

STATE OF RHODE ISLAND  
COASTAL RESOURCES MANAGEMENT COUNCIL

ENFORCEMENT REPORT  
January 10, 2022

**RE:** CRMC Enforcement File 22-0089  
**LOCATION:** Plat Y-3, Lot 186, Daytona Avenue, Narragansett  
**OWNER:** Noah Gabriel

**BACKGROUND**

**Permit History:** None  
**Prior Enforcement:** None

**PROGRAMMATIC VIOLATIONS**

- Vegetative clearing within a contiguous freshwater wetland
- Fill within a contiguous freshwater wetland
  - ❖ Redbook (650-RICR-20-00-1) §1.2.2(C)(2)(a) *“Alterations to salt marshes and contiguous freshwater or brackish wetlands abutting Type 1 waters are **prohibited** (emphasis added) except for minimal alterations required by the repair of an approved structural shoreline protection facility, or when associated with a Council-approved restoration activity. In Type 1 waters, structural shoreline protection may be permitted only when used for Council-approved coastal habitat restoration projects.”*
- Installation of a culvert in an area subject to storm flowage (ASSF)
- Construction of a driveway over the ASSF and culvert
  - ❖ Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast (650-RICR-20-00-9) §9.5.5(A) *“Except as provided in § 9.6 of this Part, no person may excavate; drain; fill; place trash, garbage, sewage, road runoff, drainage ditch effluents, earth, rock, borrow, gravel, sand, clay, peat, or other materials or effluents upon; divert water flows into or out of; dike; dam; divert; clear; grade; construct in; add to or take from or otherwise change the character of any freshwater wetland, buffer, floodplain, area subject to flooding or area subject to storm flowage as defined within this Part, in any way, without first obtaining a permit from the CRMC;”*

**RECOMMENDATIONS**

- Enforcement staff recommends that the Council issue an Order to Restore that requires Mr. Gabriel to restore the site in its entirety by May 15, 2023.
- Enforcement staff recommends that the Council requires Mr. Gabriel to submit an acceptable restoration plan prepared by a qualified professional by April 15, 2023.

## **FILE SUMMARY**

- On April 27, 2022, CRMC enforcement staff inspected the above-referenced site and found:
  - ❖ Vegetative clearing within a contiguous freshwater wetland;
  - ❖ Fill within a contiguous freshwater wetland;
  - ❖ Installation of a culvert in an area subject to storm flowage (ASSF)
  - ❖ Construction of a driveway over the ASSF and culvert.
- On May 4, 2022 a Cease and Desist Order was issued (Attachment A) and on May 5<sup>th</sup>, Mr. Gabriel was advised of the need for him to engage a qualified biologist to delineate the wetlands on site.
- Enforcement staff had multiple conversations and email exchanges with Mr. Gabriel during the summer of 2022 requesting the status of the wetland delineation and forwarding lists of qualified professionals.
- On October 12, 2022, CRMC enforcement and permit staff conducted an inspection to review the wetland flagging. CRMC staff did not concur with the location of the flags which generally followed the perimeter of the unauthorized fill on site. Staff also found that a new trench had been excavated on the east side of the site. At staff's request a site plan with the wetland delineation and wetland determination data forms were received on October 14<sup>th</sup>.
- On October 20, 2022 an on-site meeting was held with Mr. Gabriel, Ecosystem Solutions, Inc. staff, and CRMC staff. Based on multiple soil samples and CRMC files for nearby parcels, it was agreed that the wetland delineation was incorrect and that it appeared that most of the lot is comprised of contiguous freshwater wetland. CRMC staff advised Mr. Gabriel that the alteration of the contiguous freshwater wetland is a prohibited activity and that restoration of the site is required.
- On October 21, 2022 CRMC received an email from Mr. Gabriel indicating his unwillingness to comply with CRMC requirements and his intent to take legal action if the matter is not immediately resolved by the CRMC (Attachment E).

