

## Dukes - 20/20 Perfect Vision i2 Document Detail Report

Current datetime: 7/20/2020 2:56:13 PM

Doc#	Document Type	Town	Book/Page	File Date	Consideration
1005	ORDER		01342/426	02/21/2014	
<b>Property-Street Address and/or Description</b>					
SE79-344, 1097/911					
<b>Grantors</b>					
ENDOFTHEDIRTRROAD LLC					
<b>Grantees</b>					
WEST TISBURY TOWN CONSERVATION					
<b>References-Book/Pg Description Recorded Year</b>					
01097/911 DEED 2006					
<b>Registered Land Certificate(s)-Cert# Book/Pg</b>					



2014 00001005

Bk: 1342 Pg: 426 Doc: ORD  
Page: 1 of 20 02/21/2014 01:16 PM



**Massachusetts Department of Environmental Protection**  
**Bureau of Resource Protection - Wetlands**  
**WPA Form 5 – Order of Conditions**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And The West Tisbury Wetlands Protection Bylaw and  
Regulations

Provided by MassDEP:  
**SE79-344**  
MassDEP File #  
eDEP Transaction #  
**WEST TISBURY**  
City/Town

**A. General Information**

Please note:  
this form has  
been modified  
with added  
space to  
accommodate  
the Registry  
of Deeds  
Requirements

- 1. From: WEST TISBURY  
Conservation Commission
- 2. This issuance is for (check one):  
a.  Order of Conditions b.  Amended Order of Conditions
- 3. To: Applicant:

**Important:**  
When filling  
out forms on  
the  
computer,  
use only the  
tab key to  
move your  
cursor - do  
not use the  
return key.



a. First Name ENDOFTHEDIRTROAD, LLC b. Last Name \_\_\_\_\_  
 c. Organization c/o Sourati Engineering Group LLC P.O. Box 4458  
 d. Mailing Address Vineyard Haven MA 02568  
 e. City/Town f. State g. Zip Code

- 4. Property Owner (if different from applicant):

a. First Name same b. Last Name \_\_\_\_\_  
 c. Organization 1345 Avenue of the Americas, 23<sup>rd</sup> f  
 d. Mailing Address New York New York 10105  
 e. City/Town f. State g. Zip Code

- 5. Project Location:

Point  
234 Middle Road West Tisbury  
 a. Street Address b. City/Town  
39 11 (access is over lot 10)  
 c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known: d m s d m s  
 d. Latitude e. Longitude



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**A. General Information (cont.)**

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

Dukes

a. County

1097

c. Book

b. Certificate Number (if registered land)

911

d. Page

7. Dates: December, 2013 January 21, 2014 FEBRUARY 7, 2014  
a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

see Attachment 1

a. Plan Title

b. Prepared By

c. Signed and Stamped by

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

**B. Findings**

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

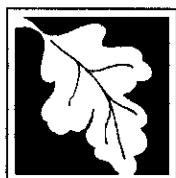
Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a.  Public Water Supply    b.  Land Containing Shellfish    c.  Prevention of Pollution  
d.  Private Water Supply    e.  Fisheries    f.  Protection of Wildlife Habitat  
g.  Groundwater Supply    h.  Storm Damage Prevention    i.  Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

**Approved subject to:**

- a.  the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



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**B. Findings (cont.)**

Denied because:

- b.  the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c.  the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
- 3.  Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) \_\_\_\_\_ a. linear feet

**Inland Resource Area Impacts:** Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	_____ a. linear feet	_____ b. linear feet	_____ c. linear feet	_____ d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	_____ a. square feet _____ e. c/y dredged	_____ b. square feet _____ f. c/y dredged	_____ c. square feet	_____ d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
Cubic Feet Flood Storage	_____ e. cubic feet	_____ f. cubic feet	_____ g. cubic feet	_____ h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____ a. square feet	_____ b. square feet		
Cubic Feet Flood Storage	_____ c. cubic feet	_____ d. cubic feet	_____ e. cubic feet	_____ f. cubic feet
9. <input type="checkbox"/> Riverfront Area	_____ a. total sq. feet	_____ b. total sq. feet		
Sq ft within 100 ft	_____ c. square feet	_____ d. square feet	_____ e. square feet	_____ f. square feet
Sq ft between 100-200 ft	_____ g. square feet	_____ h. square feet	_____ i. square feet	_____ j. square feet



