



Town of Oakham

Conservation Commission
2 Coldbrook Road Unit 7
Oakham MA 01068

Phone: 508-882-5549
Fax: 508-882-3060
conservation@oakham-ma.gov

Date: April 7, 2026

To: Brian Benito, Rhyndland Energy, 750 Lexington Avenue, New York, NY 10022

From: Oakham Conservation Commission (Via Certified Mail)

Request for Property Access – 358 Coldbrook Road, Oakham, MA

Dear Mr. Benito,

The Oakham Conservation Commission is writing to formally request access to the property located at 358 Coldbrook Road, Oakham, Massachusetts, for the purpose of investigating reported violations of the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40) and its implementing regulations, 310 CMR 10.00. The Commission has received and documented information indicating that unauthorized activities, including the placement, storage, and accumulation of solid waste, auto debris, and associated materials, have occurred within jurisdictional wetland resource areas and their adjacent buffer zones. These activities constitute violations of the Wetlands Protection Act and require further on-site assessment to determine the extent of alteration and any necessary enforcement actions.

Pursuant to M.G.L. c. 131, § 40 and 310 CMR 10.00, the Commission, its agents, consultants, and representatives are authorized to enter upon private property at reasonable times to perform their duties under the Wetlands Protection Act, including inspection and investigation of potential violations. The Commission is providing reasonable notice of its intent to conduct an inspection and is requesting your cooperation in coordinating access. If access is denied or no response is received, the Commission may seek an administrative inspection warrant or pursue other lawful means to obtain entry for the purpose of carrying out its statutory responsibilities.

Accordingly, the Commission respectfully requests permission to access the Property to conduct a site inspection. This inspection may include, but is not limited to, visual assessment, documentation of site conditions, verification of wetland resource area boundaries, and evaluation of potential impacts to wetlands, groundwater, and surface water. Please contact the Commission as soon as possible, and no later than seven (7) calendar days from receipt to coordinate access. If we do not receive a response within this timeframe, the Commission may pursue all available avenues to obtain access as authorized by law.

We appreciate your cooperation and look forward to resolving this matter in a timely and constructive manner. If you have any questions, please contact the Commission.

Sincerely,
Oakham Conservation Commission



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 9 – Enforcement Order
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

A. Violation Information

This Enforcement Order is issued by:

Oakham Conservation Commission
Conservation Commission (Issuing Authority)

April 7, 2026
Date

To:

ZOVL Properties, LLC / Moraga Storage, LLC (Rhyndland Energy)
Name of Violator

5555 Anglers Ave. Fort Lauderdale FL 33312 / 750 Lexington Ave. New York NY 10022
Address

1. Location of Violation:

Property Owner (if different)

358 Coldbrook Road

Street Address

Oakham MA

City/Town

406

Assessors Map/Plat Number

01068

Zip Code

106.3

Parcel/Lot Number

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

The Oakham Conservation Commission has determined that violations of the Massachusetts Wetlands Protection Act and its implementing regulations (310 CMR 10.00) have occurred and/or are occurring at the property located at 358 Coldbrook Road, Oakham, Massachusetts.

The violations consist of the unauthorized placement, storage, and accumulation of auto debris, solid waste, and associated materials within jurisdictional Wetland Resource Areas and within their 100-foot Buffer Zones. These conditions are ongoing and constitute multiple violations in multiple locations throughout the 42.9-acre property.

The presence of these materials has resulted in, or has the potential to result in, the alteration of Wetland Resource Areas and associated resource area values, including impacts to groundwater, surface water, water quality, and wildlife habitat.

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): _____

Based on site observations, available information regarding prior land use, and the presence of auto debris, solid waste, and associated materials within Wetland Resource Areas and their 100-foot Buffer Zones, the Oakham Conservation Commission finds that these conditions have resulted in, or have the potential to result in, the alteration of areas protected under the Massachusetts Wetlands Protection Act and its implementing regulations (310 CMR 10.00).

The Commission further finds that the nature and extent of materials present on the property create a significant risk of adverse impacts to Wetland Resource Areas and associated resource area values, including groundwater, surface water, water quality, and wildlife habitat. The presence of potential buried waste and the likelihood of soil contamination introduce uncertainty regarding the extent of impacts and the appropriate method of remediation.

Accordingly, the Commission finds that a comprehensive site investigation is necessary to determine the full extent of waste materials and potential contamination, and to ensure that any future cleanup or remediation activities are conducted in a manner that maximizes contaminant removal and protects Wetland Resource Areas to the extent possible in the interests of long term ecological recovery on the property, consistent with the Act.

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 _____ April 30, 2026
Date

for the following:

No activity, including but not limited to clean up, removal, grading, excavation, surface disturbance, or vegetation removal, shall be conducted by the owner or any party under the owner's control until the requirements of this section have been completed and written authorization is provided by the Oakham Conservation Commission.



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It is further ordered that the property owner shall retain, at their expense, a Massachusetts-licensed Site Professional (LSP), subject to approval by the Oakham Conservation Commission. The Commission reserves the right to require independent peer review of all submissions at the owner's expense.

It further ordered that the LSP shall conduct a comprehensive investigation of the entire 42.9-acre property, including the identification and mapping of all surface auto debris, solid waste, and associated materials; a subsurface investigation sufficient to determine the presence and extent of any buried commercial or solid waste; and soil and groundwater testing at locations and depths determined by the LSP to be at risk for contamination from prior site use.

It is further ordered that the LSP shall submit a written report to the Oakham Conservation Commission that includes a complete map and inventory of all identified waste and debris; documentation of all investigation and sampling methods and results; an evaluation of potential impacts to Wetland Resource Areas, groundwater, and surface water; and specific recommendations for the appropriate means and methods of cleanup, removal, and mitigation.

It is further ordered that no removal, cleanup, or disturbance activities shall occur until the Commission has reviewed the LSP report and approved a remediation and restoration approach. All work shall be conducted in accordance with the approved plan and in a manner that protects Wetland Resource Areas and associated interests.

It is further ordered that the property owner shall reimburse the Town of Oakham for reasonable costs incurred by the Commission in connection with the review of reports, inspections, and any necessary technical or consultant services required to ensure compliance with this Order.

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

C. Order (cont.)

- ☒ Complete the attached Notice of Intent (NOI). The NOI shall be filed with the Issuing Authority on or before:

April 30, 2026

Date

for the following:

A complete delineation of all Wetland Resource Areas on the property, identification and mapping of areas containing auto debris, solid waste, and associated materials, and a comprehensive restoration plan addressing removal, remediation, and stabilization of these areas.

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:

Provide the Oakham Conservation Commission and its agents with reasonable access to the property for inspection of existing site conditions and verification of compliance with this Order.

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.



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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:

Oakham Conservation Commission

Name

508-882-5549

Phone Number

9:00am - 5:00pm Monday - Friday

Hours/Days Available

Issued by:

Oakham Conservation Commission

Conservation Commission

Conservation Commission signatures are required below

D. Appeals/Signatures (cont.)

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:

Signature Sam N. Seely

Signature [Signature]

Signature [Signature]

Signature _____

Signature _____

Signature _____

Signature _____

Signature _____

Signature Shawn R. Seely

Printed Name _____

Signature Steven Gatulis

Printed Name _____

Signature Carol Lindley

Printed Name _____

Printed Name _____

Printed Name _____

Printed Name _____

Printed Name _____

Signature of delivery person or certified mail number