## **PHOTOS**

1. Town of Narragansett GIS Aerial Photo, 2021 Imagery
2. Photo of site looking north taken April 27, 2022 by Devon Robinson
3. Photo of the site looking northeast taken April 27, 2022 by Devon Robinson
4. Photo of site looking southeast taken April 27, 2022 by Devon Robinson
5. Photo of site looking north taken May 11, 2022 by Devon Robinson
6. Photo of site looking down/southeast taken May 11, 2022 by Devon Robinson
7. Photo of site looking south taken July 14, 2022 by Devon Robinson
8. Photo of site looking east taken September 28, 2022 by Devon Robinson
9. Photo of site looking north taken September 28, 2022 by Devon Robinson
10. Photo of site looking northeast taken October 12, 2022 by Devon Robinson
11. Photo of the site looking west taken October 12, 2022 by Devon Robinson

## **ATTACHMENTS**

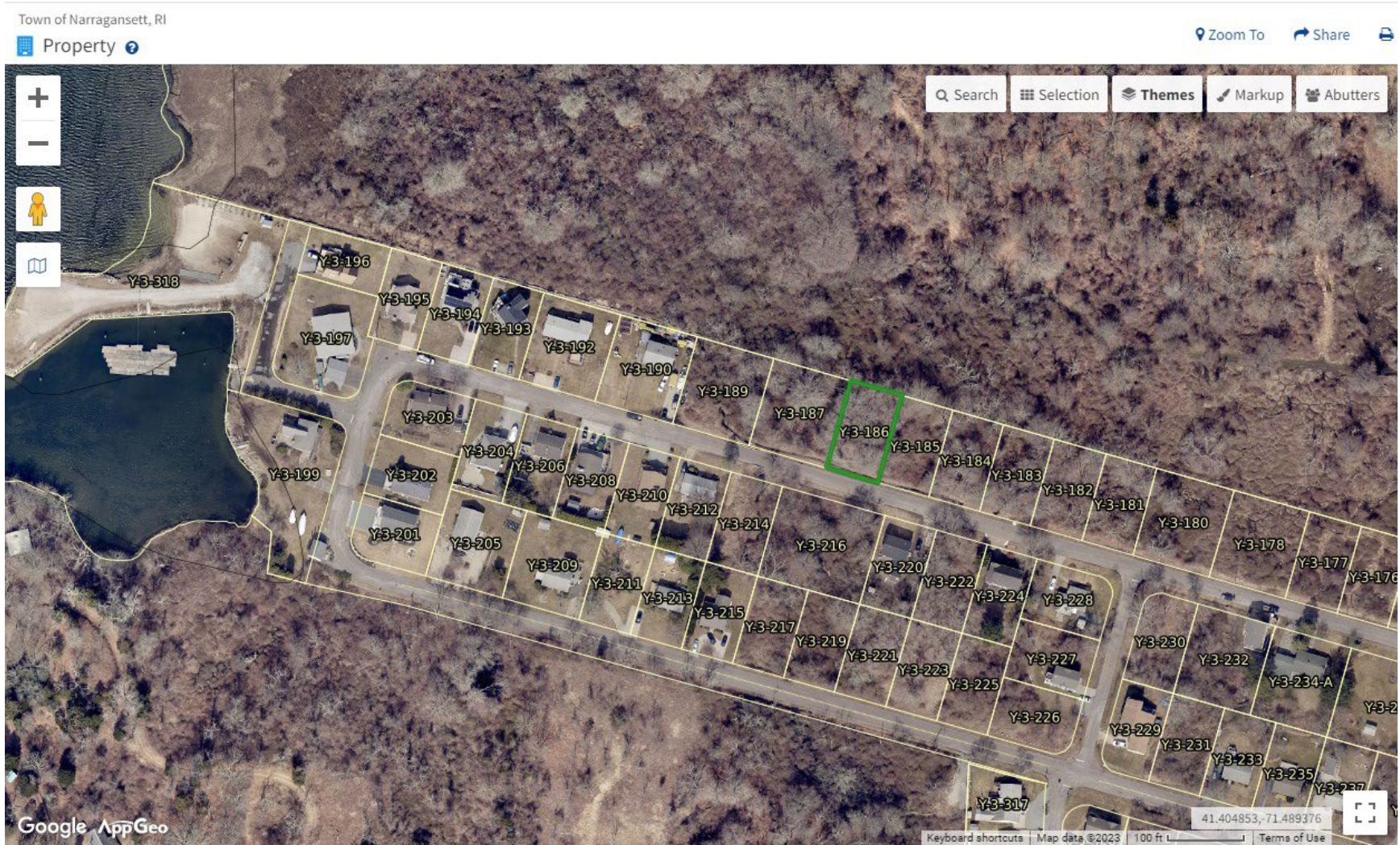
- A. CRMC Cease and Desist Order number 22-0089 dated May 4, 2022
- B. Town of Narragansett Violation Notice dated April 27, 2022
- C. "Figure 1 - Aerial Photo with Wetland Boundary from GPS/RTK Data" dated March 14, 2022 prepared by Ecosystem Solutions, Inc.
- D. Wetland Edge Delineation Forms Upland & Wetland, dated September 16, 2022 prepared by Ecosystem Solutions, Inc.
- E. Email from owner Noah Gabriel, dated 10/21/22