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**B. Findings (cont.)**

**Coastal Resource Area Impacts:** Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	<u>                    </u> a. square feet	<u>                    </u> b. square feet		
	<u>                    </u> c. c/y dredged	<u>                    </u> d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input checked="" type="checkbox"/> Coastal Beaches	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. nourishment	<u>                    </u> d. nourishment
14. <input type="checkbox"/> Coastal Dunes	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. nourishment	<u>                    </u> d. nourishment
15. <input checked="" type="checkbox"/> Coastal Banks	<u>220</u> a. linear feet	<u>220</u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u>                    </u> a. square feet	<u>                    </u> b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. square feet	<u>                    </u> d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u>3,814</u> a. square feet	<u>3,814</u> b. square feet		
	<u>                    </u> c. c/y dredged	<u>                    </u> d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. square feet	<u>                    </u> d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	<u>                    </u> a. c/y dredged	<u>                    </u> b. c/y dredged		
21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	<u>4,659 temp access</u> <u>1,598 nourishment</u> a. square feet	<u>4,659 temp access</u> <u>1,598 nourishment</u> b. square feet		



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**B. Findings (cont.)**

\* #22. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BWV) or B.17.c (Salt Marsh) above, please enter the additional amount here.

22.  Restoration/Enhancement \*:

a. square feet of BWV

b. square feet of salt marsh

23.  Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

**C. General Conditions Under Massachusetts Wetlands Protection Act**

**The following conditions are only applicable to Approved projects.**

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - a. the work is a maintenance dredging project as provided for in the Act; or
  - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on \_\_\_\_\_ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.



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**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,
 

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]  
"File Number            SE79-344            "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.



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### C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

#### NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. **The work associated with this Order (the "Project") is (1)  is not (2)  subject to the Massachusetts Stormwater Standards. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:**

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
  - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
  - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
  - iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
  - v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.





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### C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

- g) The responsible party shall:
  1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
  2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
  3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
  
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

**SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE.**

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**D. Findings Under Municipal Wetlands Bylaw or Ordinance**

- 1. Is a municipal wetlands bylaw or ordinance applicable?  Yes  No
- 2. The WEST TISBURY \_\_\_\_\_ hereby finds (check one that applies):  
Conservation Commission

- a.  that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw \_\_\_\_\_ 2. Citation \_\_\_\_\_

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b.  that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

West Tisbury Wetlands Protection Bylaw  
1. Municipal Ordinance or Bylaw \_\_\_\_\_ 2. Citation \_\_\_\_\_

- 3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

See Exhibit A attached hereto and incorporated herein by this reference.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



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**E. Signatures**

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

2/7/2014  
 1. Date of Issuance

Please indicate the number of members who will sign this form.

5  
 2. Number of Signers

This Order must be signed by a majority of the Conservation Commission.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

[Handwritten Signature]  
[Handwritten Signature]  
[Handwritten Signature]

[Handwritten Signature]  
[Handwritten Signature]

by hand delivery on

by certified mail, return receipt requested, on

Date

February 7, 2014  
 Date

**F. Appeals**

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request of Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

Appeals of this Order under the West Tisbury Wetlands Protection Bylaw and Regulations may be made to the Dukes County Superior Court in accordance with M.G.L. Ch. 249 Sec.4.

## ATTACHMENT 1

**GENERAL INFORMATION (continued)****8. Documents and Plans Considered in the Decision**

## Documents

- Notice of Intent application including project description, performance standards and alternatives analyses dated December 2013 as revised to January 21, 2014
- Work Protocol for Gabion Basket-Fiber Roll installation dated November 25, 2013 as revised to January 22 2014.
- Letter from Natural Heritage and Endangered Species Program dated January 6, 2014 and follow-up e-mail from Eve Schluter dated February 6, 2014
- Estimate for the deconstruction of the shore line protection measures dated 1/16/2014 prepared by Wilkinson Ecological design, Inc.
- Waiver Request dated December 2, 2013 as revised to January 16, 2014
- Supporting Documentation for Use of Gabion Baskets letter written by Sourati Engineering Group LLC, dated January 14, 2014, along with the 2013 Tisbury Great Pond Elevations graph prepared by Kent Healy. (Calculations on graph done by Sourati Engineering Group, LLC.)

