



**VIA US MAIL AND EMAIL**

March 3, 2015

Aaron Brondyke, Permit Compliance Officer  
Natural Resources Board  
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**Re: Comment on Proposed Issuance of Civil Citation 15EC00062**

Dear Aaron:

On behalf of Boardwalk 2, LLC ("Boardwalk 2"), we would like to submit this public comment on the proposed issuance of Civil Citation 15EC00062 to Boardwalk 2, for the "Failure to maintain vegetative buffer as directed."

It is important to note that Boardwalk 2 and its officers were not involved with the Act 250 permit process that resulted in the 1997 Land Use Permit #7R1024-1 ("the Permit"), including Condition 8, which provides that "Project stream buffers shall have a minimum of 25 feet of undisturbed vegetation measured from the top of the stream bank on each side of the stream." Rather, Boardwalk 2 (or a related entity) first leased and then purchased the subject property many years after the property was developed, and its landscaping crew simply maintained the mowing practices that were in place at the time it was first leased. While Boardwalk 2 understands and takes full ownership of its obligation to comply with the Permit, it unfortunately did not realize that the previous owner was mowing too close to the stream.

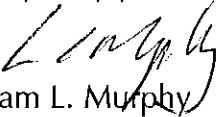
As you are aware, when you made a site visit on September 26, 2014 and pointed out this problem, Boardwalk 2 agreed to direct its landscaping crew to stop mowing the buffer area in order to allow it to reestablish. Boardwalk 2 did not hear anything else about the issue until over four months later, when it received the pending notice of proposed civil citation in February 2015. At this point, the property is buried in snow and Boardwalk 2 has had no opportunity to demonstrate that it quite simply stopped disturbing the buffer area once this issue was brought to its attention.

Because Boardwalk 2 has had no opportunity to demonstrate the extent of the mowing impact or the curing of the alleged violation, the issuance of the proposed citation is unfair at this stage. For full disclosure, if you do issue such citation, it is Boardwalk 2's intent to pay the waiver/no-contest amount of \$495 in order to resolve the enforcement action and avoid the greater expense of contesting it at the Environmental Division.

Nevertheless, we would encourage you to work more cooperatively with landowners subject to preexisting Act 250 permits in the future, particularly where a landowner is not aware of a preexisting potential violation and simply continues prior practices that are not apparently detrimental to the public or the environment. Moreover, we would hope that in the future any proposed enforcement process would proceed in a timely manner, ensuring that the landowner has a fair opportunity to respond to the alleged violation. In the present case, were it not for the past several months of snow, we could very clearly demonstrate that the disturbance of the buffer area ceased as soon as you visited the property. As a result, the buffer will soon be reestablished.

Please do not hesitate to contact me if you have any questions or if you would like to discuss this matter.

Very truly yours,

  
Liam L. Murphy

cc: Kirsten Sultan, District #7 Coordinator  
Boardwalk 2, LLC