

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 under the Tisbury Wetland Bylaw

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:

Tisbury
Conservation Commission (Issuing Authority)

Date

To:

Golden Eye LLC, Mr. David Malm
Name of Violator

20 Pegan Lane, Dover MA 02030
Address

1. Location of Violation:

Property Owner (if different)

794 Chappaquonsett Road
Street Address

Vineyard Haven, MA
City/Town

02568
Zip Code

32-A-1.1
Assessors Map/Plat Number

Parcel/Lot Number

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

*Alteration of vegetation in a coastal
dune and a barrier beach; construction
of a vertical stone wall. Parking of
vehicles in cleared areas.*

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), 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).



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: _____

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 May 30, 2025

for the following:

As per the directives in the letter attached

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



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Bureau of Resource Protection - Wetlands
WPA Form 9 – Enforcement Order
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DEP File Number: _____

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:

Name

Phone Number

Hours/Days Available

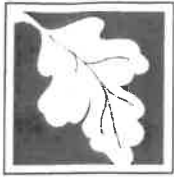
Issued by:

Conservation Commission

Jane M. Varkonda, Conservation Agent
508 696 4260
M-F 10-5

Tisbury
Conservation Commission

Conservation Commission signatures required on following page.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
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DEP File Number: _____

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

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

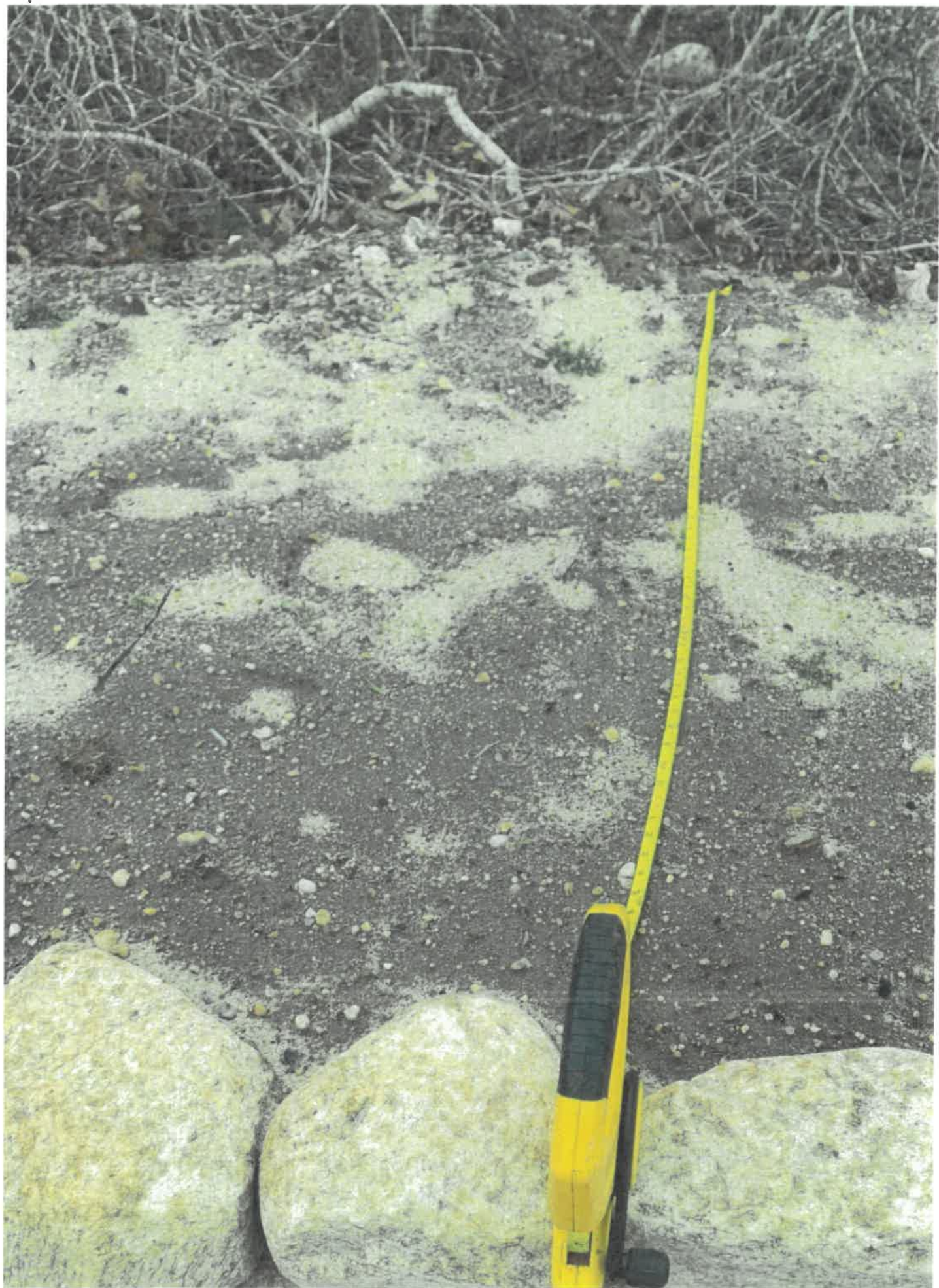
Signature

Printed Name

Signature of delivery person or certified mail number











**TISBURY CONSERVATION
COMMISSION
PO BOX 1239
VINEYARD HAVEN, MA 02568
508 696 4260**

April 30, 2025

Re: unauthorized work 794 Chappaquonsett Road, parcel 32-A-1.1

Golden Eye LLC
20 Pegan Lane
Dover, MA 02030
dmalm@websterequitypartners

Mr. David Malm

This office was advised on October 11th that a stone wall was being constructed along the driveway. I called the Landscape Contractor's office and left a message for Mr. Carlos Teles to stop the work. I had given Mr. Teles administrative approval to move the gate. No mention was made of a wall nor was work on anything but the relocation of the gate approved. This office was again contacted on October 20th that the work had not ceased as directed.

Your property is on a Barrier Beach and coastal dunes as defined by the Wetlands Act and local bylaw.