## Plans:

- Plan prepared by Sourati Engineering Group LLC entitled, "Site Plan in West Tisbury, Massachusetts Assessor Parcel 39-11 prepared for ENDOFTHEDIRTROAD, LLC with Wilkinson Ecological Design dated November 25, 2013 as revised to January 22, 2014 (2 sheets),
- Planting Specifications for Coastal Bank and 10-foot wide area landward of fiber rolls for 234 Middle Point Road, West Tisbury prepared by Wilkinson Ecological Design, dated November 25, 2013 as revised to January 22, 2014 as shown on sheet 2 of the Site Plan
- Sand Nourishment Calculations prepared for ENDOFTHE DIRTROAD, LLC by Sourati Engineering Group, LLC dated 1-14-14 as revised to 1-21-2014( 4 sheets)
- Typical Fiber Roll Construction & Planting Plan prepared by Wilkinson Ecological Design dated 1/14/2014 (one sheet)
- Proposed Driveway Grading Sketch Plan dated 1-17-2014 (final revision removed trench)

## Conservation Commission documents:

- Third Party Peer Review prepared by LEC Environmental Consultants, Inc. dated January 10, 2014
- Technical Review memorandum prepared by Greg Berman, Coastal Processes Specialist, Woods Hole Sea Grant dated January 9, 2014

## EXHIBIT A

**Decision/Special Conditions****Map 39 Lot 11****DEP File # SE79-344****NHESP # 09-27020****Project Description**

On December 3, 2013, ENDOFTHEDIRTROAD, LLC, (the "Applicant") filed a Notice of Intent (NOI) and submitted revisions to the NOI on January 14 and 21 for the construction of 135 feet of gabion baskets buried between elevation 4 and 6 topped with 220 feet of coir fiber rolls on the face of an eroding coastal bank as depicted on the plans referenced below. . The Project is to protect a pre-1978 residential structure and also includes bank reconfiguration, plantings, the annual placement of 51+/- cubic yards of beach nourishment, and the temporary alteration of the Buffer Zone along the eastern shoreline of Tisbury Great Pond at the southern end of Middle Point. (the "Project")

The Applicant proposes the temporary use of the driveway located on Map 39 Lot 10 in the Buffer Zone for access to the beach and to perform maintenance of the driveway as a short term solution to address overland runoff causing erosion over the top of the bank. The Applicant has agreed to submit a proposal within three (3) years from the date of this Order, to relocate the driveway which is also the end of Middle Point Road (a private road) away from the coastal bank. In the event the Applicant does not submit a proposal within three (3) years, a show-cause hearing will be held to determine if fines should be levied.

As shown on the project plan, the deck of the house is located 65 feet and the foundation 75 feet from the top of the coastal bank. According to the Applicant's representative, the average annual rate of erosion is estimated at 1.9+/- feet per year.

Work will occur on a Coastal Bank and Coastal Beach (temporary access and beach nourishment). Temporary work will occur on Land Subject to Coastal Storm Flowage for access and permanent alteration for beach nourishment. Material taken from the bank will be placed on the beach to replace the sediment source lost from the construction of this project. Fifty-One (51) cubic yards of annual nourishment is also proposed.

Hearings were held on December 10, 2013, January 14 and 21, 2014. The Commission voted to approve the final version of the Project and also voted to grant the waiver request at the January 21<sup>st</sup> meeting subject to the following special conditions.

**Background**

The house on this property was constructed prior to the promulgation of the Massachusetts Wetlands Protection Act regulations for coastal beaches and coastal banks at 310 CMR 10.27 and 10.30 (August 10, 1978), and substantially reconstructed in 1996. In 1996 the footprint of the house was more than 100 feet from the top of the coastal bank. The house also predates the effective date of the West Tisbury Wetlands Protection Bylaw (June 3, 2004).

In 2009, the Applicant applied for an Order of Conditions for permission to construct a 225 foot long sloping rock revetment with beach nourishment. At the time, the house sat approximately 85 to 90 feet from the top of the coastal bank. After several revisions to the project design, the final proposed length was 170 feet. Based on the rate of erosion, the Commission determined that the house was not in imminent danger and that the Applicant had not demonstrated, by field testing, that there was no feasible/practicable alternative, including a "soft solution including plantings and beach nourishment that would protect the house.

In 2011, the Massachusetts Department of Environmental Protection ("DEP") issued a SOC allowing the Applicant to construct a 135 foot long sloping rock revetment with beach nourishment. The Applicant then applied for an Order of Conditions under the West Tisbury Wetlands Protection Bylaw and regulations for a local permit to construct the 135 ft. revetment, but was denied permission. In November 29, 2011 the Dukes County Superior Court upheld the Commissions' denial of this proposal.

