

CITY OF NEW BEDFORD  
JONATHAN F. MITCHELL, MAYOR

September 13, 2016

Mr. John C. Durant  
1555 Morton Avenue  
New Bedford, MA 02745

Re: Enforcement Order of 9/13/16  
1555 Morton Avenue

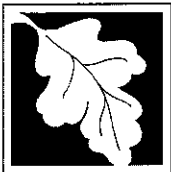
Dear Mr. Durant,

Please find enclosed the Enforcement Order for the reconstruction of the stone retaining wall bordering Sassaquin Pond. Under the City of New Bedford Conservation Commission fee schedule, a fee is associated with this activity. The Conservation Commission will determine this fee at its meeting of September 20<sup>th</sup>, 2016 at 6:30 PM in Room 314 of City Hall. You are hereby invited to attend this meeting to discuss the Enforcement Order and/or the accompanying fee. Please contact me if you should have any questions regarding the contents of this letter.

Sincerely,

Sarah E. Porter  
Conservation Agent

Cc: Conservation Commissioners, file



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

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

**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)

9/13/16  
Date

To:

John C. Durant, Trustee - Durant Family Nominee Trust  
Name of Violator

1555 Morton Avenue, New Bedford, MA 02745  
Address

1. Location of Violation:

Property Owner (if different)

1555 Morton Avenue

Street Address

New Bedford

City/Town

Map 138

Assessors Map/Plat Number

02745

Zip Code

Lot 163

Parcel/Lot Number

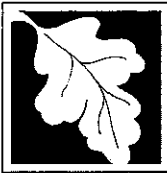
2. Extent and Type of Activity (if more space is required, please attach a separate sheet):

Removal of a deteriorated portion of a concrete retaining wall (approximately 33' linear feet) which acts as the Bank of Sassaquin Pond. This concrete Bank is reinforced by another wall of concrete which abuts a sloping lawn. Placement of forms to pour a new concrete wall (Bank) and stairway to the Beach. Placement of the concrete rubble from the deteriorated wall onto the Sassaquin Pond Beach.

**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 Determination).



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**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 activity is also being conducted in violation of the City of New Bedford Wetlands Ordinance. All Resource Area impacts described in the Extent and Type of Activity above are also impacts under the Wetlands Ordinance (reference Section 15-108) Pursuant to Section 15-108 the violator is required comply with all of the Orders below to demonstrate compliance with the City 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:

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

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 owner shall complete the wall repair by pouring new concrete in between the existing concrete wall and the forms. The concrete rubble on the Beach shall be utilized as backfill and/or disposed of off-site in a legal upland location. The Beach shall be cleaned and restored to its original condition. All work shall be done by hand. All work shall be completed by September 17, 2016.

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.

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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

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

\_\_\_\_\_  
Signature of delivery person or certified mail number