



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE  
GOVERNOR

PATRICIA W. AHO  
ACTING COMMISSIONER

MEMORANDUM

TO: The Board of Environmental Protection  
FROM: Chris Coppi, Bureau of Land and Water Quality  
RE: Consent Agreement for Paul and Deborah Cantrell  
DATE: July 21, 2011

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**Statute and Rule Reference:** The *Natural Resources Protection Act* (NRPA), 38 M.R.S.A. Section 480-C, prohibits, in pertinent part, placing fill adjacent to a Great Pond and constructing a permanent structure in or adjacent to a Great Pond without first obtaining a permit from the Department.

Section 1(E) of Chapter 305 Permit by Rule Standards states in pertinent part that a violation occurs when a person or agent does not meet the standards in the rule.

**Location:** Lebanon

**Description:** Paul E. Cantrell, Jr. submitted a Permit by Rule (PBR )notification form to the Department to replace a 99-foot long stone retaining wall at the edge of Northeast Pond, which was approved by the Department on August 4, 2008.

On June 16, 2010, Department staff inspected the property and found that, by adding a new five-foot wide footer, Paul E. Cantrell, Jr. reconstructed the stone retaining wall closer to the great pond, which is prohibited under PBR standards. Fill material was placed behind the new wall which is also prohibited under replacement standards. Furthermore, new concrete steps were constructed to the bottom of the pond from the edge of an existing access way without first obtaining a permit from the Department.

**Environmental Issues:** Great ponds are among the State's most sensitive protected natural resources. Preventing nutrient rich soil materials from entering this type of water body is a priority. The cumulative impact of shoreline disturbances and pollutants such as soil entering this type of water body can diminish and destroy the characteristics of the resource.

On August 30, 2010, Paul E. Cantrell, Jr. submitted a restoration plan to the Department to remove the concrete steps, reduce the wall dimensions, and stabilize the areas behind the wall in accordance with the approved plan which has been approved by the Department. All restoration work will be completed no later than December 30, 2011 which allows for the removal of the concrete steps during the lowest water level of the year to mitigate for any potential sedimentation of soils or material into the pond.

**Department Recommendation:** The Department recommends acceptance of this Consent Agreement stipulating that Paul and Deborah Cantrell remove the concrete steps, reduce the wall dimensions and stabilize areas behind the wall in accordance with the approved plan and to staff's satisfaction. The wall dimensions were reduced and area behind the wall restored by June 30, 2011 in accordance with the staff approved plan. The Agreement also stipulates a monetary penalty of \$1,564.00, which has been paid. The penalty is based on the Department's penalty policy and reflects that the violation was foreseeable, and the length of time taken to bring the project into compliance.

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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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IN THE MATTER OF:

PAUL E. CANTRELL, JR. AND ) ADMINISTRATIVE CONSENT
DEBORAH A. CANTRELL ) AGREEMENT
LEBANON, YORK, MAINE ) (38 M.R.S.A. § 347-A)
NRPA )
2010-125-L

This Agreement by and among Paul E. Cantrell, Jr., Deborah A. Cantrell, the Maine Department of Environmental Protection ("Department"), and the Maine Office of the Attorney General is entered into pursuant to the laws concerning the Department's Organization and Powers, 38 M.R.S.A. § 347-A(1).

The parties agree as follows:

- 1. Paul E. Cantrell, Jr. and Deborah A. Cantrell, 35 School Street, Warner, NH 03278, own a parcel of land at 154 Sewell Shores Road, Lebanon, Maine, 04027 as described and recorded in Book 14957 on Page 760 of the York County Registry of Deeds.
2. A portion of the property described in Paragraph 1 of this Agreement is located adjacent to Northeast Pond, which is a great pond as defined by the Natural Resources Protection Act, 38 M.R.S.A. § 480-B(5). A great pond is a protected natural resource pursuant to 38 M.R.S.A. § 480-B(8).
3. On July 25, 2008, Paul E. Cantrell, Jr. submitted a Permit by Rule notification form to the Department pursuant to Permit by Rule Standards, 06-096 CMR 305, to replace a ninety-nine foot-long, stone retaining wall at the edge of Northeast Pond on the property described in Paragraph 1 of this Agreement. By signing the Permit by Rule notification form, Paul E. Cantrell, Jr. agreed to comply with all applicable standards as set forth in 06-096 CMR 305 (2). The Permit by Rule was approved by the Department on August 4, 2008 and was assigned #46225.
4. On June 16, 2010, an inspection of the property described in Paragraph 1 of this Agreement by Department staff revealed that by adding a new five-foot wide footer, the stone retaining wall was reconstructed closer to the great pond which is prohibited by Permit by Rule Standards, 06-096 CMR 305(2)(C)(1)(c). Fill material was placed behind the new wall contrary to Permit by Rule Standards, 06-096 CMR 305(2)(C)(1)(c) which prohibits the placement of fill other than that required to maintain the integrity of the