## EXHIBIT A

**Jurisdiction under the Wetlands Protection Act (the "Act")**

Whenever a proposed activity involves removing or altering a coastal beach or bank, the Commission shall presume that the coastal beach and bank are significant to the protection of the following values: flood control, erosion and sedimentation control, storm damage prevention, and wildlife habitat.

The Applicant filed a Notice of Intent under 310 CMR 10.30 (Coastal Bank), 10.27 (Coastal Beach), Land Subject to Coastal Storm Flowage (10.24), Land under a Salt Ponds (10.33) and 10.37 (Estimated Habitat).

**Jurisdiction under the West Tisbury Wetlands Protection Bylaw (the "Bylaw")**

Whenever a proposed activity involves removing or altering a coastal beach or bank, the Commission shall presume that the coastal beach and bank are significant to the protection of the following values: flood control, erosion and sedimentation control, storm damage prevention, and wildlife habitat.

The Applicant filed a Notice of Intent under Section VI (Coastal Beach) and Section IX (Coastal Bank) and Section XIII (Land Subject to Coastal Storm Flowage).

The Applicant has requested a waiver from the West Tisbury Wetlands Projection Bylaw Regulation IV.C.1 which requires a 25 foot No-Disturbance Zone from the top of the coastal bank. The proposed activity involves stabilization on an eroding costal bank as described above. In accordance with Section III N of the Bylaw, the Applicant applied for a waiver from Section 4.C.4., to allow the use of a construction road that requires minimal amount of disturbance to the Buffer Zone by accessing the beach via the driveway where the coastal is closest to the driveway. A small portion inland of the existing coastal bank will also be disturbed in order to install the proposed stabilization system. In the event that the Applicant cannot access the bank from the beach due to high pond elevation, the Applicant may need to construct and maintain the project from the top of the coastal bank using the existing path. The amount of temporary disturbance to the No-Disturbance Zone is estimated at 2,400 square feet.

The Project is also subject to the performance standards at Sections XXI C.2 & 3 of the West Tisbury Wetlands Protection Bylaw Regulation. As stated in the NHESP letter, the project must be conditioned to avoid a take.

**Findings under the Wetland Protection Act**

Notwithstanding the coastal engineering structure ("CES") component to the Project, the Applicant has proposed a "soft" solution for stabilization of a Coastal Bank. Given the Applicant's acknowledgement of the need for, and commitment to maintenance, the Commission determined that a five (5) year permit is reasonable, especially because frequent monitoring is required, and because it will take at least two growing seasons for the colonization of the plant communities.

Because of the unique nature of the coastal processes within Tisbury Great Pond, the Commission has approved the use of gabion baskets in this limited application at this property as a means of supporting and anchoring the fiber rolls to keep them from being inundated with salt water for long periods of time.

- The Commission finds that each parcel of land and proposed project thereon has its own unique characteristics and impacts, therefore, every project brought before the Commission for approval will be considered on a site specific basis. And, because of this site specificity, each project will stand alone and shall not set a precedent in the decisions to be made on subsequent projects. Due to the project location and project design, the proposed project, as conditioned, is allowed (provided the gabions are not exposed) but the approval does not set any sort of precedent as each property and project are determined on their own merits.
- The Commission finds that the work shall not reduce the ability of the land to absorb and contain floodwater, or to buffer inland areas from flooding and wave damage.

