



THE NEWSLETTER

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of the **Golf Course Superintendents Association of New England, Inc.**

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Massachusetts DEP turns to aerial photography to help identify suspected wetlands violations

By **Michael Stachowicz,**
Editor, *The Newsletter*

**MONTHLY
FEATURE**

The Massachusetts Department of Environmental Protection has a new weapon for use in determining compliance with the Massachusetts Wetlands Protection Act. In an attempt to step up enforcement in a period of declining budgets and staff reductions, the department has developed a new program that compares aerial photography from 1990 – a “base map” – with recent aerial photography to find changes in wetlands topography and vegetation. The department’s new enforcement technique incorporates a sophisticated computer program to pick out areas that may have been changed by either a vegetation alteration or an elevation change.

Rich Tomczyk, environmental analyst with the Mass. DEP, says that this “will tend to level the playing field for those who follow the law and go through the process (and expense) of obtaining the correct permits, and those who don’t.” Tomczyk also stated “nine out of ten potential violations picked out by the computer end up with some sort of enforcement action.” Enforcement actions can require restoration of altered areas, as well as hefty fines.

After the DEP, with the help of its computer program, picks a potential violation, the DEP works with local conservation commissions to see if any permits were granted that would cover such work within the wetland zones. If

there are no permits on file, a field agent is sent out to meet with the property owner, or in our case, the property manager to view the site. At my club, the aerial detection software found two areas of potential violations. Luckily for my club, we were able to document that the alleged violations were errors in the detection software, rather than actual wetlands alterations.

The resolution of the department’s existing aerial photography isn’t very good, not much better than what you can find online with Google Earth, but this is changing. The department has contracted to fly the state again, next year, in an effort to obtain photography with better detailing, and potentially some photography at different angles to

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Rich Tomczyk,
Environmental Analyst,
Massachusetts DEP

help with the identification of wetland alterations. The hope of the DEP is that this will help enforcement and increase the efficiency of the department that has suffered through a reduction of field agents. A secondary, but significant goal is the hope of increased revenue from fines that will be issued upon the department’s determination that an illegal alteration has occurred.

From a golf course point of view, this could be a brutal assault to many management practices if the club cannot provide documentation that the alterations did not occur. Common management practices such as removing dead or unsafe trees and mowing naturalized areas are things that the DEP computer can easily pick out and erroneously determine to be an alteration.

“It seems somewhat alarming,” said one golf course superintendent, “my predecessor used to mow this course wall to wall. Through the Audubon Program, we have naturalized many areas in an attempt to do the right thing. Does that mean that I am going to be cited for vegetation alteration when I mow in November to stop woody succession? Do we lose all rights to a patch of land we naturalize?”

Not necessarily so – if you are willing to work with the local conservation commission. According to Richard Tomczyk, “It will have to become standard practice for golf courses to get a ‘General Order of Conditions’ with the town to do regular maintenance, much

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THE NEWSLETTER

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like the town's department of public works does." Receipt of an Order of Conditions is the result of filing a "Notice of Intent" with the local conservation commission. The Notice of Intent is a permit application that describes the usual (and unusual) maintenance practices that a golf course requires over the course of a typical year.

Within this Notice of Intent filing, IPM practices and "Best Management Practices" should be spelled out. Maintaining playing corridors, not expanding, should be included to allow for tree and brush trimming. Unsafe trees can be addressed in this document, as can the annual or biannual mowing of naturalized areas. Other things to include are watering practices, fertilizing practices, pipe (irrigation and drainage) maintenance and repairs within wetlands or a buffer zone, ditch maintenance, stream bank mowing, cart path resurfacing, bunker sand addition, and any other thing one can think of that is done regularly to maintain a golf course within a sensitive area.

A valuable byproduct of this permitting process is the opportunity to educate the local conservation commission on exactly what is entailed in the management of a golf course. Most conservation commissions really don't have any idea what goes into managing a golf course and going through this process helps paint that picture. It also allows the golf course to present the many environmentally sensitive management techniques that often go unappreciated by local conservation commissions. The public review process is a great opportunity to talk about conscientious pesticide use and water conservation strategies.

Either independently, or in conjunction with the Notice of Intent filing, it may be advisable to develop your own wetland mapping for your course. Submitting an accurate field evaluation of the wetlands to the conservation commission, and having them approve the delineation, will create a definitive public record of the wetland resource areas on the site. While this may seem to be a time consuming and expensive task, it could save time and money by eliminating arguments over pre-existing conditions. It can also allow for more precise conversations with the local conservation commission and may

reduce misunderstandings and forestall future enforcement actions. In any case, field delineation is generally acknowledged to be far more accurate than the aerial photography currently in use by the DEP.

Another important level of record keeping for the property manager will be the documentation of any casual conversations with a town official or agent. Many times I will call the conservation agent and request an informal determination. Usually this is a simple request such as "will I have to file a Notice of Intent or Request for Determination for a drain repair?" or "what do I need to give you to be allowed to do a tree take down?" If the agent says there is no need for a formal filing, then that should be documented by the club. Unfortunately, this is needed because there is no mechanism within most towns or the state that records such a conversation.

Having been through this process myself with one town, and starting the process with another town, I can say that preparing a Notice of Intent for the routine maintenance of the course is a good strategy in developing or repairing a relationship with a local conservation commission. The public review process allows for an open conversation and friendly site visits. Unfortunately, many golf courses have limited contact with conservation commissions and most of the contact is the result of enforcement action. Filing a Notice of Intent is viewed as being proactive, rather than reactive, and tends to put the course in a more positive light.

Although this does seem excessive, we as superintendents and stewards of the club's property should look at this as an opportunity to strengthen our position within the club and the community. It is just one more reason why clubs should hire (or keep!) qualified, experienced superintendents for proper representation to the town and community. ■

CALENDAR . . .

Jan. 30 **GCSANE Annual Meeting**
 Nashawtuc Country Club
 Concord, Mass.
 Host: Paul S. Miller, CGCS