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October 12, 2021

VIA EMAIL: concomm@westtisbury-ma.gov

West Tisbury Conservation Commission
c/o Maria McFarland, Board Administrator
1059 State Road
P.O. Box 278, 2nd Floor
West Tisbury, MA 02575

RE: Map 31 Lot 48/21 New Lane/Doane/Potential Wetlands Violation by Abutters at Map 31 Lot 68.1 41 Pond View Farm Road/Eppel/Ratification of Enforcement Order issued 9/2/2021 (EO)/ Formal hearing on restoration plan

Robert A. Doane, Trustee et als v. Nancy B. Eppel, Trustee et als.
Dukes County Superior Court #2174CV00030

Dear Chairman Griswold and Members of the Conservation Commission:

As you know, I represent the Defendant Cheryl C. Eppel (“Cheryl” or CE”) in the referenced matter and reserve all rights accordingly. I see my colleague William A. Schneider, Esq., who represents Nancy B. Eppel as she is Trustee of the Nancy B. Eppel Revocable Trust (“Mrs. Eppel” or “NE” or “Nancy”) which holds record title to the property known as 37 Pond View Farm Road in West Tisbury, has submitted a letter for your consideration.

Respectfully, I believe there may have been a misperception by Attorney Schneider about information attributed to Cheryl regarding certain trails emanating from the Mrs. Eppel’s property and crossing both the 45’ strip of disputed area of lands claimed by the Doanes, but also the bulk of the adjacent Doane lands within the primary rectangle of 21 New Lane and running further across intervening lands to the Edgartown – West Tisbury Road. In Attorney Schneider’s letter, he states “[a]ccording to Cheryl Eppel, these signs were placed to block a path to Tisbury Great Pond the Eppels have been permitted to use for over 30 years.” The signs for which he presents photos with his letter, do represent a clear indication that the Doanes will not agree to allow Cheryl Eppel’s intended team of experts at Lucas Environmental or any others, to enter the disputed area without the threat of immediate arrest. Thus, we want your body to know that it is the Doanes themselves who have barred the Lucas team from any effort to prepare and perform such studies with the intention of placing before your Commission, the very alternate “remediation plan” you have allowed to be submitted as part of your Enforcement Order. The Doanes themselves having heard that your Commission has offered to let the Eppels submit their own plan (some of which we now understand would likely be for a portion of what the Doanes now cannot dispute as wholly on their own lands where the impacted area of cutting that recent survey marks depict is within Nancy’s land and is within the area of annual and regular mowing of pathways performed every year since the Nancy and her late husband initially acquired the land in 1986), and have intentionally interfered with Cheryl’s ability to have a fair presentation of countervailing studies and evidence that you had ordered to be allowed. To otherwise clarify Attorney Schneider’s letter, Cheryl indicated the signs have the effect of trying to bar the Eppels and family members from accessing the areas they and their predecessors in title have always accessed, including the disputed 45’ strip over which they accessed the pond,

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trails running from the area in question northerly toward the bulk of the Doane property at 21 New Lane, but also other trails that are even shown on the Complaint submitted to your Commission in the maps showing a hatched line of historical import from years of Assessors mapping of the area over which the Eppels and their predecessors in title have had unfettered regular open and notorious almost daily passage without objection by any Doane family member. Ironically, in an effort to keep such easement rights Nancy and her late husband recognized they and their predecessors in title had gained over these trails, free of claims by others including the Doanes, the same were posted with a statutory notice in 1995 and no Doane ever objected.

Attached as well kindly find various historic photographs of the areas in front of the Eppel house facing the Tisbury Great Pond. From the middle part of the 20th century, it would appear that no vegetation was allowed to grow along the pond frontage to the great benefit of the record title owners of what is now Nancy's property.

Lastly, immediately after the August 24, 2021 meeting, I submitted a photograph and a movie to your Commission via email for purposes of these proceedings. Kindly place these submissions in the record for today's hearing.

I hope this will clarify the record. Thank you for your courteous help and attention.

Sincerely,

/s/ Benjamin L. Hall, Jr.

Benjamin L. Hall, Jr.

EC: William A. Schneider, Esq. wschneider@morrisonmahoney.com