



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)

May 30, 2019
 Date

To:

Seth Tiburcio
 Name of Violator
68 Erin Court, New Bedford, MA 02745
 Address

1. Location of Violation:

Property Owner (if different)
68 Erin Court
 Street Address
New Bedford 02745
 City/Town Zip Code
Map 132J Lot 40
 Assessors Map/Plat Number Parcel/Lot Number

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

Removing the split rail fence and Clearing the trees and shrubs within the designated "No Disturb Zone" or Setback from the Bordering Vegetated Wetland which was established Under Order of Conditions SE49-0421. Further a Certificate of Compliance was issued with ongoing Condition number 49 which states: *Upon completion of construction, a split rail fence shall be installed along the hay bale/silt fence boundary to establish a permanent no disturbance boundary in perpetuity. A sign/placard shall be placed on the fence notifying the property owner that a protected Conservation Area exists beyond the fence line.*

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):



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:



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:

Before August 3, 2019 the property owner and the Conservation Agent shall re-establish the original “No Disturb Zone” or Setback as shown on the plan approved with the Order of Conditions titled *Assessors Lot 40, Map 132J Proposed Dwelling* and dated April 9, 2003 (attached). Before August 3, 2019 a split rail fence (or equivalent approved by the Conservation Agent) shall be installed along the “No Disturb Zone” and a placard placed on the fence stating *A Protected Conservation Area Exists Beyond This Fence Line*.

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



Conservation Commission signatures required on following page.

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:

_____	_____
_____	_____
_____	_____
_____	_____

Signature of delivery person or certified mail number