



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)

May 8, 2019
Date

To:

Fall River Ready-Mix Concrete, LLC c/o: Stephen A Cardi

Name of Violator

245 Tripp Street, Fall River, MA 02724

Address

1. Location of Violation:

City of New Bedford Department of Public Infrastructure

Property Owner (if different)

Right of Way of Shawmut Ave. (adjacent to 1245 Shawmut Avenue)

Street Address

New Bedford

City/Town

02746

Zip Code

N/A Right of Way

Assessors Map/Plat Number

N/A Right of Way

Parcel/Lot Number

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

On March 11, 2019 an employee of the City of New Bedford Dept. of Public Infrastructure witnessed and photographed Fall River Ready-Mix concrete trucks washing concrete slurry wastewater into Bordering Vegetated Wetland (BVW) and associated 100' Buffer Zone The D.P.I. employee spoke to the Fall River Ready-Mix employees that they were discharging into protected Wetlands and that this was prohibited. Fall River Ready-Mix continued to wash out their trucks. The Conservation Agent for the City of New Bedford visited the site the following day and discovered evidence of concrete in and adjacent to the BVW.

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:



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number: _____

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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):

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 _____ 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:

The violator (Fall River Ready – Mix Concrete) shall remove the concrete deposits in the BVW and adjacent Buffer Zone. The concrete shall be removed with hand tools such as shovels. Pink spray paint marks the general locations of the concrete to be removed. The extent of the concrete removal shall be discussed at an on-site meeting with the Conservation Agent prior to the removal of the concrete. The Conservation Agent (Sarah Porter 508-991-6188) shall be notified 48 hours in advance of the concrete removal. All concrete shall be removed by June 7, 2019. Fall River Ready-Mix shall notify/coordinate with the City of New Bedford Dept. of Public Infrastructure prior to removing the concrete from their R.O.W.

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



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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:

Sarah E. Porter, Conservation Agent


Signature of delivery person or certified mail number
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