## EXHIBIT A

- The Commission finds that the Applicant has designed a project that is intended to have no adverse effect on bank height, bank stability, wildlife habitat, vegetation, or the use of the bank as a sediment source. If the Commission determines otherwise, the Applicant shall be required to show cause why the project components should not be removed.
- The Commission finds that the Applicant has demonstrated that there is sufficient evidence that coir logs alone will not withstand long periods of inundation by saltwater in this location and therefore there would be insufficient time for the plantings to colonize in order to stabilize the coastal bank.
- The Commission finds that the coastal bank is significant to storm damage prevention and flood control as it functions as a sediment source for down-drift beaches. The Applicant has not overcome the presumption of significance therefore special conditions are necessary to mitigate any adverse effect.
- The Commission finds that the proposed project is consistent with the provisions of 310 CMR 10.30 (6) and (7) in that the coir fiber rolls will be placed, planted and covered with sand above elevation 6 to the top of bank which will continue to act as a sediment source.
- Pursuant to a January 6, 2014 letter from NHESP and confirmed by e-mail on 2/6/14, (the "NHESP letter"), to avoid a take, the Applicant is restricted from performing work between April 1 and October 1 of each year. Therefore, the Commission finds that this project will not have an adverse effect on specified habitat sites of rare vertebrate or invertebrate species provided the time of year restrictions (TOY) are adhered to as set forth in the NHESP letter. Due to the time of year restrictions imposed on this project by NHESP, the Applicant may not be able to construct this project from the beach. Every effort shall be made to coordinate work with a time of low pond elevation. If the Applicant is unable to access the site, the alternative means of access is approved for use in the field upon consultation with the Commission. It is noted that approval from the Trustees of Reservations (holders of a conservation restriction on this parcel) will be required if the alternative means of access is called into use. Such approval shall be in writing and submitted to the Commission prior to utilizing the alternative access.
- The Commission finds that if a storm event during the TOY restriction period requires repairs, maintenance or nourishment, the Applicant will obtain written permission from NHESP so that no portion of the gabion baskets remain exposed during the TOY restrictions set by NHESP for more than two weeks.
- The Commission finds it necessary to require the Applicant to provide a deconstruction cost so that an escrow amount can be established to be used to pay for removal of the project if conditions are not met or if adverse impacts occur. In addition, the Commission finds that the funds deposited in this escrow account may be used to hire a third party to perform the required monitoring or beach nourishment if the Applicant fails to do so.

**Additional Findings under the Bylaw**

- The Commission finds that the proposed temporary alterations to the Buffer Zone are necessary to allow for placement of the fiber rolls and plantings and may be necessary for access to the project site if the pond elevation is not low enough to construct this project from the beach. Upon completion of the Project, the Buffer Zone will be returned to its preconstruction state as shown on the Project Plan.
- The Commission finds that the condition of the driveway where it is closest to the coastal bank is contributing to the erosion of the bank due to overland runoff, requires maintenance as part of this project and that in the long term, the driveway must be relocated. The Applicant has submitted an interim plan for driveway maintenance and will submit a plan to relocate the driveway. Therefore, the Commission finds that this work will not have an adverse effect on the coastal bank.
- The Commission finds that the Applicant has presented to the Commission clear and convincing evidence that the proposed project will not adversely affect the interests protected by the Bylaw.



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- The Commission finds that after reviewing the evidence presented, the Commission hereby grants a waiver from West Tisbury Wetlands Projection Bylaw Regulation IV.C.1 and approves the project.
- The Commission further finds that no work will be performed within and no equipment will encroach upon the Estimated Habitat of Rare Wildlife and therefore will not have an adverse effect on specified habitat sites of rare vertebrate or invertebrate species. In making this finding the Commission has relied upon the NHESP letter.

**Special Conditions**

- 1) The Applicant and the Applicant's agent(s) shall adhere to General Conditions 1 through 17 of this Order.
- 2) The term "Applicant" as used in this Order of Conditions shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of Intent, supporting documents, and this Order of Conditions. The Commission shall be notified in writing within 30 days of all transfers of title of any portion of property that take place prior to issuance of the Certificate of Compliance.
- 3) The form provided at the end of this Order shall be completed and stamped at the Dukes County Registry of Deeds, after the expiration of the 10-day appeal period and if no request of appeal has been filed with the Department of Environmental Protection. This form should be returned to the Commission in accordance with General Condition 8, and prior to the commencement of work.
- 4) In accordance with General Condition #4 the work authorized hereunder shall be completed within five (5) years from the issuance date of this Order. The special circumstance warranting the extended time period are an acknowledgment of the Applicant's commitment to monitoring and ongoing maintenance.
- 5) The Commission has approved this project in accordance with the specifications shown on the following plans and/or documents. The project shall be constructed in accordance with these plans. No deviations from these plans or from these orders are permitted without prior written approval from the Commission. See general conditions No. 13 and No. 14 regarding approval of changes in any of the following:
  - Plan prepared by Sourati Engineering Group LLC with Wilkinson Ecological Design entitled, "Site Plan in West Tisbury, Massachusetts Assessor Parcel 39-11 prepared for ENDOFTHEDIRTROAD, LLC, dated November 25, 2013 as revised to January 22 2014 (2 sheets), (the "Site Plan")
  - Project Description and Justification filed as part of the Notice of Intent (the "Project Description")
  - Planting Specifications for Coastal Bank and 10-foot wide area landward of fiber rolls for 234 Middle Point Road, West Tisbury prepared by Wilkinson Ecological Design, dated November 25, 2013 as revised to January 22, 2014 as shown on sheet 2 of the Site Plan (the "Planting Plan")
  - Work Protocol for Gabion Basket-Fiber Roll Installation prepared by Wilkinson Ecological design dated November 25, 2013 as revised to January 22, 2014 ( the "Work Protocol")
  - Sand Nourishment Calculations prepared for ENDOFTHE DIRTROAD, LLC by Sourati Engineering Group, LLC dated 1-14-14 ( 4 sheets), (the "Nourishment Plan")
  - Typical Fiber Roll Construction & Planting plan prepared by Wilkinson Ecological Design dated 1/14/2014 9 (one sheet)
  - Proposed Driveway Grading Sketch Plan dated 1-17-2014 (the "Driveway Plan").