### **ENFORCEMENT CHRONOLOGY**

- 4/27/22** Site inspection following receipt of Violation Notice from Wayne Pimental, Narragansett Building Official. Property owner, Noah Gabriel arrived on site during inspection. (Attachment B)
- 5/2/22** Phone call with owner, Noah Gabriel who agreed to cease all work on site.
- 5/4/22** CRMC Cease and Desist Order No. 22-0089 issued to Noah Gabriel for unauthorized alterations of a freshwater wetland, unauthorized filling and clearing within a contiguous freshwater wetland. (Attachment A)  
Email sent to Mr. Gabriel indicating that a restoration plan or completed Request for Preliminary Determination Form must be submitted within 30 days. Mr. Gabriel replied that he would like to have wetland edges delineated as soon as possible.
- 5/11/22** Phone call from Mr. Gabriel with status on engaging a qualified professional.
- 5/26/22** Voicemail received from Mr. Gabriel indicating professional has been engaged.
- 7/21/22** Email sent requesting status on wetland delineation.
- 8/17/22** Phone call to Mr. Gabriel requesting status on the wetland delineation. Mr. Gabriel indicates he is having difficulty finding an available professional. Enforcement staff emails Mr. Gabriel a list of consultants and reiterates that restoration must be completed by October 15, 2022.
- 8/18/22** Email from Mr. Gabriel stating that fill was not brought onto property.
- 8/25/22** Email to Mr. Gabriel with additional consultants at his request.
- 9/27/22** Email sent requesting status on wetland delineation and restoration plan.  
Response from Mr. Gabriel that wetland delineation was completed by Ecosystem Solutions, Inc.
- 9/28/22** Email to Mr. Gabriel requesting the site plan with the wetland delineation.
- 9/29/22** Mr. Gabriel responded that he did not have the report yet but will send to CRMC once he receives it.
- 10/12/22** Email from Mr. Gabriel. He would like to begin planting or would like an extension as he is still waiting for a site plan and report from Ecosystem Solutions, Inc.  
Response to Mr. Gabriel that we will review the wetland flagging at his property and that any plantings or proposed work will need prior approval.  
Site visit conducted by Devon Robinson, enforcement staff, and Sean Feeley, staff biologist. CRMC staff found that the wetland flagging generally followed the perimeter of the unauthorized fill on site. Staff did not concur with the location of flagging and also found that a new trench had been excavated on the east side of the site.
- 10/14/22** Site plan with wetland delineation and wetland determination data forms received (Attachments C & D).
- 10/20/22** Meeting on site with CRMC staff (Devon Robinson, Laura Miguel, Sean Feeley), Ecosystem Solutions, Inc. and property owner Noah Gabriel. Based on multiple soil samples and CRMC files for nearby parcels, it was agreed that the wetland delineation was incorrect and that it appeared that most of the lot is comprised of contiguous freshwater wetland.
- 10/21/22** Email from Mr. Gabriel showing that he does not plan to comply (Attachment E).