The work on the wall included alteration of the vegetation an average of five feet deep. This has resulted in the area behind the wall being devoid of vegetation.

When the Commission performed a site inspection at the end of October for the proposed resurfacing of the tennis court, we discovered that a large portion of the native vegetation, including small shrubs, vine and trees had been brush cut to the ground of the north side of the road. This was immediately identified as a violation, as the work occurred on a barrier beach and in coastal dunes. The applicant suggested on site that they could revegetate the area as suggested by the landscape architect for the property, and that the work would enhance the appearance of the property. In addition to the brush cutting, the pre-existing wood timber steps in the dune had been replaced with stone without permits from this office.

I did another inspection of the site last week and found that cars and trucks are being parked in these disturbed areas and several large vans were parked adjacent to the former caretakers house in areas that should not be parked on. I left a message for the contractor to have those vehicles removed and not to park in areas that were brush cut illegally.

Attached is an Enforcement Order under the Mass. Wetlands Protection Act, MGL C131 s40, and under the Tisbury Wetlands Bylaw. The Order will be ratified by the Commissioners at our next meeting on ^{MAY}~~April~~ 6, 2025. The Order directs that the wall is to be removed, excess cars from the construction may not park, permanently or temporarily on any portion of the site that is not within the designated driveway and parking for the main dwelling. After the wall is removed the areas disturbed and now barren of vegetation shall be stabilized using best available measures. The Commission reserves the right to ask for a performance bond or any other security deemed necessary should you default and fail to complete the work. The areas that were mown may not be planted with anything but shall be left in its natural state to revegetate naturally. The area disturbed during the installation of granite steps in place of the wood timbers will also need to be stabilized. The Order requires submission of a restoration plan for review by May 30, 2025.

I have attached photos of the site taken during my most recent inspection. I have left messages for the contractor, Conover, to address the parking issues and have not heard back. I left another message for them today to please contact me.

Please call this office within 10 days of receipt of this notice. Failure to comply with the terms of the Enforcement Order may results in fines or other legal action.

For the Commission

A handwritten signature in black ink, appearing to read "Jane M. Varkonda", with a horizontal line underneath.

Jane M. Varkonda

Conservation Agent

Town of Tisbury

Cert mail: 9589 0710 5270 2341 2848 32