Together these plans are referred to as the "Project Plan".
- 6) Prior to the commencement of construction, the Applicant shall establish an escrow account with the Treasurer of the Town of West Tisbury in the amount of \$ 25,000 (based on the contractor's estimate plus a contingency), which may be used by the Commission to perform monitoring and/or nourishment required by this Order or to remove and dispose of debris, or damaged gabion baskets or end-of-useful life coir logs if the Applicant does not perform such work within thirty (30) days after the Commission issues an order for the performance of such work. The escrow account shall be required until the gabion baskets are removed and the fiber rolls are either determined to be biodegraded and

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supporting native plant materials or removed. Such determination shall be made by the Commission. After the escrow account has been determined to be no longer required, the full balance including any accrued interest shall be returned to the Applicant. Any subsequent owner or successor in interest or control of this project shall be required to maintain this escrow account. This is an ongoing condition that does not expire with the issuance of a Certificate of Compliance.

- 7) Prior to the pre-construction site visit and commencement of any activity on this site, the Applicant must submit to the Conservation Commission a notarized letter signed by the property owner granting permission for the Commission, the Town, or its agents to enter the property referenced in this Order to conduct work necessary to bring the property into compliance with the conditions stated in this Order or to deconstruct the Project in the event it fails. Said entry and work would only occur in the event that the property owner is unable or unwilling to perform the necessary work himself after notice from the Commission. This is an ongoing condition that does not expire with the issuance of a Certificate of Compliance.
- 8) It is the responsibility of the Applicant, Applicant's representative, owner and /or successor (s) to ensure compliance with all conditions of this Order. A copy of this Order of Conditions including the special conditions and Project Plan shall be included in all contracts, subcontracts, and specifications and shall be available on-site upon commencement and during the performance of activities regulated by this Order. All contractors shall review and adhere to these conditions of approval in performing the approved activities. Any adverse impact to a Resource Area caused by vehicles, equipment or workers shall be mitigated immediately by the applicant in consultation with the Commission.
- 9) The contractor hired to perform the work shall contact the Commission office at least 72 hours prior to beginning any activity permitted under this Order, to arrange a pre- construction site visit to review the terms of this permit. Prior to the pre-construction site visit a limit of work line shall be marked with flags or staking at the edge of the proposed temporary disturbance in the Buffer Zone. No activity shall be conducted beyond this line.
- 10) Once construction has begun, the Applicant shall notify the Commission to arrange a site visit at each of the following phases of the project so that the work may be inspected:
  - Completion of excavation the face of the coastal bank for gabion installation;
  - After placement of the gabion baskets and coir logs but prior to covering them;
  - After placement of sand and plantings.

In addition to these site visits, a member of the Commission or its Administrator may enter and inspect the property and the activity that are the subject of this Order at all reasonable times, with or without probable cause or prior notice and until a Certificate of Compliance is issued, for the limited purpose of evaluating compliance with this Order.
- 11) Access for the temporary 10 foot wide construction road is at the point where the driveway (Middle Point Road) intersects the coastal bank on Map 39 Lot 10. Upon completion of construction of the project, maintenance to improve the overland runoff at that location shall be done in accordance with the Driveway Plan. Within three years of the issuance date of this Order, the Applicant shall submit a proposal to the Commission for the relocation the driveway.
- 12) Stairs for access to the beach shall be built in accordance with the Project Plan and shall be removed seasonally. The use of pressure treated wood is not permitted.
- 13) Upon completion of construction, an as-built survey the same scale as that of the approved plan and shown as an overlay to the original plan shall be submitted to the Commission. The as-built plan shall include cross sections to assure that the completed project is in compliance with the approved Project Plans. Distances from the top of the coastal bank to the deck and the house shall be shown on the plan. The as-built survey shall be signed and stamped by a registered professional engineer.
- 14) The Commission shall require a current contract between the Applicant and a contractor for inspection,

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repair, monitoring and debris removal, and shall identify a responsible party and contact number and address for same. Such contract shall be submitted to the Commission upon completion of construction and Applicant shall annually thereafter submit a renewal or new contract to the Commission. This is an ongoing condition that does not expire with the issuance of a Certificate of Compliance.