Photographic Log  
Plat Y-3, Lots 186, Daytona Avenue, Narragansett

1. Town of Narragansett GIS Aerial Photo, 2021 Imagery



Photographic Log  
Plat Y-3, Lots 186, Daytona Avenue, Narragansett

2. Photo of site looking north taken April 27, 2022 by Devon Robinson



3. Photo of the site looking northeast taken April 27, 2022 by Devon Robinson



Photographic Log  
Plat Y-3, Lots 186, Daytona Avenue, Narragansett

4. Photo of site looking southeast taken April 27, 2022 by Devon Robinson



5. Photo of site looking north taken May 11, 2022 by Devon Robinson



Photographic Log  
Plat Y-3, Lots 186, Daytona Avenue, Narragansett

6. Photo of site looking down/southeast taken May 11, 2022 by Devon Robinson



7. Photo of site looking south taken July 14, 2022 by Devon Robinson



Photographic Log  
Plat Y-3, Lots 186, Daytona Avenue, Narragansett

8. Photo of site looking east taken September 28, 2022 by Devon Robinson



9. Photo of site looking north taken September 28, 2022 by Devon Robinson





Photographic Log  
Plat Y-3, Lots 186, Daytona Avenue, Narragansett

10. Photo of site looking northeast taken October 12, 2022 by Devon Robinson



11. Photo of the site looking west taken October 12, 2022 by Devon Robinson





State of Rhode Island  
**Coastal Resources Management Council**  
Oliver H. Stedman Government Center  
4808 Tower Hill Road, Suite 116  
Wakefield, RI 02879-1900

(401) 783-3370  
Fax (401) 783-2069

May 4, 2022

Noah Gabriel  
45 Woodcrest Road  
North Attleboro, MA 02760

**Cease and Desist Order**

Dear Mr. Gabriel:

Under the regulations of the Rhode Island Coastal Resources Management Program (RICRMP), any construction, grading, or filling activities or other alterations within 200 feet of coastal feature associated with tidal waters or coastal ponds of the state or in CRMC's freshwater wetlands in the vicinity of the coast jurisdiction, requires plans for the proposed work be submitted to the Coastal Resources Management Council (CRMC) for review, evaluation, and comment prior to the proposed activity. Failure to do so is a violation of the RICRMP. After evaluation of the plans by CRMC staff, their comments and the requirements for the proposed activities are forwarded to the applicant.

It has come to the attention of the CRMC that you or your agent have undertaken unauthorized alterations of a freshwater wetland, as well as unauthorized filling and clearing of vegetation within a contiguous freshwater wetland at your property located at Plat Y-3, Lot 186, Daytona Avenue, Narragansett without benefit of a CRMC assent or in violation of a Council order.

This activity is in violation of the Rhode Island Coastal Resources Management Program. You are hereby issued a Cease and Desist Order Number 22-0089, dated May 4, 2022, and ordered to cease all activity at this site and to contact this office within 10 days of the date of this letter.

Failure to comply with this order shall be a violation of a duly adopted Council regulation, and subject to all fines and penalties established by law. Each day of noncompliance shall be deemed a separate and distinct violation in accordance with Section 46-23-7, G.L.R.I.

Sincerely,

A handwritten signature in black ink, appearing to read "Devon Robinson".

