



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

DEP File Number:

WPA Form 9 – Enforcement Order

SE49-0792

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)

July 10, 2018
Date

To:

SOLitude Lake Management
Name of Violator
590 Lake Street, Shrewsbury, MA 02740
Address

1. Location of Violation:

City of New Bedford Parks, Recreation & Beaches c/o Mary Rapoza
Property Owner (if different)
Buttonwood Park Pond – 1 Oneida Street
Street Address
New Bedford MA
City/Town
Map 49
Assessors Map/Plat Number

02740
Zip Code
Lot 14
Parcel/Lot Number

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

Violation of Special Condition 29 of the Order of Conditions - **The use of Fluioxazin (or any other herbicide) on Duckweed (*Lemna* sp) is prohibited. Duckweed is valuable food for waterfowl and does not hinder swan boats.** In the 7/5/2018 memo from Solitude Lake Management it states herbicide was applied to duckweed. Violation of Special Condition 32 - **The Conservation Agent is to be notified by email (Sarah.Porter@newbedford-ma.gov) or phone (508-979-1497) 24 hours in advance of each herbicide application.** The Conservation Agent was not notified 24 hours in advance of the herbicide application.

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:



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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:

Mary Rapoza

4/26/2018

Name

Dated

SE49-0792

29 & 32

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 violation of these Special Conditions are also violations under Section 15-101 of the City of New Bedford Wetlands Ordinance.

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 owner and Solitude Lake Management are requested to appear before the Conservation Commission at their next regularly scheduled meeting Tuesday July 17th at 6:30 PM at the Brooklawn Senior Center, 1997 Acushnet Avenue, New Bedford.

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

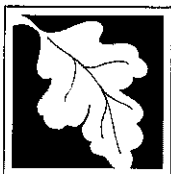
Monday thru Friday 8:00a.m. To 4:00 p.m.

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 Porter

7015 1520 0002 2797 1562

Signature of delivery person or certified mail number