- 15) Nourishment shall be done in strict accordance with the Sand Nourishment Calculation plan the Work Protocol and the following conditions that are ongoing and do not expire with the issuance of a Certificate of Compliance.
- a) The initial minimum coverage of all coir logs with sand shall be -18 inches. Initial nourishment shall be done using the material excavated from the coastal bank. No excavated materials shall be removed from the site
  - b) The proposed slope of the nourished bank shall be no steeper than 1.5:1 (horizontal: vertical). Stabilized slopes shall be maintained as designed and constructed.
  - c) Annual sand nourishment activities shall be conducted between October 1 and April 1 per the Time of Year (TOY) restriction conditioned by the Natural Heritage and Endangered Species Program (NHESP). In the event that nourishment is required between April 1 and September 30, NHESP shall be consulted and written approval from NHESP shall be submitted to the Commission prior to work in the field.
  - d) Between October 1 and April 1 (Per NHESP TOY restrictions), the Applicant shall perform annual re-nourishment of the bank to maintain at least one foot over the coir logs to ensure the stability and function of the bank and adjacent beach. The trigger to determine when nourishment is necessary will be when the average cover over the fiber rolls and /or the gabion baskets reaches less than 12" and/or whenever any portion of the gabion of the gabion baskets become exposed. Between 12-18 inches of cover sand shall be restored and in place prior to Thanksgiving of each year. This is an ongoing condition that does not expire with the issuance of a Certificate of Compliance.
  - e) Nourishment required due to a storm event is permitted at any time of year provided it is done in consultation with NHESP and the Commission. Written evidence of such consultation with, and approval by NHESP, shall be submitted to the Commission.
  - f) All sand used for beach nourishment shall be clean coarse sand compatible with what is naturally found on the existing bank and beach. Whenever nourishment is required, the Applicant shall submit a written grain size analysis that compares size, angularity and color of the existing sediment to the proposed sample. The written analysis shall be prepared by a third party at the Applicant's expense and submitted to the Commission together with a sediment sample for approval prior to placement in the field. . The Commission may conduct a site visit to perform further verification of the sediment size and color. The Applicant shall use best efforts to use locally sourced sand. This is an ongoing condition that does not expire with the issuance of a Certificate of Compliance.
  - g) Prior to any beach nourishment practices, the Applicant's representative shall determine in consultation with the Commission the quantity of sand needed for the site. Any disagreement shall be decided by the Commission. In addition, any access needed for equipment and materials shall be approved by the Commission and appropriate parties.
- 16) Monitoring and maintenance shall be done in accordance with the Work Protocol and the following conditions which do not expire and shall be noted as ongoing conditions in the Certificate of Compliance::
- a) Five (5) photo monitoring stations shall be located landward of the array as shown on the Project Plan at approximately 50 foot intervals and extending 20 feet north and south from ends of the coir logs. A parallel set of monitoring stations shall be survey located fifteen feet seaward.

