



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**WPA Form 9 – Enforcement Order**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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

**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)

September 19, 2019  
 Date

To:

Tisbury Towing and Transportation Co. Inc., c/o Ralph M. Packer  
 Name of Violator  
P.O. Box 308 Vineyard Haven, MA 02568  
 Address

1. Location of Violation:

Property Owner (if different)  
352 Herman Melville Boulevard  
 Street Address  
New Bedford  
 City/Town  
Map 72  
 Assessors Map/Plat Number

02740  
 Zip Code  
Lot 293A  
 Parcel/Lot Number

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

In response to a complaint received by MA DEP, the New Bedford Conservation Agent inspected 352 Herman Melville Boulevard on 9/18/19. The inspection revealed that fill material has been placed on approximately 200 linear feet of Coastal Bank (310 CMR 10.30). The fill material has also entered Land Under the Ocean (310 CMR 10.25) a.k.a. the Acushnet River in a Designated Port Area (310 CMR 10.26). The Coastal Bank is now destabilized because the fill material is loose and creating an erodible embankment which could cause additional fill to enter the Acushnet River. Additionally, two prefabricated buildings are within the 100' Buffer Zone. They are not on the ground but if they are to be placed on site permanently, a Notice of Intent will need to be filed before they are placed on the ground. All of the above activities are also located within Land Subject to Coastal Storm Flowage (310 CMR 10.21).

**B. Findings**



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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

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 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):  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**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 \_\_\_\_\_ Date \_\_\_\_\_

for the following:



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

**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:

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 through Friday 8:00 AM – 4:00 PM

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

Issued by: \_\_\_\_\_



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New Bedford  
 Conservation Commission

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, Conservation Agent \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7017 0530 0000 3783 7747  
 Signature of delivery person or certified mail number