Devon Robinson, Environmental Scientist  
drobinson@crmc.ri.gov  
Coastal Resources Management Council

/ajt  
Sent via Certified Mail



**Town of Narragansett**  
Building and Zoning Department  
25 Fifth Ave  
Narragansett, RI 02882  
(401) 782-0619

**CLEARING WETLAND**

April 27, 2022

GABRIEL, NOAH  
45 WOODCREST ROAD  
NORTH ATTLEBORO, MA 02760

RE: 0 DAYTONA AVENUE ,  
NARRAGANSETT, RI 02882  
Y-3-186

After receiving a complaint regarding the above noted property, an inspection of the property was conducted on April 26, 2022, and the following violations were found.

Chapter 731 Zoning Section 4.3 Coastal and Freshwater Wetland Overlay District.

**Existing Condition:** Chapter 731 Zoning Section 4.3 Coastal and Freshwater Wetland Overlay District.  
(Clearing land in a coastal and freshwater wetland overlay district without a Special Use Permit.)

**Correction:** Comply with CRMC directive for restoration.

The above noted violation shall be corrected within 10 days of the date of this notice.

Please contact my office when the violation is abated so a re-inspection can be scheduled. You have the right to appeal this decision in writing to my office within

30

days from the date of this notice. The Town may fine the owner not more than \$500.00 for each violation, and each day that the violation exists shall be deemed to be a separate violation. You may contact me at 401-782-0619 with any questions.

Sincerely Yours,

Wayne Pimental  
Building Official/Zoning Officer



	Property Line
	Narragansett Parcels
	Wetland Boundary
	Wetland

	Ecosystem Solutions, Inc. 100 Centerville Rd., Suite 4 Warwick, RI 02886	<b>FIGURE 1</b>
	Aerial Photo with Wetland Boundary from GPS/RTK Data 0 Daytona Ave. / A.P. Y-3, Lot 186 Narragansett, Rhode Island	

	S. Kingstown Narragansett

DATE:	10-14-2021	PROJECT #:	W22-1709
CREATED BY:	BW	SCALE:	1 inch = 20 feet

Wetland Edge Delineation Form (UPLAND)

Applicant: Wetland No. 1  
 Project: Daytona Avenue Flag No. Sequence: A1-A7  
 City/Town: Narragansett Date: 09/16/2022

Vegetation: List the three dominant species in each vegetative strata along with their NWI status:

<u>Trees</u>	Indicator	<u>Herbs</u>	Indicator
	<u>Status</u>		<u>Status</u>
Acer rubrum	FAC	Grass spp.	FACU
		Toxicodendron radicans	FAC
<u>Saplings/Shrubs</u>		<u>Woody Vines</u>	
N/A		N/A	

List other vegetative species noted which may have affected determination of the wetland edge:

Soil: SCS Soil Survey Mapping Unit: Se- Stissing sil  
 On Hydric Soils List? (Y/N) Y

Soil Profile (Note wetland flag no. nearest soil test pit): A3

Horizon	Depth	Matrix Color	Mottling Description	Depth to Saturation	Depth to Free Water	Soil Texture
^C	0-2	10YR 5/2	-	-	-	sl
Oib	2-4	7.5YR 4/4	-	-	-	-
Ab	4-8	7.5YR 2.5/2	-	-	-	fsl
Bwb	8-14	10YR 3/2	-	-	-	sl
Cg	14-20	10YR 5/1	7.5YR 4/6	-	-	sl

Other indicators exhibiting an absence of wetland hydrology (e.g. absence of water marks, lack of redoximorphic features, lack of oxidized rhizospheres, etc.):

Landscape position: Sideslope  
 Altered/atypical situation? (describe) -

Comments:

Wetland Edge Delineation Form (WETLAND)

Applicant: Wetland No. 1  
 Project: Daytona Avenue Flag No. Sequence: A1-A7  
 City/Town: Narragansett Date: 09/16/2022

Vegetation: List the three dominant species in each vegetative strata along with their NWI status:

<u>Trees</u>	Indicator <u>Status</u>	<u>Herbs</u>	Indicator <u>Status</u>
Acer rubrum	FAC	Carex spp.	FACW
		Osmunda cinnamomea	FACW
		Toxicodendron radicans	FAC
<u>Saplings/Shrubs</u>		<u>Woody Vines</u>	
Clethra alnifolia	FAC	Vitis labrusca	FACU
Rosa multiflora	FACU	Smilax rotundifolia	FAC
		Toxicodendron radicans	FAC

List other vegetative species noted which map have affected determination of the wetland edge:

Soil: SCS Soil Survey Mapping Unit: Se- Stissing sil  
 On Hydric Soils List? (Y/N) Y

Soil Profile (Note wetland flag no. nearest soil test pit): A3

Horizon	Depth	Matrix Color	Mottling Description	Depth to Saturation	Depth to Free Water	Soil Texture
A	0-4	10YR 2/1	-	-	-	fsl
Bg	4-10	10YR 4/1	7.5YR 4/6	-	-	sl
Cg	10-16	10YR 6/1	7.5YR 6/6	-	-	sil
Cr	16+	Refusal				

Other hydrological indicators (e.g. water marks, drainage patterns, root rhizospheres, etc.; see Appendix 4(A)(4) of the Rules): Drainage patterns, water stained leaves, root buttressing

Landscape position: Toeslope

Altered/atypical situation? (describe)

Comments:

## Devon Robinson

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**From:** Thorganic <noahgabriel7@gmail.com>  
**Sent:** Friday, October 21, 2022 3:03 AM  
**To:** Devon Robinson  
**Cc:** council@crmc.ri.gov  
**Subject:** Litigation

My reasonable request on October 20th to exercise my 5th amendment right to my property fell on deaf ears. Addressing the illegal flooding of my private property is part of my 5th amendment right to exist on my upland that has been innundated with illegal flood waters.

In all due respect the only violations that have been committed are 1) my 5th amendment right to my property 2) illegal flooding of my private property 3) twice unlawful trespass & unauthorized digging without a warrant by the CRMC. 4) ethics violation (deception & coercion)

I'm now in discussion with the EPA to protect my rights & I intend to file a formal complaint regarding the violation of my constitutional right to my property if this matter is not immediately resolved by the CRMC. I will not tolerate anymore deception or delays by CRMC staff.

In addition, the digging on Oct 20th by the CRMC did not provide a consistent or accurate account of an authentic contiguous wetland.

The culvert, the access drive & the drainage ditch will remain. The initial wetland delineation boundary GPS points will remain. The illegal flooding must be addressed. If the CRMC disagrees it will become the subject of an immediate 5th amendment violation lawsuit.

Truth to Power,  
Noah Gabriel  
Lot 186 Daytona Ave, Narragansett. RI  
508-292-9022

On Wed, May 4, 2022, 12:37 PM Devon Robinson <[drobinson@crmc.ri.gov](mailto:drobinson@crmc.ri.gov)> wrote:

Hi Noah,

To follow up on our phone call Monday, per the Executive Director I have issued a Cease and Desist Order (attached) for your property on Daytona Avenue in Narragansett, Plat Y-3, Lot 186. This will allow us to record the violation and work towards resolving it. I got your message that you would like to meet on site. What is your availability like?

In order to resolve the violation, a restoration plan OR completed Request for Preliminary Determination Form must be submitted within 30 days.

As for invasive species removal, project plans and details must be submitted to the CRMC for review and approval. Please refer to CRMC Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast, specifically Section 2.6(B)(1)(k). Violations on site would need to be resolved before this could be approved.

Link for the Preliminary Determination Request Form: <http://www.crmc.ri.gov/applicationforms/Prelimdet.pdf>

Link for the RI Native Planting and the Interactive Coastal Plant Database:  
<http://www.crmc.ri.gov/coastallandscapes.html>

Link for CRMC Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast: <https://rules.sos.ri.gov/regulations/part/650-20-00-2>

Thank you,

Devon Robinson

Enforcement

RI Coastal Resources Management Council

[www.crmc.ri.gov](http://www.crmc.ri.gov)

(401) 783-3370