

## AFFIDAVIT OF DAVID COTTON

I, David Cotton, of Northampton Massachusetts, swear and affirm the following facts are true.

I am the owner of Cotton Tree Service, Inc., of 248 Hatfield Street in Northampton, and I have also been an employee of the company for over 40 years. I am also the owner of Dodge Maple Grove Farm, LLC, which owns the property at Northwest Road, Parcel 5-15. I acquired the property from Walter and Mary Challet in 2011.

The principal business of Cotton Tree Service, Inc. is to provide services to landowners who wish to maintain healthy forest and ornamental trees. I am an arborist by training and experience, which I have acquired on the job working for my father, who was a professional arborist and started Cotton Tree Service, Inc. in 1956. My company and I provide advice and services to maintain trees in a healthy condition by pruning, root protection and other services to prevent disease and treat trees that are not healthy. In some cases we are unable to save diseased trees and remove them to make room for replanting, or to prevent the spread of tree borne disease. The removal of diseased trees often means the removal of the tree and the root system. We also provide services to timber harvesters to remove tree tops or turn wood waste into productive products, such as mulch or fuel. When we are able, we move our portable wood processing and wood chipping equipment onto the site where the wood processing service is rendered, but often this is not possible in residential areas. In these cases we will remove the wood products from the subject site to another location to grind the stumps or process the trunks and branches. We also provide services to construction sites to provide for root protection for trees to be saved from construction and, if necessary assist, in the removal of trees that need to be removed. We also provide services for the replanting of trees.

I am a professional tree manager. I consider myself an expert in all aspects of ornamental tree and timber management. My use of the Dodge Maple Grove Farm is consistent with my business of providing tree care service including the processing of wood waste material to turn that material into productive products.

Prior to the time I acquired title to the property, Cotton Tree Service, Inc. began utilizing the property in 1987, with the permission of Walter and

Mary Challet. Mary Challet's family had owned the property since the 1800's and I have been told by Mary Challet that while her family owned the property, they used the property for logging, raising crops and animals, gravel mining, and as a sawmill from time to time. It has always been used as a farm.

Most of the property is currently classified as forestry under a MGL Chapter 61 classification. I am required to generate income from forestry operations to maintain my Chapter 61 Classification. Forest products under a Chapter 61 forest plan include "wood, timber...and any other product produced by forest vegetation." I currently allow maple syrup lines on the site, have two beef cattle, and I am working with the US Soil Conservation Service to develop a plan to reclaim the exhausted gravel operation and turn the entire property into productive farm and forestry use.

Beginning in 1987, my company began stockpiling logs on the site, stockpiling wood chips on the site, and also processed wood chips on the site by chipping logs with a portable wood chipper. My employees also ground stumps at the site with the use of a portable stump grinder.

At least half of the trees that have been chipped at the site, and half of the stumps that have been ground at the site, and more than half of the stumps which are currently stockpiled at the site, have come from the farm. These stumps were placed on the site as a result of the gravel removal operation undertaken by Mary and Walter Challet.

From time to time, over the past 25 years, my employees have also brought onto the site stumps and logs from other Massachusetts farms. All of the stumps and trees that have been brought onto the site have come from locations within the Commonwealth of Massachusetts. One hundred percent of the materials utilized at the site are Massachusetts grown materials. All our products produced on the site come from forest vegetation as required by the Chapter 61 statute.

My employees began grinding stumps and chipping logs at the site in 1987. My company has been continuously storing logs and chips at the site since 1987.

The chipping of logs and grinding of stumps is done on an intermittent basis. My company, on average, will utilize chipping equipment on the site

for two days per month, and will utilize the stump grinding equipment for two days per month for a total of approximately one day each week.

I do not have any permanent structures located on the site, except a maple syrup shed, and I do not intend to put any permanent structures on the site for purposes of processing wood products. I have had a portable saw mill come onto the site in the past to saw up logs, but any saw cutting equipment that I bring onto the site will be temporary and portable in nature. My wood chipping equipment, and my stump grinding equipment are portable wood processing equipment. From time to time I move the wood chipping and stump grinding apparatus off site for other purposes and then bring the equipment back onto the site at a later date. I have been using the site for storing logs, storing wood chips, grinding stumps and chipping wood on a consistent basis since 1987. The amount of time I spend at the site, and the level of activity I have at the site at the present time, is no greater than the activity I have had at the site for the past twenty-five years.

There are currently many stumps at the site which need to be ground up. I have been ordered by the Department of Environmental Protection to grind up these stumps so that they are not in a "buried" state. I need to grind this stump pile as required by the DEP and I need a permit to do this.

I am requesting the zoning enforcement officers of the Town of Westhampton to make a determination that my current activities are pre-existing non-conforming uses of the site, or make a determination that my use of portable wood processing equipment, on an intermittent basis, does not require a special permit. If the zoning enforcement officers determined that I am required to obtain a special permit, I request that I be given a temporary permit to use my portable wood processing equipment on a temporary basis until my appeals to the Zoning Board of Appeals are resolved, either through the Zoning Board of Appeals, or through an appropriate court, or until such time as I obtain a special permit, if I am ultimately required to obtain such a special permit.

Signed under the pains of perjury.

August 31, 2012

  
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David Cotton