

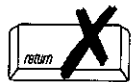


**WPA Form 9 – Enforcement Order**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the City of New Bedford Wetlands Ordinance (Sections 15-101 - 15-112)

**A. Violation Information**

**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



This Enforcement Order is issued by:

New Bedford  
Conservation Commission (Issuing Authority)

April 17, 2019  
Date

To:

Mr. John Miquel  
Name of Violator  
1063 Almy Street, New Bedford, MA 02745  
Address

1. Location of Violation:

Property Owner (if different)

1063 Almy Street

Street Address

New Bedford, MA

City/Town

02745

Zip Code

Map 134

372

Assessors Map/Plat Number

Parcel/Lot Number

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

Placing fill material in and within 100' of a Bordering Vegetated Wetland (BVW). The extent of filling shall be determined by a Wetland Scientist (and confirmed by the Conservation Agent) by conducting soil investigations. In addition, an area of BVW (approximately 1,500 s.f.) which was not filled has been cleared of wetland vegetation (see file photos). All trees and shrubs were piled up in the BVW (see file photos),

**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), and the New Bedford Wetlands Ordinance 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



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Determination).

**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):

The Issuing authority has further determined that the activity described above is in violation of Article VII Wetlands Protection of the City of New Bedford Code of Ordinances.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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 May 6, 2019  
Date

for the following:

A wetland scientist shall mark in the field the limit of the BWV which has been filled. A written narrative shall then be prepared by the wetland scientist detailing the means, methods and timeline for the removal of the fill, stabilization of the edge of the fill material, installation of fence and conservation signage.

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



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**C. Order (cont.)**

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

\_\_\_\_\_ Date

for the following:

\_\_\_\_\_

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:

The property owner shall appear at the next Conservation Commission meeting on Tuesday May 7, 2019 at 6:30 PM at the Brooklawn Senior Center, 1997 Acushnet Avenue, New Bedford to obtain approval of the restoration plan and any other requirements by the Conservation Commission. No further work is permitted until you have an approved restoration plan, schedule and any additional orders from the Conservation Commission (if required).

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.

**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:

New Bedford Conservation Commission

\_\_\_\_\_ Name

508-991-6188

\_\_\_\_\_ Phone Number

Monday thru Friday 8:00a.m. To 4:00 p.m.

\_\_\_\_\_ Hours/Days Available

Issued by:

New Bedford Conservation Commission

\_\_\_\_\_ Conservation Commission



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands

DEP File Number: \_\_\_\_\_

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Conservation Commission signatures required on following page.

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**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:

*Sarah E. Porter*

_____	_____
_____	_____
_____	_____
_____	_____

7017 0530 0000 3783 7902  
Signature of delivery person or certified mail number