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2010-125-L	)	

structure being replaced. Furthermore, new concrete steps were constructed to the bottom of the pond from the edge of an existing access way. Neither Paul E. Cantrell, Jr. nor Deborah A. Cantrell first obtained a permit from the Department for the construction of the new steps, reconstructing the wall closer to the great pond, or for the placement of fill material within 75 feet of Northeast Pond. At the time of the inspection, erosion control measures were not installed, but were installed quickly after a staff request.

5. The activities described in Paragraph 4 of this Agreement constitute the following violations:
  - A. By filing a Permit By Rule notification form and then not following Permit By Rule standards, Paul E. Cantrell, Jr. violated *Permit by Rule Standards*, 06-096 CMR 305 and the *Natural Resources Protection Act*, 38 M.R.S.A. § 480-C.
  - B. By causing fill material to be placed adjacent to a great pond without first obtaining a permit from the Department, Paul E. Cantrell, Jr. and Deborah A. Cantrell violated the *Natural Resources Protection Act*, 38 M.R.S.A. § 480-C.
  - C. By causing a permanent structure, specifically concrete steps, to be constructed in a Great Pond without first obtaining a permit from the Department, Paul E. Cantrell, Jr. and Deborah A. Cantrell violated the *Natural Resources Protection Act*, 38 M.R.S.A. § 480-C.
6. On June 28, 2010, the Department issued a Notice of Violation to Paul E. Cantrell, Jr. and Deborah A. Cantrell regarding the violations described in Paragraphs 4 and 5 of this Agreement.
7. On August 30, 2010, Paul E. Cantrell, Jr. submitted a restoration plan to the Department to restore altered portions of the pond and reduce the wall to its original dimension as described in Paragraph 4 of this Agreement. All restoration activities will be completed in accordance with this plan, which was approved by staff on September 14, 2010.
8. The Department has regulatory authority over the activities described herein.
9. Pursuant to 38 M.R.S.A. §§ 341-D(6)(C) and 347-A(1)(A)(1), administrative consent agreements must be approved by the Board of Environmental Protection (the "Board") which is part of the Department.
10. This Agreement shall become effective only if it is approved by the Board and the Office of the Attorney General.

IN THE MATTER OF:

PAUL E. CANTRELL, JR.	)	ADMINISTRATIVE CONSENT
DEBORAH A. CANTRELL	)	AGREEMENT
LEBANON, YORK, MAINE	)	(38 M.R.S.A. § 347-A)
NRPA	)	
2010-125-L	)	

11. To resolve the violations referred to in Paragraphs 4 and 5 of this Agreement, Paul E. Cantrell, Jr. and Deborah A. Cantrell agree to:

- A. No later than June 30, 2011, reduce the height of the concrete retaining wall and restore the area behind the wall in accordance with the approved plan and to staff's satisfaction.
- B. No later than December 31, 2011, remove the concrete steps and footings from the pond in accordance with the approved plan and to staff's satisfaction.
- C. Pay to the Treasurer, State of Maine, upon demand by the Department, the sum of one hundred dollars (\$100.00) per day per violation for the violation of any provision of this consent agreement.
- D. Pay the Treasurer, State of Maine, upon signing this Agreement, the sum of one thousand five hundred sixty four dollars (\$1,564.00) as a civil monetary penalty.

12. The Department and Office of the Attorney General grant a release of their causes of action against Paul E. Cantrell, Jr. and Deborah A. Cantrell for the specific violations listed in Paragraphs 4 and 5 of this Agreement on the express condition that all actions listed in Paragraph 11 of this Agreement, as applicable, are completed in accordance with the express terms and conditions of this Agreement. The release shall not become effective until this condition is satisfied.

IN THE MATTER OF:

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DEBORAH A. CANTRELL ) ADMINISTRATIVE CONSENT  
LEBANON, YORK, MAINE ) AGREEMENT  
NRPA ) (38 M.R.S.A. § 347-A)  
2010-125-L )

IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of four (4) pages.

PAUL E. CANTRELL, JR.

  
\_\_\_\_\_  
PAUL E. CANTRELL, JR. DATE: 6/1/11

DEBORAH A. CANTRELL

  
\_\_\_\_\_  
DEBORAH A. CANTRELL DATE: 6/1/11

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
SUSAN M. LESSARD, CHAIR

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
AMY B. MILLS, ASSISTANT ATTORNEY GENERAL