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- b) The depth of sand covering the fiber rolls and gabions baskets at the top, middle and bottom of the array shall be documented by probing the sediments. If the averaged measurement is less than 12", then the array and/or gabion baskets, or any exposed portion of them, shall be nourished immediately,
  - c) Sand depths to the north and south of the array (stations 1 and 5) shall be surveyed on an annual basis to document scour. This data will be included in the annual monitoring report.
  - d) In accordance with the Work Protocol, formal inspections of the array will be performed twice a year (spring and fall). Monitoring reports shall be submitted to the Commission in triplicate with photos and depth measurements of sand coverage at 20 feet from the ends and every 50 feet along the coir logs. Relative beach elevation and condition of vegetation should be noted in each report. An electronic copy shall also be sent to the Commission. Monitoring locations shall be identified by the engineer of record. A minimum average coverage of 12" of sand will be maintained at all times. A record of the number of times that the coir logs need to be re-covered and the amount of sand deposited in each re-nourishment shall be documented and submitted to the Commission in an annual report by December 1 of each year. The report shall include copies of invoices for nourishment sand, and shall specify how much sand was deposited.
  - e) In addition to the formal inspections, every two months and after storm events, the Applicant's care taker shall conduct monitoring to measure sand levels in accordance with the Work Protocol. Monitoring reports conducted between October 1 and April 1 (Per NHESP TOY restriction), shall be submitted to the Commission with photos and depth measurements of sand coverage at 20 feet from the ends and every 50 feet along the coir logs. Relative beach elevation and condition of vegetation should be noted in each report. An electronic copy shall also be sent to the Commission. Monitoring locations shall be identified by the engineer of record. A minimum average coverage of 12" of sand will be maintained at all times. A record of the number of times that the coir logs need to be re-covered and the amount of sand deposited in each re-nourishment shall be documented and submitted to the Commission in an annual report by December 1 of each year. The report shall include copies of invoices for nourishment sand, and shall specify how much sand was deposited.
- 17) Plantings shall be done in accordance with the Planting Plan and the following special conditions:
- a) Rooted Maritime Grasses and Forbs shall be planted 12" on center.
  - b) If the plants do not survive, they shall be replaced at the next seasonal opportunity. Failed plantings shall be replaced no later than April 1 of each year.
  - c) Monitoring reports which include photographs, copies of invoices for plants, and information on how much material was planted shall be submitted to the Commission by December 1 of each year. Financial information on invoices shall be redacted to protect the privacy of the applicant and contractor.
  - d) The temporary (May 1 – Oct 31) automated irrigation system called for in the Work Protocol shall be permanently removed from the project site no later than after the third growing season.
- 18) Herbicides, pesticides, fungicides and fertilizers shall not be used within the Buffer Zone. This is an ongoing condition that does not expire with the issuance of a Certificate of Compliance.
- 19) Damage, Repair and Removal
- a. If the coir logs are damaged beyond repair, they shall be promptly removed and be properly disposed within the allowable TOY limitations (October 1 - April 1). Any damaged coir logs damaged regardless of the time of year, during the TOY limitations shall be removed after consultation and approval by NHESP, and the Commission. Written evidence of consultation with NHESP shall be

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provided to the Commission. This is an ongoing condition that does not expire with the issuance of a Certificate of Compliance.

- b. The gabion baskets, anchors, and coir logs shall all have metal identification tags. The Applicant shall be responsible for retrieving any and all materials stored, dislodged, or washed off-site (excluding sand) for the life of the project. The Commission shall require a current contract between the Applicant and a contractor (with financial information redacted) for inspection, repair, and debris removal, and shall identify a responsible party and contact number and address for such cleanup work. Such contract shall be submitted to the Commission upon completion of construction and Applicant shall annually thereafter submit a renewal or new contract to the Commission.
  - c. The Applicant shall notify the Commission and NHESP concerning the extent of repairs and maintenance necessary prior to proceeding with any repair and maintenance work.
  - d. If the Commission has a basis to believe the coir logs and or gabion baskets are causing scour or erosion on the subject property and/or abutting properties, or are adversely impacting offshore deposition process, or otherwise creating negative or unintended consequences, it may issue an Order to Show Cause why either the coir logs or gabions baskets should not be removed. The Commission will conduct a hearing to evaluate the evidence and will issue a decision on removal at the Applicant's expense. This is an ongoing condition that does not expire with the issuance of a Certificate of Compliance.
- 20) Failure to comply with any conditions set forth herein shall be deemed a violation and good cause, and upon notice and an opportunity to be heard to revoke or modify this Order, to impose fines of up to \$300 per day per violation, to issue a stop work order, or to require mitigation or such other measures as are legally justified. Owners, owner's representatives, contractors, and sub-constructions will be liable for any violation of these orders.
  - 21) The Commission reserves the right to impose additional conditions on portions of this project or this site to mitigate any actual or potential impacts resulting from the work herein permitted.
  - 22) In issuing these orders, the Commission has relied on the information and data provided by the Applicant. If subsequent to the issuance of this order, such information and data prove to be false, incomplete or inaccurate, this order may be modified or revoked in whole or in part and the Commission may institute appropriate legal proceedings. The Commission reserves the right to amend this Order of Conditions after a legally advertised public hearing if plans or circumstances are changed or if new conditions or information so warrant.
  - 23) To request a Certificate of Compliance the Applicant shall submit the following to the Commission::
    1. A Completed Request for a Certificate of Compliance (COC).
    2. A set of post-construction color photographs of the Project. immediately after completion.
  - 24) In case of emergencies, problems or the need to discuss site conditions with the Commission; call the Board Administrator at 508-696-6404.

Attest:  
 Register