted area. While LaMountain stated that he did not ask me here to observe violations I explained that while here I couldn't avoid observing the violations. Tim later received permission from Michael LaMountain to photograph the site and impacted Riverfront Area. I explained to LaMountain that the erosion and sedimentation control barrier placed along closer to the brook should have been installed along and close to the road to protect the Riverfront Area. The existing erosion and sedimentation control barrier was comprised of a silt fence and hay bales that were severely rotted and exhibiting evidence of a lack of maintenance. I further informed LaMountain that if the area received an intense storm that much of the exposed soil at higher elevations on his site could wash down slope along the road and eventually end up either in the Riverfront Area for Amber Brook, the brook, and then the lake.

Forest Cutting Plan Issues- a major focus for the site meeting involved an inspection of the forest cutting operation at the site by MassDEP and DCR relative to the approved cutting plan. During the inspection clearly, LaMountain was cutting cordwood and processing the wood in a large landing area at the top of the hill near the knoll. Yet, in the same area, and more obvious along both sides of the access road LaMountain was developing the site for a different use. During the meeting it was evident that LaMountain was in the process of demolishing two pre-existing shacks at the knoll area where he indicated that he was intending to excavate and blast bedrock to lower the knoll for construction of three residences. He was intent on clearing the land to provide a view of the lake.

After viewing the site and again reviewing the Forest Cutting Plan approved by DCR, Jim Soper stated that the plan initially was issued for the land west of Mashapaug Road, and not the land east of the road adjacent to the lake. He also described how the approval contained certain "Exempt" areas as indicated on the plan [See Attachment A]. The sketchy depiction of these areas on the plan does not make field verification or identification of these areas possible. Jim also acknowledged that the cutting plan had provisions for use of the woods road as part of the overall operation. He noted that the road has not been maintained in a satisfactory manner to allow passage in wet conditions or to convey stormwater properly. Jim further stated that DCR really should not have issued a permit for this as the operation really consisted of site development activities. The operation did not involve a renewed harvesting of forest products. Jim later indicated that the site instability and impacts to the Riverfront Area, which has resulted from use of the access road and development of the site, was outside the jurisdiction of the DCR approval and was better addressed under MassDEP jurisdiction under the ACT.

205

0419

Outstanding Issues of Noncompliance- Toward the end of the site meeting we walked down slope along the access road to an area where a small-excavated soil cut was made in the hillside to provide a parking space for a single vehicle. At this location, and apparently down slope from the portion of the road that was wet and impassable during spring, I asked LaMountain why an area could not be constructed along the north side of the road by additional excavation to provide the needed storage area for cordwood. If this approach was taken then LaMountain would not have to store the wood adjacent to Amber Brook on the east side of Mashapaug Road and in the Riverfront Area and Buffer Zone to the lake. LaMountain indicated that this could be done for the short term. He also acknowledged that reconstruction of the road with proper drainage and engineering could be done yet more long-term. I asked at that point if he would be interested in working out an agreement, Administrative Consent Order that could allow short-term construction of the storage area for cordwood along the north side of the access road, and reconstruction over the long-term of the access road. He accepted this idea and also requested that MassDEP also resolve the issues relative to the UAO and PAN previously issued for work on the east side of Mashapaug Road. I acknowledged that any agreement between LaMountain and MassDEP in the form of an ACO/ACOP could settle these issues. LaMountain still maintained that he would not agree to the terms of an ACO/ACOP unless the municipal drainage issue was also resolved. He is extremely frustrated with the Town of Holland in allowing roadside drainage and sand on his property.

While standing at the entrance to the western portion of the site LaMountain and Richi began explaining how the town continues to harass them as they just clean up the beach area. Richi explained by showing me trees along the north side of the beach area that he cut limbs and vegetation to clean the area up. I once again explained to LaMountain and Richi that cutting vegetation along Buffer Zone should not be done without either an Order of Conditions or a Determination. They reported to me that as the work took place a police officer stopped and informed them that they were in violation of the Act for this work. While LaMountain and Richi may view this as harassment, clearly by continuing to do work involving cutting of vegetation without proper approvals represents ongoing violations of the Act. I informed them that picking up trash is one thing toward clean up, yet removing vegetation is another. Again, I informed them not to undertake any new work involving changing the physical features of the land without proper approvals.

Interesting note: While we concluded our meeting at the intersection of his access road with Mashapaug Road, I observed the existence of a localized low basin off the south side of the access road and adjacent to Mashapaug Road. The use of this basin could stand as an important stormwater BMP for any future correction of the road drainage at this area. This would be premised upon a constructive working agreement between LaMountain and the town on all issues.

*ZvJ*  
0420